FEDERAL TRADE COMMISSION

# PERFORMANCE AND ACCOUNTABILITY REPORT

## FISCAL YEAR 2013

FEDERAL • TRADE • COMMISSION ★ UNITED • STATES • OF • AMERICA ★ MCMXV

# ABOUT THIS REPORT

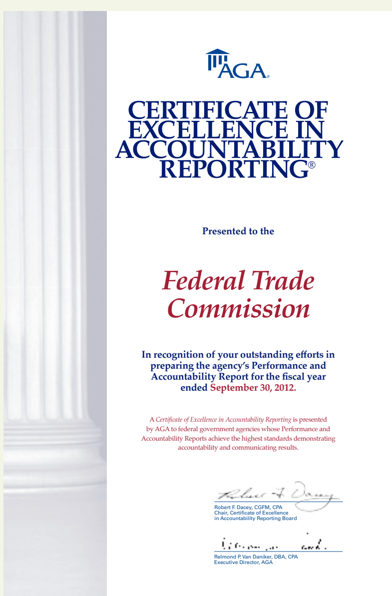
The Federal Trade Commission's (FTC) Fiscal Year (FY) 2013 Performance and Accountability report (PAR) provides the results of the agency's program and financial performance and demonstrates to the Congress, the President, and the public, the FTC's commitment to its mission and accountability over the resources entrusted to it.

This report, available at the FTC's website (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
- Government Performance and Modernization Act of 2010

The performance and financial information contained in this report is summarized in a two-page "snapshot" available in February 2014 at www.ftc.gov/par.

## CERTIFICATE OF EXCELLENCE AND SPECIAL AWARD

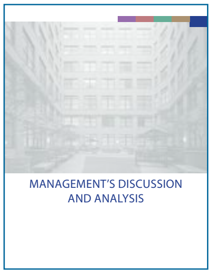




*The FTC received the Association of Government Accountants' Certificate of Excellence in Accountability Reporting for its FY 2012 PAR as well as a Special Recognition award for Best Agency Head Message.*

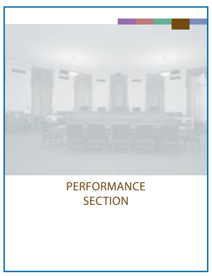
# HOW THIS REPORT IS ORGANIZED

This report includes four major sections, plus supplemental information.



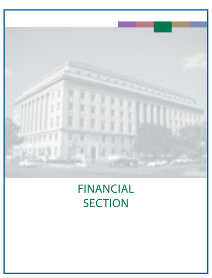

## 1. MANAGEMENT'S DISCUSSION AND ANALYSIS SECTION

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



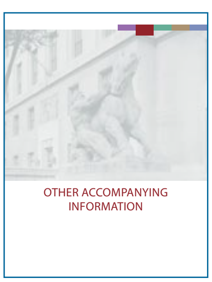

## 2. PERFORMANCE SECTION

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.



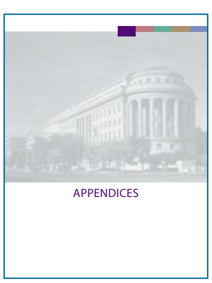

## 3. FINANCIAL SECTION

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




## 4. OTHER ACCOMPANYING INFORMATION SECTION

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




## 5. APPENDICES

Appendix A provides the data quality information for FTC's performance measures; Appendix B lists the acronyms used throughout this report; Appendix C lists useful links for references; Appendix D provides 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. Examples include the Federal Trade Commission Act, Telemarketing Sales Rule, Identity Theft Act, Fair Credit Reporting Act, and Clayton Act. In total, the Commission has enforcement or administrative responsibilities under more than 70 laws (see www.ftc.gov/ogc/stats.shtm for a listing).

## PROFILE

- The agency is headquartered in Washington, DC, and operates with seven regions across the United States.
- The agency had 1,165 full-time equivalent employees at the end of FY 2013.
- Total new budget authority for FY 2013 was $296 million.

## THE FTC'S INCEPTION AND AUTHORITY

The Bureau of Corporations, created in 1903, served as the FTC's predecessor agency. It was the Supreme Court's 1911 decision in the Standard Oil case (*Standard Oil Co. v. U.S.,* 221 U.S. 1 (1911)) that prompted the transformation from the Bureau of Corporations to the FTC. The decision resulted in the FTC Act of 1914, where Congress created an administrative agency charged with preventing "unfair methods of competition," giving definition to that general prohibition, utilizing a number of quasi-judicial powers to enforce that prohibition, and enforcing the Clayton Act. The FTC Act was later amended to prohibit unfair or deceptive acts or practices and the FTC currently maintains enforcement and administrative responsibilities under 70 laws. For a description of and further information regarding each law, visit: www.ftc.gov/ogc/stats.shtm.

# MESSAGE FROM THE CHAIRWOMAN

*Edith Ramirez*
*Chairwoman*

The Federal Trade Commission has a unique dual mission to protect consumers and maintain competition in broad sectors of our economy. In FY 2013, the FTC continued to exemplify good government, effective law enforcement, and outstanding outreach to consumers, businesses, and our law enforcement partners around the world. This Performance and Accountability Report illustrates how we managed our resources, highlights our major accomplishments, and outlines our plans to address the challenges ahead.

## FY 2013 PERFORMANCE HIGHLIGHTS

### CONSUMER PROTECTION

The FTC continues to give priority to protecting consumer privacy and improving data security, stopping harmful practices that take advantage of new technology, and protecting underserved Americans from fraud including in the financial services marketplace.

In February 2013, the FTC charged mobile device manufacturer HTC America failed to take reasonable steps to secure the software it developed, introducing security flaws that placed sensitive information about millions of consumers at risk. HTC America agreed to a settlement that requires the company to develop and release software patches to fix vulnerabilities found in millions of its devices, establish a comprehensive security program, and undergo independent security assessments every other year for the next 20 years.

The FTC filed its first case against mobile cramming case against Wise Media in April 2013. The company signed consumers up for so-called "premium services" that sent text messages with horoscopes and other information, and then placed recurring charges of $9.99 per month on mobile phone bills, all allegedly without consumers' knowledge or permission. In November 2013, Wise Media agreed to a settlement that permanently bans it from placing any charges on consumers' telephone bills or assisting anyone else in doing so.

This year also marked the 10th anniversary of the FTC's National Do Not Call Registry, which allows consumers to opt-out of receiving certain telemarketing calls. The Registry currently includes over 223 million telephone numbers and remains one of the government's most popular programs. The agency escalated its campaign against illegal robocalls by leading joint federal-state law enforcement efforts against operations allegedly responsible for millions of robocalls pitching phony credit card interest rate reductions. In addition, the FTC challenged the public to create an innovative technological solution to block illegal robocalls. Out of the nearly 800 eligible submissions to the FTC's

Robocall Challenge, two winners tied for the $50,000 prize and they are working to bring their ideas to market.

The FTC also continued its law enforcement efforts to stop fraudulent financial services. In June 2013, the FTC brought an action against Mortgage Investors Corporation, one of the nation's leading refinancers of veterans' home loans. The company will pay a record $7.5 million civil penalty to resolve allegations that it violated the agency's Telemarketing Sales Rule by calling more than 5.4 million U.S. service members and veterans whose phone numbers were on the Do Not Call Registry and misrepresenting the cost of and savings from refinancing mortgages. This case also represents the first action brought by the FTC to enforce the Mortgage Acts and Practices - Advertising Rule, which allows the FTC to collect civil penalties for deceptive mortgage ads. In July 2013, the FTC also reached a settlement with the world's largest debt collection operation, Expert Global Solutions and its subsidiaries, who agreed to stop harassing consumers with allegedly illegal debt collection calls and to pay a $3.2 million civil penalty – the largest ever obtained by the FTC against a third-party debt collector.

## PROMOTING COMPETITION

One of the agency's top priorities is promoting competition in the health care sector of the economy. This year the FTC had two landmark victories at the U.S. Supreme Court. In June 2013, the FTC achieved a significant victory when the Supreme Court ruled in *FTC v. Actavis* that pay-for-delay settlements can violate the antitrust laws and should be subject to antitrust review. In so doing, the Court overturned the so-called "scope of the patent" test, which some courts had adopted, and which had virtually immunized pay-for-delay settlements from antitrust review. Because of the Court's decision, the FTC is in a much stronger position to protect consumers from anticompetitive drug-patent settlements that result in higher drug costs. Additionally, in February 2013, the Supreme Court unanimously ruled in favor of the FTC in *FTC v. Phoebe Putney Health System*, reviving the FTC's administrative challenge to a hospital merger resulting in a monopoly for general acute-care inpatient services in the Albany, Georgia area. Addressing the respondents' claim of state action immunity, the Court held that the Georgia legislature did not articulate a clear policy that hospital authorities could eliminate competition through a hospital merger merely by conferring general corporate powers on the local hospital authority. The ruling has broad implications for antitrust enforcement because it clarifies and tightens the test for determining when state action immunity applies to anticompetitive actions by non-sovereign state actors, such as the Georgia Hospital Authority of Albany-Dougherty County.

## OUTREACH AND PARTNERSHIPS

Consumers, industry, and our law enforcement partners keep us informed about real-world trends and challenges in the marketplace. Consumers can contact us online or via toll-free phone numbers. Our public outreach also includes online resources, such as www.ftc.gov, much of which is also available in Spanish. We also provide updates on Facebook and Twitter, and host educational videos on the FTC's YouTube channel. The FTC's online Business Center offers extensive guidance to businesses.

## FINANCIAL MANAGEMENT

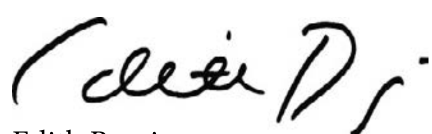
Being diligent and responsible stewards of the public resources that the American taxpayers and the Congress provide to us is one of our most important jobs. For the FY 2013 independent financial audit, we received our 17th consecutive unqualified opinion, the highest audit opinion available. The independent auditors did not identify any material weaknesses, significant deficiencies, or instances of non-compliance with laws and regulations. I am pleased to report that management's assessment of risks and review of controls also disclosed no material weaknesses (see Statement of Assurance, p. 27) and that the financial and performance data presented here is reliable and complete.

## FUTURE CHALLENGES

In pursuing our strategic goals and objectives, many of the FTC's challenges are defined by the conditions of the marketplace, and thus are ever changing. We work to stay informed about new technologies, which can bring tremendous benefits to consumers, but also pose challenges on both the competition and consumer protection fronts. For a more detailed description of our mission challenges that have been identified by senior management, see p. 21.

Additionally, the Reports Consolidation Act of 2000 requires the Inspector General (IG) to determine key management and performance challenges facing the agency, and to assess our progress in addressing them. The IG noted that the agency faces challenges this coming year in consolidating two Washington, D.C. satellite offices into one space at the Constitution Center building; securing the agency's information systems and networks from destruction, data loss, or compromise; and reducing the vulnerability of leaks of nonpublic information during FTC investigations. Agency management agrees that these are critical challenges, and with the IG's assessment of our progress in addressing the challenges, as discussed in the Other Accompanying Information Section of this report (see p. 138).

All of us at the FTC look forward to continuing our work to protect American consumers and promote competition along with our partners and colleagues in Congress, industry, and domestic and international law enforcement.



Edith Ramirez
December 16, 2013

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# MANAGEMENT'S DISCUSSION AND ANALYSIS

# 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 (U.S.) 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.

## THE 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.

## THE 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 this 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 product warranties, care labels in clothes, and labels showing the energy costs of home appliances provide information that is required by the FTC. Likewise, businesses must be familiar with the laws requiring truthful advertising and protecting consumers' personally identifiable and sensitive health information. These laws are enforced by the FTC.

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 enforced 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 or deceptive acts or practices in or affecting commerce." Since then, the FTC also has been directed to enforce 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.

*The FTC Commission as of September 30, 2013: (left to right) Joshua D. Wright, Commissioner; Julie Brill, Commissioner; Edith Ramirez, Chairwoman; Maureen Ohlhausen, Commissioner.*

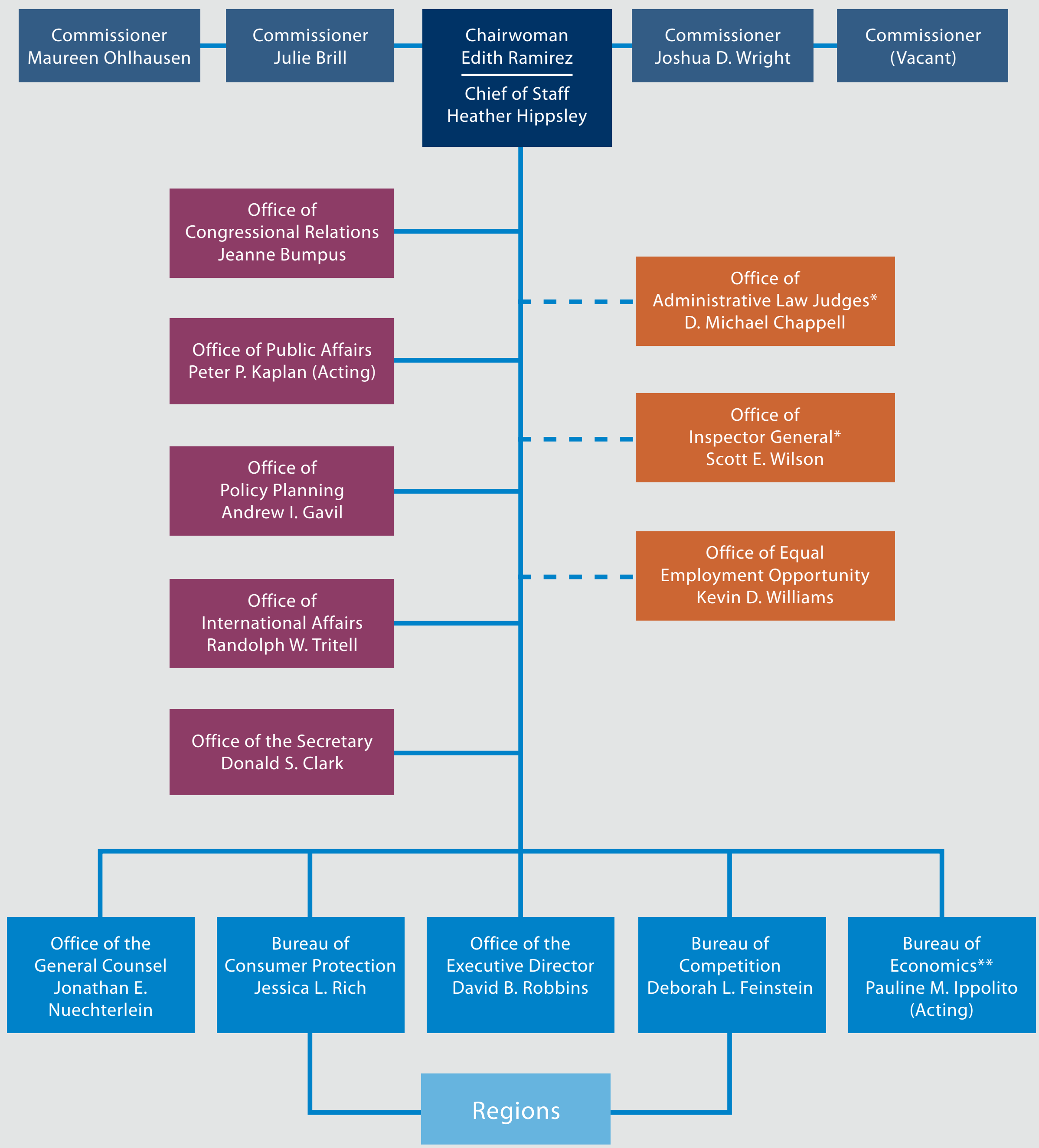
## OUR ORGANIZATION

The FTC is an independent agency that reports to the President and to 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. No more than three commissioners may be from the same political party. The President chooses one commissioner to act as Chairman. The post is currently held by Chairwoman Edith Ramirez, a commissioner since 2010, who was confirmed as Chairwoman by the U.S. Senate on March 4, 2013. At the end of the fiscal year, the commissioners were Julie Brill, Maureen K. Ohlhausen, and Joshua D. Wright.

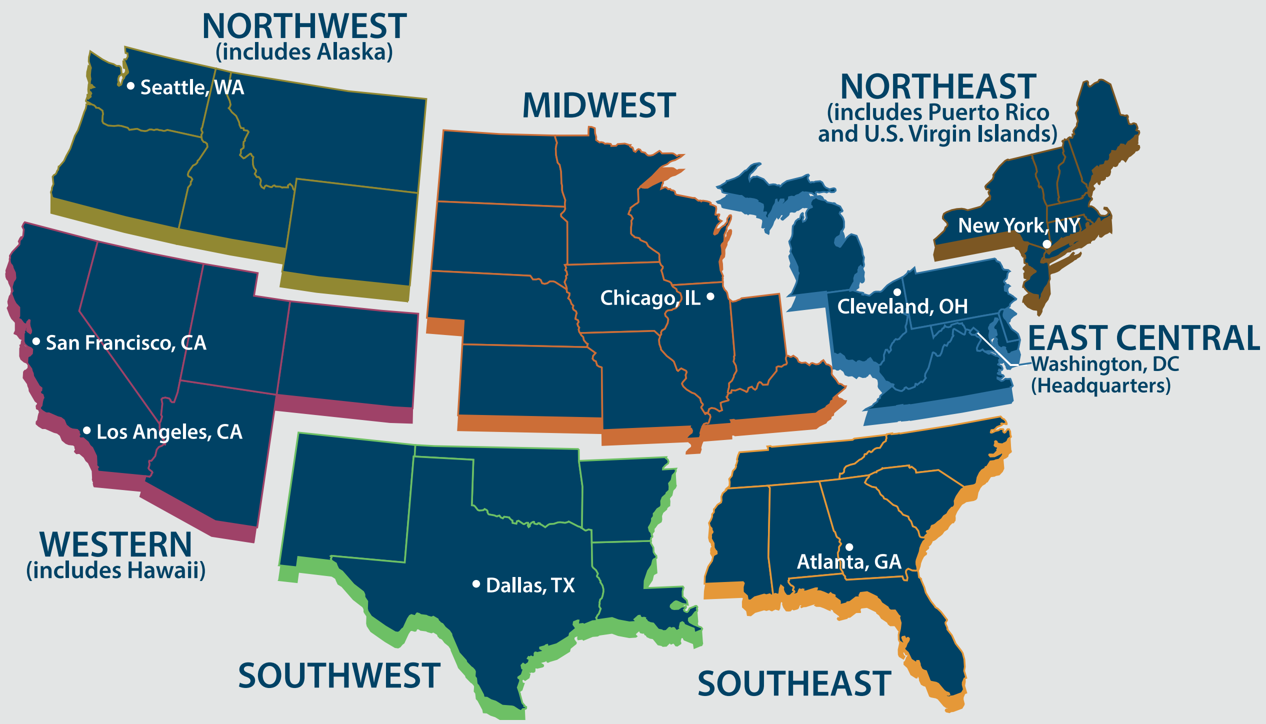
The FTC's mission is carried out by three bureaus: the Bureau of Consumer Protection, the Bureau of Competition, and the Bureau of Economics. Their work is aided by the Office of General Counsel, the Office of International Affairs, the Office of Policy Planning, the Office of Public Affairs, the Office of Congressional Relations, the Office of the Secretary, the Office of the Executive Director, the Office of Administrative Law Judges, the Office of Equal Employment Opportunity, the Office of Inspector General, and seven regional offices.

## FEDERAL TRADE COMMISSION ORGANIZATIONAL CHART




** An independent organization within the FTC*
***The current Director is Martin Gaynor, effective October 1, 2013.*

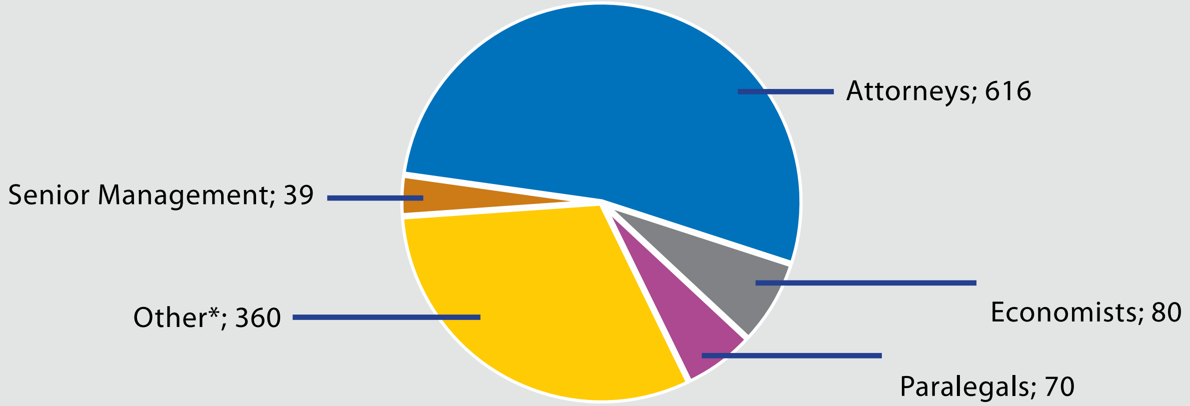
The agency is headquartered in Washington, DC, and operates with seven regions across the U.S. The graphic below illustrates the locations of the FTC regions.




## OUR PEOPLE

The FTC's workforce is its greatest asset. The agency's workforce consists of 1,165 civil service employees dedicated to addressing the major concerns of American consumers. The chart below shows workforce composition by category.

### FTC'S WORKFORCE COMPOSITION




** "Other" includes support staff, program management, investigators, and information technology-related occupations.*

# PERFORMANCE OVERVIEW

This section explains the FTC's strategic and performance planning framework and summarizes the key performance measures and efficiency 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 under Verification and Validation of Performance Data, and in Appendix A: Data Quality Information.

## STRATEGIC AND PERFORMANCE PLANNING FRAMEWORK

The FY 2013 performance planning framework originates from the FTC's Strategic Plan for Fiscal Years 2009 to 2014, available at www.FTC.gov/opp/gpra/spfy09fy14.pdf and is supported by the FTC's Performance Plan, available at www.ftc.gov/sites/default/files/documents/reports_annual/performance-plan/2013_performance_plan.pdf.

In FY 2012, the FTC released an addendum to the strategic plan that included several target increases and a minor measure change. The changes have been noted in this report next to each measure's performance discussion, as applicable. The addendum is available at www.ftc.gov/sites/default/files/documents/reports_annual/strategic-plan/spfy09fy14add.pdf.

The FTC began operating under this strategic plan in FY 2010. The FTC's work is structured around three strategic goals and 13 objectives. Performance measures are used to gauge the FTC's success for each objective.

In FY 2014, the agency will implement an updated strategic plan for fiscal years 2014 to 2018, which will be available at www.ftc.gov/opp/gpra/index.shtm.

The table below describes each element in the FTC's performance framework.

| | |
|---|---|
| **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 (Numbers shown in millions) | OBJECTIVES |
|---|---|
| **PROTECT CONSUMERS**<br>Prevent fraud, deception, and unfair business practices in the marketplace.<br><br>**Net Costs: $151** | 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 protection through research, reports, rulemaking, and advocacy. |
| | Protect American consumers in the global marketplace by providing sound policy and technical input to foreign governments and international organizations to promote sound consumer policy. |
| **MAINTAIN COMPETITION**<br>Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.<br><br>**Net Costs: $41** | Take action against anticompetitive mergers and practices that may cause significant consumer injury. |
| | Prevent consumer injury through education. |
| | Enhance consumer benefit through research, reports, and advocacy. |
| | Protect American consumers in the global marketplace by providing sound policy recommendations and technical advice to foreign governments and international organizations to promote sound competition policy. |
| **ADVANCE PERFORMANCE**<br>Advance the FTC's performance through organizational, individual, and management excellence.<br><br>*Goal 3's costs are distributed to Goal 1 and Goal 2 predominately by Goal 1's and Goal 2's FTE usage, except for those non-pay costs that are clearly attributable to a specific goal.* | Provide effective human resources management. |
| | Provide effective infrastructure and security management. |
| | Provide effective information resources management. |
| | Provide effective financial and acquisition management. |

Note: Net Costs represent the annual cost of agency operations. The gross cost less any offsetting revenue is used to determine the net cost.

## PERFORMANCE MEASUREMENT PROCESS

Bureau and Office representatives serve as the Performance Measure Reporting Officials (PMROs), who act as data stewards for each of the agency's publicly-reported performance measures. The PMROs report to the Deputy Performance Improvement Officer (PIO) on a monthly, quarterly, or annual basis via an internal data reporting tool. The Financial Management Office also leads quarterly performance measure reviews that coincide with the budget execution reviews. The CFO/PIO, the Executive Director/Chief Operating Officer, and the Chief of Staff/Chairwoman are briefed on the results and any significant variances in planned versus actual results. The PIO and Deputy PIO then coordinate with the PMROs on any adjustments to strategies and tactics based on the performance results.

## KEY PERFORMANCE MEASURES AND EFFICIENCY MEASURES OVERVIEW

The FTC has established performance measures for assessing program performance against strategic goals and objectives. Of the 40 measures, 16 are considered "key" measures because they best indicate whether agency activities are achieving the desired outcome associated with the related objective, and are indicated with a key graphic throughout this report. Additionally, four performance measures are considered efficiency measures because either they are ratios of outcomes to inputs or they capture administrative timeliness. For each measure, the FTC has established a performance target.

The following table summarizes actual performance during FY 2013 against established targets for all of the FTC's key performance and efficiency measures and provides a synopsis of related highlights. The table also includes actual results from the past three fiscal years. The FTC met or exceeded all of the 16 key measures and 4 of the 4 efficiency measures.

| LEGEND FOR UPCOMING TABLES |
|---|
| ✔ Signifies that the target is met or exceeded |
| ✖ Signifies that the target is not met |

## STRATEGIC GOAL 1: PROTECT CONSUMERS

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

Key Measure 1.1.2 The percentage of the FTC's consumer protection law enforcement actions that target the subject of consumer complaints to the FTC. (Output Measure)

| | | | |
|---|---|---|---|
| **2013** | ***Target** | 70.0% of actions | **Performance Highlights**<br>In FY 2013, the FTC filed its first case against mobile cramming – the placement of unauthorized charges on mobile phone bills. The FTC took legal action to shut down Wise Media, an operation that allegedly signed consumers up for so-called "premium services" that sent text messages with horoscopes and other information, and then placed repeating charges of $9.99 per month on mobile phone bills, all without consumers' knowledge or permission.<br><br>** Annual targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.* |
| | **Actual** | 90.9% ✔ | |
| **2012** | **Actual** | 90.6% ✔ | |
| **2011** | **Actual** | 80.4% ✔ | |

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

Key Measure 1.2.1 The percentage of all cases filed by the FTC that were successfully resolved through litigation, a settlement, or issuance of a default judgment. (Outcome Measure)

| | | | |
|---|---|---|---|
| **2013 | *Target | 80.0-90.0% of cases | **Performance Highlights**<br>Mortgage Investors Corporation, one of the nation's leading refinancers of veterans' home loans, agreed to pay a $7.5 million civil penalty to resolve allegations that it called more than 5.4 million U.S. service members and veterans whose phone numbers were on the Do Not Call Registry and misrepresented the cost of and savings from refinancing mortgages. The settlement represents the largest fine the FTC has ever collected for allegedly violating Do Not Call provisions of the agency's Telemarketing Sales Rule (TSR). This case also represents the first action brought by the FTC to enforce the Mortgage Acts and Practices - Advertising Rule (MAP Rule), which allows the FTC to collect civil penalties for deceptive mortgage ads.<br><br>** Annual targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | 98.6% ✔ | |
| 2012 | Actual | 100.0% ✔ | |
| 2011 | Actual | 100.0% ✔ | |

Efficiency Measure 1.2.3 The percentage of redress cases in which the FTC distributes redress dollars designated for distribution to consumers within six months.

| | | | |
|---|---|---|---|
| **2013 | Target | 90.0% of cases | **Performance Highlights**<br>The agency returns funds to victims of deceptive practices following the successful prosecution of defendants that result in judgments or settlements. For example, the FTC mailed 50,395 refund checks worth more than $1.1 million to consumers who were allegedly victimized by Health Care One and three affiliated companies, a telemarketing operation charged with tricking consumers into buying worthless medical discount plans. Pursuant to settlement agreements in the case, the defendants were required to surrender their assets so money could be returned to consumers. The orders also banned the defendants from selling healthcare-related goods and services in the future, among other things.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | 94.7% ✔ | |
| 2012 | Actual | 95.0% ✔ | |
| 2011 | Actual | 100.0% ✔ | |

## Objective 1.3: Prevent consumer injury through education.

Key Measure 1.3.2 Customer satisfaction rate with an FTC consumer education website or microsite. (Outcome Measure)

| | | | |
|---|---|---|---|
| 2013 | Target | 73.0% | **Performance Highlights**<br>The FTC used the American Customer Satisfaction Index (ACSI) to measure how satisfied visitors to OnGuardOnline.gov are. Over 100 federal agencies use this survey to measure customer satisfaction. In FY 2013, OnGuardOnline.gov maintained an overall customer satisfaction score of 80%, well above the benchmark score for government websites (73%). The survey also allows the FTC to measure key website elements such as navigation, site information, look and feel, site performance and functionality. The OnGuardOnline.gov score for each of these elements was above the national benchmark for satisfaction. In addition, 71% of respondents said the site helped them do what they wanted and 60% said they learned something on the site that would change their online behavior in the future, a strong indication that the site is an effective and helpful tool for consumers. |
| | Actual | 80.0% ✔ | |
| 2012 | Actual | 81.0% ✔ | |
| 2011 | Actual | 81.0% ✔ | |

## Objective 1.4: Enhance consumer protection through research, reports, rulemaking, and advocacy.

Key/Efficiency Measure 1.4.4 The percentage of proposed Administrative Procedure Act (APA) rulemakings, conducted solely by the FTC, completed within nine months of receipt of final comments in the Final Notice of Proposed Rulemaking.

| | | | |
|---|---|---|---|
| **2013 | Target | 75.0% of rulemakings | **Performance Highlights**<br>There is no data to consider under this measure, as the FTC had no APA rulemakings to consider in FY 2013.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | N/A | |
| 2012 | Actual | N/A | |
| 2011 | Actual | 83.3% ✔ | |

## Objective 1.5: Protect American consumers in the global marketplace by providing sound policy and technical input to foreign governments and international organizations to promote sound consumer policy.

Key Measure 1.5.1 Policy advice provided to foreign consumer protection and privacy agencies, directly and through international organizations, through substantive consultations, written submissions, or comments. (Output Measure)

| | | | |
|---|---|---|---|
| ****2013** | ***Target** | 60 policy inputs | **Performance Highlights**<br>In FY 2013, the FTC provided policy advice in 61 instances, through consultations, presentations, and written comments. New and emerging Internet policy and consumer privacy issues are being considered both by foreign agencies and by a growing range of international organizations. This has sustained a strong demand for the FTC's policy advice and technical input on consumer policy and related issues.<br><br>** Annual targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 61 ✔ | |
| **2012** | **Actual** | 65 ✔ | |
| **2011** | **Actual** | 52 ✔ | |

# STRATEGIC GOAL 2: MAINTAIN COMPETITION

## Objective 2.1: Take action against anticompetitive mergers and practices that may cause significant consumer injury.

Key Measure 2.1.1 Actions to maintain competition, including litigated victories, consent orders, abandoned transaction remedies, restructured transaction remedies, or fix-it-first transaction remedies in a significant percentage of substantial merger and nonmerger investigations. (Outcome Measure)

| | | |
|---|---|---|
| **2013** | **Target** | 40.0-60.0% of substantial investigations |
| | **Actual** | 42.2% ✔ |
| **2012** | **Actual** | 43.1% ✔ |
| **2011** | **Actual** | 34.1% [1] ✖ |

**Performance Highlights**

The FTC obtained a positive result in 27 of the 64 significant merger and nonmerger (anticompetitive practices) investigations it concluded during FY 2013. Actions pertaining to mergers included successful second request or compulsory process investigations in a variety of matters across various industries: pharmaceuticals hospitals, high technology, manufacturing, and energy. Additionally, the FTC successfully concluded its litigation against the Polypore International/Daramic merger, securing divestiture of the acquired assets and a restoration of competition lost in the merger. After securing a significant victory in the Supreme Court on the parameters of the state action defense in antitrust cases, the FTC settled its litigation against the Phoebe Putney Health System.

In regard to anticompetitive practices, the FTC took action to stop and prevent anticompetitive tactics that harm consumers by thwarting competition. For example, during FY 2013, the FTC issued a consent order prohibiting IDEXX (the U.S.'s largest supplier of diagnostic testing products used by small animal veterinarians) from maintaining concurrent exclusive distribution agreements with all three top tier distributors for the next 10 years. In another conduct case, the FTC required Google to license on fair, reasonable, and non-discriminatory terms patents that it had acquired in its acquisition of Motorola Mobility. In ongoing litigation, the Supreme Court held in *FTC* v. *Actavis* that pay-for-delay agreements between brand and generic pharmaceutical companies are subject to antitrust scrutiny, thus reversing a lower court's dismissal of the FTC's case. The matter can now proceed to trial.

[1] This is a correction to results reported in the FY 2011 PAR. The results should have been based on 15 out of 44 cases, or 34%. The FY 2011 PAR reports actuals on 14 of 44 cases, or 32%.

| Efficiency Measure 2.1.4 Consumer savings of at least thirteen times the amount of FTC resources allocated to the merger program. | | | |
|---|---|---|---|
| 2013 | *Target | 1,300.0% | **Performance Highlights**<br>During FY 2013, the agency saved consumers approximately 13 times the amount of resources devoted to the merger program.<br><br>** Annual targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.* |
| | Actual | 1,382.2% ✔ | |
| 2012 | Actual | 1,492.4% ✔ | |
| 2011 | Actual | 1,419.0%[2] ✔ | |

| Efficiency Measure 2.1.7 Consumer savings of at least twenty times the amount of FTC resources allocated to the nonmerger program. | | | |
|---|---|---|---|
| 2013 | *Target | 2,000.0% | **Performance Highlights**<br>During FY 2013, the agency saved consumers approximately 23 times the amount of resources devoted to the nonmerger enforcement program. This is largely attributable to the consumer savings from one particular case from FY 2010 involving Intel Corporation. The targets for FY 2012 through FY 2014 were modified in response to the agency greatly exceeding the target due to this case.<br><br>** Annual targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.* |
| | Actual | 2,296.0% ✔ | |
| 2012 | Actual | 1,831.7% ✖ | |
| 2011 | Actual | 1,917.7% ✔ | |

[2] This is a correction to results reported in the FY 2011 PAR. The results should have been based on a savings of $532.2 (million), or 1,419%. The FY 2011 PAR reports savings of $531.5 (million), or 1,417%.

## Objective 2.2: Prevent consumer injury through education.

Key Measure 2.2.1 Competition resources accessed via the FTC's website. (Output Measure)

| | | | |
|---|---|---|---|
| ****2013** | ***Target** | 24.0 million hits | **Performance Highlights**<br>The FTC is committed to developing readily-available online competition content. Through its online presence, the FTC strives to provide content to serve its stakeholders, whether they are individual consumers, affected businesses, researchers, or practitioners and policy makers. During FY 2013, the FTC's online competition resources registered over 44 million hits. These resources include pages that relate to individual investigations (such as complaints, orders, comments, and press releases), policy and research oriented content (such as reports, policy guides, and fact sheets, workshop or conference webpages, the online competition enforcement database, advocacy filings, and amicus briefs), and business and consumer education material. The use by the FTC of social media, including Twitter and Facebook, has driven more traffic than expected to certain competition related pages, including the FTC's early termination notices. The agency did not account for the rapid growth in these tools when it set the target for this measure.<br><br>** Annual targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 44.1 ✔ | |
| **2012** | **Actual** | 23.2 ✖ | |
| **2011** | **Actual** | 22.6 ✔ | |

## Objective 2.3: Enhance consumer benefit through research, reports, and advocacy.

Key Measure 2.3.1 Workshops, seminars, conferences, and hearings convened or cosponsored that involve significant competition-related issues. (Output Measure)

| | | |
|---|---|---|
| **2013** | **Target** | 4 workshops, seminars, conferences and hearings |
| | **Actual** | 4 ✔ |
| **2012** | **Actual** | 3 ✖ |
| **2011** | **Actual** | 4 ✔ |

**Performance Highlights**

The FTC devotes resources to the creation of workshops, conferences, and hearings to foster an environment of discussion and analysis of competition-related issues. In FY 2013, the FTC held four major conferences.

One event was the Pet Medications Workshop held in October 2012. The workshop examined competition and consumer protection issues in the pet medications industry.

The FTC's Microeconomics Conference, held in November 2012, focused on antitrust, consumer protection and policy issues that FTC economists encounter in their work. It also included discussions of structural models in applied industrial organization and the economics of hospital competition.

A joint conference was held in December 2012 with the Department of Justice's Antitrust Division. Participants examined the impact of patent assertion entity activity on innovation and competition.

Finally, the FTC hosted a forum on using enforceable industry codes of conduct to protection consumers in cross-border commerce, which included a discussion of the anti-trust implications of such codes.

| Key Measure 2.3.2 Reports and studies issued on key competition-related topics. (Output Measure) | | | |
|---|---|---|---|
| **2013** | **Target** | 8 reports and studies | **Performance Highlights**<br>A key component to the FTC's competition-related strategy objective is studying and issuing working papers on competition-related topics. During FY 2013, the FTC published working papers on how mergers affect competition in grocery retailing, the structural evolution of the dialysis industry with a focus on differences between for profit and nonprofit clinics, and the effect of entry on generic drug prices. The FTC also published an annual report on concentration in the ethanol industry and the Hart-Scott-Rodino Annual Report on the premerger notification program and merger enforcement. |
| | **Actual** | 14 ✔ | |
| **2012** | **Actual** | 9 ✔ | |
| **2011** | **Actual** | 11 ✔ | |

| Key Measure 2.3.3 Advocacy comments and amicus briefs on competition issues filed with entities including federal and state legislatures, agencies or courts. (Output Measure) | | | |
|---|---|---|---|
| ****2013** | ***Target** | 10 comments and briefs | **Performance Highlights**<br>In FY 2013, the FTC filed advocacy comments and amicus briefs on competition issues such as pay-for-delay pharmaceutical patent settlements, standard essential patents, the regulation of certified registered nurse anesthetists and advanced practice registered nurses, taxicab licensing, and smartphone applications for arranging passenger motor vehicle transportation services.<br><br>** Annual targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 19 ✔ | |
| **2012** | **Actual** | 18 ✔ | |
| **2011** | **Actual** | 16 ✔ | |

## Objective 2.4: Protect American consumers in the global marketplace by providing sound policy recommendations and technical advice to foreign governments and international organizations to promote sound competition policy.

Key Measure 2.4.1 Policy advice provided to foreign competition agencies, directly and through international organizations, through substantive consultations, written submissions, or comments. (Output Measure)

| | | | |
|---|---|---|---|
| **2013 | *Target | 60 policy inputs | **Performance Highlights**<br>In FY 2013, the FTC provided policy advice to foreign competition agencies in over 100 instances through consultations, written submissions, or comments. The FTC's policy advice remains highly regarded and sought after by new and more experienced competition agencies and by participants in international competition organizations and conferences.<br><br>** Annual targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | 100 ✔ | |
| 2012 | Actual | 146 ✔ | |
| 2011 | Actual | 112 ✔ | |

## STRATEGIC GOAL 3: ADVANCE PERFORMANCE

### Objective 3.1: Provide effective human resources management.

Key Measure 3.1.2 The extent employees think the organization has the talent necessary to achieve organizational goals. (Outcome Measure)

| | | | |
|---|---|---|---|
| 2013 | Target | 56.0% | **Performance Highlights**<br>The Federal Human Capital Survey includes 98 questions that measure how effectively agencies manage their workforces. The FTC was at least five points higher than the government-wide average on 63 of the 84 non-demographic questions, and only one item fell more than five points below the government-wide average on any question. In Talent Management, the government-wide results were 56.0% and the FTC received 69.0%, which is second place compared to 37 other departments and agencies with more than 1,000 full-time employees. |
| | Actual | 69.0% ✔ | |
| 2012 | Actual | 70.0% ✔ | |
| 2011 | Actual | 70.0% ✔ | |

### Objective 3.2: Provide effective infrastructure and security management.

Key Measure 3.2.1 A favorable Continuity of Operations (COOP) rating. (Output Measure)

| | | | |
|---|---|---|---|
| 2013 | Target | 75.0% rating | **Performance Highlights**<br>The FTC participated in the government-wide Eagle Horizon Exercise 2013 to test and verify the effectiveness of the FTC COOP. The FTC's overall score of 85.0% for the Eagle Horizon 2013 Exercise reflects the strong overall commitment and continued support of the FTC COOP. This score was comparable to the 2012 score and demonstrates sustained high performance for the FTC's participation in COOP testing exercise conducted by the Federal Emergency Management Agency (FEMA). Continued efforts to better define the FTC's essential functions and ensure that effective procedures are in place are reflected in the outstanding overall exercise score. |
| | Actual | 85.0% ✔ | |
| 2012 | Actual | 90.0% ✔ | |
| 2011 | Actual | 75.0% ✔ | |

Key Measure 3.2.2 Availability of information technology systems. (Outcome Measure)

| | | | Performance Highlights |
|---|---|---|---|
| 2013 | Target | 99.50% system availability | **Performance Highlights** In FY 2013, the information technology services pool averaged 100.0% availability, exceeding the target. These services include mission critical systems, such as email, phone and voicemail, and wireless services. |
| | Actual | 100.0% ✔ | |
| 2012 | Actual | 99.86% ✔ | |
| 2011 | Actual | 99.82% ✔ | |

## Objective 3.3: Provide effective information resources management.

Key Measure 3.3.1 The percentage of Commission-approved documents in the FTC's ongoing and newly initiated proceedings available via the Internet within 15 days of becoming part of the public record. (Output Measure)

| | | | Performance Highlights |
|---|---|---|---|
| **2013 | Target | 80.0% | **Performance Highlights** Making public documents available on the public FTC website in a timely manner increases public awareness of the FTC's activities. Examples of public documents approved by the FTC and placed on the website include (1) the FTC's complaints, pleadings, opinions and orders filed in adjudicative proceedings; (2) the Federal Register notices in rulemaking, guide issuance, regulatory review, consent agreement, and other proceedings in which the FTC solicits public comments; (3) reports by the FTC and its staff; (4) advocacy filings; (5) final consent orders and accompanying complaints; and (6) the FTC's complaints, briefs, and proposed orders filed in federal court litigation.<br><br>In FY 2013, the agency posted 80.6% of documents tracked under this measure on the FTC's public website within 15 days of becoming part of the public record.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | 80.6% ✔ | |
| 2012 | Actual | 80.2% ✔ | |
| 2011 | Actual | 82.0% ✔ | |

| Objective 3.4: Provide effective financial and acquisition management. | | | |
|---|---|---|---|
| Key Measure 3.4.2 The percentage of Bureaus/Offices that establish and maintain an effective, risk-based internal control environment. (Outcome Measure) | | | |
| **2013 | Target | 100.0% | **Performance Highlights**<br>The Statements of Assurance submitted by the agency's major components provide the basis for measuring the effectiveness of the agency's risk-based internal control environment. Based on these Statements of Assurance, 100% of the major components establish and maintain an effective, risk-based internal control environment.<br><br>*** This measure will no longer be reported after FY 2013.* |
| **2013 | Actual | 100.0% ✔ | |
| 2012 | Actual | 100.0% ✔ | |
| 2011 | Actual | 100.0% ✔ | |

# AGENCY MISSION CHALLENGES

The FTC stands prepared to face the challenges of today's marketplace as a champion for competition and consumers. As a small law enforcement agency with a broad mandate, many of the FTC's challenges are defined by the conditions of the marketplace, and thus are ever changing. For example, as consumers and businesses encounter difficulties with financial scams, deceptive or fraudulent advertising, online privacy and data security, and anticompetitive business practices in the technology, health care and other industries, the FTC steps forward to promote competition and protect consumers. Agency mission challenges are presented as they relate to the agency's strategic goals: Strategic Goal 1 (Protect Consumers) and Strategic Goal 2 (Maintain Competition). A reference to the most applicable strategic objectives is also provided, so readers may refer to descriptions of related performance targets and actual results listed by objective within the Performance Section.

Management's assessment was performed separately from the Inspector General's (IG) identified management and performance challenges (see Other Accompanying Information Section). Management concurs with the IG identified challenges and his assessment of agency progress in addressing the challenges.

## STRATEGIC GOAL 1: PROTECT CONSUMERS: PREVENT FRAUD, DECEPTION, AND UNFAIR BUSINESS PRACTICES IN THE MARKETPLACE

Under the goal of protecting consumers, the FTC will continue to give priority to addressing the following challenges: protecting consumer privacy and improving data security, stopping harmful practices that take advantage of new technology, promoting compliance in new media, protecting underserved Americans from fraud, protecting consumers in the financial services marketplace, combating identity theft, targeting deceptive advertising relating to consumers' health, protecting children in the marketplace, and evaluating environmental marketing claims.

### PROTECTING CONSUMER PRIVACY AND IMPROVING DATA SECURITY:

The FTC will continue to take a leading role in efforts to protect consumers from unfair, deceptive, or other illegal practices related to the privacy of their personal information, while preserving the many benefits that technological advances offer. The agency will stop unfair and deceptive consumer privacy and data security practices through law enforcement. It will promote stronger privacy protections through policy initiatives on a range of topics such as studying the privacy practices of the data broker industry. The FTC will also participate in interagency groups, promote self-regulatory efforts, provide technical assistance to the Congress on draft legislation, and participate in international privacy initiatives. (Objectives 1.1, 1.2, 1.3, and 1.4)

### STOPPING HARMFUL PRACTICES THAT TAKE ADVANTAGE OF NEW TECHNOLOGY:

Technology provides countless benefits to consumers, including choice, convenience, and increased access to goods, services, and information. It also enables, however, new vehicles for fraudulent, deceptive, and unfair practices in the marketplace. The FTC will continue to examine consumer protection issues in the mobile marketplace. The FTC will take enforcement actions against unfair and deceptive practices, including mobile cramming, text message spam, and misleading representations about apps. Technological advances also have created law enforcement challenges such as making it difficult for consumers and law enforcers to identify the location of fraudsters pitching scams over the telephone and to combat illegal robocalls. The FTC will continue to work with consumer groups, industry, technologists, policymakers, and other stakeholders to develop solutions to halt illegal robocalls and other telemarketing calls that violate the National Do Not Call Registry. (Objectives 1.1, 1.2, 1.3, and 1.4)

### PROMOTING COMPLIANCE IN NEW MEDIA:

As newer media such as text messaging and word-of-mouth/viral marketing open new avenues for companies to communicate with consumers, businesses must ensure that their marketing and sales practices in this new media comply with the law. The FTC will promote compliance by conducting outreach to businesses that engage in viral, mobile, and affiliate marketing, stressing that existing advertising principles apply to new media and methods of marketing. The FTC will also monitor the marketplace and initiate investigations where appropriate. (Objectives 1.1, 1.2, 1.3, and 1.4)

### PROTECTING UNDERSERVED AMERICANS FROM FRAUD:

Frauds such as those offering purported government loans and grants, or income opportunities affect everyone but pose an even greater risk to those from low-income and underserved communities, and the FTC will continue its law enforcement efforts in this area. The FTC also will continue to use the tools and authorities available to it to protect consumers by taking enforcement actions to stop deceptive mortgage and other debt services, payday lending operations engaging in deceptive practices, and abusive debt collection practices. These practices can have severe consequences for consumers who can least afford it. The FTC also will combat fraud targeting seniors, such as prize promotion scams, and examine ways to better assist older victims. (Objectives 1.1, 1.2, 1.3, and 1.4)

### PROTECTING CONSUMERS IN THE FINANCIAL SERVICES MARKETPLACE:

Even as the economy recovers, many consumers continue to face financial challenges. The FTC will continue to closely coordinate with the Consumer Financial Protection Bureau to ensure that consumers are protected in the financial marketplace and to avoid any duplicative efforts between the agencies. In addition to the areas of financial fraud identified in the previous section, the agency also will take action against deceptive practices related to motor vehicle sales, leasing, and financing. (Objectives 1.1, 1.2, 1.3, and 1.4)

### COMBATING IDENTITY THEFT:

Identity theft exacts a heavy financial and emotional toll from its victims, and the FTC will continue to assist the millions of Americans who are victimized each year. The FTC will continue to be the repository for identity theft complaints and make them available to federal criminal law enforcement agencies. Our trained counselors will continue to advise identity theft victims who call our toll free number about rights and remedies available to them under federal law. The agency also will publicize its victim assistance guide for pro-bono attorneys, train local law enforcement to spot and prosecute identity theft, and update educational materials to address new and emerging issues, such as medical and children's identity theft. (Objectives 1.1, 1.2, 1.3, and 1.4)

### TARGETING DECEPTIVE ADVERTISING RELATING TO CONSUMERS' HEALTH:

Consumers can fall prey to fraudulent health advertising when they are in need of medical help. The FTC, therefore, will continue to challenge deceptive advertising of health products, such as dietary supplements. The agency will focus on disease prevention and treatment claims; claims aimed at baby boomers, seniors, and the uninsured; and claims exploiting emerging health threats. In addition, the agency is coordinating in a wider government effort to prevent fraud related to the new health insurance marketplaces. (Objectives 1.1, 1.2, 1.3, and 1.4)

### PROTECTING CHILDREN IN THE MARKETPLACE:

Children and teens are particularly vulnerable to deceptive, unfair, and age-inappropriate advertising. The agency will educate businesses about their obligations pursuant to the recently revised Children's Online Privacy Protection Act (COPPA) Rule, and bring enforcement actions as appropriate against entities that violate the Rule. The FTC also plans to monitor alcohol advertising, promote self-regulation to reduce minors' exposure to alcohol advertising, and prepare a report to Congress evaluating compliance by alcohol companies with self-regulatory guidelines. Further, the agency will continue to monitor the marketing of violent entertainment to children and the ability of teens under age 17 to purchase age-restricted products containing violent content, and plans to release the results of an online survey of children regarding their access to and use of violent mobile game apps. (Objectives 1.1, 1.2, 1.3, and 1.4)

### EVALUATING ENVIRONMENTAL MARKETING CLAIMS:

Many consumers are interested in purchasing goods and services that have certain environmental attributes. Environmental marketing claims (such as "made with recycled content" or "biodegradable") can be potentially useful to consumers. Consumers, however, cannot judge the veracity of these types of claims themselves, and the complexity of the issues involved creates the potential for confusing or misleading claims. The FTC will educate businesses about the FTC's Guides for the Use of Environmental Marketing Claims ("Green Guides"), and will bring enforcement actions to stop deceptive environmental marketing claims. (Objectives 1.1, 1.2, 1.3, and 1.4)

## STRATEGIC GOAL 2: MAINTAIN COMPETITION: PREVENT ANTICOMPETITIVE MERGERS AND OTHER ANTICOMPETITIVE BUSINESS PRACTICES IN THE MARKETPLACE

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

### PROMOTING COMPETITION IN HEALTH CARE AND PHARMACEUTICALS:

The rapidly rising cost of health care, which continues to account for an increasingly significant share of the gross domestic product, is a matter of concern for consumers, employers, insurers, and the nation as a whole. To ensure that consumers receive the benefits of competition in health care, the FTC has made antitrust enforcement in this area a priority. One particular area of FTC focus has been pay-for-delay patent settlement agreements between brand and generic drug manufacturers to delay generic competition. As the Supreme Court recently explained in *FTC* v. *Actavis*, "there is reason for concern that settlements taking this form tend to have significant adverse effects on competition." These agreements deprive consumers of access to lower cost generic drugs. According to FTC economists, these anticompetitive deals, unless stopped, could cost consumers up to $35 billion over ten years. The FTC investigates and challenges patent settlements between brand and generic companies, when appropriate, and seeks relief for consumers when appropriate.

The agency also addresses rising prescription drug prices by investigating pharmaceutical and medical device company mergers and acquisitions. In addition, the FTC stops anticompetitive agreements between physicians and hospital service organizations and mergers and acquisitions involving hospitals and other health care providers that may raise the cost of health care. The agency has issued guidance about antitrust law to prevent groups of health care providers from creating and exercising market power to the determent of consumers. The FTC focuses these efforts so that misunderstandings about the law do not deter potentially beneficial collaborations among health care competitors. The Affordable Care Act of 2010 encourages healthcare providers to create integrated health care delivery systems, called Accountable Care Organizations, to improve the quality of care and lower health care costs. The FTC worked with the other relevant U.S. agencies (the Antitrust Division of the Department of Justice and the Centers for Medicare and Medicaid Services) to develop a Joint Statement of Antitrust Enforcement Policy for Accountable Care Organizations, which makes clear that the antitrust laws are not a barrier to bona fide collaboration to improve healthcare and reduce costs. Upon request, FTC staff reviews certain proposed ACOs. The FTC retains the ability to challenge collaborations that are anticompetitive. (Objectives 2.1, 2.2, and 2.3)

### CONTINUING EMPHASIS ON TECHNOLOGY:

The continuing importance of technology and the fast pace at which these markets evolve is a crucial marketplace challenge. FTC antitrust investigations increasingly involve high-technology sectors of the economy, such as devices used in manufacturing, electronic components, and computer hardware and software. In enforcing the antitrust laws, the FTC analyzes mergers and acquisitions filed under the Hart-Scott-Rodino (HSR) Act, and also monitors the marketplace for non-reportable transactions that might raise anticompetitive concerns. The FTC takes action against those mergers that are likely to reduce or eliminate competition. In addition, the FTC is vigilant where a firm may be illegally using a dominant market position to stifle competition and strengthen an existing monopoly in order to raise prices, reduce the quality or choice of goods and services, or reduce innovation; or where groups of competitors take collective action that threatens to increase price or stifle innovation. Furthermore, issues in antitrust and competition policy matters increasingly intersect with intellectual property. Among other work, the FTC will work to advance a greater understanding of the impact of patent assertion entities (also known as PAEs) on competition and consumers and take enforcement activity where appropriate to curb anticompetitive and deceptive conduct. (Objectives 2.1 and 2.3)

### 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. Through its review of HSR merger filings and investigation of non-reportable transactions, the FTC promotes competition and protects consumers in these markets. The FTC also 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. The FTC examines energy markets for anticompetitive nonmerger activity as well, such as illegal agreements among competitors, agreements between manufacturers and product dealers, monopolization, and other anticompetitive activities. The FTC continues to investigate whether certain oil producers, refiners, transporters, marketers, physical or financial traders, or others (1) have engaged in practices, including manipulation, that have lessened or may lessen competition in the production, refining, transportation, distribution, or wholesale supply of crude oil or petroleum products; or (2) have provided false or misleading information related to the wholesale price of crude oil or petroleum products to a federal department or agency. Such actions could violate Section 5 of the FTC Act, the Commission's Prohibition of Energy Market Manipulation Rule, or Section 811 or Section 812 of the Energy Independence and Security Act of 2007. To prepare and support agency staff in meeting these challenges, 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. The FTC has issued reports on the factors that influence the prices that American consumers pay for gas. These reports, the most recent of which was released in 2011, show that the price of oil is still the most important factor in gas prices. (Objectives 2.1 and 2.3)

# MANAGEMENT ASSURANCES

## (ON INTERNAL CONTROLS, FINANCIAL SYSTEMS, AND COMPLIANCE WITH LAWS AND REGULATIONS)

### IMPLEMENTATION OF THE FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT (FMFIA)

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, performing a preliminary risk assessment of such processes, reviewing and assessing the overall control environment, ensuring 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 2013, 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 Standards for Attestation Engagements (SSAE) No. 16), 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.

In FY 2013, the FTC continued to follow its Internal Control Review Plan. The objective of the reviews is to assist management in identifying high-risk areas and implement appropriate risk management strategies where necessary. Two additional reviews were initiated or underway this year. The Chairwoman's assurance statement that follows is supported by the processes and reviews described above, which were carried out in FY 2013. Management assurances tables appear in the Other Accompanying Information Section.

## CHAIRWOMAN'S FMFIA STATEMENT OF ASSURANCE

OFFICE OF THE
CHAIRWOMAN

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

**CHAIRWOMAN'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, 2013, were operating effectively and that no material weaknesses were found in the design or operation of our internal controls. Some reporting officials identified areas for improvement in their individual assessments, which are being addressed internally and are not of a material nature.

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

Signed ____________________
Edith Ramirez
December 16, 2013

## SUMMARY OF MATERIAL WEAKNESS AND NONCONFORMANCES

As noted in the Chairwoman's FMFIA Statement of Assurance, the FTC has no material weaknesses or nonconformances to report for FY 2013. No new material weaknesses or significant nonconformances were identified for the past nine years, nor were there any existing unresolved weaknesses requiring corrective action.

## FEDERAL INFORMATION SECURITY MANAGEMENT ACT (FISMA)

As mandated by FISMA, the agency continues to maintain an information security program to manage information technology in accordance with National Institute of Standards and Technology (NIST) requirements. During FY 2013, the FTC has performed five Assessment and Authorization (A&A) efforts and currently has nineteen systems authorized to operate. The FTC leveraged two Federal Risk and Authorization Management Program (FedRAMP) Joint Authorization Board (JAB) provisional authorizations – one for the cloud hosting of our public web sites and one for the Sentinel Network Services systems.

## 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. The FTC monitors, administers and collects on debts less than 180 days delinquent. The FTC also monitors, administers and collects on debts more than 180 days delinquent. All eligible, nonexempt 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 2013, the FTC processed 9,200 invoices totaling $100 million that were subject to prompt payment. Of these invoices, 99.1 percent were paid on time. During FY 2013, the FTC paid a total of $312 in interest penalties, or .0003 percent of the total dollar amount invoiced.

## AGENCY FINANCIAL MANAGEMENT SYSTEMS STRATEGY

The FTC's overall strategy for its financial management systems framework is driven by the objectives of operational effectiveness and efficiency, reliability and timeliness of data, and support of requirements of the agency's strategic goals. The agency continues to work with its shared service provider in enhancing its Core Financial System (CFS) and the related feeder systems and business processes. The FTC also plans to fully integrate its procurement system with its CFS. Such integration will strengthen internal controls, improve efficiency of the procurement process, and provide agency staff with timely information regarding budget execution and the availability of funds.

# FINANCIAL HIGHLIGHTS

## Introduction

The financial highlights presented below are an analysis of the information that appears in the FTC's FY 2013 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 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 17th straight year, the FTC is proud to have received an unqualified (clean) opinion on its audited financial statements. The chart below presents a snapshot of the changes in key financial statement line items that occurred during FY 2013 and is followed by an explanation of the more significant fluctuations in each of FTC's financial statements.

Differences between amounts presented in this section and the financial statements are due to rounding.

| CONDENSED BALANCE SHEET (Dollars shown in thousands) | | FY 2013 | | FY 2012 | Percentage Change |
|---|---|---|---|---|---|
| **Assets:** | | | | | |
| Fund balance with Treasury | $ | 206,638 | $ | 192,786 | 7% |
| Cash and other monetary assets | | 18,239 | | 28,360 | -36% |
| Accounts receivable, net | | 24,838 | | 31,986 | -22% |
| General property & equipment, net | | 22,042 | | 18,385 | 20% |
| **Total Assets** | $ | 271,757 | $ | 271,517 | 0% |
| **Liabilities:** | | | | | |
| Accrued consumer redress due to claimants | $ | 23,693 | $ | 27,219 | -13% |
| Consumer redress collections not yet disbursed | | 65,848 | | 84,935 | -22% |
| Accounts payable and other | | 29,725 | | 30,609 | -3% |
| **Total Liabilities** | $ | 119,266 | $ | 142,763 | -16% |
| **Net Position:** | | | | | |
| Cumulative results of operations | | 152,491 | | 128,754 | 18% |
| **Total Net Position** | $ | 152,491 | $ | 128,754 | 18% |
| **Total Liabilities and Net Position** | $ | 271,757 | $ | 271,517 | 0% |

| COST SUMMARY (Dollars shown in thousands) | | FY 2013 | | FY 2012 | Percentage Change |
|---|---|---|---|---|---|
| Gross costs | $ | 287,941 | $ | 286,054 | 1% |
| Less earned revenue | | (95,811) | | (101,619) | -6% |
| **Net Cost of Operations** | $ | 192,130 | $ | 184,435 | 4% |

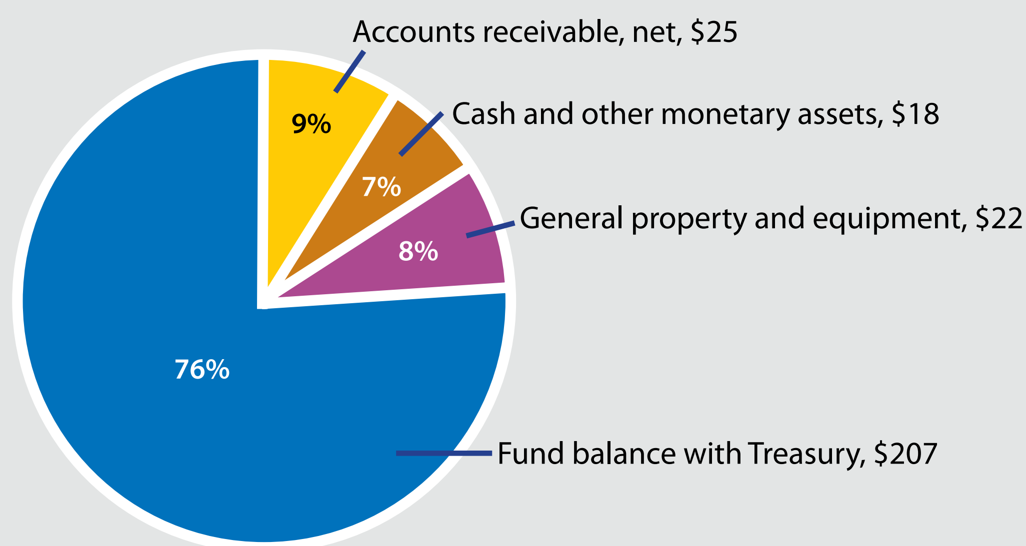
# FINANCIAL ANALYSIS

## ASSETS

The FTC's Balance Sheet shows total assets of $271.8 million at the end of FY 2013, an increase of $0.3 million or 0.1 percent compared to total assets of $271.5 million in FY 2012. The small variance between the two years is explained through the analysis of the individual asset categories.

The increase of $14 million in the fund balance with Treasury is due primarily to an increase in unpaid obligations at the end of the period. Cash and other monetary assets decreased by $10 million, due primarily to a large consumer redress distribution in FY 2013 of a judgment collected in FY 2012. Accounts receivable, net, decreased by $7 million, due to an increase in the allowance for uncollectible accounts in the consumer redress program, and to an increase in collections of civil penalties. General property & equipment, net, increased by $4 million, due primarily to capital asset additions during the year. The majority of additions were leasehold improvements, arising from the pending move of offices from M Street, and 601 New Jersey Avenue to the Constitution Center building on 400 7th Street.

ASSETS BY TYPE (Dollars shown in millions)



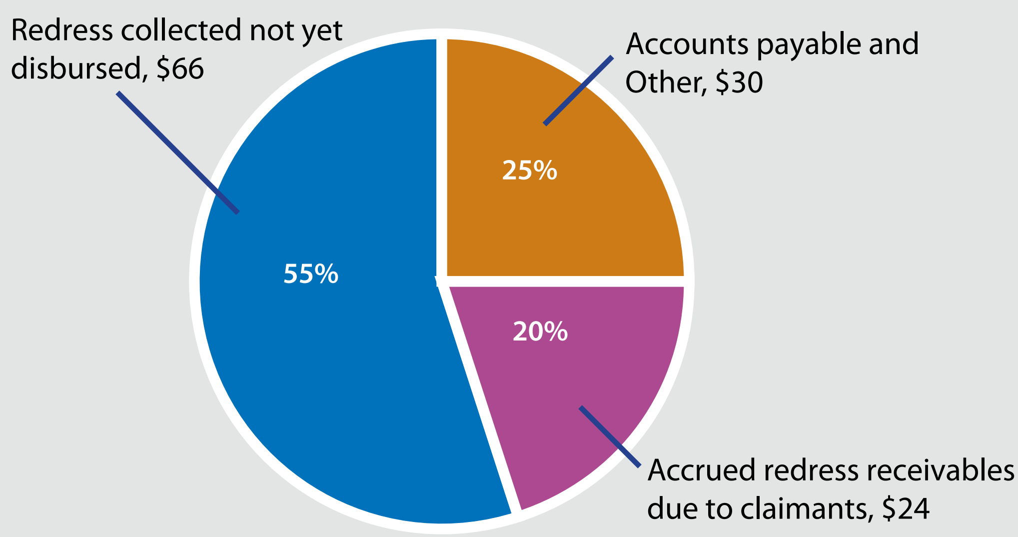
## LIABILTIIES

The FTC's total liabilities at the end of FY 2013 were $119 million, a decrease of $23 million or 16 percent, from fiscal year 2012 total liabilities of $143 million. The decrease is explained through the analysis of the individual liability categories.

Accrued consumer redress due to claimants is the liability offset to consumer redress accounts receivable, net. The decrease of $4 million in this liability reflects a similar decrease in the accounts receivable, net, related to consumer redress.

Consumer redress collections not yet disbursed is the liability offset to amounts collected for consumer redress and held temporarily in a Treasury deposit fund ($48 million) or as cash in a financial institution ($18 million). The decrease of $19 million is due to a decrease in redress collections during fiscal year 2013. Accounts payable and other decreased by $1 million in FY 2013, due to the decrease in the civil penalty accrual (the offsetting liability corresponding to the accounts receivable, net, for civil penalties).

LIABILITIES BY TYPE (Dollars shown in millions)



## NET POSITION

Net position represents the FTC's cumulative results of operations. At the end of FY 2013, the FTC's net position is $153 million, increasing by $24 million or 18 percent over the FY 2012 ending net position of $129 million.

Financing sources from appropriations used during the year were $207 million and imputed financing sources totaled $9 million for a total of $216 million. The imputed financing sources consisted of $4 million in future retirement benefits and $5 million in future health and life insurance benefits accrued in FY 2013, which will be paid by entities other than the FTC.

The financing sources of $216 million exceed the net cost of operations totaling $192 million (gross costs of $288 million less revenues from fees of $96 million), resulting in the $23 million increase in net position.

## RESULTS OF OPERATIONS

The gross cost of FTC's programs was $288 million for FY 2013, representing an increase of $2 million, or 1 percent over FY 2012. The primary factors contributing to this increase were an increase in personnel and related benefit costs of $5 million offset by a decrease in losses on disposition of asset. Gross costs are inclusive of all costs involved in FTC's ongoing operations.

Earned revenues offset FTC's gross costs in determining the net costs of operations. FTC's earned revenues are derived primarily from fees collected for the National Do Not Call (DNC) Registry and for premerger filings under the Hart-Scott-Rodino Act. Total earned revenues were $96 million in FY 2013, representing a decrease of $6 million from FY 2012. This decrease was due primarily to a decrease in premerger filing fees in FY 2013.

The increase in gross costs and the decrease in earned revenues in FY 2013, contributed to the overall increase of $8 million in net costs from FY 2012 to FY 2013.

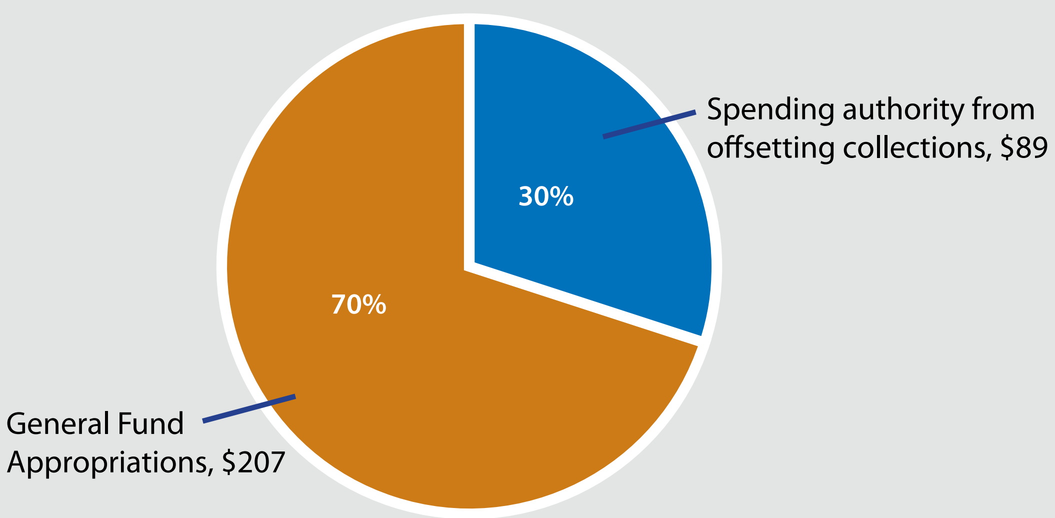
## FY 2013 NET COSTS BY STRATEGIC GOAL
(Dollars shown in thousands)

| | Strategic Goal 1 Protect Consumers | Strategic Goal 2 Maintain Competition | Total |
|---|---|---|---|
| Gross Costs | $ 165,566 | $ 122,375 | $ 287,941 |
| Less Earned Revenue | (14,118) | (81,693) | (95,811) |
| **Net Cost of Operations** | $ 151,448 | $ 40,682 | $ 192,130 |

## BUDGETARY RESOURCES

The Statement of Budgetary Resources (SBR) provides information on budgetary resources made available to the agency and the status of those resources at the end of the fiscal year. New budgetary authority (total budgetary resources excluding unobligated balances brought forward and prior year recoveries) was $296 million in FY 2013. The $296 million is comprised of $207 in general fund appropriations and $89 million in spending authority from offsetting collection. Overall, this represents a decrease of $17 million or 5 percent from the $313 million received in FY 2012. The decrease is due appropriated amounts rescinded and to a decrease in offsetting collections. In FY 2013, general fund appropriations and offsetting collections comprised 70 and 30 percent of new budget authority, respectively. This compares to general fund appropriation of $210 million and offsetting collections of $103 million, comprising 67 and 33 percent of new budget authority, respectively, in FY 2012.

NEW BUDGET AUTHORITY FOR FY 2012 (Dollars shown in millions)



## LIMITATIONS OF FINANCIAL STATEMENTS

FTC management has prepared its FY 2013 financial statements from the books and records of the agency in accordance with the requirements of 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 2013 | |
|---|---|
| DEBT MANAGEMENT | |
| Eligible Nonexempt 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) | 99.1% |
| Percentage Interest Penalties Paid to Total Dollars Invoiced | 0.0003% |
| 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% |

# PERFORMANCE SECTION

# INTRODUCTION TO PERFORMANCE

The Performance Section presents, by goals and objectives, detailed information on the performance results of the Federal Trade Commission's (FTC) programs. This section also includes a discussion of strategies and factors affecting performance, a summary of methods used to verify and validate performance data, trend data, performance targets, and resource utilization data for Goal 1 and Goal 2. Since Goal 3 applies to overall performance across the agency, the resources utilized for Goal 3 are distributed to Goal 1 and Goal 2[3]. Generally, this section would also contain the results of program evaluations; however, the agency did not undergo any significant program evaluations in FY 2013. For a summary of the agency's mission and a description of the organizational structure, see the Management's Discussion and Analysis Section.

The goals, objectives, and performance measures reported in this PAR are based on the agency's FY 2009 to 2014 Strategic Plan, which became effective in FY 2010. In FY 2012, the agency updated the strategic plan with an addendum, reflecting interim adjustments to several performance measures and targets. The performance tables that follow present up to seven fiscal years of performance results and targets, except for those performance measures added in the addendum. These newest performance measures are presented starting in FY 2010. Measures or performance targets that changed as a result of the addendum are noted throughout the section where applicable. The addendum to the strategic plan is available at www.ftc.gov/sites/default/files/documents/reports_annual/strategic-plan/spfy09fy14add.pdf.

This will be the final year that the agency reports performance information under the FY 2009 to 2014 Strategic Plan. As required under the GPRA Modernization Act of 2010 (GPRAMA), each government agency is required to prepare an updated strategic plan every four years. In FY 2013, the agency updated its strategic plan for fiscal years 2014 to 2018. The new strategic plan will take effect in FY 2014.

## RELATIONSHIP OF OUTPUTS TO OUTCOMES

The FTC continuously reviews its performance framework and focuses on tracking and reporting the most appropriate and meaningful outcome measures to show effectiveness, efficiency, and results. For example, outcome-based Performance Measures 2.1.2 and 2.1.5 estimate the millions of dollars in consumer savings that result from merger and nonmerger actions taken to maintain competition. The FTC, however, has not developed outcome measures in all cases, and uses input and output measures that either support outcomes, lead to outcomes, or otherwise provide valuable indicators of how the FTC is progressing toward achieving its strategic goals and objectives. Under the consumer protection goal, for example, Performance Measure 1.1.1 counts consumer complaints added to the FTC's database, and Performance Measure 1.1.2 indicates the percentage of the agency's consumer protection law enforcement actions that targeted the subject of consumer complaints. While these measures are not outcome-oriented, they bring the FTC closer to determining its impact in the ultimate desired outcome of a marketplace free of unfair practices that cause consumer injury and free of fraud and deception.

[3] Goal 3's costs are distributed to Goal 1 and Goal 2 predominately by Goal 1's and Goal 2's FTE usage, except for those non-pay costs that are clearly attributable to a specific goal.

## VERIFICATION AND VALIDATION OF PERFORMANCE DATA

The financial data and performance results described in this report enable the FTC to administer its programs, gauge programmatic success, and make adjustments necessary to improve program quality for the public. The Message from the Chairwoman on p. IV states that the FTC's financial and performance data presented are complete and reliable. Appendix A provides details on the data quality of each performance measure. For FY 2013, a new subsection has been added in Appendix A to explain how a particular measure's formula or calculation was computed. Additionally, the following steps outline how the agency ensures the performance information it reports is complete, reliable and accurate:

- The FTC has adopted a central internal repository for performance data entry, reporting and review. The electronic data tool reduces human error, increases transparency, and facilitates senior management review of the agency's performance information.
- The agency maintains written procedures used to ensure timely reporting of complete, accurate, and reliable actual results relative to the key performance measures.
- The agency holds 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.
- The agency conducts quarterly performance measurement reviews with management as well as 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 Office of the Chief Information Officer (OCIO). In addition to the general controls the FTC has in place, which ensure only authorized staff can access key systems, each application (system) 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 accuracy and consistency. In addition to internal monitoring of each system, experts outside of the business units (e.g., the Bureaus of Consumer Protection (BCP) and Competition (BC)) routinely monitor the data collection. For example, senior economists from the Bureau of Economics review statistical data used by the Bureau of Competition to calculate performance results.

The Financial Management Office (FMO) 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.

## STRATEGIC HUMAN CAPITAL MANAGEMENT

The FTC's strategic human capital management ensures that the agency has the diverse, skilled workforce needed to advance its mission, achieve its strategic goals and objectives, and meet performance measure targets. The agency conducts human capital planning in concert with long-term strategic planning and annual performance planning to keep human capital goals, policies, programs, and initiatives aligned with the strategic and performance plans.

Human capital planning encompasses leadership and knowledge management, a results-oriented performance culture, talent management, and job satisfaction, which are evaluated annually by the U.S. Office of Personnel Management's Employee Viewpoint Survey. More detailed information on human capital performance goals and results are provided on page 96.

| LEGEND FOR UPCOMING TABLES |
|---|
| ✔ Signifies that the target is met or exceeded |
| ✖ Signifies that the target is not met |

## PERFORMANCE MEASURE SUMMARY TABLES

As noted in the Management's Discussion and Analysis Section of this report, 16 of the FTC's performance measures are considered "key" measures because they best indicate whether agency activities are achieving the desired outcome associated with the related objective, and are indicated with a key graphic throughout this report. Additionally, four performance measures are considered efficiency measures because either they are ratios of outcomes to inputs or they capture administrative timeliness.

The tables that follow show FY 2013 performance targets and units of measure compared to actual results. In the tables that show historical performance, data is presented for as many years as the performance measure has been tracked by the agency. This length of time is linked to the FTC's strategic plan revision process, which involves an agency-wide review of the existing set of measures and decisions made by senior management regarding what measures will change under the new strategic plan framework.

Of the 40 total performance measures, 34 were met or exceeded, five were not met, and data was not available for one measure in FY 2013. As context, in FY 2012, the agency met or exceeded 29 measures, did not meet nine measures, and data was not available for two measures. In FY 2011, the agency met or exceeded 36 measures, did not meet three measures and data was not available for one measure. In FY 2013, based on these results, the FTC continues to make significant progress toward reaching its objectives, as fully described in this section.

# STRATEGIC GOAL 1: PROTECT CONSUMERS

| Objective 1.1: Identify fraud, deception, and unfair practices that cause the greatest consumer injury. | | |
|---|---|---|
| **Performance Measure 1.1.1** Complaints collected and entered into the Consumer Sentinel Network database. | **Target** | 3.0 million complaints |
| | **Actual** | 5.7 million complaints ✔ |
| **Key Measure 1.1.2** The percentage of the FTC's consumer protection law enforcement actions that target the subject of consumer complaints to the FTC. | **Target** | 70.0% of actions |
| | **Actual** | 90.9% of actions ✔ |
| **Performance Measure 1.1.3** The rate of customer satisfaction with the FTC's Consumer Response Center. | **Target** | See (A) and (B) below |
| | **Actual** | (A) 76.0% ✔<br>(B) 80.0% ✔ |
| *Target:* **(A)** *For the website, exceed average citizen satisfaction rate as published in the E-Government Satisfaction Index, which was 74%.*<br>**(B)** *For the call center, meet or exceed standards for call centers developed by the Citizen Service Levels Interagency Committee, which was 74%.* | | |

| Objective 1.2: Stop fraud, deception, unfairness, and other unlawful practices through law enforcement. | | |
|---|---|---|
| **Key Measure 1.2.1** The percentage of all cases filed by the FTC that were successfully resolved through litigation, a settlement, or issuance of a default judgment. | **Target** | 80.0-90.0% of cases |
| | **Actual** | 98.6% of cases ✔ |
| **Performance Measure 1.2.2** The FTC's effectiveness in stopping prohibited business practices in three high priority areas over fiscal years 2009-2013. | **Target** | Statistically significant decrease in the prevalence of the practices |
| | **Actual** | Statistically significant decrease in one of the three high priority areas ✖ |
| **Performance Measure 1.2.3** The percentage of redress cases in which the FTC distributes redress dollars designated for distribution to consumers within six months. (Efficiency Measure) | **Target** | 90.0% of cases |
| | **Actual** | 94.7% of cases ✔ |
| **Performance Measure 1.2.4** Investigations or cases in which the FTC obtains foreign-based evidence or engages in mutual assistance that contributes to FTC law enforcement actions, or in which we cooperate with foreign agencies and/or multilateral organizations. | **Target** | 30 investigations or cases |
| | **Actual** | 61 investigations or cases ✔ |

| Objective 1.3: Prevent consumer injury through education. | | |
|---|---|---|
| **Performance Measure 1.3.1** Consumer protection messages accessed online or in print. | **Target** | 50.0 million messages |
| | **Actual** | 43.6 million messages ✖ |
| **Key Measure 1.3.2** Customer satisfaction rate with an FTC consumer education website or microsite. | **Target** | 73.0% |
| | **Actual** | 80.0% ✔ |
| **Performance Measure 1.3.3** Organizations requesting consumer education publications. | **Target** | 12,300 organizations |
| | **Actual** | 11,236 organizations ✖ |

| Objective 1.4: Enhance consumer protection through research, reports, rulemaking, and advocacy. | | |
|---|---|---|
| **Performance Measure 1.4.1** Workshops and conferences convened or cosponsored that address consumer protection problems. | **Target** | 8 workshops and conferences |
| | **Actual** | 12 workshops and conferences ✔ |
| **Performance Measure 1.4.2** Advocacy comments and amicus briefs on consumer protection issues filed with entities including federal and state legislatures, agencies, or courts. | **Target** | 6 comments and briefs |
| | **Actual** | 12 comments and briefs ✔ |
| **Performance Measure 1.4.3** The percentage of respondents finding the FTC's advocacy comments and amicus briefs "useful." | **Target** | 75.0% of respondents |
| | **Actual** | 100.0% of respondents ✔ |
| **Key Measure 1.4.4** The percentage of proposed Administrative Procedure Act (APA) rulemakings, conducted solely by the FTC, completed within nine months of receipt of final comments in the Final Notice of Proposed Rulemaking. (Efficiency Measure) | **Target** | 75.0% of rulemakings |
| | **Actual** | No APA rulemakings were proposed in FY 2013 |

| Objective 1.5: Protect American consumers in the global marketplace by providing sound policy and technical input to foreign governments and international organizations to promote sound consumer policy. | | |
|---|---|---|
| **Key Measure 1.5.1** Policy advice provided to foreign consumer protection and privacy agencies, directly and through international organizations, through substantive consultations, written submissions, or comments. | **Target** | 60 policy inputs |
| | **Actual** | 61 policy inputs ✔ |
| **Performance Measure 1.5.2** Technical assistance to foreign consumer protection and privacy authorities. | **Target** | 8 technical assistance missions or international Fellows hosted |
| | **Actual** | 13 technical assistance missions or international Fellows hosted ✔ |

## STRATEGIC GOAL 2: MAINTAIN COMPETITION

| Objective 2.1: Take action against anticompetitive mergers and practices that may cause significant consumer injury. | | |
|---|---|---|
| **Key Measure 2.1.1** Actions to maintain competition, including litigated victories, consent orders, abandoned transaction remedies, restructured transaction remedies, or fix-it-first transaction remedies in a significant percentage of substantial merger and nonmerger investigations. | **Target** | 40.0-60.0% of substantial investigations |
| | **Actual** | 42.2% substantial investigations ✔ |
| **Performance Measure 2.1.2** Consumer savings of at least $500 million through merger actions to maintain competition. | **Target** | $500.0 million |
| | **Actual** | $564.2 million ✔ |
| **Performance Measure 2.1.3** Actions against mergers likely to harm competition in markets with a total of at least $25 billion in sales. | **Target** | $25.0 billion |
| | **Actual** | $21.0 billion ✖ |
| **Performance Measure 2.1.4** Consumer savings of at least thirteen times the amount of FTC resources allocated to the merger program. (Efficiency Measure) | **Target** | 1,300.0% |
| | **Actual** | 1,382.2% ✔ |
| **Performance Measure 2.1.5** Consumer savings of at least $450 million through nonmerger actions taken to maintain competition. | **Target** | $450.0 million |
| | **Actual** | $449.8 million ✖ |
| **Performance Measure 2.1.6** Actions against anticompetitive conduct in markets with a total of at least $12 billion in annual sales. | **Target** | $12.0 billion |
| | **Actual** | $13.1 billion ✔ |
| **Performance Measure 2.1.7** Consumer savings of at least twenty times the amount of FTC resources allocated to the nonmerger program. (Efficiency Measure) | **Target** | 2,000.0% |
| | **Actual** | 2,296.0% ✔ |
| **Performance Measure 2.1.8** The percentage of cases in which the FTC had at least one substantive contact with a foreign antitrust authority in which the agencies followed consistent analytical approaches and reached compatible outcomes. | **Target** | 90.0% of cases |
| | **Actual** | 100.0% of cases ✔ |

| Objective 2.2: Prevent consumer injury through education. | | |
|---|---|---|
| **Key Measure 2.2.1** Competition resources accessed via the FTC's website. | **Target** | 24.0 million hits |
| | **Actual** | 44.1 million hits ✔ |

| Objective 2.3: Enhance consumer benefit through research, reports, and advocacy. | | |
|---|---|---|
| **Key Measure 2.3.1** Workshops, seminars, conferences, and hearings convened or cosponsored that involve significant competition-related issues. | **Target** | 4 workshops, seminars, conferences, and hearings |
| | **Actual** | 4 workshops, seminars, conferences, and hearings ✔ |
| **Key Measure 2.3.2** Reports and studies issued on key competition-related topics. | **Target** | 8 reports and studies |
| | **Actual** | 14 reports and studies ✔ |
| **Key Measure 2.3.3** Advocacy comments and amicus briefs on competition issues filed with entities including federal and state legislatures, agencies or courts. | **Target** | 10 comments and briefs |
| | **Actual** | 19 comments and briefs ✔ |
| **Performance Measure 2.3.4** The percentage of respondents finding the FTC's advocacy comments and amicus briefs "useful." | **Target** | 75.0% of respondents |
| | **Actual** | 100.0% of respondents ✔ |
| **Performance Measure 2.3.5** The volume of traffic on www.ftc.gov relating to competition research, reports, and advocacy. | **Target** | 1.7 million hits |
| | **Actual** | 3.9 million hits ✔ |

| Objective 2.4: Protect American consumers in the global marketplace by providing sound policy recommendations and technical advice to foreign governments and international organizations to promote sound competition policy. | | |
|---|---|---|
| **Key Measure 2.4.1** Policy advice provided to foreign competition agencies, directly and through international organizations, through substantive consultations, written submissions, or comments. | **Target** | 60 policy inputs |
| | **Actual** | 100 policy inputs ✔ |
| **Performance Measure 2.4.2** Technical assistance provided to foreign competition authorities. | **Target** | 10 technical assistance missions or international Fellows hosted |
| | **Actual** | 34 technical assistance missions or international Fellows hosted ✔ |

## STRATEGIC GOAL 3: ADVANCE PERFORMANCE

| Objective 3.1: Provide effective human resources management. | | |
|---|---|---|
| **Performance Measure 3.1.1** The extent employees believe their organizational culture promotes improvement in processes, products and services, and organizational outcomes. | **Target** | 51.0% |
| | **Actual** | 64.0% ✔ |
| **Key Measure 3.1.2** The extent employees think the organization has the talent necessary to achieve organizational goals. | **Target** | 56.0% |
| | **Actual** | 69.0% ✔ |

| Objective 3.2: Provide effective infrastructure and security management. | | |
|---|---|---|
| **Key Measure 3.2.1** A favorable Continuity of Operations (COOP) rating. | **Target** | 75.0% rating |
| | **Actual** | 85.0% rating ✔ |
| **Key Measure 3.2.2** Availability of information technology systems. | **Target** | 99.50% system availability |
| | **Actual** | 100.0% system availability ✔ |

| Objective 3.3: Provide effective information resources management. | | |
|---|---|---|
| **Key Measure 3.3.1** The percentage of Commission-approved documents in the FTC's ongoing and newly initiated proceedings available via the Internet within 15 days of becoming part of the public record. | **Target** | 80.0% of documents |
| | **Actual** | 80.6% of documents ✔ |

| Objective 3.4: Provide effective financial and acquisition management. | | |
|---|---|---|
| **Performance Measure 3.4.1** Independent auditor's financial statement audit results. | **Target** | Unqualified opinion on the financial statements |
| | **Actual** | Unqualified opinion on this financial statements ✔ |
| **Key Measure 3.4.2** The percentage of Bureaus/ Offices that establish and maintain an effective, risk-based internal control environment. | **Target** | 100.0% of Bureaus/Offices |
| | **Actual** | 100.0% of Bureaus/Offices ✔ |
| **Performance Measure 3.4.3** Performance against the Small Business Administration's government-wide small business procurement goals. | **Target** | 23.0% of total small business eligible dollars |
| | **Actual** | 49.5% of total small business eligible dollars ✔ |

# 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 implements five objectives to achieve this 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 consumer complaint data it collects and maintains 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, increase compliance with its consumer protection statutes and rules, and return funds to harmed consumers.

### 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 PROTECTION THROUGH RESEARCH, REPORTS, RULEMAKING, AND ADVOCACY.

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.

### OBJECTIVE 1.5: PROTECT AMERICAN CONSUMERS IN THE GLOBAL MARKETPLACE BY PROVIDING SOUND POLICY AND TECHNICAL INPUT TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS TO PROMOTE SOUND CONSUMER POLICY.

The FTC works around the globe to address new and emerging consumer protection and privacy challenges and concerns with a broad-based international program that strives to develop a safe and thriving global marketplace that encourages growth and innovation and fosters consumer trust.

## 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 better protect consumers, the FTC must identify problems confronting consumers and trends in the fast-changing, increasingly global marketplace. The agency strives to understand the issues affecting consumers, including any newly emerging methods of fraud or deceit, so that it can target its enforcement, education, and advocacy to those areas where consumers suffer the most harm. The FTC reports this information to other law enforcement authorities and encourages those authorities to assist in its efforts, either independently or jointly. In this way, the FTC leverages its resources by ensuring there are multiple “cops on the beat.”

To fulfill this objective, the FTC is using new technologies creatively and building on its broad base of private and public sector partners. The agency continues to collect consumer complaint information directly through four principal sources: (1) a toll-free helpline (1-877-FTC-HELP); (2) an identity theft hotline (1-877-ID-THEFT); (3) the National Do Not Call Registry (1-888-382-1222); and (4) the online consumer complaint forms that support each of these efforts, as well an online form dedicated to cross-border fraud complaints. In addition, the FTC continues to gather consumer complaint information from other sources, including other law enforcement agencies, the Better Business Bureaus, and private entities. The agency makes this and other information accessible through the secure website of the Consumer Sentinel Network (CSN), a unique investigative database of consumer complaints that is accessible to over 2,000 law enforcement partner agencies worldwide. The CSN encompasses more than 23 million consumer fraud, identity theft, financial, and Do Not Call (DNC) complaints. FTC staff and law enforcement partners also have the ability to search more than 284 million spam records collected by the FTC via spam@uce.gov. The agency augments identification of targets from its databases with other strategies for generating enforcement leads, such as ad monitoring, internet surfs (monitoring the internet for potentially false or deceptive advertising for a targeted product or service), and direct referrals from government and private sector partners.

## PERFORMANCE RESULTS

Performance Measure 1.1.1 ensures that the agency assimilates a large number of consumer complaints, including complaints about DNC violations. The agency receives these complaints from a variety of sources, including direct consumer complaints to the FTC and complaints received by the FTC’s partners. In this manner, the FTC collects robust information to inform its law enforcement efforts. Key Measure 1.1.2 ensures that FTC law enforcement actions target the subject of concerns identified by consumers. Performance Measure 1.1.3 helps the agency’s consumer response center ensure it is providing satisfactory service responding to consumers.


## TOP CONSUMER COMPLAINTS IN CALENDAR YEAR 2012

The list of top consumer complaints received by the FTC in 2012 (excluding Do Not Call complaints, which are reported separately) showed that for the 13th year in a row, identity theft was the number one consumer complaint category. Of 2,061,495 complaints received, 369,132 – or 18 percent – were related to identity theft. Debt collection complaints were in second place, with 199,721 complaints. The report is available on the FTC's website at www.ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2012.pdf.

| Rank | Category | Number of Complaints | Percentage | Compared to 2011 |
|---|---|---|---|---|
| 1 | **Identity Theft** | 369,132 | 18% | ↑ from 15% |
| 2 | **Debt Collection** | 199,721 | 10% | ← → |
| 3 | **Banks and Lenders** | 132,340 | 6% | ↑ from 5% |
| 4 | **Shop-at-Home and Catalog Sales** | 115,184 | 6% | ↑ from 5% |
| 5 | **Prizes, Sweepstakes and Lotteries** | 98,479 | 5% | ↓ from 6% |
| 6 | **Impostor Scams** | 82,896 | 4% | ← → |
| 7 | **Internet Services** | 81,438 | 4% | ↓ from 5% |
| 8 | **Auto Related Complaints** | 78,062 | 4% | ← → |
| 9 | **Telephone and Mobile Services** | 76,783 | 4% | ← → |
| 10 | **Credit Cards** | 51,550 | 3% | ↑ from 2% |

## PERFORMANCE MEASURE 1.1.1

### COMPLAINTS COLLECTED AND ENTERED INTO THE CONSUMER SENTINEL NETWORK DATABASE. (INPUT MEASURE – NUMBERS SHOWN IN MILLIONS)

| | | | |
|---|---|---|---|
| **2013 | *Target | 3.0 | **TARGET MET/EXCEEDED.** In FY 2013, the FTC added 5.7 million entries into its database, exceeding the target of 3.0 million.<br><br>The increased number of complaints in FY 2013 and FY 2012 was driven by a continuing increase in the number of external data contributors and consumers continuing to contact the FTC in ever increasing numbers.<br><br>** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | 5.7 | |
| 2012 | *Target | 3.0 | |
| | Actual | 5.8 | |
| 2011 | Target | 2.6 | |
| | Actual | 4.0 | |
| 2010 | Target | 2.5 | |
| | Actual | 3.1 | |
| 2009 | Target | 1.8 | |
| | Actual | 3.3 | |
| 2008 | Target | 1.8 | |
| | Actual | 3.1 | |
| 2007 | Target | 1.0 | |
| | Actual | 1.1 | |
| 2006 | Target | 1.0 | |
| | Actual | 1.0 | |

## KEY MEASURE 1.1.2

THE PERCENTAGE OF THE FTC'S CONSUMER PROTECTION LAW ENFORCEMENT ACTIONS THAT TARGET THE SUBJECT OF CONSUMER COMPLAINTS TO THE FTC. (OUTPUT MEASURE)

| | | |
|---|---|---|
| *2015* | *Target* | *80.0%* |
| *2014* | **Target* | *80.0%* |
| 2013 | *Target | 70.0% |
| | Actual | 90.9% |
| 2012 | *Target | 70.0% |
| | Actual | 90.6% |
| 2011 | Target | 65.0% |
| | Actual | 80.4% |
| 2010 | Target | 65.0% |
| | Actual | 95.9% |
| 2009 | Target | 65.0% |
| | Actual | 79.0% |
| 2008 | Target | 65.0% |
| | Actual | 71.0% |
| 2007 | Target | 50.0% |
| | Actual | 76.0% |
| 2006 | Target | N/A |
| | Actual | N/A |

**TARGET MET/EXCEEDED.** In FY 2013, 90.9%, or 60 of 66, of BCP's actions targeted the subject of consumer complaints to the FTC.

Because BCP augments identification of targets from its databases with other strategies for generating enforcement leads—such as ad monitoring, Internet surfs, mobile app surveys, and direct referrals from government and private sector partners—the results vary from year to year.

** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*

## PERFORMANCE MEASURE 1.1.3

### THE RATE OF CUSTOMER SATISFACTION WITH THE FTC'S CONSUMER RESPONSE CENTER. (OUTCOME MEASURE)

| | | | |
|---|---|---|---|
| ***2015*** | ***Target*** | *See (A) and (B)* | **TARGET MET/EXCEEDED.** In FY 2013, the average citizen satisfaction score for participating federal government websites was 74%, and the score for the FTC's website was 76%. The standard for call centers was 74%, and the FTC's score was 80%. |
| ***2014*** | ***Target*** | *See (A) and (B)* | |
| **2013** | **Target** | (A) 74% and (B) 74% | |
| | **Actual** | (A) 76% and (B) 80% | |
| **2012** | **Target** | (A) 74% and (B) 74% | |
| | **Actual** | (A) 75% and (B) 78% | |
| **2011** | **Target** | (A) 74% and (B) 74% | |
| | **Actual** | (A) 75% and (B) 77% | |
| **2010** | **Target** | (A) 74% and (B) 76% | |
| | **Actual** | (A) 75% and (B) 76% | |

Target: (A) For the website, exceed average citizen satisfaction rate as published in the ACSI's E-Government Satisfaction Index.

(B) For the call center, meet or exceed standards for call centers developed by the Citizen Service Levels Interagency Committee.

### 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

The FTC protects consumers by enforcing Section 5 of the FTC Act, which prohibits unfair or deceptive acts or practices in or affecting commerce, as well as by enforcing a number of statutes and rules proscribing specific unlawful practices. The agency initiates civil cases, primarily by filing actions in federal court, which allege that defendants have violated these laws and rules and seek injunctions and other relief. The FTC also conducts administrative proceedings.

## PERFORMANCE RESULTS

Key Measure 1.2.1 ensures that the FTC successfully resolves cases, though it aims to file large, precedent setting cases when appropriate, including cases that raise challenging legal and factual issues. Performance Measure 1.2.2 ensures the agency's success in changing business practices within priority areas and demonstrates the change through research methods. Performance Measure 1.2.3 ensures that the FTC returns redress dollars to consumers as quickly as possible. Dollars are considered "designated for distribution" when the FTC is in receipt of all funds, legal issues are resolved, and a usable claimant list is ready. Performance Measure 1.2.4 helps gauge law enforcement efforts from an international perspective, including continuing to use and further develop powers authorized under the Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act of 2006 (US SAFE WEB Act) to achieve the objective.

## KEY MEASURE 1.2.1

### THE PERCENTAGE OF ALL CASES FILED BY THE FTC THAT WERE SUCCESSFULLY RESOLVED THROUGH LITIGATION, A SETTLEMENT, OR ISSUANCE OF A DEFAULT JUDGMENT. (OUTCOME MEASURE)

| | | | |
|---|---|---|---|
| **2013 | *Target | 80.0-90.0% | **TARGET MET/EXCEEDED.** Of the 144 cases resolved in FY 2013, 142 were successfully resolved through litigation, a settlement, or issuance of a default judgment. At the end of FY 2013, an additional 89 cases are unresolved, and remained in litigation.<br><br>** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | 98.6% | |
| 2012 | *Target | 80.0-90.0% | |
| | Actual | 100.0% | |
| 2011 | Target | 75.0-85.0% | |
| | Actual | 100.0% | |
| 2010 | Target | 75.0-85.0% | |
| | Actual | 99.2% | |

## PERFORMANCE MEASURE 1.2.2

### THE FTC'S EFFECTIVENESS IN STOPPING PROHIBITED BUSINESS PRACTICES IN THREE HIGH PRIORITY AREAS OVER FISCAL YEARS 2009-2013. (OUTCOME MEASURE)

<table>
<tr><td rowspan="2">**2013</td><td>Target</td><td>Statistically significant decrease in the prevalence of the practices</td><td rowspan="8">TARGET NOT MET. The FTC's progress on this target is described below.<br><br>The three high priority areas fall under the realm of deceptive "green" marketing claims. They are stopping false and misleading claims for: bamboo textiles, energy-efficient windows, and "zero-VOC" paint. The FTC is currently conducting studies to examine the agency's effectiveness in stopping such misleading advertising claims.<br><br>The first study involves websites marketing textiles as being made from bamboo, when they actually were made from rayon. The FTC reviewed websites to establish a baseline of those marketing "bamboo" textiles, charged four sellers with making false claims about their products, and then sent 78 warning letters to companies that continued making these claims. In FY 2013, the FTC filed four additional cases against national retailers, who paid a total of $1.26 million to resolve allegations they falsely advertised textiles as made from bamboo. The FTC captured another sample of websites and is in the process of analyzing them to determine whether there has been a decrease in the number of misleading claims. The FTC anticipates concluding the study in FY 2014.<br><br>The FTC's second study was completed during FY 2012 and involved energy efficiency and cost savings claims for replacement windows. FTC staff created a baseline by identifying 29 websites that made deceptive energy and cost savings claims for replacement windows. The FTC issued complaints and entered consent orders against five of the largest firms that allegedly made these claims. FTC staff then reviewed the websites, finding 15 sellers were still making deceptive claims. The FTC issued warning letters to those marketers and FTC staff followed those letters with telephone calls. FTC staff surveyed the websites again and found that not only has there been a statistically significant decrease in the prohibited practices, but the project has put an end to inflated energy and cost savings claims for replacement windows on the Internet.<br><br>The FTC's third study examines the agency's effectiveness in stopping misleading "zero-VOC" or "low-VOC" claims for paint. The FTC created a baseline by attempting to identify all paint manufacturers (by searching online and reviewing industry information), and evaluating the VOC claims that were made. In FY 2013, the FTC filed lawsuits against two of the nation's leading paint companies, alleging they made misleading zero-VOC claims. Although the claim may be true for the uncolored "base" paints, it is not true for tinted paint, which typically has much higher levels of the compounds, and which consumers usually buy. Based on these cases, the FTC issued a new enforcement policy statement regarding VOC-free claims for paint. The statement provides clarification on how companies can determine if their VOC-free claims are truthful. The FTC is in the process of collecting information about current VOC-free claims to evaluate the agency's effectiveness in the marketplace, and the FTC expects to conclude the study in FY 2014.<br><br>** This measure will no longer be reported after FY 2013.</td></tr>
<tr><td>Actual</td><td>Statistically significant decrease in one of the three high priority areas</td></tr>
<tr><td rowspan="2">2012</td><td>Target</td><td>Statistically significant decrease</td></tr>
<tr><td>Actual</td><td>Statistically significant decrease in one of the three high priority areas</td></tr>
<tr><td rowspan="2">2011</td><td>Target</td><td>Statistically significant decrease</td></tr>
<tr><td>Actual</td><td>Data not available</td></tr>
<tr><td rowspan="2">2010</td><td>Target</td><td>Statistically significant decrease</td></tr>
<tr><td>Actual</td><td>Data not available</td></tr>
</table>

## PERFORMANCE MEASURE 1.2.3

### THE PERCENTAGE OF REDRESS CASES IN WHICH THE FTC DISTRIBUTES REDRESS DOLLARS DESIGNATED FOR DISTRIBUTION TO CONSUMERS WITHIN SIX MONTHS. (EFFICIENCY MEASURE)

| | | | |
|---|---|---|---|
| **2013 | Target | 90.0% | **TARGET MET/EXCEEDED.** In FY 2013, in 18 of 19 cases, or 94.7%, the FTC distributed redress dollars designated for distribution to consumers within six months.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | 94.7% | |
| 2012 | Target | 90.0% | |
| | Actual | 95.0% | |
| 2011 | Target | 90.0% | |
| | Actual | 100.0% | |
| 2010 | Target | 90.0% | |
| | Actual | 96.0% | |


## FTC COLLECTS A RECORD FINE FROM A THIRD-PARTY DEBT COLLECTOR

In July 2013, the world's largest debt collection operation, Expert Global Solutions and its subsidiaries, agreed to stop harassing consumers with allegedly illegal debt collection calls and to pay a $3.2 million civil penalty – the largest ever obtained by the FTC against a third-party debt collector. The FTC alleged that the companies violated the Fair Debt Collection Practices Act and the FTC Act by using tactics such as calling consumers multiple times per day, calling even after being asked to stop, calling early in the morning or late at night, calling consumers' workplaces despite knowing that the employers prohibited such calls, and leaving phone messages that disclosed the debtor's name, and the existence of the debt, to third parties. Under the order, whenever a consumer disputes the validity or the amount of the debt, the defendants must either close the account and end collection efforts, or suspend collection until they have conducted a reasonable investigation and verified that their information about the debt is accurate and complete. The order also restricts situations in which the defendants can leave voicemails that disclose the alleged debtor's name and the fact that he or she may owe a debt. For more information, visit: www.ftc.gov/opa/2013/07/nco.shtm.

## PERFORMANCE MEASURE 1.2.4

### INVESTIGATIONS OR CASES IN WHICH THE FTC OBTAINS FOREIGN-BASED EVIDENCE OR ENGAGES IN MUTUAL ASSISTANCE THAT CONTRIBUTES TO FTC LAW ENFORCEMENT ACTIONS OR IN WHICH WE COOPERATE WITH FOREIGN AGENCIES AND/OR MULTILATERAL ORGANIZATIONS. (OUTPUT MEASURE)

| | | |
|---|---|---|
| ***2015*** | ***Target*** | *40* |
| ***2014*** | ***Target*** | *40* |
| **2013** | **Target** | 30 |
| | **Actual** | 61 |
| **2012** | **Target** | 30 |
| | **Actual** | 56 |
| **2011** | **Target** | 30 |
| | **Actual** | 53 |
| **2010** | **Target** | 30 |
| | **Actual** | 39 |

**TARGET MET/EXCEEDED.** In FY 2013, the FTC cooperated with its foreign counterparts on consumer protection and privacy matters to obtain evidence and other assistance for the FTC's investigations and litigation with numerous jurisdictions including Australia, Canada, Colombia, Chile, Dominican Republic, El Salvador, Israel, Italy, Jamaica, Netherlands, New Zealand, Nigeria, Philippines, Slovakia, Spain, the United Kingdom and the European Union. Foreign agencies assisted the FTC in activities such as locating investigative targets and defendants, obtaining corporate records, obtaining witness statements, and providing investigative information. The FTC also provided assistance to numerous foreign entities. In several instances, the information the FTC provided to the foreign entity resulted in a parallel proceeding or reciprocal assistance to the FTC. The FTC also engaged in mutual assistance with international enforcement organizations such as the International Consumer Protection Enforcement Network, the Global Privacy Enforcement Network, the London Action Plan anti-spam network, and the International Mass Marketing Fraud Network.

## 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 first line of defense against fraud, deception, and unfair practices is education. Most of the FTC's law enforcement initiatives include a consumer and/or business education component aimed at preventing consumer injury and unlawful business practices, and mitigating financial losses. Throughout the year, the FTC launches various consumer and business education campaigns to raise awareness of new or emerging marketplace issues that have the potential to cause harm. The agency creatively uses new technologies and private and public partnerships to reach new and under-served audiences, particularly those who may not seek information directly from the FTC. The FTC will continue to publicize its consumer complaint and identity theft website addresses and toll-free numbers in an ongoing effort to increase public awareness of its activities and inform the public of the ways to contact the FTC to obtain information or file a complaint.

## PERFORMANCE RESULTS

Consumer and business education is crucial to prevent and reduce consumer harm. Performance Measure 1.3.1 ensures that the FTC continue to promote educational activity and that the educational materials are aimed at new trends and at particularly vulnerable populations. Key Measure 1.3.2 ensures that the agency's consumer education websites are effective and helpful for consumers. Performance Measure 1.3.3 ensures that the FTC is publicizing its activities in the best way possible and that the agency has a wide array of partners to leverage resources.

### NATIONAL DO NOT CALL REGISTRY

This year marked the 10th anniversary of the FTC's National Do Not Call Registry, which allows consumers to opt-out of receiving certain telemarketing calls. The Registry currently includes over 223 million telephone numbers. It is fast and free to register a number and registrations never expire. Consumers can register online at www.donotcall.gov, or by calling toll-free at 888-382-1222 (TTY 866-290-4236) from the number they wish to register.

The Do Not Call Registry remains one of the government's most popular programs. Consumers are, however, understandably frustrated with the increasing number of robocalls made by scam artists. The FTC has escalated its campaign against these illegal robocalls on a number of fronts. The FTC led joint federal-state law enforcement efforts, including prosecuting operations allegedly responsible for millions of robocalls – often from "Rachel from Cardholder Services" – pitching phony credit card interest rate reductions and other bogus services. The FTC also hosted a Robocall Summit that brought together stakeholders to discuss ways to effectively trace illegal calls, combat caller ID spoofing, and ultimately stop the calls. In addition, the FTC challenged the public to create an innovative technological solution to block illegal robocalls. Out of the nearly 800 eligible submissions to the FTC's Robocall Challenge, two winners tied for the $50,000 prize. Both winning proposals use technology to intercept and filter out "blacklisted" robocall numbers and accept "whitelisted" numbers from other callers. For more information, visit: www.ftc.gov/opa/2012/11/robocalls.shtm, ftc.gov/bcp/workshops/robocalls/, and www.ftc.gov/opa/2013/04/robocall.shtm.

## PERFORMANCE MEASURE 1.3.1

### CONSUMER PROTECTION MESSAGES ACCESSED ONLINE OR IN PRINT. (OUTPUT MEASURE – NUMBERS SHOWN IN MILLIONS)

| | | | |
|---|---|---|---|
| ****2013** | **Target** | 50.0 | **TARGET NOT MET.** In FY 2013, the FTC accomplished over 87% of its target of 50 million messages. Of the over 43.6 million consumer protection messages accessed, more than 30.5 million were accessed online, more than 1.3 million were accessed via video, and over 11.8 million were print publications distributed by the FTC. This figure does not take into account the number of national and international media outlets (print, video and online that picked up and reprinted the agency's messages for their audiences (e.g., the New York Times, Yahoo.com, the Wall Street Journal, etc.). Of the messages accessed, free credit report information is the most popular. Identity theft materials continue to be popular printed titles, followed by credit and online safety and security publications.<br><br>The Division of Consumer and Business Education (DCBE) continues to leverage its limited resources by successfully and effectively marketing its materials through partnerships, and has simultaneously reduced storage and distribution costs through trimming the catalog of titles available in print by over 20% in FY 2013 (49 titles withdrawn). The agency currently has no way to measure distribution through partners or their sites.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 43.6 | |
| **2012** | **Target** | 50.0 | |
| | **Actual** | 39.4 | |
| **2011** | **Target** | 50.0 | |
| | **Actual** | 41.4 | |
| **2010** | **Target** | 50.0 | |
| | **Actual** | 43.9 | |
| **2009** | **Target** | 55.0 | |
| | **Actual** | 43.1 | |
| **2008** | **Target** | 50.0 | |
| | **Actual** | 49.2 | |
| **2007** | **Target** | 45.0 | |
| | **Actual** | 47.0 | |
| **2006** | **Target** | 25.0 | |
| | **Actual** | 53.0 | |

## KEY MEASURE 1.3.2

### CUSTOMER SATISFACTION RATE WITH AN FTC CONSUMER EDUCATION WEBSITE OR MICROSITE. (OUTCOME MEASURE)

| | | |
|---|---|---|
| ***2015*** | ***Target*** | *Exceed average citizen satisfaction rate as published in the E-Government Satisfaction Index* |
| ***2014*** | ***Target*** | *Exceed average citizen satisfaction rate as published in the E-Government Satisfaction Index* |
| **2013** | **Target** | 73.0% |
| | **Actual** | 80.0% |
| **2012** | **Target** | 74.0% |
| | **Actual** | 81.0% |
| **2011** | **Target** | 74.0% |
| | **Actual** | 81.0% |
| **2010** | **Target** | 74.0% |
| | **Actual** | 77.0% |

**TARGET MET/EXCEEDED.** In FY 2013, the FTC continued to evaluate www.OnGuardOnline.gov, a joint effort of the federal government and the technology industry, created, maintained, and marketed by the FTC to help computer users guard against Internet fraud, secure their computers, and protect their personal information. The average citizen satisfaction score for participating federal government websites was 73%, and the score for www.OnGuardOnline.gov was 80%. The continued measurement of the website over time has allowed the FTC to assess the effect of website improvements on customer satisfaction.

## PERFORMANCE MEASURE 1.3.3

### ORGANIZATIONS REQUESTING CONSUMER EDUCATION PUBLICATIONS. (OUTPUT MEASURE)

| | | |
|---|---|---|
| **2013 | *Target | 12,300 |
| | Actual | 11,236 |
| 2012 | *Target | 12,000 |
| | Actual | 11,298 |
| 2011 | Target | 11,300 |
| | Actual | 14,818 |
| 2010 | Target | 11,000 |
| | Actual | 15,372 |

**TARGET NOT MET.** In FY 2013, the FTC accomplished approximately 91.3% of its target of 12,300 organizations. A total of 14,221 customers requested consumer publications, including 11,236 unique organizations. DCBE stopped producing Net Cetera, which likely reduced the number of customers and orders. Nonetheless, in FY 2013 the agency did see increased interest in its new publication "Safeguarding Your Child's Future," a publication about child identity theft. Released late in FY 2012, the FTC has distributed over a quarter million copies in FY 2013.

** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*

*** This measure will no longer be reported after FY 2013.*


## PROTECTING MOBILE SOFTWARE SECURITY

Mobile device manufacturer HTC America agreed to settle FTC charges that the company failed to take reasonable steps to secure the software it developed for its smartphones and tablet computers, introducing security flaws that placed sensitive information about millions of consumers at risk. The FTC charged that HTC America failed to employ reasonable and appropriate security practices in the design and customization of the software on its mobile devices. Among other things, the FTC alleged that HTC America failed to provide its engineering staff with adequate security training, failed to review or test the software on its mobile devices for potential security vulnerabilities, failed to follow well-known and commonly accepted secure coding practices, and failed to establish a process for receiving and addressing vulnerability reports from third parties. The settlement requires HTC America to develop and release software patches to fix vulnerabilities found in millions of HTC devices. In addition, the settlement requires HTC America to establish a comprehensive security program designed to address security risks during the development of HTC devices and to undergo independent security assessments every other year for the next 20 years. For more information, visit: www.ftc.gov/opa/2013/02/htc.shtm.

## OBJECTIVE 1.4: ENHANCE CONSUMER PROTECTION THROUGH RESEARCH, REPORTS, RULEMAKING, AND ADVOCACY.

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

### OUR STRATEGY

The FTC uses a variety of strategies in addition to law enforcement and education to enhance consumer protection. The agency convenes and co-sponsors 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 analyze consumer protection problems and provide recommendations 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 consumers and empirical research in their decision making. The agency testifies before the Congress on consumer protection issues. The FTC also files amicus briefs to aid courts' considerations of consumer protection issues.

### PERFORMANCE RESULTS

Public policy that enhances consumer protection is based on a thorough understanding of complex issues, which is obtained through dialogue, study, and empirical research. Such policy also recognizes that stakeholders other than government, such as industry associations or private standard-setting organizations, are at times better positioned to address certain consumer protection issues. Performance Measures 1.4.1 through 1.4.3, and Key Measure 1.4.4, allow the agency to gauge the success of this objective and help ensure that the agency augments its enforcement and education efforts. These efforts are furthered by encouraging discussions among all interested parties, through careful study of and empirical research on novel or challenging consumer protection problems, by urging adoption of policies and legal principles that promote consumers' interest, and by conducting rulemaking as appropriate. These activities help guide the FTC's consumer protection policy decisions, as well as those of other state, federal, and international policymakers.

### FTC FILES ITS FIRST MOBILE PHONE "CRAMMING" CASE

The FTC took legal action to shut down an operation that allegedly took in millions of dollars by placing unauthorized or "crammed" charges on consumers' mobile phone bills. The April 2013 complaint against Wise Media, LLC and its owners is the first FTC case against mobile cramming and part of the agency's focus on consumer protection issues that may arise from the explosive growth of mobile technology. The FTC's complaint alleged that the defendants signed consumers up for so-called "premium services" that sent text messages with horoscopes and other information, and then placed repeating charges of $9.99 per month on mobile phone bills, without consumers' knowledge or permission. To resolve these charges, the defendants agreed to a settlement order that permanently bans them from placing any charges on consumers' telephone bills or assisting anyone else in doing so. The settlements include a $10.9 million judgment, which is partially suspended due to the defendants' inability to pay the full amount. For more information, visit: http://www.ftc.gov/news-events/press-releases/2013/11/mobile-crammers-settle-ftc-charges-unauthorized-billing.

## PERFORMANCE MEASURE 1.4.1

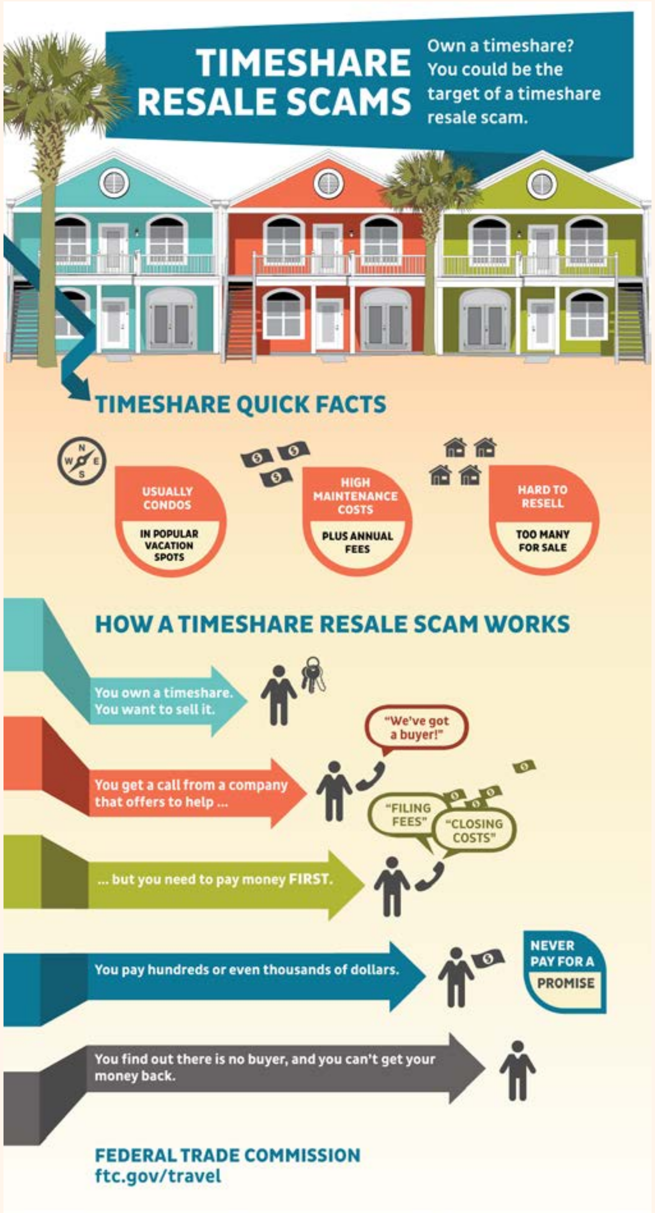
### WORKSHOPS AND CONFERENCES CONVENED OR COSPONSORED THAT ADDRESS CONSUMER PROTECTION PROBLEMS. (OUTPUT MEASURE)

| | | | |
|---|---|---|---|
| ***2015*** | ***Target*** | *12* | |
| ***2014*** | ****Target*** | *12* | **TARGET MET/EXCEEDED.** In FY 2013, the FTC exceeded its target and convened or cosponsored 12 workshops and conferences that addressed consumer protection problems. These events brought together approximately 3,417 participants.<br><br>** The target change from "6 workshops and conferences" to "8 workshops and conferences" took effect for FY 2011 reporting. The target will increase to "12 workshops and conferences" beginning in FY 2014.* |
| **2013** | ***Target** | 8 | |
| | **Actual** | 12 | |
| **2012** | ***Target** | 8 | |
| | **Actual** | 14 | |
| **2011** | ***Target** | 8 | |
| | **Actual** | 14 | |
| **2010** | **Target** | 6 | |
| | **Actual** | 11 | |
| **2009** | **Target** | 6 | |
| | **Actual** | 9 | |
| **2008** | **Target** | 6 | |
| | **Actual** | 16 | |
| **2007** | **Target** | 6 | |
| | **Actual** | 10 | |
| **2006** | **Target** | N/A | |
| | **Actual** | N/A | |

## PERFORMANCE MEASURE 1.4.2

### ADVOCACY COMMENTS AND AMICUS BRIEFS ON CONSUMER PROTECTION ISSUES FILED WITH ENTITIES INCLUDING FEDERAL AND STATE LEGISLATURES, AGENCIES, OR COURTS. (OUTPUT MEASURE)

| | | | |
|---|---|---|---|
| ****2013** | **Target** | 6 | **TARGET MET/EXCEEDED.** In FY 2013, the FTC filed advocacy comments on consumer protection issues such as: identity theft, product certification seals, effective approaches to financial education, attorney advertising, electric utilities, and smartphone applications for arranging passenger motor vehicle transportation services.<br><br>The agency exceeded the target for filing consumer protection-related briefs and comments in FY 2013 and FY 2012. By contrast, in FY 2011 the agency filed three consumer protection-related briefs and comments, and did not meet the target. These performance results illustrate the unpredictability of the types and number of issues that might arise before state and federal government bodies and therefore the types of comments and briefs that the agency might file in response.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 12 | |
| **2012** | **Target** | 6 | |
| | **Actual** | 8 | |
| **2011** | **Target** | 6 | |
| | **Actual** | 3 | |
| **2010** | **Target** | 6 | |
| | **Actual** | 6 | |




## FTC HALTS TRAVEL AND TIMESHARE RESALE SCAMS IN MULTINATIONAL EFFORT

Although the economy is improving, many consumers are still in tough financial straits and are desperate to sell their timeshares. Con artists take advantage of consumers' situations by falsely claiming that they have someone ready to buy the property and then persuading consumers to pay up-front fees. The FTC worked with its law enforcement partners at the federal, state, local, and international level to bring 191 actions to stop these scams. This concerted effort included 3 FTC cases, 83 civil actions brought by 28 states, and 25 actions brought by law enforcement agencies in 10 other countries. More than 184 individuals face criminal prosecution by U.S. Attorneys and local law enforcement. In the three FTC cases, federal courts halted three operations, Resort Solution Trust, Resort Property Depot, and Vacations Communications Group, that took more than $18 million from consumers throughout the country who were trying to sell their timeshare properties. Although the defendants allegedly claimed they had buyers for the properties or that the timeshares would be sold in a specified time period, at most, the defendants provided agreements to "advertise" consumers' timeshare units. For more information, visit: www.ftc.gov/opa/2013/06/timesharerelease.shtm.

## PERFORMANCE MEASURE 1.4.3

### THE PERCENTAGE OF RESPONDENTS FINDING THE FTC'S ADVOCACY COMMENTS AND AMICUS BRIEFS "USEFUL." (OUTCOME MEASURE)

| | | | |
|---|---|---|---|
| ****2013** | ***Target** | 75.0% | **TARGET MET/EXCEEDED.** The FTC mails advocacy recipients a survey designed to gauge the usefulness of agency advocacy comments and amicus briefs. "Usefulness" is assessed by the recipient. The target percentage recognizes that comments critiquing a recipient's proposed action may not be assessed positively. In FY 2013, 2 of 2 survey responses classified the FTC's consumer protection submissions as useful.<br><br>** Targets for FY12 - FY13 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 100.0% | |
| **2012** | ***Target** | 75.0% | |
| | **Actual** | N/A | |
| **2011** | **Target** | 50.0% | |
| | **Actual** | 100.0% | |
| **2010** | **Target** | 50.0% | |
| | **Actual** | 100.0% | |

## KEY MEASURE 1.4.4

### THE PERCENTAGE OF PROPOSED ADMINISTRATIVE PROCEDURE ACT (APA) RULEMAKINGS, CONDUCTED SOLELY BY THE FTC, COMPLETED WITHIN NINE MONTHS OF RECEIPT OF FINAL COMMENTS IN THE FINAL NOTICE OF PROPOSED RULEMAKING. (EFFICIENCY MEASURE)

| | | | |
|---|---|---|---|
| ****2013** | **Target** | 75.0% | There is no data to consider under this measure, as the FTC had no APA rulemakings to consider in FY 2013.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | N/A | |
| **2012** | **Target** | 75.0% | |
| | **Actual** | N/A | |
| **2011** | **Target** | 75.0% | |
| | **Actual** | 83.3% | |
| **2010** | **Target** | 75.0% | |
| | **Actual** | 100.0% | |

### OBJECTIVE 1.5: PROTECT AMERICAN CONSUMERS IN THE GLOBAL MARKETPLACE BY PROVIDING SOUND POLICY AND TECHNICAL INPUT TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS TO PROMOTE SOUND CONSUMER POLICY.

A myriad of issues—spam, phishing, spyware, telemarketing fraud, identity theft, data security, and privacy—cross national borders. The resulting challenges require the FTC to cooperate with counterparts in foreign agencies and international organizations.

## OUR STRATEGY

To achieve this objective, the FTC pursues the development of an international consumer protection model that focuses on protecting consumers while maximizing economic benefit and consumer choice.

The agency also focuses on understanding cutting-edge issues in technology and globalization that present challenges to American consumer interests. The agency influences policy development and implementation by advising multilateral organizations, regional entities, and foreign government agencies through substantive consultations and written comments. Finally, the FTC provides technical assistance to newer consumer protection agencies to enhance their ability to apply sound consumer protection policies.

## PERFORMANCE RESULTS

The FTC uses two measures to assess the performance of this objective. Key Measure 1.5.1 and Performance Measure 1.5.2 address the scope of agency contact with international counterparts and help determine if agency efforts are sufficiently broad-based.

## KEY MEASURE 1.5.1

### POLICY ADVICE PROVIDED TO FOREIGN CONSUMER PROTECTION AND PRIVACY AGENCIES, DIRECTLY AND THROUGH INTERNATIONAL ORGANIZATIONS, THROUGH SUBSTANTIVE CONSULTATIONS, WRITTEN SUBMISSIONS, OR COMMENTS. (OUTPUT MEASURE)

| | | | |
|---|---|---|---|
| ****2013** | ***Target** | 60 | **TARGET MET/EXCEEDED.** In FY 2013, the FTC provided policy advice in 61 instances, through consultations, presentations, and written comments. New and emerging Internet policy and consumer privacy issues are being considered both by foreign agencies and by a growing range of international organizations. This has sustained a strong demand for the FTC's policy advice and technical input on consumer policy and related issues.<br><br>** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 61 | |
| **2012** | ***Target** | 60 | |
| | **Actual** | 65 | |
| **2011** | **Target** | 40 | |
| | **Actual** | 52 | |
| **2010** | **Target** | 40 | |
| | **Actual** | 64 | |

## PERFORMANCE MEASURE 1.5.2

### TECHNICAL ASSISTANCE TO FOREIGN CONSUMER PROTECTION AND PRIVACY AUTHORITIES. (OUTPUT MEASURE)

| | | | |
|---|---|---|---|
| ****2013** | **Target** | 8 | **TARGET MET/EXCEEDED.** In FY 2013, the FTC conducted 11 technical assistance missions and hosted two international Fellows supporting the consumer protection mission. Three of the technical assistance missions were funded by the U.S. Agency for International Development (USAID), and the international Fellows were funded from their home agencies.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 13 | |
| **2012** | **Target** | 8 | |
| | **Actual** | 18 | |
| **2011** | **Target** | 8 | |
| | **Actual** | 15 | |
| **2010** | **Target** | 8 | |
| | **Actual** | 23 | |

## RESOURCES UTILIZED—STRATEGIC GOAL 1

### (DOLLARS SHOWN IN MILLIONS.)

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|---|
| Full-Time Equivalents | 570 | 591 | 597 | 621 | 633 | 625 | 638 |
| Obligations | $ 126 | $ 140 | $ 152 | $ 168 | $ 166 | $ 161 | $ 173 |
| Net Cost | $ 105 | $ 124 | $ 131 | $ 144 | $ 155 | $ 151 | $ 151 |

# 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: TAKE ACTION AGAINST ANTICOMPETITIVE MERGERS AND PRACTICES THAT MAY CAUSE SIGNIFICANT CONSUMER INJURY.

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

### PROTECTING COMPETITION IN PHARMACEUTICAL AND LABORATORY EQUIPMENT MERGERS

The FTC protects competition in health care-related industries through its merger reviews which result in law enforcement action when needed to keep prices down and quality of choice of products and services high. For example, this year the FTC successfully challenged the acquisition by Watson Pharmaceuticals of Actavis and required the companies to divest the rights and assets pertaining to 18 drugs, and relinquish the manufacturing and marketing rights to three others. The divestiture protects competition in the markets for these 21 current and future generic drugs, used to treat a wide range of conditions, including hypertension, diabetes, attention deficit hyperactivity disorder, and certain heart rhythm disorders. For more information, visit: www.ftc.gov/opa/2012/10/watson.shtm.

In a second case, the FTC required Corning, Inc. to provide assets and assistance to another life sciences company so that it could manufacture tissue culture treated dishes, multi-well plates, and flasks, which are used by researchers at pharmaceutical and biotechnology companies and universities in their cell culture research. The settlement ensures that competition otherwise lost through Corning's acquisition of Becton, Dickinson and its Discovery Labware Division is maintained. For more information, visit: www.ftc.gov/opa/2012/10/corning.shtm.

### OBJECTIVE 2.2: PREVENT CONSUMER INJURY THROUGH EDUCATION.

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

### OBJECTIVE 2.3: ENHANCE CONSUMER BENEFIT THROUGH RESEARCH, REPORTS, AND ADVOCACY.

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.

### OBJECTIVE 2.4: PROTECT AMERICAN CONSUMERS IN THE GLOBAL MARKETPLACE BY PROVIDING SOUND POLICY RECOMMENDATIONS AND TECHNICAL ADVICE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS TO PROMOTE SOUND COMPETITION POLICY.

The FTC continues to build cooperative relationships with foreign antitrust agencies to ensure close collaboration on cross-border cases and convergence toward sound competition policies.

## II. STRATEGIC ANALYSIS

### OBJECTIVE 2.1: TAKE ACTION AGAINST ANTICOMPETITIVE MERGERS AND PRACTICES THAT MAY CAUSE SIGNIFICANT CONSUMER INJURY.

Taking action against anticompetitive mergers and anticompetitive business conduct is the first step in effective antitrust enforcement.

## OUR STRATEGY

The FTC seeks to identify and take action against 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 practices that harm, or are 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 consideration is the need 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. In order to leverage its resources, 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, technology, energy, and real estate.

### 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, which jointly enforce the HSR Act, and wait for a specified period (usually 30 days) to allow for antitrust review. FTC staff examines 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 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 to pursue enforcement action to block a merger within the timeframe set out by the HSR Act and rules.

## ANOTHER VICTORY FOR THE FTC AND CONSUMERS ON THE STATE ACTION DOCTRINE

In May 2013, the United States Court of Appeals for the Fourth Circuit upheld the FTC's determination that The North Carolina State Board of Dental Examiners ("Dental Board") unlawfully prohibited non-dentists from providing teeth whitening services and was not immune from antitrust liability under the state action doctrine.

In 2010, the FTC issued an administrative complaint, alleging that the North Carolina Dental Board had violated antitrust laws by engaging in activities to prevent non-dentists from providing teeth whitening services in the state, including issuing "cease and desist" letters to non-dentists engaged in the practice, and discouraging some shopping centers from leasing space to non-dentists providing teeth-whitening services.

After an administrative trial, the FTC ruled that the Dental Board's conduct illegally thwarted lower-priced competition. The Board had claimed that it was exempt from the federal antitrust laws under the state action doctrine. The FTC disagreed, reasoning that because the Dental Board was controlled by practicing dentists and was not actively supervised by the state, the antitrust laws apply to the Dental Board's conduct. The Fourth Circuit upheld that conclusion.

FTC Chairwoman Edith Ramirez noted that the Court's ruling was a victory for consumers, stating: "We are pleased that the Fourth Circuit agreed that a state regulatory board dominated by self-interested private actors cannot shield its anticompetitive conduct from antitrust review using the state action doctrine. This decision, as did the Supreme Court's unanimous decision in FTC v. Phoebe Putney earlier this year, recognizes that exemptions to the antitrust laws are to be applied narrowly and that consumers are best off when there is vigorous competition." For more information, visit: www.ftc.gov/opa/2013/06/ncdental.shtm.

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. 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. 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 attorneys to notify the FTC of possible anticompetitive mergers.

### NONMERGER ACTIVITIES

In the nonmerger area, agency staff reviews 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 identify 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 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.

In nonmerger matters, the FTC seeks to take action against ongoing activity that harms competition. The FTC 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 FTC 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.

## PERFORMANCE RESULTS

The key performance measure under this objective relates to actions taken in a significant percentage of substantial merger and nonmerger investigations. This translates into obtaining a positive result (i.e., litigated victories, consent orders, or abandoned transactions (the latter for mergers only)) in 40 to 60 percent of investigations that involved a second request or compulsory process, in the case of merger investigations, or which involved at least 150 hours of investigative effort, in the case of nonmerger investigations.

Success on this key outcome measure 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. This measure evaluates appropriate investigation, case selection, and resolution, as well as the crafting of sufficient and effective remedies.

The target range of 40 to 60 percent set for key Performance Measure 2.1.1 reflects the reality that the FTC conducts substantial merger and nonmerger investigations when it believes that a merger or conduct may be anticompetitive, but that not all such investigations should lead to an enforcement action or a positive result. Indeed, the existence of a minimum and maximum value recognizes the possibility that the FTC may find itself under- or over-enforcing the competition laws, while the magnitude of the spread between these two values serves to identify a band within which the agency's performance can be reasonably expected to vary. From this perspective, setting the range at too high a level could be detrimental if the effect were to deter the agency from bringing important, but risky, cases, while setting the range at too low a level could be detrimental as well, if the effect were to incentivize the agency to bring marginal cases.

Of the remaining measures under this objective, six relate directly to Performance Measure 2.1.1 in that they measure the impact of the agency's actions, in terms of the magnitude of the affected markets and the associated consumer benefits, as well as the efficiency with which these same actions were undertaken. Whereas the consumer savings measures are designed to assess the ultimate outcome, or impact, of the FTC's actions in protecting consumers and promoting vigorous competition, by quantifying the impact of the FTC's enforcement actions on consumer welfare, the volume of commerce measures are intended to give an indication of the economic significance of the relevant product markets.

For both merger and nonmerger actions, the FTC measures the volume of commerce and estimates consumer savings in markets in which it obtains a positive result as an indicator of the scope of the FTC's antitrust enforcement activities. External factors, such as level of merger activity, and internal ones, such as the duration of nonmerger investigations, may cause these results to fluctuate significantly from year to year. Consequently, the two volume-of-commerce targets (Performance Measures 2.1.3 and 2.1.6) and the two consumer savings targets (Performance Measures 2.1.2 and 2.1.5) are assessed each year by calculating the average of current year plus the previous four 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 2.1.4 and 2.1.7).

The final measure under this objective addresses the international dimension of the agency's law enforcement efforts by tracking the percentage of cases in which the FTC had at least one substantive contact with a foreign antitrust authority in which the agencies followed consistent analytical approaches and reached compatible outcomes.


## THE FTC CHALLENGES ANTICOMPETITIVE HOSPITAL MERGERS

The FTC has redoubled its efforts to prevent hospital mergers that may leave insufficient local options for inpatient hospital services, leading to higher prices for health care. For example, in late 2012, the FTC challenged Reading Health System's proposed acquisition of Surgical Institute of Reading, L.P., alleging that the combination of the two health care providers would substantially reduce competition in the Reading, Pennsylvania area and lead to reduced quality and higher health care costs for the area's employers and residents. Shortly after the FTC filed its administrative complaint, the parties abandoned the transaction. For more information, visit: www.ftc.gov/opa/2012/11/reading.shtm.

In February 2013, the United States Supreme Court unanimously ruled for the FTC in FTC v. Phoebe Putney, reviving the FTC's administrative challenge to a hospital merger resulting in a monopoly for general acute-care inpatient services in the Albany, Georgia area. The Court held that the Georgia legislature did not articulate a clear policy that hospital authorities could eliminate competition through a hospital merger merely by conferring general corporate powers on the local hospital authority (www.ftc.gov/opa/2013/02/phoebe.shtm). The ruling has broad implications for antitrust enforcement because it clarifies and tightens the test for determining when state action immunity applies to anticompetitive actions by non-sovereign state actors.

In August 2013, the case was settled. The proposed consent agreement includes provisions to aid competition in the local markets, requiring the defendants to notify the FTC of any future acquisition and prohibiting the defendants from opposing competing hospitals' request for state certification to enter the local markets. Although divestiture is the FTC's preferred remedy to restore competition lost due to an unlawful merger, divestiture was impossible in this consummated merger due to Georgia's Certificate of Need laws. The proposed consent thus uses the most effective means available to address the FTC's competitive concerns, given the unique circumstances presented by Georgia's laws and regulations. For more information, visit: www.ftc.gov/opa/2013/06/phoebe.shtm.

## KEY MEASURE 2.1.1

### ACTIONS TO MAINTAIN COMPETITION, INCLUDING LITIGATED VICTORIES, CONSENT ORDERS, ABANDONED TRANSACTION REMEDIES, RESTRUCTURED TRANSACTION REMEDIES, OR FIX-IT-FIRST TRANSACTION REMEDIES IN A SIGNIFICANT PERCENTAGE OF SUBSTANTIAL MERGER AND NONMERGER INVESTIGATIONS. (OUTCOME MEASURE)

| | | |
|---|---|---|
| ***2015*** | ***Target*** | *40.0–60.0%* |
| ***2014*** | ***Target*** | *40.0–60.0%* |
| **2013** | **Target** | 40.0–60.0% |
| | **Actual** | 42.2% |
| **2012** | **Target** | 40.0–60.0% |
| | **Actual** | 43.1% |
| **2011** | **Target** | 40.0–60.0% |
| | **Actual** | 34.1%[4] |
| **2010** | **Target** | 40.0–60.0% |
| | **Actual** | 40.0%[5] |

**TARGET MET/EXCEEDED.** The agency took action successfully in 27 of the 64 substantial merger and nonmerger investigations that were closed in FY 2013. These 27 actions consist of 20 consent orders, 2 merger transactions that were withdrawn or restructured as a consequence of the antitrust concerns raised during the investigation, 2 cases in which the agency filed complaints and ultimately accepted consent orders to resolve the litigation, 2 cases in which the agency filed complaints and the parties abandoned the transaction, and 1 matter won on appeal.

The 23 successful merger actions include successful second request or compulsory process investigations in matters involving, for example, pharmaceuticals and laboratory equipment (Watson/Actavis, Actavis/Warner Chilcott, Mylan/Agila and Corning/Becton, Dickinson), hospitals and other healthcare facilities (Phoebe Putney/Palmyra, Reading Hospital/Surgical Institute of Reading, Universal Health Services/Ascend Health, and Capella Healthcare/St. Joseph's Mercy Health System), high technology (Integrated Device/PLX and Honeywell/Intermec), manufacturing (Polypore/Daramic, Magnesium Elektron/Revere Graphics, and Robert Bosch/SPX) and energy (Tesoro/Chevron Northwest Products Pipeline) mergers.

On the nonmerger side, the FTC took successfully took four actions against anticompetitive tactics that the FTC had reason to believe harmed consumers. In FY 2013, the FTC issued a settlement order prohibiting IDEXX (the U.S.'s largest supplier of diagnostic testing products used by small animal veterinarians) from maintaining concurrent exclusive distribution agreements with all three top tier distributors for the next 10 years. The FTC settled charges against eight independent nephrologists in Puerto Rico that the doctors illegally collectively bargained with insurers and refused to treat health plan patients when the doctors' price demands were rebuffed. In another conduct case, the FTC required Google to license on fair, reasonable, and non-discriminatory terms patents that it had acquired in its acquisition of Motorola Mobility. Also, in FY 2013 the FTC settled its charges that Bosley, Inc., the nation's largest manufacturer of medical/surgical hair restoration procedures, had illegally exchanged competitively sensitive, nonpublic information about its business practices with one of its competitors, Hair Club. In ongoing litigation, the Supreme Court held in *FTC* v. *Actavis* that pay-for-delay agreements between brand and generic pharmaceutical companies are subject to antitrust scrutiny, thus reversing a lower court's dismissal of the FTC's case. The matter can now proceed to trial.

Of the 37 substantial investigations that were closed without an action, 24 involved a nonmerger matter and 13 a merger matter.

[4] This is a correction to results reported in the FY 2011 PAR. The results should have been based on 15 out of 44 cases, or 34%. The FY 2011 PAR reports actuals on 14 of 44 cases, or 32%.

[5] This is a correction to results reported in the FY 2010 PAR. The results should have been based on 23 out of 58 cases, or 40%. The FY 2010 PAR reports actuals on 22 of 57 cases, or 39%.

## PERFORMANCE MEASURE 2.1.2

### CONSUMER SAVINGS OF AT LEAST $500 MILLION THROUGH MERGER ACTIONS TO MAINTAIN COMPETITION. (OUTCOME MEASURE – NUMBERS SHOWN IN MILLIONS)

| | | | |
|---|---|---|---|
| *2015* | *Target* | *$500.0* | |
| *2014* | *Target* | *$500.0* | **TARGET MET/EXCEEDED.** In FY 2013, the FTC has saved consumers an estimated $564.2 million through its merger actions to maintain competition. |
| 2013 | Target | $500.0 | |
| | Actual | $564.2 | |
| 2012 | Target | $500.0 | |
| | Actual | $504.9 | |
| 2011 | Target | $500.0 | |
| | Actual | $532.2[6] | |
| 2010 | Target | $500.0 | |
| | Actual | $586.0 | |
| 2009 | Target | $500.0 | |
| | Actual | $791.0 | |
| 2008 | Target | $500.0 | |
| | Actual | $360.0 | |
| 2007 | Target | $500.0 | |
| | Actual | $805.0 | |
| 2006 | Target | N/A | |
| | Actual | N/A | |

[6] This is a correction to results reported in the FY 2011 PAR. The results should have been based on a savings of $532.2 (million). The FY 2011 PAR reports savings of $531.5 (million).

## PERFORMANCE MEASURE 2.1.3

### ACTIONS AGAINST MERGERS LIKELY TO HARM COMPETITION IN MARKETS WITH A TOTAL OF AT LEAST $25 BILLION IN SALES. (OUTCOME MEASURE – NUMBERS SHOWN IN BILLIONS)

| | | |
|---|---|---|
| **2013 | Target | $25.0 |
| | Actual | $21.0 |
| 2012 | Target | $25.0 |
| | Actual | $20.2 |
| 2011 | Target | $25.0 |
| | Actual | $22.7 |
| 2010 | Target | $25.0 |
| | Actual | $22.5 |
| 2009 | Target | $25.0 |
| | Actual | $22.3 |
| 2008 | Target | $25.0 |
| | Actual | $14.9 |
| 2007 | Target | $25.0 |
| | Actual | $42.6 |
| 2006 | Target | $40.0 |
| | Actual | $13.4 |

**TARGET NOT MET.** The FTC's positive merger results affected markets in which the total estimated volume of commerce was approximately $21.0 billion, or 84% of the annual target. During FY 2013, the FTC obtained litigated victories, consent orders, or the parties abandoned the transactions in 14 merger matters. Specifically, one matter was won on appeal, 10 consent agreements were put in place, and three transactions were either abandoned or restructured based on the antitrust concerns raised by staff during the course of the investigation. 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.

The agency did not meet the target in FY 2013 because several significant matters are still pending before a judge, so they are excluded from this measure even though they represent a significant investment of agency resources. Specifically, the Commission issued one administrative complaint and filed one complaint in federal court challenging acquisitions that it had reason to believe were anticompetitive. Also, one merger case filed in a previous year remains in litigation.

*** This measure will no longer be reported after FY 2013.*

## PERFORMANCE MEASURE 2.1.4

### CONSUMER SAVINGS OF AT LEAST 13 TIMES THE AMOUNT OF FTC RESOURCES ALLOCATED TO THE MERGER PROGRAM. (EFFICIENCY MEASURE)

| | | | |
|---|---|---|---|
| *2015* | *Target* | *1,300.0%* | **TARGET MET/EXCEEDED.** During FY 2013, the agency saved consumers over 13 times the amount of resources devoted to the merger program. This result is in large part determined by the presence of several enforcement actions over the last four years in the pharmaceutical industry, which involved significantly sized relevant product markets. ** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.* |
| *2014* | **Target* | *1,300.0%* | |
| 2013 | *Target | 1,300.0% | |
| | Actual | 1,382.2% | |
| 2012 | *Target | 1,300.0% | |
| | Actual | 1,492.4% | |
| 2011 | Target | 600.0% | |
| | Actual | 1,419.0%[7] | |
| 2010 | Target | 600.0% | |
| | Actual | 1,670.0% | |
| 2009 | Target | 600.0% | |
| | Actual | 2,132.0% | |
| 2008 | Target | 600.0% | |
| | Actual | 1,121.0% | |
| 2007 | Target | 600.0% | |
| | Actual | 2,500.0% | |
| 2006 | Target | N/A | |
| | Actual | N/A | |

[7] This is a correction to results reported in the FY 2011 PAR. The results should have been based on a savings of $532.2 (million), or 1,419%. The FY 2011 PAR reports savings of $531.5 (million), or 1,417%.

## PERFORMANCE MEASURE 2.1.5

### CONSUMER SAVINGS OF AT LEAST $450 MILLION THROUGH NONMERGER ACTIONS TAKEN TO MAINTAIN COMPETITION. (OUTCOME MEASURE – NUMBERS SHOWN IN MILLIONS)

| | | |
|---|---|---|
| ***2015*** | ***Target*** | *$80.0* |
| ***2014*** | ****Target*** | *$440.0* |
| **2013** | ***Target** | $450.0 |
| | **Actual** | $449.8 |
| **2012** | ***Target** | $450.0 |
| | **Actual** | $439.8 |
| **2011** | **Target** | $80.0 |
| | **Actual** | $444.9 |
| **2010** | **Target** | $80.0 |
| | **Actual** | $508.0 |
| **2009** | **Target** | $80.0 |
| | **Actual** | $188.0 |
| **2008** | **Target** | $80.0 |
| | **Actual** | $28.0 |
| **2007** | **Target** | $80.0 |
| | **Actual** | $75.0 |
| **2006** | **Target** | N/A |
| | **Actual** | N/A |

**TARGET NOT MET.** In FY 2013, the FTC obtained estimated savings to consumers of approximately $449.8 million through nonmerger actions taken to maintain competition.

In FY 2011 and FY 2010, the agency exceeded the target on this measure by more than 455%, and 533% respectively. The reason that the agency exceeded the target by such a large margin is attributable to one particular case, which involved Intel Corporation, the world's leading computer chip maker, which was charged with illegally using its dominant market position for a decade to stifle competition and strengthen its monopoly. The targets for FY 2012 through FY 2014 were modified in response to the agency greatly exceeding the target due to this case. Targets for future years have been adjusted based on prior year results and expected future performance. The effect attributable to the Intel case in FY 2010 will expire by FY 2015.

Additionally, nonmerger/conduct cases historically take a longer time than merger cases to investigate and bring to a final enforcement action. For example, we are currently in the midst of litigation in four nonmerger cases which did not conclude in FY 2013.

** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*

## PERFORMANCE MEASURE 2.1.6

### ACTIONS AGAINST ANTICOMPETITIVE CONDUCT IN MARKETS WITH A TOTAL OF AT LEAST $12 BILLION IN ANNUAL SALES. (OUTCOME MEASURE – NUMBERS SHOWN IN BILLIONS)

| | | | |
|---|---|---|---|
| **2013 | *Target | $12.0 | **TARGET MET/EXCEEDED.** The FTC's positive nonmerger results affected markets in which the total estimated volume of commerce was approximately $13 billion. During FY 2013, the FTC obtained litigated victories or consent orders in four nonmerger matters.<br><br>In FY 2011 and FY 2010, the agency exceeded the target on this measure by more than 45% each year. As mentioned under Performance Measure 2.1.5, the reason the agency had exceeded the target by so wide a margin is in large part attributable to one particular case, which involved Intel Corporation. The targets for FY 2012 through FY 2014 were modified in response to the agency greatly exceeding the target due to this case.<br><br>** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | $13.1 | |
| 2012 | *Target | $12.0 | |
| | Actual | $11.7 | |
| 2011 | Target | $8.0 | |
| | Actual | $11.6 | |
| 2010 | Target | $8.0 | |
| | Actual | $11.7 | |
| 2009 | Target | $8.0 | |
| | Actual | $14.6 | |
| 2008 | Target | $8.0 | |
| | Actual | $0.4 | |
| 2007 | Target | $8.0 | |
| | Actual | $2.6 | |
| 2006 | Target | $20.0 | |
| | Actual | $1.4 | |

## PERFORMANCE MEASURE 2.1.7

### CONSUMER SAVINGS OF AT LEAST 20 TIMES THE AMOUNT OF FTC RESOURCES ALLOCATED TO THE NONMERGER PROGRAM. (EFFICIENCY MEASURE)

| | | |
|---|---|---|
| *2015* | *Target* | *400.0%* |
| *2014* | **Target* | *1,850.0%* |
| 2013 | *Target | 2,000.0% |
| | Actual | 2,296.0% |
| 2012 | *Target | 2,000.0% |
| | Actual | 1,831.7% |
| 2011 | Target | 400.0% |
| | Actual | 1,917.7% |
| 2010 | Target | 400.0% |
| | Actual | 2,418.0% |
| 2009 | Target | 400.0% |
| | Actual | 1,035.0% |
| 2008 | Target | 400.0% |
| | Actual | 164.0% |
| 2007 | Target | 400.0% |
| | Actual | 424.0% |
| 2006 | Target | N/A |
| | Actual | N/A |

**TARGET MET/EXCEEDED.** During FY 2013, the agency saved consumers approximately 23 times the amount of resources it devoted to the nonmerger enforcement program. As mentioned under Performance Measure 2.1.5, the reason the agency had previously exceeded the target in FY 2011 and FY 2010 by so wide a margin is in large part attributable to one particular case, which involved Intel Corporation. The targets for FY 2012 through FY 2014 were modified in response to the agency greatly exceeding the target due to this case.

Additionally, as mentioned in Measure 2.1.5, nonmerger/conduct cases historically take a longer period of time then merger cases to investigate and bring to a final enforcement action. For example, we are currently in the midst of litigation in four nonmerger cases which did not conclude in FY 2013.

Targets for future years have been adjusted based on prior year results and expected future performance. The effect attributable to the Intel case in FY 2010 will expire by FY 2015.

** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*

## SCRUTINIZING ENERGY MERGERS

The FTC is committed to promoting competition in the energy sector. In June 2013, the FTC issued a consent order resolving charges that Tesoro Corporation's $335 million acquisition of Chevron Corporation's Northwest Products Pipeline system and associated terminals would be anticompetitive, harming competition in the market for refined light petroleum products terminaling services in the Boise, Idaho area. Refined light petroleum products include gasoline, diesel fuel, and jet fuel. The order required Tesoro to sell a refined light petroleum products terminal in Boise to preserve competition. For more information, visit: www.ftc.gov/opa/2013/06/tesoro.shtm.

## PERFORMANCE MEASURE 2.1.8

### THE PERCENTAGE OF CASES IN WHICH THE FTC HAD AT LEAST ONE SUBSTANTIVE CONTACT WITH A FOREIGN ANTITRUST AUTHORITY IN WHICH THE AGENCIES FOLLOWED CONSISTENT ANALYTICAL APPROACHES AND REACHED COMPATIBLE OUTCOMES. (OUTPUT MEASURE)

| | | | |
|---|---|---|---|
| ***2015*** | ***Target*** | *95.0%* | **TARGET MET/EXCEEDED.** In FY 2013, the FTC had 24 substantive contacts in 17 enforcement matters with the following counterpart agencies around the world: Australia, Brazil, Canada, the European Union, Germany, Mexico and Russia. Those agencies reached compatible outcomes in the 9 cases that were completed within the fiscal year. While the FTC will continue to strive for 100% success, the target reflects the possibility of inconsistent outcomes, particularly as new antitrust agencies begin to assert their jurisdiction. |
| ***2014*** | ***Target*** | *95.0%* | |
| **2013** | **Target** | 90.0% | |
| | **Actual** | 100.0% | |
| **2012** | **Target** | 90.0% | |
| | **Actual** | 100% | |
| **2011** | **Target** | 90.0% | |
| | **Actual** | 100.0% | |
| **2010** | **Target** | 90.0% | |
| | **Actual** | 100.0% | |

### OBJECTIVE 2.2: PREVENT CONSUMER INJURY THROUGH EDUCATION.

In addition to its law enforcement activity, the FTC provides substantial information to the business community and consumers about 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, 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 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, speeches, hearings, and workshops (such as the workshop on patent assertion entity activities); advisory opinions; and reports (such as the reports on the ethanol market).

As a complement to the FTC enforcement activity, the agency also advises, when asked, other federal and state government officials about the possible effects that various regulatory and legislative 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, the FTC continues to publish reference and case-related documents. Another way the FTC achieves this goal is to improve how topical information, case materials, and reference documents are organized on its web site in an effort to aid visitors in searching for and finding relevant information and to continuously update the growing body of reference material.

## PERFORMANCE RESULTS

The FTC uses one measure to assess its performance in preventing consumer injury through education. The key measure (Performance Measure 2.2.1) 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. This performance measure is an indicator of the flow of information provided to the public. Successful outreach and education efforts, as reflected by this measure, will help consumers, because increased knowledge and understanding of the antitrust laws will help businesses stay in compliance. This measure 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 this measure would seem to 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.

## KEY MEASURE 2.2.1

### COMPETITION RESOURCES ACCESSED VIA THE FTC'S WEBSITE. (OUTPUT MEASURE – NUMBERS SHOWN IN MILLIONS)

| | | | |
|---|---|---|---|
| **2013 | *Target | 24.0 | **TARGET MET/EXCEEDED.** During FY 2013, the FTC's online competition resources registered over 44.1 million hits. These resources include pages that relate to individual investigations (such as complaints, orders, comments, and press releases), policy and research oriented content (such as reports, policy guides, and fact sheets, workshop or conference webpages, the online competition enforcement database, advocacy filings, and amicus briefs), and business and consumer education material. The use by the FTC of social media, including Twitter and Facebook, has driven more traffic than expected to certain competition related pages, including the FTC's early termination notices. The agency did not account for the rapid growth in these tools when it set the target for this measure.<br><br>** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | 44.1 | |
| 2012 | *Target | 24.0 | |
| | Actual | 23.2 | |
| 2011 | Target | 10.0 | |
| | Actual | 22.6 | |
| 2010 | Target | 10.0 | |
| | Actual | 21.5 | |
| 2009 | Target | 15.0 | |
| | Actual | 11.9 | |
| 2008 | Target | 15.0 | |
| | Actual | 12.5 | |
| 2007 | Target | 15.0 | |
| | Actual | 15.7 | |
| 2006 | Target | 10.0 | |
| | Actual | 10.6 | |

## OBJECTIVE 2.3: ENHANCE CONSUMER BENEFIT THROUGH RESEARCH, REPORTS, AND ADVOCACY.

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 goal 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. And finally, 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 FTC also files amicus briefs to aid courts' considerations of consumer protection issues.

## PERFORMANCE RESULTS

The key measures used to gauge the FTC's success under this objective are the ones relating to conducting public hearings, conferences, and workshops (Performance Measure 2.3.1), issuing reports and studies on competition related issues (Performance Measure 2.3.2), and making advocacy filings (Performance Measure 2.3.3). These measures, in conjunction with Performance Measures 2.3.4, and 2.3.5, help to ensure that the agency is engaging in appropriate types and sufficient levels of research, reports, and advocacy 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.

## KEY MEASURE 2.3.1

### WORKSHOPS, SEMINARS, CONFERENCES, AND HEARINGS CONVENED OR COSPONSORED THAT INVOLVE SIGNIFICANT COMPETITION-RELATED ISSUES. (OUTPUT MEASURE)

| | | |
|---|---|---|
| *2015* | *Target* | *4* |
| *2014* | *Target* | *4* |
| 2013 | Target | 4 |
| | Actual | 4 |
| 2012 | Target | 4 |
| | Actual | 3 |
| 2011 | Target | 4 |
| | Actual | 4 |
| 2010 | Target | 4 |
| | Actual | 6 |
| 2009 | Target | 4 |
| | Actual | 8 |
| 2008 | Target | 4 |
| | Actual | 5 |
| 2007 | Target | 4 |
| | Actual | 7 |
| 2006 | Target | N/A |
| | Actual | N/A |

**TARGET MET/EXCEEDED.** During FY 2013, the FTC held four competition and economics-related conferences. One event was the Pet Medications Workshop held in October 2012. The workshop examined competition and consumer protection issues in the pet medications industry. Workshop participants, including veterinarians, pharmacists, economists, lawyers, and others, discussed how current industry distribution and other business practices affect consumer choice and price competition for pet medications.

Another event was a joint conference with the Department of Justice's Antitrust Division held in December 2012 examining the impact of patent assertion entity activity on innovation and competition.

The FTC's Microeconomics Conference, held annually in November, brings together scholars and leaders from universities throughout the world, other government agencies, and other organizations to discuss antitrust, consumer protection, and policy issues which FTC economists encounter in their work. The Conference included discussions of structural models in applied industrial organization and the economics of hospital competition.

Finally, the FTC hosted a forum on using enforceable industry codes of conduct to protect consumers in cross-border commerce, which included a discussion of the antitrust implications of such codes.

## KEY MEASURE 2.3.2

### REPORTS AND STUDIES ISSUED ON KEY COMPETITION-RELATED TOPICS. (OUTPUT MEASURE)

| | | | |
|---|---|---|---|
| *2015* | *Target* | *8* | **TARGET MET/EXCEEDED.** During FY 2013, the FTC published working papers on how mergers affect competition in grocery retailing; the structural evolution of the dialysis industry with a focus on differences between for profit and nonprofit clinics; and the effect of entry on generic drug prices. The FTC also published an annual report on concentration in the ethanol industry and the Hart-Scott-Rodino Annual Report on the premerger notification program and merger enforcement. |
| *2014* | *Target* | *8* | |
| **2013** | **Target** | 8 | |
| | **Actual** | 14 | |
| **2012** | **Target** | 8 | |
| | **Actual** | 9 | |
| **2011** | **Target** | 8 | |
| | **Actual** | 11 | |
| **2010** | **Target** | 8 | |
| | **Actual** | 9 | |
| **2009** | **Target** | 8 | |
| | **Actual** | 20 | |
| **2008** | **Target** | 8 | |
| | **Actual** | 7 | |
| **2007** | **Target** | 8 | |
| | **Actual** | 18 | |
| **2006** | **Target** | N/A | |
| | **Actual** | N/A | |

## KEY MEASURE 2.3.3

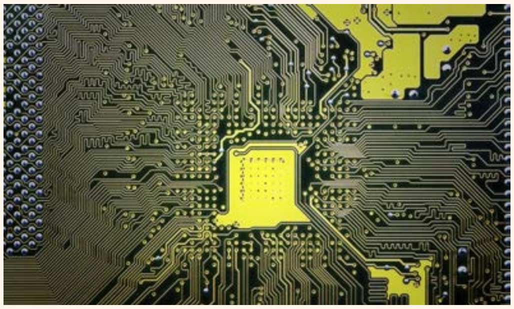
### ADVOCACY COMMENTS AND AMICUS BRIEFS ON COMPETITION ISSUES FILED WITH ENTITIES INCLUDING FEDERAL AND STATE LEGISLATURES, AGENCIES OR COURTS. (OUTPUT MEASURE)

| | | | |
|---|---|---|---|
| ****2013** | ***Target** | 10 | **TARGET MET/EXCEEDED.** In FY 2013, the FTC filed advocacy comments and amicus briefs on competition issues such as: pay-for-delay pharmaceutical patent settlements; standard essential patents; the regulation of certified registered nurse anesthetists and advanced practice registered nurses; taxicab licensing; and smartphone applications for arranging passenger motor vehicle transportation services.<br><br>The target for filing competition-related briefs and comments was increased to ten in FY 2012. The agency exceeded the FY 2012 and FY 2013 targets as well. These performance results illustrate the unpredictability of the types of and number of competition issues that might arise before federal and state government bodies and therefore the types of comments and briefs that the agency might file in response.<br><br>** Targets for FY12 - FY13were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 19 | |
| **2012** | ***Target** | 10 | |
| | **Actual** | 18 | |
| **2011** | **Target** | 6 | |
| | **Actual** | 16 | |
| **2010** | **Target** | 6 | |
| | **Actual** | 17 | |

## PERFORMANCE MEASURE 2.3.4

### THE PERCENTAGE OF RESPONDENTS FINDING THE FTC'S ADVOCACY COMMENTS AND AMICUS BRIEFS "USEFUL." (OUTCOME MEASURE)

| | | | |
|---|---|---|---|
| **2013 | *Target | 75.0% | **TARGET MET/EXCEEDED.** The FTC mails advocacy recipients a survey designed to gauge the usefulness of agency advocacy comments and amicus briefs. "Usefulness" is assessed by the recipient. The target percentage recognizes that comments critiquing a recipient's proposed action may not be assessed positively. In FY 2013, 2 of 2 survey responses classified the FTC's competition submissions as useful.<br><br>** Targets for FY12 - FY13 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | Actual | 100.0% | |
| 2012 | *Target | 75.0% | |
| | Actual | 83.3% | |
| 2011 | Target | 50.0% | |
| | Actual | 100.0% | |
| 2010 | Target | 50.0% | |
| | Actual | 100.0% | |



## PROMOTING COMPETITION IN TECHNOLOGY SECTORS

The FTC aims to promote competition and prevent anticompetitive business practices and mergers in technology sectors. For example, in December 2012, the FTC issued an administrative complaint seeking to stop Integrated Device Technology's proposed acquisition of PLX Technology. The FTC alleged that the merger would have given the combined firm a near-monopoly in a market for integrated computer circuit switch technology, leading to higher switch prices, less innovation, and reduced customer service. Integrated Device Technology and PLX abandoned the transaction in light of the FTC's challenge.

In January 2013, the FTC took action to stop Google's alleged misuse of standard essential patents ("SEPs"). Specifically, the FTC alleged that Google violated commitments made to certain standard setting organizations to license patents essential to implementing several technology standards on fair, reasonable, and non-discriminatory ("FRAND") terms to any interested manufacturer. The "SEPs" at issue were held initially by Motorola Mobility and covered technologies essential to interoperability standards used in a variety of popular mobile devices, including smartphones and tablets. The FTC alleged that Motorola Mobility and then Google (after it acquired Motorola Mobility and its patent portfolio) refused to license the SEPs on FRAND terms after manufacturers had developed standard compliant products in reliance on those commitments. To settle the charges, Google agreed to offer a FRAND license to any company that would like to license Google's SEPs in the future and to follow the procedures outlined in the FTC's consent order to resolve any FRAND-related licensing disputes. For more information, visit: www.ftc.gov/opa/2013/01/google.shtm.

## PERFORMANCE MEASURE 2.3.5

### THE VOLUME OF TRAFFIC ON WWW.FTC.GOV RELATING TO COMPETITION RESEARCH, REPORTS, AND ADVOCACY. (OUTPUT MEASURE – NUMBERS SHOWN IN MILLIONS)

| | | | |
|---|---|---|---|
| ****2013** | **Target** | 1.7 | **TARGET MET/EXCEEDED.** This performance measure relates to the volume of traffic on the FTC's web pages that relate to competition research, reports, and advocacy. In FY 2013, approximately 3.9 million hits met the criteria set by this measure.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 3.9 | |
| **2012** | **Target** | 1.7 | |
| | **Actual** | 3.4 | |
| **2011** | **Target** | 1.7 | |
| | **Actual** | 1.8 | |
| **2010** | **Target** | 1.7 | |
| | **Actual** | 2.2 | |
| **2009** | **Target** | 1.1 | |
| | **Actual** | 1.6 | |
| **2008** | **Target** | 1.1 | |
| | **Actual** | 1.2 | |
| **2007** | **Target** | 1.1 | |
| | **Actual** | 1.1 | |
| **2006** | **Target** | N/A | |
| | **Actual** | N/A | |

## OBJECTIVE 2.4: PROTECT AMERICAN CONSUMERS IN THE GLOBAL MARKETPLACE BY PROVIDING SOUND POLICY RECOMMENDATIONS AND TECHNICAL ADVICE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS TO PROMOTE SOUND COMPETITION POLICY.

The FTC seeks more effective, coordinated reviews of multijurisdictional mergers, and is working towards achieving consistent outcomes in cases of potential unilateral anticompetitive conduct.

## OUR STRATEGY

To achieve this objective, the agency participates in multilateral competition organizations, which provides valuable opportunities to promote international cooperation and convergence and for competition officials to share insights on law enforcement and policy initiatives. The FTC also pursues the development of an international market-based competition model that focuses on the maximization of consumer benefit. The agency influences policy development and implementation by advising multilateral organizations, regional entities, and foreign government agencies through substantive consultations and written comments. And finally, the FTC provides technical assistance to newer competition agencies to enhance their ability to apply sound competition policies.

## PERFORMANCE RESULTS

The FTC uses two performance measures to assess performance for this objective. Key Measure 2.4.1 and Performance Measure 2.4.2 address the scope of our contact with international counterparts and help determine if our efforts are sufficiently broad-based.

## KEY MEASURE 2.4.1

### POLICY ADVICE PROVIDED TO FOREIGN COMPETITION AGENCIES, DIRECTLY AND THROUGH INTERNATIONAL ORGANIZATIONS, THROUGH SUBSTANTIVE CONSULTATIONS, WRITTEN SUBMISSIONS, OR COMMENTS. (OUTPUT MEASURE)

| | | | |
|---|---|---|---|
| ****2013** | ***Target** | 60 | **TARGET MET/EXCEEDED.** In FY 2013, the FTC provided policy advice to foreign competition agencies in over 100 instances through consultations, written submissions, or comments. The FTC's policy advice remains highly regarded and sought after by new and more experienced competition agencies and by participants in international competition organizations and conferences.<br><br>** Targets for FY12 - FY14 were increased based on projected future performance as reported in the FTC's FY 2012 Strategic Plan Addendum.*<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 100 | |
| **2012** | ***Target** | 60 | |
| | **Actual** | 146 | |
| **2011** | **Target** | 40 | |
| | **Actual** | 112 | |
| **2010** | **Target** | 40 | |
| | **Actual** | 76 | |


## PATENT ASSERTION ENTITIES

The FTC is playing a role in advancing greater understanding of the impact of patent assertion entity ("PAE") activity on innovation and competition. PAE activity focuses primarily on purchasing patents from existing owners and making money by licensing the intellectual property to – or litigating against – manufacturers and users who are already using the patented technology. Supporters of the PAE business model assert that it facilitates the transfer of patent rights, rewards inventors, and funds ongoing research and development efforts. Critics, however, describe adverse effects on competition and innovation, including increased costs and a lack of technology transfer, ultimately taxing consumers and industry.

In December 2012, the FTC and the Antitrust Division of the United States Department of Justice held a joint workshop and invited written comments from the public on PAE activity. The joint PAE workshop provided a forum for industry participants, academics, economists, lawyers, and other interested parties to discuss the evolution of economic and legal analyses of PAE behavior, including patent acquisitions and licensing activity. While workshop panelists and commenters provided anecdotal evidence of potential harms and efficiencies of PAE activity, many stressed the lack of more comprehensive empirical evidence. In an attempt to collect such data, in September 2013 the Commission invited public comment on a proposed study using its authority under Section 6(b) of the Federal Trade Commission Act, 15 U.S.C. § 46(b), to gather qualitative and quantitative information on PAE acquisition, litigation, and licensing practices. The Commission hopes to develop a fuller and more accurate picture of PAE activity, which it can then share with Congress, other government agencies, academics, and industry.

A transcript of the workshop and all comments are available on the FTC website: www.ftc.gov/opp/workshops/pae. More information about the study is available at www.ftc.gov/opa/2013/09/paestudy.shtm.

## PERFORMANCE MEASURE 2.4.2

### TECHNICAL ASSISTANCE PROVIDED TO FOREIGN COMPETITION AUTHORITIES. (OUTPUT MEASURE)

| | | | |
|---|---|---|---|
| ****2013** | **Target** | 10 | **TARGET MET/EXCEEDED.** In FY 2013, the FTC conducted 26 technical assistance missions and hosted eight international Fellows. Thirteen of the technical assistance missions and two international Fellows were funded through outside sources such as the U.S. Agency for International Development and the U.S. Trade and Development Agency. *** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 34 | |
| **2012** | **Target** | 10 | |
| | **Actual** | 27 | |
| **2011** | **Target** | 10 | |
| | **Actual** | 27 | |
| **2010** | **Target** | 10 | |
| | **Actual** | 60 | |

## RESOURCES UTILIZED—STRATEGIC GOAL 2

### (DOLLARS SHOWN IN MILLIONS.)

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|---|
| Full-Time Equivalents | 489 | 502 | 509 | 512 | 522 | 506 | 505 |
| Obligations | $ 94 | $ 103 | $ 113 | $ 123 | $ 123 | $ 119 | $ 127 |
| Net Cost | $ (47) | $ 2 | $ 68 | $ 43 | $ 43 | $ 33 | $ 41 |

## KEY RULING IN A "PAY-FOR-DELAY" PHARMACEUTICAL PATENT SETTLEMENTS CASE

One of the FTC's top priorities is restricting anticompetitive "pay-for-delay" patent settlements, as these agreements between branded manufacturers and generic competitors delay the availability of lower-cost generic drugs. In June 2013, the FTC achieved a significant victory in the pay-for-delay battle when the United States Supreme Court ruled in FTC v. Actavis that pay-for-delay settlements can violate the antitrust laws and should be subject to antitrust review. Because of the Court's Actavis decision, the FTC is in a much stronger position to protect consumers from anticompetitive drug-patent settlements that result in higher drug costs.

The FTC initiated the Actavis litigation in 2009, when it challenged a settlement agreement between Solvay Pharmaceuticals and three competing drug manufacturers seeking to offer a generic alternative. Pursuant to the settlement, Solvay had agreed to drop its patent infringement actions, and its would-be competitors agreed not to market a generic version of the drug until 2015 – 65 months after Solvay's drug patent expired. Expressing concern that consumers would ultimately bear the costs of delayed generic entry, the FTC urged that the settlement was an unlawful restraint of trade. Both the district court and the Eleventh Circuit disagreed, but the Supreme Court overturned the so-called "scope of the patent" test, which some courts had adopted, and which had virtually immunized pay-for-delay settlements from antitrust review.

As FTC Chairwoman Edith Ramirez said following the Court's ruling: "The Supreme Court's decision is a significant victory for American consumers, American taxpayers, and free markets. . . . With this ruling, the Court has taken a big step toward addressing a problem that has cost Americans $3.5 billion a year in higher drug prices." For more information, visit: www.ftc.gov/opa/2013/06/actavis.shtm.

# STRATEGIC GOAL 3: ADVANCE PERFORMANCE

Advance the FTC's Performance Through Organizational, Individual, and Management Excellence.

## I. STRATEGIC VIEW

The FTC recognizes that a strong foundation of organizational, individual, and management excellence is a driver of mission success. The agency applies four objectives to achieve this goal. The objectives align with four key functional areas: human resources, infrastructure and security, information resources, and finance and acquisition.

### OBJECTIVE 3.1: PROVIDE EFFECTIVE HUMAN RESOURCES MANAGEMENT.

The FTC uses an integrated approach that ensures human capital programs and policies are linked to our mission, goals, and strategies, while providing for continuous improvement in efficiency and effectiveness.

### OBJECTIVE 3.2: PROVIDE EFFECTIVE INFRASTRUCTURE AND SECURITY MANAGEMENT.

Building, modernizing, and maintaining physical and information technology infrastructure ensures a safe and secure workplace to achieve mission goals, and to respond to and anticipate both routine and emergency agency requirements.

### OBJECTIVE 3.3: PROVIDE EFFECTIVE INFORMATION RESOURCES MANAGEMENT.

The FTC recognizes that sound management of information resources is essential to meeting its strategic goals.

### OBJECTIVE 3.4: PROVIDE EFFECTIVE FINANCIAL AND ACQUISITION MANAGEMENT.

Effective financial and acquisition management allows the FTC to protect American consumers and maintain competition in an accountable, transparent, and fiscally responsible manner.

## II. STRATEGIC ANALYSIS

### OBJECTIVE 3.1: PROVIDE EFFECTIVE HUMAN RESOURCES MANAGEMENT.

This objective aligns with the agency's Human Capital Plan that encompasses leadership and knowledge management, a results-oriented performance culture, talent management, and job satisfaction.

## OUR STRATEGY

The FTC recognizes that its employees are its greatest asset and places great emphasis on the importance of human resources management to the successful accomplishment of its mission. One of the key strategies used to achieve this objective entails implementing programs and processes that will enable the agency to recruit quickly, develop, and retain a qualified, diverse workforce through an integrated workforce plan. The FTC also uses the integrated workforce plan to identify and fulfill current and future human resources needs to carry out its mission and creates an agency-wide performance culture focused on individual and organizational accountability toward the achievement of the FTC's programmatic goals and priorities. Finally, the agency achieves this objective by providing human resources management training and outreach to staff.

The agency continues to enhance its performance culture focused on accountability toward achieving the FTC's programmatic goals and priorities. In FY 2013, the agency continued its efforts to help employees better understand how their work contributes to the organization's ability to achieve its goals and fulfill its mission through continued communication efforts with both supervisors and employees. In this way, the FTC continues to focus on functions that contribute toward accomplishing organizational goals and objectives.

## PERFORMANCE RESULTS

Two performance measures, Performance Measure 3.1.1 and Performance Measure 3.1.2, are used to gauge achievement of this objective. These measures are based on results from the Federal Employee Viewpoint Survey administered by the U.S. Office of Personnel Management. The survey focuses on federal employees' perceptions of critical areas of their work life and workforce management, and measures factors that influence whether employees want to join, stay, and help their agency meet its mission.

In FY 2013, the FTC had a survey response rate of 55 percent (565 of 1,022 employees responded) and, compared to 37 other federal agencies with over 1,000 employees, received first place in Results-Oriented Performance Culture, second place in Talent Management, third place in Leadership and Knowledge Management, and fourth place in Job Satisfaction. Of the 84 non-demographic items on the survey, the FTC had 52 items with high positive ratings that are considered strengths; and two items with a negative rating that would be considered a challenge. Additionally, 63 items were five percentage points or more above the government-wide average, and only one item was five percentage points or more below the government-wide average.

## PERFORMANCE MEASURE 3.1.1

### THE EXTENT EMPLOYEES BELIEVE THEIR ORGANIZATIONAL CULTURE PROMOTES IMPROVEMENT IN PROCESSES, PRODUCTS AND SERVICES, AND ORGANIZATIONAL OUTCOMES. (OUTCOME MEASURE)

| | | | |
|---|---|---|---|
| ****2013** | **Target** | 51.0% | **TARGET MET/EXCEEDED.** The government-wide results were 51.0% and the FTC received 64.0%.<br><br>Compared to 37 other departments and agencies with more than 1,000 full-time employees, the FTC took third place in Leadership and Knowledge Management and first place in Results-Oriented Performance Culture.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 64.0% | |
| **2012** | **Target** | 52.0% | |
| | **Actual** | 66.0% | |
| **2011** | **Target** | 54.0% | |
| | **Actual** | 66.0% | |
| **2010** | **Target** | 53.0% | |
| | **Actual** | 68.0% | |

## KEY MEASURE 3.1.2

### THE EXTENT EMPLOYEES THINK THE ORGANIZATION HAS THE TALENT NECESSARY TO ACHIEVE ORGANIZATIONAL GOALS. (OUTCOME MEASURE)

| | | | |
|---|---|---|---|
| ***2015*** | ***Target*** | *Exceed the government-wide results on the Federal Human Capital Survey's Talent Management Index* | **TARGET MET/EXCEEDED.** The government-wide results were 56.0% and the FTC received 69.0%.<br><br>Compared to 37 other departments and agencies with more than 1,000 full-time employees, the FTC took second place in Talent Management. |
| ***2014*** | ***Target*** | *Exceed the government-wide results on the Federal Human Capital Survey's Talent Management Index* | |
| **2013** | **Target** | 56.0% | |
| | **Actual** | 69.0% | |
| **2012** | **Target** | 59.0% | |
| | **Actual** | 70.0% | |
| **2011** | **Target** | 60.0% | |
| | **Actual** | 70.0% | |
| **2010** | **Target** | 60.0% | |
| | **Actual** | 72.0% | |

### OBJECTIVE 3.2: PROVIDE EFFECTIVE INFRASTRUCTURE AND SECURITY MANAGEMENT.

Building, modernizing, and maintaining physical and information technology infrastructure ensures a safe and secure workplace.

## OUR STRATEGY

The FTC ensures a safe and secure workplace by promoting staff awareness, regularly participating in Continuity of Operations Plan (COOP) testing, and incorporating best practices from Federal Emergency Management Agency (FEMA) staff. The COOP exercises have established a viable, tested infrastructure that can provide continuation of the FTC's mission along with a safe and secure environment for all staff in the event of an emergency.

Ensuring that the FTC has optimal information technology (IT) infrastructure operations and performance is key to meeting the agency's business goals. The ability of the agency's Office of the Chief Information Officer (OCIO) to deliver value to the agency is dependent upon its ability to identify and provide a host of critical services of improved quality, at lower business risk, and with increased agility. To this end, OCIO is working to deploy a sophisticated suite of infrastructure operations performance monitoring tools, technology, and processes that will help achieve the agency goals.

Measuring and improving service delivery to bring positive business experiences and outcomes for the FTC is imperative. With ever-changing technology, including the potential for use of cloud computing, this must be accomplished in a growing, complex, and dynamic IT infrastructure and application environment.

## PERFORMANCE RESULTS

Two performance measures are used to gauge achievement of this objective. First, the FTC utilizes a comprehensive program comprised of tests, training, and exercises to validate our COOP capabilities. The annual government-wide Eagle Horizon exercise serves to assess and validate all the components of continuity plans, policies, procedures, systems, and facilities used to respond to and recover from an emergency situation and identify issues for subsequent improvement. An analysis of the plan and exercise is conducted with a combination of FEMA, self and peer review. An overall score is derived for the exercise using the average numeric rating for each element of the review. The FTC's target is based on prior performance and the target of 75 percent represents management's commitment to reaching a realistic yet ambitious milestone.

A second Performance Measure, Key Measure 3.2.2, assesses performance of this objective by collecting and tracking the availability of key information technology applications, systems, and components. By tracking unplanned outage periods, the agency monitors the reliability and availability of 31 critical information technology services.

## KEY MEASURE 3.2.1

### A FAVORABLE CONTINUITY OF OPERATIONS (COOP) RATING. (OUTPUT MEASURE)

| | | |
|---|---|---|
| *2015* | *Target* | *75.0%* |
| *2014* | *Target* | *75.0%* |
| 2013 | Target | 75.0% |
| | Actual | 85.0% |
| 2012 | Target | 75.0% |
| | Actual | 90.0% |
| 2011 | Target | 75.0% |
| | Actual | 75.0% |
| 2010 | Target | 75.0% |
| | Actual | 85.0% |

**TARGET MET/EXCEEDED.** The FTC's overall score of 85.0% for the Eagle Horizon 2013 Exercise reflects the strong overall commitment and continued support of the FTC COOP. Continued efforts to better define FTC's essential functions and ensure that effective procedures are in place are reflected in the outstanding overall exercise score.

## KEY MEASURE 3.2.2

### AVAILABILITY OF INFORMATION TECHNOLOGY SYSTEMS. (OUTCOME MEASURE)

| | | |
|---|---|---|
| *2015* | *Target* | *99.50%* |
| *2014* | *Target* | *99.50%* |
| 2013 | Target | 99.50% |
| | Actual | 100.0% |
| 2012 | Target | 99.00% |
| | Actual | 99.86% |
| 2011 | Target | 98.50% |
| | Actual | 99.82% |
| 2010 | Target | 98.00% |
| | Actual | 99.77% |

**TARGET MET/EXCEEDED.** The FTC's information technology services pool averaged 100.0% availability, exceeding the target of 99.50%. During FY 2013, the FTC completed an upgrade of our network storage system and other network hardware components. Completing these initiatives helped to facilitate expanding storage for the FTC's critical applications and increased the level of redundancy in the network. To maintain this level of support, the OCIO will continue to evaluate lifecycle replacement of outdated hardware and software with new components that provide greater availability and quicker recovery.

Note: Results for this performance measure are presented to two decimals because rounding the number materially changes the result.

### OBJECTIVE 3.3: PROVIDE EFFECTIVE INFORMATION RESOURCES MANAGEMENT.

The agency manages information to enable staff to make thoughtful decisions and perform their work, to facilitate appropriate public access, and to protect sensitive information from inappropriate access and release.

## OUR STRATEGY

The FTC provides through its public website – as prescribed by Section 207 of the E-Government Act and Presidential Executive Orders – public access to electronic copies of virtually all public documents generated in public Commission proceedings since 1996, including: administrative and federal court law enforcement proceedings; rulemaking and guide development proceedings; and hearings, workshops and conferences. These documents include all public documents approved or authorized by the Commission, including: Commission Administrative Complaints and Consent Orders; Federal Court Complaints, Consent Decrees, and other Commission filings; Congressional Testimony; Federal Register Notices; Commission and Staff Reports; Competition Advocacy filings; and Consumer Education materials. These documents are typically placed on the FTC's website at the same time as the news releases describing them.

The FTC is in the middle of undergoing a multiyear transition to managing information resources in electronic format as one of the best means of meeting this objective. As part of this transition, the FTC conducted an agency-wide inventory of records, including major electronic systems. Based on the inventory, the agency then developed, finalized and submitted to the National Archives and Records Administration (NARA) a comprehensive retention schedule that NARA approved in FY 2012. The schedule authorizes the FTC to create, maintain and dispose of agency records electronically. It will enable the FTC to concentrate on managing information rather than records schedules.

As another step in the transition, the FTC has developed an electronic recordkeeping certification review (ERCR) process that is being used to review the ability of the FTC's information systems to house agency records with authenticity, reliability, and integrity for the mandated retention period. During FY 2013, staff completed its review of and certified the FTC's Sentinel Network Services, a collection of online consumer protection services.

## PERFORMANCE RESULTS

One performance measure, Performance Measure 3.3.1, is used to gauge success of this objective. This key performance measure is the percentage of Commission-approved documents in the FTC's ongoing and newly initiated proceedings available on www.ftc.gov within 15 days of becoming part of the public record. The FTC selected this measure because making documents available to the public in timely fashion facilitates public awareness of and participation in Commission activities. Examples of documents approved by the Commission are Federal Register notices in rulemakings and other proceedings that seek public comments, consent agreements, complaints and orders in administrative litigation, and complaints and proposed orders in litigation in the federal courts.

## KEY MEASURE 3.3.1

### THE PERCENTAGE OF COMMISSION-APPROVED DOCUMENTS IN THE FTC'S ONGOING AND NEWLY INITIATED PROCEEDINGS AVAILABLE VIA THE INTERNET WITHIN 15 DAYS OF BECOMING PART OF THE PUBLIC RECORD. (OUTPUT MEASURE)

| | | | |
|---|---|---|---|
| ****2013** | **Target** | 80.0% | **TARGET MET/EXCEEDED.** In FY 2013, the target for this performance measure increased to 80.0%; during that period, 80.6% of documents tracked under this measure were posted to the Internet within 15 days of becoming part of the public record. The actual performance for FY 2013 is based on comprehensive counts, as it was in FY 2012.<br><br>*** This measure will no longer be reported after FY 2013.* |
| | **Actual** | 80.6% | |
| **2012** | **Target** | 80.0% | |
| | **Actual** | 80.2% | |
| **2011** | **Target** | 75.0% | |
| | **Actual** | 82.0% | |
| **2010** | **Target** | 75.0% | |
| | **Actual** | 93.8% | |

## OBJECTIVE 3.4: PROVIDE EFFECTIVE FINANCIAL AND ACQUISITION MANAGEMENT.

Resource stewardship and financial oversight are fundamental to establishing the accountability and transparency, which fosters organizational, individual, and management excellence.

## OUR STRATEGY

This objective promotes consistency and integrity throughout the organization, and ensures efficient program delivery and effective and efficient program administration. Our work in this area covers a wide range of administrative and operational efforts, such as formulating and executing the agency budget, managing acquisition activities, overseeing the internal control program, managing accounting operations, spearheading audit resolution, and ensuring compliance with various financial management laws and regulations. These efforts are critical to maintaining the management infrastructure needed to carry out the mission. In addition, the FTC aligns resources to strategic priorities and outcomes to focus the agency on the most important tasks and programs and implement "best practice" acquisition and business process solutions to accomplish our goals.

One of the primary strategies the agency uses under this objective is to enhance the internal control environment. During FY 2013 the FTC initiated one separate internal control review, and completed one prior year review. These reviews were conducted as part of our Internal Control Review Plan established in FY 2010. The objective of the reviews is to assist management in identifying high-risk areas and implement appropriate risk management strategies where necessary.

## PERFORMANCE RESULTS

Three performance measures that assess internal administrative and programmatic operations and acquisition procedures are used to gauge the achievement of this objective. Performance Measure 3.4.1 tracks the independent auditor's financial statement audit results, and Key Measure 3.4.2 tracks the percentage of bureaus/offices that establish and maintain an effective, risk-based internal control environment. Strong internal controls over financial and business processes are critical to the integrity of the data reported through the financial reporting system. Performance Measure 3.4.3 monitors performance against the Small Business Administration's government-wide small business procurement goals.

## PERFORMANCE MEASURE 3.4.1

### INDEPENDENT AUDITOR'S FINANCIAL STATEMENT AUDIT RESULTS. (OUTCOME MEASURE)

| | | | |
|---|---|---|---|
| ***2015*** | ***Target*** | *Unqualified opinion on the financial statements* | **TARGET MET/EXCEEDED.** The agency received a "clean" (unqualified) opinion on its financial statements. The opinion is determined by the independent auditor's review and tests of internal controls over operations and financial reporting and the auditor's determination that the financial statements and notes are fairly presented. |
| ***2014*** | ***Target*** | *Unqualified opinion on the financial statements* | |
| **2013** | **Target** | Unqualified opinion on the financial statements | |
| | **Actual** | Unqualified opinion | |
| **2012** | **Target** | Unqualified opinion on the financial statements | |
| | **Actual** | Unqualified opinion | |
| **2011** | **Target** | Unqualified opinion on the financial statements | |
| | **Actual** | Unqualified opinion | |
| **2010** | **Target** | Unqualified opinion on the financial statements | |
| | **Actual** | Unqualified opinion | |

## KEY MEASURE 3.4.2

### THE PERCENTAGE OF BUREAUS/OFFICES THAT ESTABLISH AND MAINTAIN AN EFFECTIVE, RISK-BASED INTERNAL CONTROL ENVIRONMENT. (OUTCOME MEASURE)

| | | | |
|---|---|---|---|
| **2013 | Target | 100.0% | **TARGET MET/EXCEEDED.** The agency's components perform assessments of the internal controls that have been placed into operation within their areas of responsibility. These assessments address the "Standards of Internal Control" issued by the Government Accountability Office and are documented. The Financial Management Office (FMO) reviews the assessments and the Chairwoman considers these when preparing her annual Statement of Assurance. These assessments submitted by the agency's major components, coupled with FMO's review, provide the basis for the measurement of the effectiveness of the FTC's risk-based internal control environment. *** This measure will no longer be reported after FY 2013.* |
| | Actual | 100.0% | |
| 2012 | Target | 100.0% | |
| | Actual | 100.0% | |
| 2011 | Target | 100.0% | |
| | Actual | 100.0% | |
| 2010 | Target | 100.0% | |
| | Actual | 100.0% | |

## PERFORMANCE MEASURE 3.4.3

### PERFORMANCE AGAINST THE SMALL BUSINESS ADMINISTRATION'S GOVERNMENT-WIDE SMALL BUSINESS PROCUREMENT GOALS. (OUTCOME MEASURE)

| | | | |
|---|---|---|---|
| **2013 | Target | 23.0% | **TARGET MET/EXCEEDED.** This measure encompasses contracts to organizations classified as small businesses in accordance with Federal Acquisition Regulation Part 19 Small Business Programs. The FY 2013 performance result reflects the agency's full commitment to utilizing small businesses wherever possible based on the nature of the acquisition. The agency has not raised the target for this performance measure because the target is established nationwide by the Small Business Administration. *** This measure will no longer be reported after FY 2013.* |
| | Actual | 49.5% | |
| 2012 | Target | 23.0% | |
| | Actual | 57.7% | |
| 2011 | Target | 23.0% | |
| | Actual | 46.3% | |
| 2010 | Target | 23.0% | |
| | Actual | 58.9% | |

# FINANCIAL SECTION

# MESSAGE FROM THE CHIEF FINANCIAL OFFICER

I am pleased to present the Financial section of this Performance and Accountability Report (PAR). This report shows both the progress we made in Fiscal Year 2013 and our plans to continue improving future performance. During this fiscal year, the Federal Trade Commission continued to protect consumers and promote competition while remaining fiscally responsible; FY 2013 marks the 17th consecutive year that the FTC has received an unqualified (clean) opinion on our financial statements.

Our commitment to effective financial management and to upholding high standards of accountability in FY 2013 also included several key accomplishments:

- Returning more than more than $36 million directly to consumers who were victims of fraud, following successful prosecution of defendants resulting in court-ordered judgments or settlements.
- Receiving, for the sixth consecutive year, the association of Government Accountants' Certificate of Excellence in Accountability Reporting, awarded to agencies with the most transparent, innovative, and user-friendly PARs. In 2013 the agency also received a Special Recognition award for the Best Agency Head Message.
- Substantially exceeding the Small Business Administration's Government-wide goal to ensure that small businesses get their fair share of work with the federal government by awarding 49.5 percent of "eligible dollars" to small businesses.
- Continuing our record of no material weaknesses, significant control deficiencies, or nonconformances with the Federal Managers' Financial Integrity Act and other applicable laws and regulations.

This section also includes FY 2013 financial information and uses our performance results to show how we optimized our financial resources to protect consumers and maintain competition.

The FTC's Financial Management Office, and the entire agency, are committed to exemplary financial management and the enhancement of operational efficiency through a variety of cost-saving efforts. We will continue to work to benefit American consumers through financial and performance management excellence.

Steven A. Fisher
Chief Financial Officer
December 16, 2013

FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

OFFICE OF
INSPECTOR GENERAL

December 16, 2013

The Commissioners
Federal Trade Commission

I am pleased to provide you with the attached audit report required by the Accountability of Tax Dollars Act of 2002, which presents an unqualified opinion on the Federal Trade Commission (FTC)'s FY 2013 financial statements. We commend the FTC for the noteworthy accomplishment of attaining an unqualified (clean) opinion for the 17th consecutive year.

We contracted with the independent certified public accounting firm of Brown & Company CPAs, PLLC to audit the financial statements of the FTC's financial statements as of September 30, 2013 and for the year then ended. The contract requires that the audit be performed in accordance with U.S. generally accepted government auditing standards and Office of Management and Budget bulletin, *Audit Requirements for Federal Financial Statements*.

**Results of the Independent Audit**

Brown & Company found

- The fiscal year 2013 financial statements are fairly presented, in all material respects, in accordance with accounting principles generally accepted in the United States of America;

- No significant deficiencies in internal control over financial reporting;

- No instances of reportable noncompliance with certain provisions of laws and regulations tested, or other matters.

**Evaluation and Monitoring of Audit Performance**

The Inspector General Act of 1978 requires that the Inspector General take appropriate steps to assure that any work performed by non-Federal auditors complies with the audit standards established by the Comptroller General. In that regard, we evaluated the independence, objectivity, and qualifications of the auditors and specialists; reviewed the plan and approach of the audit; monitored the performance of the audit; reviewed Brown & Company's reports and related audit documentation; and inquired of its representatives.

Our review was not intended to enable us to express, and we do not express, an opinion on the FTC's financial statements, or conclusions about the effectiveness of internal control, or on compliance with laws and regulations or other matters. Brown & Company is responsible for the enclosed auditor's report and the conclusions expressed in the related reports on internal control and compliance with laws and regulations or other matters.

We appreciate the cooperation given Brown and Company and my office during the audit. If you have any questions or would like to discuss the report, please contact me at (202) 326-2800.

Sincerely,

Scott Wilson

Scott E. Wilson
Inspector General

Attachment

cc: Executive Director
Bureau Directors
Chief Financial Officer
Acting Assistant CFO for Financial Policy, Reporting, and Controls
Engagement Partner, Brown & Company

BROWN & COMPANY CPAs, PLLC

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

**INDEPENDENT AUDITOR'S REPORT**

Inspector General
Federal Trade Commission
Washington, D.C.

**Report on the Financial Statements**

We have audited the accompanying balance sheets of the Federal Trade Commission (FTC) as of September 30, 2013, and the related statements of net cost, changes in net position, budgetary resources, and custodial activity for the years then ended (collectively referred to as the financial statements), and the related notes to the financial statements.

*Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

*Auditor's Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*, as amended. Those standards and OMB Bulletin No. 14-02 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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*Opinion on the Financial Statements*

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of FTC as of September 30, 2013, and its net costs, changes in net position, budgetary resources, and custodial activity for the year then ended, in accordance with accounting principles generally accepted in the United States of America.

*Other Matters*

*Required Supplementary Information*
Accounting principles generally accepted in the United States of America require that the information in the Management's Discussion and Analysis (MD&A) and Required Supplementary Information (RSI) sections be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

*Prior Year Financial Statements*
The financial statements as of and for the year ended September 30, 2012 were audited by other auditors whose report, dated November 12, 2012, expressed an unmodified opinion on those statements

**Report on Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered FTC's internal control over financial reporting (internal control) to design audit procedures that are appropriate in the circumstances for the purpose of expressing an opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of FTC's internal control. Accordingly, we do not express an opinion on the effectiveness of FTC's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of the internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. In our fiscal year 2013 audit, we did not identify any deficiencies in internal control that we consider to be a material weakness. However, material weaknesses may exist that have not been identified.

**Report on Compliance and Other Matters**

As part of obtaining reasonable assurance about whether FTC's financial statements are free from material misstatement, we performed tests of its compliance with applicable provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 14-02.

**Management's Responsibility for Internal Control and Compliance**

FTC's management is responsible for (1) evaluating effectiveness of internal control over financial reporting based on criteria established under the Federal Managers Financial Integrity Act (FMFIA), (2) providing a statement of assurance on the overall effectiveness of internal control over financial reporting, and (3) ensuring compliance with other applicable laws and regulations.

**Auditor's Responsibilities**

We are responsible for: (1) obtaining a sufficient understanding of internal controls over financial reporting to plan the audit, (2) testing compliance with certain provisions of laws and regulations that have a direct and material effect on the financial statements and applicable laws for which OMB Bulletin 14-02 requires testing, and (3) applying certain limited procedures with respect to the MD&A and other RSI.

We did not evaluate all internal controls relevant to operating objectives as broadly established by the FMFIA, such as those controls relevant to preparing statistical reports and ensuring efficient operations. We limited our internal control testing to testing controls over financial reporting. 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 audit results to future periods is subject to 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 did not test compliance with all laws and regulations applicable to FTC. We limited our tests of compliance to certain provisions of laws and regulations that have a direct and material effect on the financial statements and those required by OMB Bulletin 14-02 that we deemed applicable to FTC's financial statements for the fiscal year ended September 30, 2013. We caution that noncompliance with laws and regulations may occur and not be detected by these tests and that such testing may not be sufficient for other purposes.

**Purpose of the Report on Internal Control over Financial Reporting and the Report on Compliance and Other Matters**

The purpose of the Report on Internal Control over Financial Reporting and the Report on Compliance and Other Matters sections of this report is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of FTC's internal control or on compliance. These reports are an integral part of an audit performed in accordance with *Government Auditing Standards* in considering FTC's internal control and compliance. Accordingly, these reports are not suitable for any other purpose.

This report is intended solely for the information and use of the management of FTC, OMB, OIG and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Brown & Company

Largo, Maryland
December 16, 2013

BROWN & COMPANY CPAS, PLLC

# PRINCIPAL FINANCIAL STATEMENTS

## FINANCIAL STATEMENT DESCRIPTIONS

A brief description of the five principal financial statements presented on the following pages is provided:

- Balance Sheet – Presents the combined amounts the agency had to use or distribute (assets) versus the amounts the agency owed (liabilities), and the difference between the two (net position).
- Statement of Net Cost – Presents the annual cost of agency operations. The gross cost less any offsetting revenue is used to determine the net cost.
- Statement of Changes in Net Position – Reports the accounting activities that caused the change in net position during the reporting period.
- Statement of Budgetary Resources – Reports how budgetary resources were made available and the status of those resources at fiscal year-end.
- Statement of Custodial Activity – Reports collections and their disposition by the agency on behalf of the Treasury General Fund and one other federal agency. The FTC acts as custodian and does not have use of these funds.

The accompanying notes to the financial statements describe significant accounting policies as well as detailed information on select statement lines.

# FEDERAL TRADE COMMISSION

## BALANCE SHEET
### AS OF SEPTEMBER 30, 2013 AND 2012
(Dollars shown in thousands)

| | 2013 | 2012 |
|---|---|---|
| **Assets (Note 2):** | | |
| Intragovernmental: | | |
| Fund balance with Treasury (Note 3) | $ 206,638 | $ 192,786 |
| Accounts receivable, net (Note 5) | 47 | 995 |
| Total intragovernmental | 206,685 | 193,781 |
| Cash and other monetary assets (Note 4) | 18,239 | 28,360 |
| Accounts receivable, net (Note 5) | 24,791 | 30,991 |
| General property and equipment, net (Note 6) | 22,042 | 18,385 |
| **Total Assets** | $ 271,757 | $ 271,517 |
| | | |
| **Liabilities:** | | |
| Intragovernmental: | | |
| Accounts payable | $ 1,555 | $ 1,030 |
| Other (Note 8) | 2,314 | 4,706 |
| Total intragovernmental | 3,869 | 5,736 |
| Accounts payable | 8,591 | 8,353 |
| Accrued consumer redress due to claimants | 23,693 | 27,219 |
| Consumer redress collections not yet disbursed | 65,848 | 84,935 |
| Other (Note 8) | 17,265 | 16,520 |
| **Total Liabilities (Notes 7 & 8)** | $ 119,266 | $ 142,763 |
| | | |
| **Net Position (Note 1(n)):** | | |
| Unexpended appropriations | - | - |
| Cumulative results of operations | 152,491 | 128,754 |
| **Total Net Position** | $ 152,491 | $ 128,754 |
| **Total Liabilities and Net Position** | $ 271,757 | $ 271,517 |

*The accompanying notes are an integral part of these statements.*

# FEDERAL TRADE COMMISSION

## STATEMENT OF NET COST
### FOR THE YEARS ENDED SEPTEMBER 30, 2013 AND 2012
(Dollars shown in thousands)

| | | 2013 | | 2012 |
|---|---|---|---|---|
| **Costs by Strategic Goal:** | | | | |
| Strategic Goal 1: Protect Consumers: | | | | |
| Gross costs (Note 11) | $ | 165,566 | $ | 164,767 |
| Less: earned revenue (Note 12) | | (14,118) | | (13,794) |
| Net cost | | 151,448 | | 150,973 |
| | | | | |
| Strategic Goal 2: Maintain Competition: | | | | |
| Gross costs (Note 11) | | 122,375 | | 121,287 |
| Less: earned revenue (Note 12) | | (81,693) | | (87,825) |
| Net cost | | 40,682 | | 33,462 |
| | | | | |
| **Net Cost of Operations** | $ | 192,130 | $ | 184,435 |

*The accompanying notes are an integral part of these statements.*

# FEDERAL TRADE COMMISSION

## STATEMENT OF CHANGES IN NET POSITION
### FOR THE YEARS ENDED SEPTEMBER 30, 2013 AND 2012
(Dollars shown in thousands)

| | 2013 | 2012 |
|---|---|---|
| **Cumulative Results of Operations:** | | |
| Beginning balance | $ 128,754 | $ 93,196 |
| **Budgetary Financing Sources:** | | |
| Appropriations used | 206,660 | 210,267 |
| **Other Financing Sources (Non-Exchange):** | | |
| Imputed financing | 9,207 | 9,726 |
| Total financing sources | 215,867 | 219,993 |
| Net cost of operations | (192,130) | (184,435) |
| Net change | 23,737 | 35,558 |
| **Cumulative Results of Operations** | $ 152,491 | $ 128,754 |
| | | |
| **Unexpended Appropriations:** | | |
| Beginning balance | $ - | $ - |
| **Budgetary Financing Sources:** | | |
| Appropriations received | 216,249 | 210,267 |
| Other adjustments (rescissions) | (9,589) | - |
| Appropriations used | (206,660) | (210,267) |
| Total budgetary financing sources | - | - |
| **Total Unexpended Appropriations** | - | - |
| **Net Position (Note 1(n))** | $ 152,491 | $ 128,754 |

*The accompanying notes are an integral part of these statements.*

# FEDERAL TRADE COMMISSION

## STATEMENT OF BUDGETARY RESOURCES
### FOR THE YEARS ENDED SEPTEMBER 30, 2013 AND 2012
(Dollars shown in thousands)

| | 2013 | 2012 |
|---|---|---|
| **Budgetary Resources:** | | |
| Unobligated balance, brought forward, October 1 | $ 57,778 | $ 20,575 |
| Recoveries of prior year unpaid obligations | 2,999 | 4,341 |
| Unobligated balance from prior year budget authority, net | 60,777 | 24,916 |
| Appropriations | 206,660 | 210,267 |
| Spending authority from offsetting collections | 89,420 | 102,610 |
| **Total Budgetary Resources** | $ 356,857 | $ 337,793 |
| | | |
| **Status of Budgetary Resources:** | | |
| Obligations incurred (Note 13): | $ 299,698 | $ 280,015 |
| Unobligated balance, end of period: | | |
| Apportioned (Note 1(q)) | 52,778 | 56,434 |
| Unapportioned | 4,381 | 1,344 |
| Total unobligated balance, end of period | 57,159 | 57,778 |
| **Total Status of Budgetary Resources** | $ 356,857 | $ 337,793 |
| | | |
| **Change in Obligated Balance:** | | |
| **Unpaid Obligations:** | | |
| Unpaid obligations, brought forward, October 1 | $ 79,576 | $ 87,672 |
| Obligations incurred (Note 13): | 299,698 | 280,015 |
| Outlays, gross | (279,830) | (283,770) |
| Recoveries of prior year unpaid obligations | (2,999) | (4,341) |
| Unpaid obligations, end of period | 96,445 | 79,576 |
| | | |
| **Uncollected Payments:** | | |
| Uncollected payments from Federal sources, brought forward, October 1 | (1,098) | (115) |
| Change in uncollected payments from Federal sources, brought forward , October 1 | (199) | (983) |
| Uncollected payments from Federal sources, end of period | (1,297) | (1,098) |
| | | |
| **Memorandum (non-add) Entries:** | | |
| Obligated balance, start of year, net | 78,478 | 87,557 |
| Obligated balance, end of period, net | $ 95,147 | $ 78,478 |
| | | |
| **Budget Authority and Outlays, Net:** | | |
| Budget authority, gross | $ 302,530 | $ 312,877 |
| Actual offsetting collections | (95,671) | (101,627) |
| Change in uncollected customer payments from Federal sources | (199) | (983) |
| Budget authority, net | $ 206,660 | $ 210,267 |
| | | |
| Outlays, gross | $ 279,830 | $ 283,770 |
| Actual offsetting collections | (95,671) | (101,627) |
| Outlays, net | 184,159 | 182,143 |
| Distributed offsetting receipts | (14,645) | (15,478) |
| Agency outlays, net | $ 169,514 | $ 166,665 |

*The accompanying notes are an integral part of these statements.*

# FEDERAL TRADE COMMISSION

## STATEMENT OF CUSTODIAL ACTIVITY
FOR THE YEARS ENDED SEPTEMBER 30, 2013 AND 2012
(Dollars shown in thousands)

| | Protect Consumers | Maintain Competition | 2013 | 2012 |
|---|---|---|---|---|
| **Revenue Activity (Note 16):** | | | | |
| Sources of collections: | | | | |
| Premerger filing fees (net of refunds) | $ - | $ 81,202 | $ 81,202 | $ 87,544 |
| Civil penalties and fines | 42,545 | - | 42,545 | 6,602 |
| Consumer redress (Note 17) | 14,518 | - | 14,518 | 15,261 |
| Other miscellaneous receipts | 127 | - | 127 | 217 |
| Total cash collections | 57,190 | 81,202 | 138,392 | 109,624 |
| Accrual adjustments | (2,675) | - | (2,675) | 3,634 |
| **Total Custodial Revenue** | $ 54,515 | $ 81,202 | $ 135,717 | $ 113,258 |
| **Disposition of Collections (Note 16):** | | | | |
| Transferred to others: | | | | |
| Treasury general fund | $ 57,190 | $ - | $ 57,190 | $ 22,080 |
| Department of Justice | - | 81,202 | 81,202 | 87,544 |
| Increase/(decrease) in amounts yet to be transferred | (2,675) | - | (2,675) | 3,634 |
| **Total Disposition of Collections** | $ 54,515 | $ 81,202 | $ 135,717 | $ 113,258 |
| **Net Custodial Activity** | $ - | $ - | $ - | $ - |

*The accompanying notes are an integral part of these statements.*

# Notes to the Financial Statements

## NOTE 1—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### (a) REPORTING ENTITY

The Federal Trade Commission (FTC) is an independent agency of the U.S. Government, established by the Federal Trade Commission Act of 1914. The FTC enforces a variety of federal antitrust and consumer protection laws. Its mission is 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 this without unduly burdening legitimate business activity. The FTC 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.

The FTC carries out its mission of protecting consumers and maintaining competition through three bureaus: The Bureau of Consumer Protection (BCP), the Bureau of Competition (BC), and the Bureau of Economics (BE). Additionally, various offices within FTC provide mission support to the bureaus. The FTC's staff is located in Washington DC and seven geographic areas.

The financial statements and notes include the financial activity recorded in all of the funds under the FTC's control. As further described in Note 1(b), these funds include appropriations received for salaries and necessary expenses, as well as non-entity funds that are primarily comprised of proceeds derived from court ordered judgments and settlements held for subsequent distribution to approved claimants.

### (b) FUND ACCOUNTING STRUCTURE

The FTC 's financial activities are accounted for using various funds in the Treasury. These are identified by Treasury Account Symbols (TAS) described below:

#### 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 12, Exchange Revenues.)

#### DEPOSIT FUND

TAS 29X6013 consists of monies collected for the consumer redress program and held temporarily by the FTC until money is disbursed to consumers or transferred to the general fund of the Treasury. (See Note 3, Fund Balance with Treasury and Note 17, Consumer Redress Activities)

#### CLEARING/SUSPENSE FUND

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

#### RECEIPT ACCOUNTS

TAS 29 1040 is used to account for the collection and accrual of civil penalties imposed in court actions for violations of antitrust acts and FTC orders. Cash balances remaining in the fund at the end of each fiscal year are transferred to the general fund of the Treasury.

TAS 29 3220 is used to account for miscellaneous receipts that by law are not retained by FTC and for collections in connection with the consumer redress program that are disgorged to the Treasury. Cash balances remaining in this fund at the end of each fiscal year are transferred to the general fund of the Treasury.

### (c) BASIS OF PRESENTATION AND 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. They have been prepared from the accounting records of the FTC. These financial statements may differ from other financial reports submitted pursuant to the Office of Management and Budget (OMB) directives for the purpose of monitoring and controlling the use of the FTC's budgetary resources.

The FTC's financial statements are prepared in conformity with generally accepted accounting principles (GAAP) for Federal entities and with OMB Circular A-136, Financial Reporting Requirements (as revised October 2013). Accordingly, revenues are recognized when earned and expenses are recognized when incurred, without regard to the receipt or payment of cash. These principles differ from budgetary reporting principles. The differences relate primarily to the capitalization and depreciation of property and equipment, as well as the recognition of other long-term assets and liabilities.

As described in Note 1(b), the FTC maintains a single fund to account for salaries and all necessary expenses. Further, there are limited 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 (SBR) presented as combined.

Assets, liabilities, revenues and costs are classified in these financial statements according to the type of entity associated with the transactions. Balances classified as intragovernmental arise from transactions with other Federal entities. Balances not classified as intragovernmental arise from transactions with individuals or organizations outside of the Federal Government (i.e., with the Public).

The FTC presents net cost of operations by its two major strategic goals: protect consumers and maintain competition. These goals are described in the agency's strategic and performance plan and align with the agency's major programs.

### (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) BUDGET AUTHORITY

The 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 the OMB apportionment and to Congressional restrictions on the expenditure of funds. In addition, the FTC places internal restrictions on fund expenditures to ensure the efficient and proper use of all funds. The FTC's budget authority is derived from a direct appropriation and offsetting collections. FTC accounts for budget authority in its general fund (29X0100), as reflected in the Statement of Budgetary Resources.

### (f) ENTITY/NON-ENTITY ASSETS

The FTC includes both entity and non-entity assets in these financial statements. 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.

### (g) FUND BALANCE WITH TREASURY

The FTC's Fund Balance with Treasury (FBWT) includes undisbursed appropriated funds, deposit funds awaiting subsequent disbursement to claimants, and premerger filing fees that are to be distributed evenly between the DOJ and the FTC general fund. Funds are carried forward until such time as goods or services are received and/or payment is made. All cash receipts are deposited with the Treasury and all payments are disbursed by the Treasury.

### (h) CASH AND OTHER MONETARY ASSETS

In connection with the consumer redress program, as described in Note 17, amounts necessary to cover current disbursement schedules are held as cash at financial institutions in interest bearing accounts. Upon approval by FTC's Redress Administration Office, consumer redress agents process claims and disburse redress proceeds to approved claimants. These funds are considered non-entity assets and are reported in the FTC's financial records along with an offsetting non-entity liability.

### (i) ACCOUNTS RECEIVABLE, NET

The bulk of FTC's accounts receivable are non-entity accounts receivable arising from the settlement or litigation of both administrative and federal court cases in connection with the consumer redress program. Non-entity accounts receivable also include uncollected civil monetary penalties imposed as a result of the FTC's enforcement activities. These non-entity accounts receivable are included in the financial statements along with an offsetting non-entity liability. Entity accounts receivable consist of amounts due from other federal entities and from current and former employees and vendors. Gross receivables are reduced to net realizable value by an allowance for uncollectible accounts. (See Note 5, Accounts Receivable, Net.)

### (j) ACCRUED LIABILITIES AND ACCOUNTS PAYABLE

Accrued liabilities and accounts payable represent a probable future outflow or other sacrifice 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 cannot be liquidated without legislation that provides the resources to do so. In addition, the government, acting in its sovereign capacity, can abrogate the FTC liabilities (other than contracts). (See Note 7, Liabilities Not Covered by Budgetary Resources and Note 8, Other Liabilities.)

### (k) 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) administered by the Office of Personnel Management (OPM). The FTC contributes a percentage to each program to pay for current benefits.

### (l) EMPLOYEE RETIREMENT BENEFITS

FTC's employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS) administered by OPM. Employees hired after December 31, 1983, are covered by FERS and Social Security, while employees hired prior to January 1, 1984 were allowed to elect joining FERS or remaining in CSRS. For employees participating in CSRS, the FTC contributes seven percent of the employee's basic pay to the Civil Service Retirement and Disability Fund. For employees participating in FERS, the FTC contributes 11.9 percent to the Federal Employees' Retirement Fund. In addition, the FTC contributes the employer's matching share to the Social Security Administration under the Federal Insurance Contributions Act, which fully covers FERS participating employees. 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 the TSP, not to exceed an annual dollar amount of $17,500 for 2013. For those employees participating in FERS, the FTC makes a mandatory 1 percent contribution to this plan and in addition, matches 100 percent of the first three percent contributed and 50 percent of the next two percent. CSRS participating employees do not receive a matching contribution from the FTC. FTC contributions to the TSP are recognized as current operating expenses.

The FTC does not report CSRS and FERS assets, accumulated plan benefits, or unfunded liabilities, if any, applicable to its employees. OPM reports this information. However, the FTC recognizes the full cost of providing future pension benefits to covered employees at the time the employees' services are rendered using cost factors provided by OPM that estimate the true service cost of providing the pension benefits. During fiscal years 2013 and 2012, the cost factors used to arrive at the service cost for CSRS covered employees were 32.3 percent and 29.8 percent of basic pay, respectively. For the same years, the cost factors for FERS covered employees were 14.2 percent and 13.7 percent. The FTC recognizes the excess of the true service cost over amounts contributed as an imputed cost. This additional cost is financed by OPM, and recognized as an imputed financing source by FTC.

### (m) 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 FTC recognizes a current cost of providing post-retirement benefits using cost factors provided by OPM that estimate the true cost of providing these benefit to current employees. During fiscal years ended 2013 and 2012, the cost factors relating to FEHBP were $5,190 and $5,817, respectively, per employee enrolled. For the same years, the cost factor relating to FEGLIP was 0.02 percent of basic pay per employee enrolled. The cost of providing post-retirement benefits for the FEHBP and FEGLIP is financed by OPM, and recognized as an imputed financing source by FTC.

### (n) 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 the 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 in Net Position.)

## (o) REVENUES AND OTHER FINANCING SOURCES

The FTC's revenues and other financing sources are derived from exchange revenue collections (see Note 12, Exchange Revenues) and from a direct appropriation. Exchange revenues consist of premerger filing fees under the authority of the HSR Act, fees related to the Do-Not-Call (DNC) Implementation Act, and amounts received for services performed under reimbursable agreements with other federal agencies. The FTC receives an annual Salaries and Expense appropriation from the general fund of the Treasury to support its operations. The appropriation represented approximately 58 percent of total budgetary resources in fiscal year 2013 and 62 percent in fiscal year 2012.

## (p) METHODOLOGY FOR ASSIGNING COSTS AND EXCHANGE REVENUES

The FTC allocates costs and exchange revenues, on the Statement of Net Cost to its two major strategic goals: protect consumers and maintain competition. Costs and exchange revenues that are identified specifically with each of these two strategic goals are charged or credited directly. Costs not directly attributable to these two goals, including costs related to FTC's third goal, Advance Performance, are allocated based on the percentage of direct fulltime equivalents used by each of these two goals.

## (q) UNOBLIGATED BALANCE

The amount reported on the Statement of Budgetary Resources as Unobligated balance, end of period, Apportioned for fiscal year 2013 includes $32.9 million that was designated to fund costs associated with replacing leases for office space located at 601 New Jersey Avenue and 1800 M Street and for relocating affected staff into a new single facility. Current plans call for these funds to be obligated in fiscal year 2014 with the anticipated occupancy of the FTC's new leased space in fiscal year 2014.

## NOTE 2—ENTITY AND NON-ENTITY ASSETS

FTC's entity assets are comprised of fund balances with Treasury; accounts receivable; and property and equipment. The fund balances with Treasury consist of undisbursed funds in the FTC general fund and an amount in the clearing/suspense fund payable to the FTC general fund. Entity accounts receivable are comprised of amounts due from other federal agencies, current and former employees, and vendors.

FTC's non-entity assets are comprised of fund balances with Treasury, cash and other monetary assets, and accounts receivable. The fund balances with Treasury consist of deposits held for the consumer redress program and undisbursed premerger filing fees. Cash and other Monetary Assets consist of amounts on deposit for the consumer redress program in financial institutions. Accounts receivable consist of amounts due from consumer redress judgments and civil penalties.

At September 30, 2013, FTC entity and non-entity assets consisted of the following (in thousands):

| | 2013 Entity | 2013 Non-Entity | 2013 Total |
|---|---|---|---|
| Intragovernmental: | | | |
| Fund balance with Treasury: | | | |
| FTC funds | $ 158,756 | $ - | $ 158,756 |
| Deposit funds - consumer redress | - | 47,609 | 47,609 |
| Clearing/Suspense funds - premerger filing fees | 137 | 136 | 273 |
| Accounts receivable, net | 47 | - | 47 |
| Subtotal intragovernmental assets | 158,940 | 47,745 | 206,685 |
| Cash and other monetary assets | - | 18,239 | 18,239 |
| Accounts receivable, net | 48 | 24,743 | 24,791 |
| Property and equipment, net | 22,042 | - | 22,042 |
| **Total Assets** | $ 181,030 | $ 90,727 | $ 271,757 |

At September 30, 2012, FTC entity and non-entity assets consisted of the following (in thousands):

| | 2012 Entity | 2012 Non-Entity | 2012 Total |
|---|---|---|---|
| Intragovernmental: | | | |
| Fund balance with Treasury: | | | |
| FTC funds | $ 136,211 | $ - | $ 136,211 |
| Deposit funds - consumer redress | - | 56,575 | 56,575 |
| Accounts receivable, net | 995 | - | 995 |
| Subtotal intragovernmental assets | 137,206 | 56,575 | 193,781 |
| Cash and other monetary assets | - | 28,360 | 28,360 |
| Accounts receivable, net | 47 | 30,944 | 30,991 |
| Property and equipment, net | 18,385 | - | 18,385 |
| **Total Assets** | $ 155,638 | $ 115,879 | $ 271,517 |

## NOTE 3—FUND BALANCE WITH TREASURY

FTC's Fund Balance with Treasury consists of undisbursed appropriated funds, which are either unobligated or obligated, as well as non-entity funds arising from amounts collected for consumer redress and not yet disbursed to claimants. The fund balance also includes the amount of undisbursed premerger filing fees that will be distributed equally between the FTC and the DOJ in a subsequent period.

Fund Balance with Treasury consisted of the following as of September 30, 2013 and 2012 (in thousands):

| | 2013 | 2012 |
|---|---|---|
| **Fund Balance with Treasury:** | | |
| Appropriated funds | $ 158,756 | $ 136,256 |
| Deposit funds - consumer redress | 47,609 | 56,575 |
| Clearing/suspense funds - premerger filing fees | 273 | (45) |
| **Total Fund Balance with Treasury** | $ 206,638 | $ 192,786 |
| | | |
| **Status of Fund Balance with Treasury:** | | |
| Unobligated balance: | | |
| Apportioned | $ 52,778 | $ 56,434 |
| Unavailable - not apportioned | 4,381 | 1,344 |
| Unavailable - temporary reduction | 6,450 | - |
| Obligated balance not yet disbursed | 95,147 | 78,478 |
| Non-budgetary fund balance with treasury | | |
| Deposit funds - consumer redress | 47,609 | 56,575 |
| Clearing/suspense funds - premerger filing fees | 273 | (45) |
| **Total Status of Fund Balance with Treasury** | $ 206,638 | $ 192,786 |

The negative balance in the clearing/suspense fund as of September 30, 2012 represents the amount of premerger filing fees that were disbursed in excess of actual fees collected. This amount was recorded as a receivable due from DOJ and Treasury at the end of fiscal year 2012 and was collected during fiscal year 2013 through an offset to distributions made (see Note 16, Premerger filing fees).

## NOTE 4—CASH AND OTHER MONETARY ASSETS

Cash and other monetary assets consists of cash in financial institutions necessary to cover current disbursement schedules in connection with the consumer redress program. (See Note 1(h), Cash and Other Monetary Assets and Note 17, Consumer Redress Activities.)

Cash and other monetary assets consisted of the following as of September 30, 2013 and 2012 (in thousands):

| | 2013 | 2012 |
|---|---|---|
| **Cash and Other Monetary Assets:** | | |
| Consumer redress funds held in financial institutions | $ 18,239 | $ 28,360 |
| **Total Cash and Other Monetary Assets** | $ 18,239 | $ 28,360 |

## NOTE 5—ACCOUNTS RECEIVABLE, NET

Accounts receivable, net of allowances 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 GAAP. 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 accounts 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 for collection activities after the receivable becomes six months delinquent in payment.

Accounts receivable, net consisted of the following as of September 30, 2013 and 2012 (in thousands):

| | Gross Receivables | Allowance for Uncollectible Accounts | 2013 Net | 2012 Net |
|---|---|---|---|---|
| **Entity Accounts Receivable:** | | | | |
| Intragovernmental | $ 47 | $ - | $ 47 | $ 995 |
| With the public | 48 | - | 48 | 47 |
| Total entity accounts receivable | $ 95 | $ - | $ 95 | $ 1,042 |
| **Non-Entity Accounts Receivable:** | | | | |
| Consumer redress | $ 994,781 | $ 971,088 | $ 23,693 | $ 27,219 |
| Civil penalties | 31,345 | 30,295 | 1,050 | 3,725 |
| Total non-entity accounts receivable | $ 1,026,126 | $ 1,001,383 | $ 24,743 | $ 30,944 |
| **Total Accounts Receivable** | $ 1,026,221 | $ 1,001,383 | $ 24,838 | $ 31,986 |

## NOTE 6—GENERAL PROPERTY AND EQUIPMENT, NET

The FTC's property and equipment consists of general-purpose equipment used by the agency, capital improvements made to buildings leased by the FTC for office space, and software. The FTC reports property and equipment at historical cost and capitalizes items with an initial cost of $100 thousand or greater and a useful life over two years. Property and equipment that meets this criterion are depreciated using the straight-line method over the estimated useful life of the asset. Leasehold improvements are amortized over the remaining life of the lease. Additionally, assets under development, such as internal use software and leasehold improvements with an estimated aggregate cost of over $100 thousand are capitalized as development-in-progress and then amortized once complete and placed into service. The FTC expenses the cost of normal repairs and maintenance, as well as property and equipment that does not meet the capitalization criteria.

Depreciation expense was $3,216 and $3,766 thousand for fiscal years ending September 30, 2013 and 2012, respectively, and is contained in the accumulated depreciation.

As of September 30, 2013, 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. | $ 10,356 | $ 4,779 | $ 5,577 |
| Leasehold improvements | lease term | 16,079 | 6,638 | 9,441 |
| Software | 3-5 yrs. | 20,067 | 13,043 | 7,024 |
| **Total General Property and Equipment** | | $ 46,502 | $ 24,460 | $ 22,042 |

As of September 30, 2012, 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. | $ 13,447 | $ 7,363 | $ 6,084 |
| Leasehold improvements | lease term | 14,351 | 5,742 | 8,609 |
| Software | 3-5 yrs. | 15,275 | 11,583 | 3,692 |
| **Total General Property and Equipment** | | $ 43,073 | $ 24,688 | $ 18,385 |

## NOTE 7—LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

Liabilities not covered by budgetary resources consisted of the following as of September 30, 2013 and 2012 (in thousands):

| | 2013 | 2012 |
|---|---|---|
| Intragovernmental: | | |
| Undisbursed premerger filing fees due to DOJ | $ 136 | $ - |
| Civil penalty accrual due to Treasury | 1,050 | 3,725 |
| FECA liability | 394 | 390 |
| Other unfunded employment related liability | 2 | 7 |
| Subtotal intragovernmental liabilities not covered by budgetary resources | $ 1,582 | $ 4,122 |
| Accrued consumer redress due to claimants | 23,693 | 27,219 |
| Consumer redress collections not yet disbursed | 65,848 | 84,935 |
| Accrued leave | 11,385 | 11,529 |
| Actuarial FECA | 2,254 | 2,080 |
| **Total Liabilities Not Covered by Budgetary Resources** | $ 104,762 | $ 129,885 |
| **Total Liabilities Covered by Budgetary Resources** | 14,504 | 12,878 |
| **Total Liabilities** | $ 119,266 | $ 142,763 |

**Undisbursed Premerger Filing Fees Due to DOJ** represents the non-entity liability for undisbursed filing fees due to the DOJ in a subsequent period.

**Civil Penalty Accrual Due to Treasury** represents the non-entity liability corresponding to the non-entity accounts receivable, net of allowance 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 payable to the Department of Labor (DOL), as paying agent for all FECA claims.

**Consumer Redress Accrual Due to Claimants** represents the non-entity liability corresponding to the non-entity accounts receivable, net for judgments obtained as a result of the agency's consumer redress litigation.

**Consumer Redress Collections Not Yet Disbursed** represents the non-entity liability corresponding to the non-entity assets (Fund Balance with Treasury and Cash and Other Monetary Assets ) collected through the consumer redress program.

**Unfunded Leave** represents the accrued unfunded liability for earned leave. 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. 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.

## NOTE 8—OTHER LIABILITIES

Other liabilities consisted of the following as of September 30, 2013 (in thousands):

| | 2013 Non-Current | 2013 Current | 2013 Total |
|---|---|---|---|
| Other intragovernmental: | | | |
| Accrued employee benefits | $ - | $ 734 | $ 734 |
| Undisbursed premerger filing fees | - | 136 | 136 |
| Civil penalties | - | 1,050 | 1,050 |
| FECA liability | 394 | - | 394 |
| Subtotal other intragovernmental | 394 | 1,920 | 2,314 |
| Accrued payroll and benefits | - | 3,626 | 3,626 |
| Accrued leave | - | 11,385 | 11,385 |
| Actuarial FECA | 2,254 | - | 2,254 |
| Subtotal other | 2,254 | 15,011 | 17,265 |
| **Total Other Liabilities** | $ 2,648 | $ 16,931 | $ 19,579 |

Other liabilities consisted of the following as of September 30, 2012 (in thousands):

| | 2012 Non-Current | 2012 Current | 2013 Total |
|---|---|---|---|
| Other intragovernmental: | | | |
| Accrued employee benefits | $ - | $ 591 | $ 591 |
| Civil penalties | - | 3,725 | 3,725 |
| FECA liability | 390 | - | 390 |
| Subtotal other intragovernmental | 390 | 4,316 | 4,706 |
| Accrued payroll and benefits | - | 2,911 | 2,911 |
| Accrued leave | - | 11,529 | 11,529 |
| Actuarial FECA | 2,080 | - | 2,080 |
| Subtotal other | 2,080 | 14,440 | 16,520 |
| **Total Other Liabilities** | $ 2,470 | $ 18,756 | $ 21,226 |

## NOTE 9—LEASES

Leases of commercial property are made through and managed by the General Services Administration (GSA). The FTC has leases on five government-owned properties and nine commercial properties totaling approximately 633 thousand square feet for use as offices, storage and parking. The FTC's current leases expire at various dates through 2024. All FTC leases are operating leases

Certain leases provide for tenant improvement allowances and these costs are 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.

In 2014, the FTC will begin relocating employees from 2 of the leased commercial properties into a single newly leased commercial facility. During the transition, the FTC's lease payments will be higher due to the fact that payments will need to be made on both the old and new leases until the move is complete. The higher cost is reflected in the chart showing future lease payments of commercial property.

Future minimum lease payments due under leases of government-owned property as of September 30, 2013, are as follows (in thousands):

| Fiscal Year | | |
|---|---|---|
| 2014 | $ | 6,465 |
| 2015 | $ | 6,378 |
| 2016 | $ | 6,383 |
| 2017 | $ | 6,363 |
| 2018 | $ | 6,321 |
| Thereafter | $ | 6,080 |
| **Total Future Minimum Lease Payments** | **$** | **37,990** |

Future minimum lease payments under leases of commercial property due as of September 30, 2013 are as follows (in thousands):

| Fiscal Year | | |
|---|---|---|
| 2014 | $ | 24,192 |
| 2015 | $ | 15,003 |
| 2016 | $ | 14,589 |
| 2017 | $ | 14,546 |
| 2018 | $ | 13,441 |
| Thereafter | $ | 77,635 |
| **Total Future Minimum Lease Payments** | **$** | **159,406** |

## NOTE 10—COMMITMENTS AND CONTINGENCIES

The FTC is a party in various administrative proceedings, legal actions, and claims brought by or against it, including pending litigation where adverse decisions are considered by management and legal counsel as "reasonably possible". The potential loss for pending claims and actions is estimated to be up to $2 million as of September 30, 2013.

## NOTE 11—INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUES

Intragovernmental costs arise from purchases of goods or services from other components of the Federal Government. In contrast, public costs are those that arise from the purchase of goods or services from nonfederal entities.

Intragovernmental exchange revenue is earned in connection with services provided by the FTC to another federal entity in a reimbursable agreement. Public earned revenue represents the fees collected by the FTC from nonfederal entities. (See Note 12, Exchange Revenues.)

The accompanying chart shows a breakout of the Statement of Net Cost, for the fiscal years ended September 30, 2013 and 2012, by the categories intragovernmental and public (in thousands):

| | 2013 | 2012 |
|---|---|---|
| **Strategic Goal 1: Protect Consumers** | | |
| Intragovernmental gross costs | $ 45,938 | $ 43,660 |
| Public costs | 119,628 | 121,107 |
| Gross costs, Protect Consumers | 165,566 | 164,767 |
| Intragovernmental earned revenue | (6) | (42) |
| Public earned revenue | (14,112) | (13,752) |
| Earned revenue, Protect Consumers | (14,118) | (13,794) |
| **Net Cost, Protect Consumers** | 151,448 | 150,973 |
| | | |
| **Strategic Goal 2: Maintain Competition** | | |
| Intragovernmental gross costs | 33,954 | 32,139 |
| Public costs | 88,421 | 89,148 |
| Gross costs, Maintain Competition | 122,375 | 121,287 |
| Intragovernmental earned revenue | (491) | (281) |
| Public earned revenue | (81,202) | (87,544) |
| Earned revenue, Maintain Competition | (81,693) | (87,825) |
| **Net Cost, Maintain Competition** | 40,682 | 33,462 |
| **Net Cost of Operations** | $ 192,130 | $ 184,435 |

## NOTE 12—EXCHANGE REVENUES

The FTC's exchange revenues are derived from three primary sources, as described below.

The HSR 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 $70.9 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. By law, the FTC may retain one-half of all premerger filing fees collected, and remits one-half to the DOJ Antitrust Division. Revenue is recognized upon collection of the fee and verification of proper documentation.

The FTC collects fees for the National DNC Registry, which operates under Section 5 of the FTC Act. A permanent fee structure was established by Public Law (P.L.) No. 110-188, the Do-Not-Call Extension Act of 2007, which amended the Do-Not-Call Implementation Act and provided that fees be reviewed annually and adjusted for inflation, as appropriate. Telemarketers must pay an annual subscription fee and download a list of telephone numbers of consumers who do not wish to receive calls from the DNC Registry database. Fees are based on the number of area codes downloaded. On October 1, 2012, the minimum charge was raised from $56 to $58 to download one area code. The maximum charge was raised from $15,503 to $15,962 for all area codes within the United States. Revenue is recognized when collected and the telemarketer is given access to the requested data.

The FTC receives reimbursements for services provided to other government agencies under interagency agreements. As the provider of services in an interagency agreement (reimbursable order), the FTC bills the buying agency to recover the full cost of services, primarily salaries and related expenses. Revenue is earned at the time FTC incurs expenditures against the reimbursable order.

Exchange revenues are deducted from gross costs on the Statement of Net Cost to arrive at net cost of operations.

For the fiscal years ended September 30, 2013 and 2012, exchange revenue consisted of the following (in thousands):

| | 2013 | 2012 |
|---|---|---|
| **Exchange Revenues:** | | |
| Premerger filing fees | $ 81,202 | $ 87,544 |
| Do Not Call registry fees | 14,112 | 13,752 |
| Reimbursements | 497 | 323 |
| **Total Exchange Revenues** | $ 95,811 | $ 101,619 |

## NOTE 13—APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED: DIRECT VS. REIMBURSABLE OBLIGATIONS

For the fiscal years ended September 30, 2013 and 2012, obligations incurred consisted of the following (in thousands):

| | 2013 | 2012 |
|---|---|---|
| **Obligations Incurred:** | | |
| Category A - direct obligations | $ 277,209 | $ 279,646 |
| Category B - direct obligations | 21,945 | - |
| Category B - reimbursable obligations | 544 | 369 |
| **Total Obligations Incurred** | $ 299,698 | $ 280,015 |

## NOTE 14—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 fiscal year 2012 Statement of Budgetary Resources and the fiscal year 2012 actual amounts as reported in the fiscal year 2014 Budget of the United States Government. The fiscal year 2015 Budget of the United States is not available to compare fiscal year 2013 actual amounts to the fiscal year 2013 Statement of Budgetary Resources.

## NOTE 15—UNDELIVERED ORDERS AT THE END OF THE PERIOD

The amount of budgetary resources obligated for undelivered orders as of September 30, 2013 and 2012, is $81,941 and $66,697 thousand respectively.

## NOTE 16—CUSTODIAL ACTIVITIES

The primary custodial activities of the FTC are:

### PREMERGER FILING FEES

HSR premerger filing fees collected by the FTC pursuant to 15 U.S.C. 18a notes, as amended, are divided evenly between the FTC and the DOJ. The portion of collections designated for the DOJ is reported as a custodial activity. During fiscal year 2013 and fiscal year 2012, the FTC collected $162,404 and $175,088 thousand respectively, in HSR premerger filing fees. One-half of the amounts collected in each year were distributed to DOJ, as show on the Statement of Custodial Activity. Undistributed fees to the DOJ at September 30, 2013 were $136 thousand; fees to be credited back from DOJ and the Department of Treasury at September 30, 2012 were $45 thousand.

### CIVIL PENALTIES

Civil monetary 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. In those situations where the FTC collects the penalties, the FTC deposits the money in a receipt account with 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 transferred to the general fund of the Treasury at the end of the year.

### CONSUMER REDRESS

Collections for consumer redress reported on the Statement of Custodial Activity are limited to those collections that have been disgorged to the Treasury. Collections disgorged to the Treasury were $14,518 thousand for fiscal year 2013 and $15,261 thousand for fiscal year 2012.

Other line items on the Statement of Custodial Activity include:

### ACCRUAL ADJUSTMENTS

Accrual adjustments represent the change in accounts receivable, net of allowances for uncollectible accounts, for civil penalties assessed in court actions..

### (DECREASE)/INCREASE IN AMOUNTS YET TO BE TRANSFERRED

The decrease/increase in amounts yet to be transferred represents the change in the offsetting liability for civil penalties due to Treasury that is established at the time an accounts receivable for civil penalties in recorded..

## NOTE 17—CONSUMER REDRESS ACTIVITIES

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. In those cases where consumer redress is not practicable, the funds are transferred (disgorged) to the Treasury, or on occasion, used for consumer education or another purpose as directed by the final order issued by the court. Major components of the redress program include eligibility determination, claimant notification, and administration of redress to claimants.

Redress funds are held by the FTC in a deposit fund at Treasury until a determination is made on the practicability of redress. If redress is determined to be practicable, funds needed to cover immediate disbursements to consumers are transferred to accounts at financial institutions from which redress agents process claims and disburse proceeds to claimants. (In previous years, funds not needed to cover immediate disbursements were invested in Treasury securities.  After performing an analysis of the yield versus the related costs in fiscal year 2012, the FTC discontinued this practice and the funds were returned to the FTC's deposit fund.)

Redress fund activities consisted of the following for September 30, 2013 and 2012 (in thousands):

| | 2013 | 2012 |
|---|---|---|
| **Consumer Redress:** | | |
| **Fund Balance with Treasury** | | |
| Beginning balance | $ 56,575 | $ 3,803 |
| Collections | 36,063 | 53,442 |
| Disbursements to claimants, net | (23) | 1 |
| Disgorgements to Treasury | (14,518) | (15,261) |
| Transfers, expenses, refunds | (30,488) | 14,590 |
| **Total Fund Balance with Treasury, Ending** | $ 47,609 | $ 56,575 |
| | | |
| **Cash and Other Monetary Assets** | | |
| Beginning balance | $ 28,360 | $ 44,944 |
| Disbursements to claimants, net | (36,621) | (36,231) |
| Transfers, expenses, interest income | 26,500 | 19,647 |
| **Total Cash and Other Monetary Assets, Ending** | $ 18,239 | $ 28,360 |
| | | |
| **Investments** | | |
| Beginning balance | $ - | $ 35,443 |
| Transfers, expenses, interest income | - | (14,269) |
| Return to deposit fund | - | (21,174) |
| **Total Investments, Ending** | $ - | $ - |
| | | |
| **Accounts Receivable, Net** | | |
| Beginning balance | $ 27,219 | $ 11,229 |
| Net activity | (3,526) | 15,990 |
| **Total Accounts Receivable, Ending** | $ 23,693 | $ 27,219 |

## NOTE 18 — RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

For the fiscal years ended September 30, 2013 and 2012 (in thousands):

| | 2013 | 2012 |
|---|---|---|
| **Resources Used to Finance Activities:** | | |
| Budgetary resources obligated: | | |
| Obligations incurred | $ 299,698 | $ 280,015 |
| Less: spending authority from offsetting collections and recoveries | (98,869) | (106,951) |
| Total budgetary resources obligated | 200,829 | 173,064 |
| Other resources: | | |
| Imputed financing from costs absorbed by others | 9,207 | 9,726 |
| Total other resources | 9,207 | 9,726 |
| **Total Resources Used to Finance Activities** | 210,036 | 182,790 |
| | | |
| **Resources Used to Finance Items not Part of the Net Cost of Operations:** | | |
| Change in budgetary resources obligated, but not yet provided | (14,277) | 256 |
| Resources that finance the acquisition of assets | (6,873) | (5,283) |
| Total resources used to finance items not part of the net cost of operations | (21,150) | (5,027) |
| **Total Resources Used to Finance the Net Cost of Operations** | 188,886 | 177,763 |
| | | |
| **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 | (144) | 516 |
| Other | 172 | (113) |
| Total components requiring or generating resources in future period | 28 | 403 |
| Components not requiring or generating resources: | | |
| Depreciation and amortization | 3,216 | 3,766 |
| Losses on disposition of assets - other | - | 2,503 |
| Total components not requiring or generating resources | 3,216 | 6,269 |
| **Total Components of the Net Cost of Operations that will not Require or Generate Resources in the Current Period:** | 3,244 | 6,672 |
| **Net Cost of Operations** | $ 192,130 | $ 184,435 |

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# OTHER ACCOMPANYING INFORMATION

# Inspector General - Identified Management and Performance Challenges

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

Office of Inspector General

September 30, 2013

**MEMORANDUM**

TO: Edith Ramirez
Chairwoman, Federal Trade Commission

FROM: Scott E. Wilson
Inspector General
Scott Wilson

SUBJECT: FY 2013 FTC Management Challenges

The *Reports Consolidation Act of 2000* requires that the Inspector General provide the agency head with a summary of our perspective on the most serious management and performance challenges facing the agency and a brief assessment of the agency's progress in addressing those challenges. The management challenges in this document are based on work conducted by the Office of Inspector General (OIG) and discussions with senior leaders at the FTC. The FTC is required to include the Inspector General's summary in its annual Performance and Accountability Report to the Office of Management and Budget in November 2013.

We highlight the following as the most significant challenges facing the FTC in the coming year from our perspective:

- Consolidating satellite offices into the Constitution Center
- Securing the agency's information systems and networks from destruction, data loss, or compromise
- Ensuring the protection of nonpublic information

The FTC has made progress in managing each of these challenges. However, continued focus is needed in FY 14 to mitigate the risk of undesirable operational impacts and cost overruns in the move to Constitution Center due to the extremely short timeline. The FTC should also continue its efforts to ensure that FTC systems are protected from emerging threats and attacks. Finally, planned actions should be implemented to minimize the risk of unauthorized disclosures during FTC investigations.

## INSPECTOR GENERAL - IDENTIFIED MANAGEMENT AND PERFORMANCE CHALLENGES (CONTINUED)

The attached document provides the rationale for our assessment. We provided a draft of our assessment to management and its comments are incorporated into the section heading Agency Progress in Addressing the Challenge.

We appreciate the ongoing support the OIG receives from agency leadership and will continue to work with you in addressing these and other challenges that you face in achieving the FTC's mission.

Attachment

## INSPECTOR GENERAL - IDENTIFIED MANAGEMENT AND PERFORMANCE CHALLENGES (CONTINUED)

Office of Inspector General
Top Management Challenges at the Federal Trade Commission
September 30, 2013

**Management Challenge: Consolidating Satellite Offices Into the Constitution Center**

During 2014, the Federal Trade Commission (FTC) will consolidate its New Jersey Avenue and M Street offices into the newly renovated Constitution Center and the FTC Headquarters building. Over 800 employees will be relocated during the process. The consolidation effort is being conducted under extremely tight time constraints that resulted primarily from decisions and events outside the direct control of the FTC.

The FTC has taken proactive steps to mitigate these risks. These include contracting with a vendor to provide professional planning and project management support for the consolidation, and moving to a phased approach to achieving full operational capability. Moving forward, considerable effort will be required to manage the many risks associated with a move of this complexity within the truncated timeframe. Not only does the FTC have to transfer its people and associated support activities, it must also continue normal operations and complete the consolidation under severe resource and time constraints.

Agency Progress in Addressing the Challenge

The FTC is reducing its footprint by consolidating FTC employees in the DC area from three locations to two. The Office of the Executive Director is coordinating this priority initiative and working closely with staff and leadership at all levels throughout the agency to ensure a smooth transition. A project integrator is assisting the agency to help ensure compliance with Federal statutes and regulations; track and assess costs, expenditures, budget, procurements, schedule, performance and risk; and maintain a complete record of the project. The Executive Director and the team hold regular meetings with key FTC officials, GSA, Constitution Center building management, and the agency's IG to ensure the project stays on track and within budget. Internal milestones are being tracked and success will be measured by the safe and timely transition of staff to the new facility and to the agency's Headquarters building without undue interruption to the agency's work and by keeping the overall cost of the moves at or below the budget. In FY 2013, the FTC made significant progress toward preparing the Constitution Center space for occupation in FY 2014. Key procurements included furniture, demountable walls and dark fiber (used for high-speed communication).

**Management Challenge: Securing the Agency's Information Systems and Networks from Destruction, Data Loss, or Compromise**

The ability to protect its information assets is a complex challenge for the FTC. Technology is changing at an increasing rate, introducing different vulnerabilities as the FTC integrates new technologies (e.g., cloud and mobile computing) into its Information Technology (IT) infrastructure. Also, threats are changing and more pervasive, and attacks are intended to disrupt operations. In addition, guidance for federal agencies has become more flexible, allowing

# INSPECTOR GENERAL - IDENTIFIED MANAGEMENT AND PERFORMANCE CHALLENGES (CONTINUED)

agencies to tailor information protection solutions specific to their needs, but providing less direction as to what those acceptable solutions are. To address outstanding security weaknesses while constraining costs, the FTC should continue to evolve its information security program toward a risk-based governance model that emphasizes enterprise solutions and disciplined change management processes.

In 2014, the FTC plans to leverage the aforementioned office consolidation to improve its Information Technology (IT) service offerings and resolve outstanding security vulnerabilities. The FTC recognized that the complexity and challenges introduced by inclusion of significant infrastructure upgrades and mitigation of previously identified vulnerabilities in the consolidation effort would significantly increase the risk of technical miscues, schedule failure and cost over runs. Therefore, as noted above, the FTC recently decided to take a phased approach to its data center consolidation. A phased approach will allow for orderly, planned, and controlled change within an expanded timeframe. This should reduce the risk of costly errors while ensuring continued resource availability and greater assurance that FTC information assets are appropriately protected.

Agency Progress in Addressing the Challenge

The Office of the Chief Information Officer (OCIO) and the Chief Privacy Officer (CPO) continue to work with FTC system owners and managers to ensure that information security and privacy requirements are identified, documented, communicated appropriately, and incorporated into the design and implementation of each system. System owners and managers are reminded that periodic test and evaluation of information security and privacy controls is necessary to ensure effective implementation and operation of those controls. They are also reminded that maintaining and, as necessary, updating the corresponding information security and privacy documentation (such as system security plans and Privacy Impact Assessments) is a pre-requisite to issuance and retention of the system's authorization to operate. OCIO staff, along with the Office of General Counsel staff and the CPO, continue to meet with system owners to make sure that contract language addresses information security and privacy controls and related FTC practices and procedures, including continuous monitoring, so that Contracting Officer Representatives (CORs) can manage and assist in evaluating the compliance of contractor-hosted systems and services. As the OCIO and the CPO continue to work closely to implement and coordinate privacy controls with information security controls, as required by NIST Special Publication 800-53 rev. 4, the FTC will continue to develop and improve its risk-based assessments of information security and privacy as new technologies are integrated into the FTC infrastructure.

For example, the OCIO has teamed with the Department of Homeland Security to obtain the following services:

- Continuous Diagnostics and Mitigation (CDM) Program: Specialized IT diagnostic tools along with a dashboard to provide real-time situational security awareness to help identify and mitigate flaws.
- Cyber Hygiene Activities: Assess FTC's internet accessible systems for known vulnerabilities and configuration errors.

## INSPECTOR GENERAL - IDENTIFIED MANAGEMENT AND PERFORMANCE CHALLENGES (CONTINUED)

- Risk and Vulnerability Assessment: Assessments that combine national threat and vulnerability information with data collected and discovered through on-site testing to provide tailored analysis with prioritized remediation recommendations.

Additionally, the OCIO deployed a new intrusion prevention system (IPS) that incorporates automated data loss prevention (DLP). The IPS DLP inspects data packets as they move across the network as well as when they exit the network. The IPS DLP can identify patterns of personally identifiable information (PII) such as social security and credit card numbers.

Furthermore, the OCIO developed the FTC System Development Life Cycle (SDLC) methodology that established standard business and technical reviews throughout the development of IT solutions to improve:

- Product quality and reduce rework by establishing standard business and technical reviews throughout the development of an IT solution.
- Oversight by establishing formal integrated and coordinated reviews.
- Performance management of projects through review of project cost and schedule alignment with the FTC mission and initiatives.

As the IG states, the FTC will consolidate its satellite offices into the newly renovated Constitution Center and the FTC Headquarters building. Additionally, the OCIO plans to relocate select IT services and applications to the Constitution Center that currently are hosted in the New Jersey and Headquarters buildings. This enables the OCIO to locate the applications and the services in proximity of the user base and provide for future expansion. The OCIO is working with offices within the Office of the Executive Director to develop detailed project and acquisition plans to support the consolidation. In the area of contingency planning, the OCIO began Business Impact Assessment (BIA) activities in FY 2013 to determine FTC essential business functions and processes, and is working to determine the priority of restoration for those functions and processes.

**Management Challenge: Ensuring the Protection of Nonpublic Information**

An ongoing challenge for the FTC is ensuring the protection of nonpublic information, especially given the media attention that FTC competition investigations routinely receive. It is critical that the FTC maintain the confidentiality of nonpublic information obtained from consumers and businesses in conducting its law enforcement investigations. If the public loses confidence in the FTC's ability to protect confidential information, it is unlikely they will continue to cooperate, which ultimately would damage the FTC's ability to protect consumers and maintain competition. The FTC may be a source of such nonpublic information because of its interactions with third parties during its investigations. The agency also is susceptible to the unauthorized sharing of nonpublic information by insiders. The challenge the FTC faces is to examine whether certain long-standing policies and business practices can be revised to ensure that unauthorized sharing of nonpublic information does not occur.

The OIG investigation into the source of nonpublic information reported in the press during the FTC's Google investigation did not identify the source(s) of the disclosures. However, the Agency has committed to taking steps to implement additional safeguards in risk areas identified

## INSPECTOR GENERAL - IDENTIFIED MANAGEMENT AND PERFORMANCE CHALLENGES (CONTINUED)

by the OIG. Policies and business practices are being revisited to ensure that Commission staff are keenly aware of their responsibilities to safeguard the nonpublic nature of agency investigations. The effectiveness of these changes should be monitored over time and additional actions taken should it be determined that any unauthorized disclosure of nonpublic information has occurred.

Agency Progress in Addressing the Challenge

The FTC takes seriously its obligations to protect nonpublic information. Maintaining the confidentiality of nonpublic agency information is critical because obtaining sensitive, nonpublic information from businesses and consumers is the lifeblood of agency law enforcement investigations, and those sources would be reluctant to share such information in the absence of effective confidentiality safeguards. Unauthorized disclosures would impair the Commission's ability to protect consumers and maintain competition. Accordingly, Commission staff are subject to serious sanctions for unauthorized disclosures of nonpublic information, including criminal prosecution and disciplinary action.

The FTC has long had a practice of reminding staff frequently of their ethical and legal obligation to keep nonpublic information confidential. The agency is now taking additional steps to guard against unauthorized disclosures. Although staff are aware of their responsibility to protect nonpublic information, in FY 2014, the agency will issue additional notices and guidance to all staff to reinforce confidentiality requirements. Further, the agency will remind staff at each Commission meeting of the importance of protecting the confidentiality of discussions at the meeting.

*Interactions with the Press.* The Office of Public Affairs (OPA) is the primary contact point for the media in doing business with the FTC. Staff also speak with the press on a broad range of topics. These contacts support the FTC's initiatives to educate consumers about steps they can take to protect themselves and to educate businesses about how to comply with the FTC Act and other consumer protection and competition laws. These communications also advance statutory and Presidential policies furthering transparency and openness in government.

Commission policies generally allow staff to share only public information with the press. The agency will issue new guidance in FY 2014 that reminds staff of this imperative and clarifies that staff must notify OPA of press inquiries about investigations and law enforcement matters.

*Information provided to third parties.* On a limited basis, Commission personnel are permitted to disclose the existence of an investigation to potential witnesses or other third parties, but only to the extent necessary to advance the investigation. This practice is often essential to the efficient and effective conduct of investigations, including during the information-gathering stage and in developing appropriate remedies. For example, when the Commission is considering how best to conclude an investigation, it often is critical to learn from a variety of third parties about the marketplace, the competitive effects of the conduct under investigation, and the likely effects of any potential remedy. To the extent that possible remedies are discussed in such circumstances, staff reminds third parties that the information is nonpublic, that no conclusions have been reached, and that no inferences should be drawn as to whether violations

## INSPECTOR GENERAL - IDENTIFIED MANAGEMENT AND PERFORMANCE CHALLENGES (CONTINUED)

of law have occurred. In FY 2014, the FTC will re-examine how to conduct such communications to minimize the risk that confidentiality will be breached, while nonetheless preserving the utility of such communications.

The FTC will assess in FY 2014 the effectiveness of both its existing practices to secure nonpublic information and these new initiatives.

# Chairwoman's Response to IG Challenges

OFFICE OF THE
CHAIRWOMAN

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

**MANAGEMENT'S RESPONSE TO THE MANAGEMENT AND PERFORMANCE CHALLENGES IDENTIFIED BY THE INSPECTOR GENERAL**

In a memorandum dated November 15, 2013, the agency's Inspector General (IG) identified three challenges facing management. The Federal Trade Commission concurs with the IG on these challenges and with the IG's assessment of agency progress addressing the challenges. Moving forward, FTC management will continue its efforts to tackle these challenges proactively.

Signed

Edith Ramirez
December 16, 2013

## 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 (Federal Managers' Financial Integrity Act (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 |

# THE IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT

The Improper Payments Elimination and Recovery Act (IPERA) (Public Law No. 111-204) requires agencies to review annually all programs and activities, identify those that may be susceptible to significant improper payments, estimate annual improper payments in the susceptible programs and activities, and report the results of their improper payment activities. The IPERA also requires agencies to conduct payment recapture audits.

Office of Management and Budget (OMB) Memorandum M-11-16 prescribes guidance for agencies to use in implementing IPERA. OMB guidance defines "significant improper payments", for FY 2013 reporting, as those in any particular program or activity that exceed both 1.5 percent of program outlays and $10 million of all program or activity payments made during the fiscal year, or $100 million (regardless of the improper payment percentage of total program outlays). In addition, the OMB guidance addresses implementing payment recapture audits, for programs and activities that expend $1 million or more annually, provided it is cost-effective to do so. In accordance with the OMB guidance, the FTC reviewed its programs and activities and determined that none of the agency's programs or activities were susceptible to making significant improper payments and that the implementation of a payment recapture audit would not be cost–effective.

The FTC's shared service provider, the Department of Interior Business (IBC) Center, has implemented a continuous monitoring solution against the Department of Treasury's Do Not Pay database. This helps to identify and prevent improper payments before they are made. IBC compares the FTC's payee records in the financial system with payee records in the Do Not Pay database. Potential matches are reviewed by FTC on an on-going basis to prevent improper payments. Additionally, the FTC has incorporated a pre-award check on potential contractors against the Do Not Pay database.

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# APPENDICES

# APPENDIX A: DATA QUALITY INFORMATION

## STRATEGIC GOAL 1: PROTECT CONSUMERS

### OBJECTIVE 1.1: IDENTIFY FRAUD, DECEPTION, AND UNFAIR PRACTICES THAT CAUSE THE GREATEST CONSUMER INJURY.

**Performance Measure 1.1.1:** Complaints collected and entered into the Consumer Sentinel Network Database.
**Definition and background:** This measure tracks complaints entered into the FTC's Consumer Sentinel Network (CSN) Database. Consumer Sentinel is an investigative tool that provides access to millions of consumer complaints to member law enforcement agencies. More information about CSN can be found at www.ftc.gov/sentinel/index.shtm.
**Data sources:** The FTC's CSN database.
**Verification and validation:** Reports are run at least quarterly to determine the number of complaints that are entered into the CSN database.
**Data limitations:** The data in the CSN database is dependent on the complainant providing accurate and complete information. CSN data may be underreported because some people choose not to file a formal complaint, and some people may not know they are able to file a complaint with the FTC.

**Performance Measure 1.1.2:** The percentage of the FTC's consumer protection law enforcement actions that target the subject of consumer complaints to the FTC.
**Definition and background:** This measure gauges how well the FTC's consumer protection law enforcement actions target the subject of concerns identified by consumers.
**Calculation/Formula:** Number of enforcement actions targeted consumer identified complaints compared to the total number of enforcement actions.
**Data sources:** The FTC's CSN database, LexisNexis CourtLink, the FTC website, and reports from the agency, Bureau Director's Office, divisions, and regional offices.
**Verification and validation:** A list of all federal court actions filed in the current fiscal year is compiled in a spreadsheet. For each case, CSN database searches by the defendants' names are completed to determine if the cases target subjects of consumer complaints to the FTC. The results of the searches are also recorded on the spreadsheet, and the percentage is calculated based on this information. This information is reviewed periodically by staff and management for completeness and accuracy.
**Data limitations:** The spreadsheet may not capture a case if it is missed during the internal review process.

**Performance Measure 1.1.3:** The rate of customer satisfaction with the FTC's Consumer Response Center.
**Definition and background:** This measure ensures the FTC is providing satisfactory service to consumers through the complaint website and call center.
**Calculation/Formula:** The calculation is conducted by a third party, Foresee, and the formula it uses is proprietary.
**Data sources:** Reports from the U.S. Department of the Interior's Federal Consulting Group, the executive agent for the American Customer Satisfaction Index (ACSI).
**Verification and validation:** Measurement is generated by an outside source based on industry standard practices.
**Data limitations:** There are no significant data limitations.

## OBJECTIVE 1.2: STOP FRAUD, DECEPTION, UNFAIRNESS, AND OTHER UNLAWFUL PRACTICES THROUGH LAW ENFORCEMENT.

**Performance Measure 1.2.1:** The percentage of all cases filed by the FTC that were successfully resolved through litigation, a settlement, or issuance of a default judgment.
**Definition and background:** This measure gauges how well the FTC successfully resolves cases, including those that raise challenging legal and factual issues.
**Calculation/Formula:** The number of successfully filed cases is divided by the by the total number of all federal court cases resolved in the current fiscal year.
**Data sources:** LexisNexis CourtLink, the FTC website, and reports from the Bureau Director's Office, divisions, and regional offices.
**Verification and validation:** A list of all federal court cases resolved in the current fiscal year is compiled in a spreadsheet, and the percentage of successfully resolved cases is calculated based on this information. The report is sent to the Associate Directors and regional managers on a quarterly basis to verify the accuracy of the report and ensure all resolutions are included in the report.
**Data limitations:** The spreadsheet may not capture a case if it is missed during the internal review process.

**Performance Measure 1.2.2:** The FTC's effectiveness in stopping prohibited business practices in three high priority areas over the next five years.
**Definition and background:** This measure gauges the FTC's success in changing business practices related to misleading advertising claims within priority areas and demonstrates the change through research methods.
**Calculation/Formula:** In each area, FTC staff establishes a baseline by identifying the number of potentially deceptive advertisements appearing online. After the FTC takes enforcement or other actions in that area, the staff reviews the online advertisements again to determine the number that continue to make the deceptive claims. This figure is compared to the baseline to determine the effectiveness of the FTC's actions in stopping deceptive practices.
**Data sources:** Evaluations of the prevalence of prohibited business practices in targeted areas. The Internet is used to examine advertising claims.
**Verification and validation:** Attorneys assigned to the subject area work with FTC economists to validate the methodology and quality control.
**Data limitations:** Advertising claims in other types of media are not captured.

**Performance Measure 1.2.3:** The percentage of redress cases in which the FTC distributes redress dollars designated for distribution to consumers within six months.
**Definition and background:** This measure ensures that the FTC returns redress dollars to consumers as quickly as possible.
**Calculation/Formula:** When a redress distribution occurs, the date designated for distribution in the redress case status report is checked to determine whether or not redress occurred within six months. The percentage is determined by dividing the number of cases redress distribution occurred within six months by the total number of redress distributions in a quarter.
**Data sources:** Bureaus' open redress case status reports.
**Verification and validation:** When a redress distribution occurs, the date of the distribution is checked and verified to determine whether or not the redress occurred within six months.
**Data limitations:** There are no significant data limitations.

**Performance Measure 1.2.4:** Investigations or cases in which the FTC obtains foreign-based evidence or engages in mutual assistance that contributes to FTC law enforcement actions or in which we cooperate with foreign agencies and/or multilateral organizations.

**Definition and background:** This measure tracks investigations or cases in which the FTC obtains foreign-based evidence or engages in mutual assistance that contributes to FTC law enforcement actions or in which we cooperate with foreign agencies and/or multilateral organizations.
**Data sources:** Office of International Affairs weekly reports and internal tracking sheets.
**Verification and validation:** Consumer Protection team members report matters they worked on in which information was shared. Staff review and compile the matters reported. Managers review these matters to ensure that they qualify as part of the measure and have not been previously counted.
**Data limitations:** Review is necessary to avoid double counting of particular matters.

## OBJECTIVE 1.3: PREVENT CONSUMER INJURY THROUGH EDUCATION.

**Performance Measure 1.3.1:** Consumer protection messages accessed online or in print.
**Definition and background:** This measure gauges whether the agency is producing a sufficient amount of educational activity and educational materials that are aimed at new trends and at particularly vulnerable populations.
**Data sources:** The measure is determined using the agency's web statistics software (for messages accessed online) and the FTC publication inventory (for messages accessed in print). Print distribution numbers are derived from three sources: distribution center; distribution from the FTC warehouse; and distribution directly from printers when publications are printed or reprinted. A full recap of FY 2013 is available on request.
**Verification and validation:** The publication inventory is tracked to determine the number of print messages distributed. The agency's IT office compiles statistics for all FTC websites.
**Data limitations:** It is possible that distribution is much higher than reported, as online users may be printing and disseminating copies.

**Performance Measure 1.3.2:** Customer satisfaction rate with the FTC consumer education websites or microsites.
**Definition and background:** This measure gauges the effectiveness, helpfulness, and usability of the FTC's consumer education websites and microsites.
**Calculation/Formula:** The calculation is conducted by a third party, Foresee, and the formula it uses is proprietary.
**Data sources:** Reports from the U.S. Department of the Interior's Federal Consulting Group, the executive agent for the American Customer Satisfaction Index (ACSI).
**Verification and validation:** Measurement is generated by an outside source based on industry standard practices.
**Data limitations:** There are no significant data limitations.

**Performance Measure 1.3.3:** Organizations requesting consumer education publications.
**Definition and background:** This measure helps the FTC ensure that it is publicizing its activities in the best way possible, and that the agency has a wide array of partners to leverage resources.
**Data sources:** The measure is derived from the agency's database of online customer orders, maintained by the Division of Consumer and Business Education.
**Verification and validation:** The data includes customers who have ordered materials during the fiscal year and provided a valid organization. Orders from individuals and duplicate organizations are not included.
**Data limitations:** The accuracy of the calculations depends in part on customers entering their

organization name into the order form with consistent spelling and formatting; otherwise data may be slightly over-reported.

## OBJECTIVE 1.4: ENHANCE CONSUMER PROTECTION THROUGH RESEARCH, REPORTS, RULEMAKING, AND ADVOCACY.

**Performance Measure 1.4.1:** Workshops and conferences convened or cosponsored that address consumer protection problems.
**Definition and background:** This measure helps the FTC ensure that enforcement and education efforts are augmented by encouraging discussions among all interested parties, through careful study of and empirical research on novel or challenging consumer protection problems.
**Data sources:** The FTC website and reports from the agency, Bureau Director's Office, division, and regional offices.
**Verification and validation:** A list of all workshops and conferences is maintained in a spreadsheet. The spreadsheet is reviewed quarterly by headquarters and regional office management to verify the accuracy of the report and to ensure that all conferences and workshops are included in the report.
**Data limitations:** Review is necessary to avoid under-reporting any workshops or conferences.

**Performance Measure 1.4.2:** Advocacy comments and amicus briefs on consumer protection issues filed with entities including federal and state legislatures, agencies, or courts.
**Definition and background:** The measure tracks the number of advocacy comments and amicus briefs on consumer protection matters filed with entities including federal and state legislatures, agencies, and courts to measure the output of the FTC's advocacy activities relating to consumer protection matters. Advocacy letters and amicus briefs are tracked based on their date of filing to their recipients. During FY 2013, the Commission and staff filed seven advocacy comments and amicus briefs involving consumer protection-related matters. There were five advocacies relating to both consumer protection and competition related matters that were counted in both this performance measure and performance measure 2.3.3. Thus, there were 12 consumer protection-related filings.
**Data sources:** Internal matter records of advocacy comments and amicus briefs filed (e.g., records available in the FTC's document management system).
**Verification and validation:** Review of internal matter records of advocacy comments and amicus briefs filed (e.g., records available in the FTC's document management system) and confirmation of data with staff having responsibilities for advocacy matters.
**Data limitations:** There are no significant data limitations.

**Performance Measure 1.4.3:** The percentage of respondents finding the FTC's advocacy comments and amicus briefs "useful."
**Definition and background:** This measure tracks the percentage of respondents finding the FTC's advocacy comments and amicus briefs to be "useful," in order to assess the effect of consumer protection advocacy comments.
**Calculation/Formula:** Number of survey responses received indicating the usefulness of an advocacy divided by the total number of surveys sent to advocacy recipients. During FY 2013, two survey responses were received, one relating to a consumer protection filing and one relating to both consumer protection and competition. The survey response regarding an advocacy relating to both consumer protection and competition was counted in both this performance measure and in performance measure 2.3.4.
**Data sources:** Responses to a written survey, sent by agency staff to advocacy recipients (except courts), to evaluate the usefulness of an advocacy.
**Verification and validation:** Agency staff review

written responses in order to determine percentage of respondents describing the FTC's advocacy comments as "useful."
**Data limitations:** There are no significant data limitations.

**Performance Measure 1.4.4:** The percentage of proposed Administrative Procedure Act (APA) rulemakings, conducted solely by the FTC, completed within nine months of receipt of final comments in the Final Notice of Proposed Rulemaking.
**Definition and background:** This measure helps the FTC ensure that the agency augments its enforcement and education efforts by conducting appropriate rulemakings.
**Data sources:** The Federal Register and the FTC website.
**Verification and validation:** A list of all rulemakings, the comment period close date, and the completion date of APA rulemakings is maintained in a spreadsheet. The spreadsheet is reviewed quarterly by headquarters and regional office management to verify the accuracy of the report and to ensure that all rulemakings are included in the report.
**Data limitations:** Review is necessary to avoid under-reporting any rulemakings.

### OBJECTIVE 1.5: PROTECT AMERICAN CONSUMERS IN THE GLOBAL MARKETPLACE BY PROVIDING SOUND POLICY AND TECHNICAL INPUT TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS TO PROMOTE SOUND CONSUMER POLICY.

**Performance Measure 1.5.1:** Policy advice provided to foreign consumer protection and privacy agencies, directly and through international organizations, through substantive consultations, written submissions, or comments.
**Definition and background:** This measure tracks policy advice provided to foreign consumer protection and privacy agencies, directly and through international organizations. Policy advice is defined as substantive consultations, written submissions, or comments.
**Data sources:** Office of International Affairs weekly reports and internal tracking sheets.
**Verification and validation:** OIA staff report policy advice provided in weekly reports and internal logs. Staff review and compile the matters reported. Managers review these matters to ensure that they are sufficiently substantive to qualify for the measure and have not previously been counted.
**Data limitations:** Review is necessary to avoid double counting of particular matters and to ensure the instances of policy advice reported are sufficiently substantive.

**Performance Measure 1.5.2:** Technical assistance to foreign consumer protection and privacy authorities.
**Definition and background:** This measure tracks technical assistance provided to foreign consumer protection and privacy authorities.
**Data sources:** Office of International Affairs weekly reports and Technical Assistance calendar.
**Verification and validation:** OIA staff report technical assistance workshops, conferences, and other missions conducted. Staff review and compile the matters reported, and managers review these reports.
**Data limitations:** Review is necessary to ensure that reported items qualify as technical assistance missions.

## STRATEGIC GOAL 2: MAINTAIN COMPETITION

### OBJECTIVE 2.1: TAKE ACTION AGAINST ANTICOMPETITIVE MERGERS AND PRACTICES THAT MAY CAUSE SIGNIFICANT CONSUMER INJURY.

**Performance Measure 2.1.1:** Actions to maintain competition, including litigated victories, consent orders, abandoned transaction remedies, restructured transaction remedies, or fix-it-first transaction remedies in a significant percentage of substantial merger and nonmerger investigations.

**Definition and background:** This measure ensures that FTC actions promote vigorous competition by preventing anticompetitive mergers and stopping business practices that diminish competition. This measure reflects actions to maintain competition, including litigated victories, consent orders, abandoned transaction remedies, restructured transaction remedies, or fix-it-first transaction remedies in a significant percentage of substantial merger and nonmerger investigations.

**Calculation/Formula:** The measure is calculated by taking the number of substantial investigations closed with an action divided by the total number of substantial investigations closed (with or without action). "Substantial investigations" comprises all second request and/or compulsory process merger investigations, and nonmerger investigations where staff logged more than 150 hours and/or obtained compulsory process.

**Data sources:** Press releases are the source of information for public actions, such as consent orders and the results of judicial review, while internal communications from staff attorneys are used to identify those investigations that were closed because parties abandoned a transaction or because staff did not find that the transaction or the conduct is likely to harm competition. This information is then cross referenced with a list of second request and compulsory process merger investigations and a list of significant nonmerger investigations as recorded in the agency's records and identified using the agency's time and attendance reporting database.

**Verification and validation:** The data is recorded by bureau staff, and reviewed monthly by analysts, attorneys, economists, and senior management.

**Data limitations:** This measure does not include actions taken in investigations that did not involve the use of compulsory process, and therefore did not fall under the definition of substantial as specified by this measure. Compulsory process refers to a resolution, or vote, adopted by the FTC that authorizes staff to issue subpoenas and civil investigative demands. This measure also does not include actions that are still in litigation or on appeal.

**Performance Measure 2.1.2:** Consumer savings of at least $500 million through merger actions to maintain competition.

**Definition and background:** This measure ensures that the FTC's merger actions are in part guided by the prospective effect these actions will have on consumer savings.

**Calculation/Formula:** The measure is calculated by taking the sum of "Consumer Savings" of individual merger actions for the current fiscal year plus the previous four fiscal years and dividing the sum by five.

**Data sources:** The lead attorney estimates consumer savings for a particular case using the appropriate applicable estimation formula and submits it to the Bureau of Economics for concurrence. If available, staff will use case-specific data to generate the estimate of consumer savings due to the FTC's action. Otherwise, staff uses a formulaic approach taking one percent of the volume of commerce in the affected market(s) for two years, where the relevant product and geographic market(s) are those identified in the final enforcement action.

**Verification and validation:** See measure 2.1.1.

**Data limitations:** The data is dependent on the estimates of consumer savings made by staff in accordance with the appropriate applicable estimation formulas. Additionally, a five year average is used because total consumer savings in an individual year may be heavily influenced by significant cases in that year.

**Performance Measure 2.1.3:** Actions against mergers likely to harm competition in markets with a total of at least $25 billion in sales.

**Definition and background:** This measure ensures

that the FTC's merger actions are guided in part by the size of the relevant product markets involved.
**Calculation/Formula:** The measure is calculated by taking the sum of the estimated volume of commerce in the affected market(s) in which the FTC took action for the current fiscal year plus the previous four fiscal years divided by five.
**Data sources:** The lead attorney who worked on the investigation estimates the volume of commerce using the appropriate applicable estimation formula and submits the information to the Bureau of Economics for concurrence.
**Verification and validation:** See measure 2.1.1.
**Data limitations:** The data is dependent on the estimates of volume of commerce made by staff in accordance with the appropriate applicable estimation formulas. Additionally, a five year average is used because the total volume of commerce in an individual year may be heavily influenced by significant cases in that year.

**Performance Measure 2.1.4:** Consumer savings of at least thirteen times the amount of FTC resources allocated to the merger program.
**Definition and background:** This measure ensures that the FTC's actions are in part guided by the requirement that estimated consumer savings exceed how much is spent on the merger program.
**Calculation/Formula:** Estimated consumer savings generated under measure 2.1.2 are divided by the amount of resources spent on the merger program for the current fiscal year.
**Data sources:** The lead attorney estimates consumer savings for a particular case using the appropriate applicable estimation formula and submits it to the Bureau of Economics for concurrence. The FTC's financial system provides the amount of resources expended on the merger program.
**Verification and validation:** See measure 2.1.1.
**Data limitations:** See measure 2.1.2.

**Performance Measure 2.1.5:** Consumer savings of at least $80 million through nonmerger actions taken to maintain competition.
**Definition and background:** This measure ensures that the FTC's nonmerger actions are in part guided by the prospective effect they will have on consumer savings.
**Calculation/Formula:** The measure is calculated by taking the sum of the estimated consumer savings in nonmerger actions for the current fiscal year plus the previous four fiscal years, and dividing the sum by five.
**Data sources:** The lead attorney estimates consumer savings for a particular case using the appropriate applicable estimation formula and submits it to the Bureau of Economics for concurrence. If available, staff will use case-specific data to generate the estimate of consumer savings due to the FTC's action. Otherwise, staff uses a formulaic approach taking one percent of the volume of commerce in the affected market(s) for one year, where the relevant product and geographic market(s) are those identified in the final enforcement action.
**Verification and validation:** See measure 2.1.1.
**Data limitations:** See measure 2.1.2.

**Performance Measure 2.1.6:** Actions against anticompetitive conduct in markets with a total of at least $8 billion in annual sales.
**Definition and background:** This measure ensures that the FTC's nonmerger actions are in part guided by the size of the relevant product markets involved.
**Calculation/Formula:** The measure is calculated by taking the sum of the estimated volume of commerce in the affected market(s) in which the FTC took action for the current fiscal year plus the previous four fiscal years and dividing the sum by five.
**Data sources:** The lead attorney who worked on the investigation estimates the volume of commerce using the appropriate applicable estimation formula and submits the information to the Bureau of Economics for concurrence.

**Verification and validation:** See measure 2.1.1.
**Data limitations:** See measure 2.1.3.

**Performance Measure 2.1.7:** Consumer savings of at least twenty times the amount of the FTC resources allocated to the nonmerger program.
**Definition and background:** This measure ensures that the FTC's actions are in part guided by the requirement that estimated consumer savings exceed how much is spent on the nonmerger program.
**Calculation/Formula:** This measure is calculated by taking the estimated consumer savings generated under measure 2.1.5 divided by the amount of resources spent on the nonmerger program.
**Data sources:** The lead attorney estimates consumer savings for a particular case using the appropriate applicable estimation formula. The FTC's financial system provides the amount of resources expended on the nonmerger program.
**Verification and validation:** See measure 2.1.1.
**Data limitations:** See measure 2.1.2.

**Performance Measure 2.1.8:** The percentage of cases in which the FTC had at least one substantive contact with a foreign antitrust authority in which the agencies followed the analytical approach and reached compatible outcomes.
**Definition and background:** This measure tracks the cases in which the Bureau of Competition or foreign agency staff notify the Office of International Affairs that a substantial contact has taken place, compared with cases where, in the judgment of OIA management, no consistent analytical approaches were observed. The phrase "reached compatible outcomes" means that the reviewing agencies do not impose inconsistent obligations on parties; professional judgment from OIA senior management is used to make a final decision on compatibility for FTC measurement purposes.
**Calculation/Formula:** Number of cases where foreign antitrust authority or agency followed the analytical approach and reached compatible outcomes divided by the total number of cases the FTC has at least one substantive contact.
**Data sources:** Office of International Affairs weekly reports and internal logs.
**Verification and validation:** International Antitrust team members report matters they worked on in which substantial contact took place. Staff review and compile the matters reported, overseen by an International Antitrust team member. Managers review and ensure that the matters reported qualify for the measure.
**Data limitations:** Review is necessary to ensure that the matters reported included sufficiently substantial contact with a foreign antitrust authority.

## OBJECTIVE 2.2: PREVENT CONSUMER INJURY THROUGH EDUCATION.

**Performance Measure 2.2.1:** Competition resources accessed via the FTC's website.
**Definition and background:** This measure ensures that consumer injury is prevented by educating antitrust practitioners and consumers. This measure is calculated by taking the sum of the views recorded on antitrust related web pages on the FTC's external website.
**Data sources:** The primary data source is software that monitors traffic on the FTC's external website.
**Verification and validation:** Bureau staff identify relevant FTC web-based resources to track. Internet traffic data is received and entered into a bureau database by staff, and reviewed monthly by analysts, attorneys, and senior management.
**Data limitations:** The analysis is dependent on the accuracy of measurements made by the web tracking software and the presence of internal and external traffic filters. The data is also dependent on the accurate identification of relevant FTC web-based materials.

## OBJECTIVE 2.3: ENHANCE CONSUMER BENEFIT THROUGH RESEARCH, REPORTS, AND ADVOCACY.

**Performance Measure 2.3.1:** Workshops, seminars, conferences, and hearings convened or cosponsored that involve significant competition-related issues.
**Definition and background:** This measure ensures that consumer benefits are enhanced through policy related activities such as workshops, seminars, conferences, and hearings convened or cosponsored that involve significant competition-related issues. The measure is calculated by counting the number of competition-related workshops, hearings and conferences hosted by the FTC.
**Data sources:** Information on conferences involving significant competition related issues is taken from the FTC's website (www.ftc.gov/ftc/workshops.shtm) and from press releases.
**Verification and validation:** Data is received from staff attorneys, internal databases and press releases. The data is entered into a bureau database by staff, and reviewed monthly by analysts, attorneys, economists, and senior management.
**Data limitations:** Review is necessary to ensure that all competition-related workshops, hearings and conferences are identified.

**Performance Measure 2.3.2:** Reports and studies issued on key competition-related topics.
**Definition and background:** The measure tracks competition policy related activities such as research, reports, and studies that enhance consumers' knowledge of competition issues. The measure is calculated by counting the number of the reports and studies issued by the FTC.
**Data sources:** Information on studies and reports on significant competition-related issues is taken from the FTC's website (www.ftc.gov/be/research.shtm and http://www.ftc.gov/policy/reports).
**Verification and validation:** See measure 2.3.1.
**Data limitations:** See measure 2.3.1.

**Performance Measure 2.3.3:** Advocacy comments and amicus briefs on competition issues filed with entities including federal and state legislatures, agencies or courts.
**Definition and background:** This measure tracks the number of advocacy comments and amicus briefs on competition matters filed with entities including federal and state legislatures, agencies, or courts to measure the output of the FTC's advocacy activities relating to competition matters. Advocacy letters and amicus briefs are tracked based on their date of filing to their recipients. During FY 2013, the FTC and staff filed 14 advocacy comments and amicus briefs involving competition-related matters. There were five advocacies relating to both consumer protection and competition related matters that were counted in both this performance measure and performance measure 1.4.2. Thus, there were 19 competition-related filings.
**Data sources:** Internal matter records of advocacy comments and amicus briefs filed (e.g., records available in the FTC's document management system).
**Verification and validation:** Review internal matter records of advocacy comments and amicus briefs filed (e.g., records available in the FTC's document management system) and confirm data with staff having responsibilities for advocacy matters.
**Data limitations:** There are no significant data limitations.

**Performance Measure 2.3.4:** The percentage of respondents finding the FTC's advocacy comments and amicus briefs "useful."
**Definition and background:** This measure tracks the percentage of respondents finding the FTC's advocacy comments and amicus briefs to be "useful," in order to assess the effect of competition advocacy comments.
**Calculation/Formula:** Number of survey responses received indicating the usefulness of an advocacy

divided by the total number of surveys sent to advocacy recipients. During FY 2013, two survey responses were received, one relating to a competition filing and one relating to both consumer protection and competition. The survey response regarding an advocacy relating to both consumer protection and competition was counted in both this performance measure and in performance measure 1.4.3.
**Data sources:** Responses to a written survey, sent by agency staff to advocacy recipients (except courts), to evaluate the usefulness of an advocacy.
**Verification and validation:** Agency staff review written responses in order to determine percentage of respondents describing the FTC's advocacy comments as "useful."
**Data limitations:** There are no significant data limitations.

**Performance Measure 2.3.5:** The volume of traffic on www.ftc.gov relating to competition research, reports, and advocacy.
**Definition and background:** This measure ensures the agency's policy related activities enhance consumer benefit by providing practitioners and consumers with opportunities to interact with the staff and to learn about the agency's enforcement and policy priorities. The measure is calculated by summing the views registered on the website of a subset of the competition related pages that pertain to advocacy, research, and international activities.
**Data sources:** The agency's software that monitors traffic on the FTC's external website, the Office of International Affairs, and the Office of Policy Planning.
**Verification and validation:** See measure 2.3.1.
**Data limitations:** The analysis is dependent on the accuracy of the measurements made by the web tracking software, and the presence of internal and external traffic filters. The data is also dependent on the accurate identification of relevant FTC web-based materials.

## OBJECTIVE 2.4: PROTECT AMERICAN CONSUMERS IN THE GLOBAL MARKETPLACE BY PROVIDING SOUND POLICY RECOMMENDATIONS AND TECHNICAL ADVICE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS TO PROMOTE SOUND COMPETITION POLICY.

**Performance Measure 2.4.1:** Policy advice provided to foreign competition agencies, directly and through international organizations, through substantive consultations, written submissions, or comments.
**Definition and background:** This measure tracks the policy advice provided to foreign competition agencies, directly and through international organizations, through substantive consultations, written submissions, or comments excluding casual contacts.
**Data sources:** Office of International Affairs weekly reports.
**Verification and validation:** Agency staff create a draft list of events that fall within the scope of the measure, which is then submitted to attorneys for review. Managers review and ensure that the matters reported qualify as substantive policy advice.
**Data limitations:** Review is necessary to ensure that instances of policy advice reported are sufficiently substantive.

**Performance Measure 2.4.2:** Technical assistance provided to foreign competition authorities.
**Definition and background:** This measure tracks the number of long term and short term technical assistance missions and international Fellows and interns hosted.
**Data sources:** Office of International Affairs weekly reports and Technical Assistance calendar.
**Verification and validation:** See measure 2.4.1.
**Data limitations:** Review is necessary to ensure that reported items qualify as technical assistance missions.

## STRATEGIC GOAL 3: ADVANCE PERFORMANCE

### OBJECTIVE 3.1: PROVIDE EFFECTIVE HUMAN RESOURCES MANAGEMENT.

**Performance Measure 3.1.1:** The extent to which employees believe their organizational culture promotes improvement in processes, products and services, and organizational outcomes.
**Definition and background:** This measure gauges the extent employees believe their organizational culture promotes improvement in processes, products and services, and organizational outcomes so that the FTC has a strong foundation of organizational, individual, and management excellence driving mission success.
**Data sources:** The Federal Employee Viewpoint Survey is administered annually by the U.S. Office of Personnel Management (OPM). The Federal Employee Viewpoint Survey is a tool that measures employees' perceptions of whether, and to what extent, conditions that characterize successful organizations are present. This survey was administered for the first time in 2002, and then repeated in 2004, 2006, 2008, 2010, 2011, and most recently in 2012. OPM transmits the agency results to the FTC's Human Capital Management Office.
**Verification and validation:** Data collected is weighted by statisticians to produce survey estimates that accurately represent the survey population and adjust for differences between the characteristics of the survey respondents and the population of federal employees surveyed. The weights developed take into account the variable probabilities of selection across sample domains, nonresponse, and known demographic characteristics of the survey population.
**Data limitations:** The survey results represent a snapshot in time of the perceptions of the workforce. The Government-wide results have a plus or minus 1 percent margin of error.

**Performance Measure 3.1.2:** The extent employees think the organization has the talent necessary to achieve organizational goals.
**Definition and background:** This measure gauges the extent employees think the organization has the talent necessary to achieve organizational goals so that the FTC has a strong foundation of organizational, individual, and management excellence driving mission success.
**Data sources:** See measure 3.1.1.
**Verification and validation:** See measure 3.1.1.
**Data limitations:** See measure 3.1.1.

### OBJECTIVE 3.2: PROVIDE EFFECTIVE INFRASTRUCTURE AND SECURITY MANAGEMENT.

**Performance Measure 3.2.1:** A favorable Continuity of Operations (COOP) rating.
**Definition and background:** The FTC ensures a safe and secure workplace through the development and implementation of the FTC COOP. The FTC COOP defines the necessary planning and actions that are required to ensure the preservation and performance of the FTC Mission Essential Functions (MEFs). Continuity planning facilitates the performance of FTC MEFs during all-hazards emergencies or other situations that may disrupt or potentially disrupt normal operations. The FTC participated in the government-wide Eagle Horizon Exercise to test and verify the effectiveness of the FTC COOP. An analysis of the plan and exercise is conducted with a combination of Federal Emergency Management Agency (FEMA), self, and peer review. An overall score is derived for the exercise using the average numeric rating for each element of the review.
**Calculation/Formula:** Results of the annual government-wide Eagle Horizon exercise, whereas an overall score is derived for the exercise using the average numeric rating for each element of the review.
**Data sources:** The data on performance of the COOP

exercise is generated using standard evaluation protocol developed by FEMA.
**Verification and validation:** The review of the FTC COOP was conducted independently by a FEMA representative and the evaluation of the Eagle Horizon Exercise was conducted by an internal FTC team, when then submitted the data to FEMA. The FTC Health and Safety Officer provided an overall review to make sure that the data is complete and accurate.
**Data limitations:** The overall score is based on subjective analysis of the COOP and performance of the exercise designed to give an overall evaluation of the COOP and identify improvement opportunities. The subjective nature of the data limits its usefulness in trend or comparative analysis.

**Performance Measure 3.2.2:** Availability of information technology systems.
**Definition and background:** This measure tracks unplanned service outages and monitors the reliability of 31 critical information technology services including: email, FTC-specific applications and systems, BlackBerry servers, Internet/Intranet, telecommunications (includes phone and voicemail services), Wide Area Network, the agency's primary public website (www.ftc.gov), remote employee access, printing, and enterprise-wide applications.
**Calculation/Formula:** This measure is calculated by dividing the number of minutes of unscheduled system outages per month by the number of total minutes per month.
**Data sources:** System and network engineers record system or component outage data as part of the OCIO's Change Management procedure.
**Verification and validation:** Outage timeframes are verified by correlating outages to system alerts and data recorded in the change management database.
**Data limitations:** The agency uses a manual tracking process to record the outage data in a spreadsheet. The reliability of the data depends on compliance with the change management procedure. The agency is currently working to implement SolarWinds, a network performance-monitoring tool that will provide early warning notifications regarding changes to application performance and generate outage and downtime data.

## OBJECTIVE 3.3: PROVIDE EFFECTIVE INFORMATION RESOURCES MANAGEMENT.

**Performance Measure 3.3.1:** The percentage of Commission-approved documents in the FTC's ongoing and newly initiated proceedings available via the Internet within 15 days of becoming part of the public record.
**Definition and background:** This performance measure was created in an effort to promote agency transparency and ensure that documents the Commission approves are made available to the public in a timely manner. The Commission approves public documents by majority vote. These votes are tracked by the Office of the Secretary (OS) and are counted each quarter. Once the Commission approves a public document, the Office of Public Affairs works with agency staff to determine whether to publish a news release announcing the document. OS works to make sure the document is posted to www.ftc.gov at the same time as the news release or, if there is no news release, as soon as feasible. The agency sometimes waits to post a specific document to www.ftc.gov in order to maximize consumer impact by posting it in conjunction with several related matters.
**Calculation/Formula:** To arrive at the performance measure, we count the total number of Commission votes on public documents. Next, we count the number of public documents that were posted to www.ftc.gov within 15 days after Commission approval. Then, we divide this number by the total number of public documents to arrive at a percentage. We do not include any documents that a court has placed under seal until the court lifts the seal, because documents under seal are not available to the public. Also, we

do not count as "posted to the Internet" documents that are unavailable on www.ftc.gov, even if they are available elsewhere on the Internet (e.g., in electronic filing systems used by the federal courts).
**Data sources:** The data is compiled from Commission voting records, FTC news releases, and FTC Web Team confirmations that documents have been posted to www.ftc.gov.
**Verification and validation:** Agency staff and management verify that the data showing all Commission-approved public documents for a specific quarter is complete and accurate by reviewing the actual Commission votes. We verify the accuracy of the date a document is posted to www.ftc.gov by checking the date against the FTC Web Team confirmation that the document has been posted. At the time a document is posted to www.ftc.gov, we test the web link to the document to confirm it is operational. The FTC's OS management reviews the source materials and counts to make sure the data is complete and accurate.
**Data limitations:** This measure only includes Commission-approved public documents.

## OBJECTIVE 3.4: PROVIDE EFFECTIVE FINANCIAL AND ACQUISITION MANAGEMENT.

**Performance Measure 3.4.1:** Independent auditor's financial statement audit results.
**Definition and background:** Independent auditor's opinion based on auditor's review and tests of internal controls over operations and financial reporting and the determination that the financial statements and notes are fairly presented. The measure formula is 100 percent if an unqualified or "clean" opinion (the financial statements are fairly presented) is achieved or zero percent for all other opinion types (qualified, adverse, disclaimer).
**Data sources:** Independent auditor's opinion of year-end financial statements.
**Verification and validation:** FTC's independent auditors render their opinion to the agency.
**Data limitations:** There are no significant data limitations.

**Performance Measure 3.4.2:** The percentage of Bureaus/Offices that establish and maintain an effective, risk-based internal control environment.
**Definition and background:** This measure tracks the percentage of Bureaus/Offices that establish and maintain an effective, risk-based internal control environment.
**Calculation/Formula:** Number of Bureaus and Offices that established and maintain an effective, risk-based internal control environment divided by the total number of Bureaus and Offices.
**Data sources:** FMFIA Annual Statement of Assurance
**Verification and validation:** As basis for the FTC's annual statement of assurance, agency staff distribute an annual survey to key agency management and staff which includes detailed questions about their internal controls. Staff verify that survey responses have been received by each of the Bureaus/Offices (assessable units), verify the percentage of the Bureaus/Offices that indicate they maintain an effective internal control environment (supported by an internal control assessment), and staff and management review the final compilation of assessments.
**Data limitations:** Internal control survey responses are dependent on the respondent's understanding of their programs.

**Performance Measure 3.4.3:** Performance against the Small Business Administration's government-wide small business procurement goals.
**Definition and background:** This measure identifies quarterly and annual awards of contract dollars to small business entities as a ratio against total dollars available for a set-aside for small business awards in whole or part. The accumulation, ratio analysis, and agency targets are managed by SBA. The internal

operations of the Federal Procurement Data System - Next Generation (FPDS-NG) application, through which the measure is reported, are managed by GSA.
**Data sources:** FPDS-NG, found at www.fpds.gov
**Verification and validation:** FTC's acquisition staff performs a statistical analysis annually and certifies the statistical validity of the FPDS-NG data.
**Data limitations:** There are no significant data limitations.

# APPENDIX B: ACRONYMS

| | |
|---|---|
| **A&A** | Assessment & Authorization |
| **ACSI** | American Customer Satisfaction Index |
| **APA** | Administrative Procedure Act |
| **BC** | Bureau of Competition |
| **BCP** | Bureau of Consumer Protection |
| **BE** | Bureau of Economics |
| **CFO** | Chief Financial Officer |
| **CFS** | Core Financial System |
| **COOP** | Continuity of Operations Plan |
| **COPPA** | Children's Online Privacy Protection Act |
| **CSN** | Consumer Sentinel Network |
| **CSRS** | Civil Service Retirement System |
| **DCBE** | Division of Consumer and Business Education |
| **DNC** | Do Not Call |
| **DOJ** | Department of Justice |
| **DOL** | Department of Labor |
| **EFT** | Electronic Funds Transfer |
| **ERCR** | Electronic Recordkeeping Certification Review |
| **FASAB** | Federal Accounting Standards Advisory Board |
| **FBWT** | Fund Balance with Treasury |
| **FECA** | Federal Employee's Compensation Act |
| **FEGLIP** | Federal Employees Group Life Insurance Program |
| **FEHBP** | Federal Employees Health Benefit Program |
| **FEMA** | Federal Emergency Management Agency |
| **FERS** | Federal Employees Retirement System |
| **FISMA** | Federal Information Security Management Act |
| **FMFIA** | Federal Managers' Financial Integrity Act |
| **FMO** | Financial Management Office |
| **FPDS-NG** | Federal Procurement Data System - Next Generation |
| **FRAND** | Fair, Reasonable, And Non-Discriminatory |
| **FTC** | Federal Trade Commission |
| **FTE** | Full-Time Equivalent |
| **FY** | Fiscal Year |
| **GAAP** | Generally Accepted Accounting Principles |
| **GAO** | Government Accountability Office |
| **GPRA** | Government Performance and Results Act |

| | |
|---|---|
| **GPRAMA** | GPRA Modernization Act of 2010 |
| **GSA** | General Services Administration |
| **HSR** | Hart-Scott-Rodino Act |
| **IBC** | Department of the Interior Business Center |
| **IG** | Inspector General |
| **IPERA** | Improper Payments Elimination and Recovery Act |
| **IT** | Information Technology |
| **MEF** | Mission Essential Function |
| **N/A** | Not Applicable or Not Available |
| **NARA** | National Archives and Records Administration |
| **NIST** | National Institute of Standards and Technology |
| **OCIO** | Office of the Chief Information Officer |
| **OIA** | Office of International Affairs |
| **OIG** | Office of Inspector General |
| **OMB** | Office of Management and Budget |
| **OPM** | Office of Personnel Management |
| **OS** | Office of the Secretary |
| **PAE** | Patent Assertion Entity |
| **PAR** | Performance and Accountability Report |
| **PIO** | Performance Improvement Officer |
| **PMRO** | Performance Measure Reporting Official |
| **SAT** | Senior Assessment Team |
| **SBR** | Statement of Budgetary Resources |
| **SEP** | Standard Essential Patent |
| **SSAE** | Statement on Standards for Attestation Engagements |
| **TAS** | Treasury Account Symbol |
| **TSR** | Telemarketing Sales Rule |
| **TSP** | Thrift Savings Plan |
| **TTY** | Text Telephone or Telephone Typewriter |
| **USAID** | United States Agency for International Development |
| **US SAFE WEB Act** | Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act of 2006 |

# APPENDIX C: OTHER USEFUL LINKS

## INTRODUCTION SECTION:

- Accountability of Tax Dollars Act of 2002 (page I): http://www.whitehouse.gov/sites/default/files/omb/assets/about_omb/107-2891.pdf
- Association for Government Accountant's Certificate of Excellence in Accountability Reporting (page I): http:// www.agacgfm.org/Advocacy---Accountability/Certification-of-Excellence-in-Accountability-Repo.aspx
- Clayton Act (page III): http://www.law.cornell.edu/uscode/html/uscode15/usc_sec_15_00000012----000-.html
- Fair Credit Reporting Act (page III): http://www.ftc.gov/os/statutes/031224fcra.pdf
- Federal Managers' Financial Integrity Act of 1982 (page I): http://www.whitehouse.gov/omb/financial_fmfia1982
- Federal Trade Commission Act (page III): http://www.law.cornell.edu/uscode/text/15/41
- Government Management Reform Act of 1994 (page I): http://govinfo.library.unt.edu/npr/library/misc/s2170.html
- Government Performance and Results Act of 1993 (page I): http://www.whitehouse.gov/omb/mgmt-gpra/gplaw2m
- GPRA Modernization Act of 2010 (page I): http://www.gpo.gov/fdsys/pkg/PLAW-111publ352/pdf/PLAW-111publ352.pdf
- Identity Theft Act (page III): http://www.law.cornell.edu/uscode/text/18/1028
- Improper Payments Information Act of 2002 (page I): http://www.whitehouse.gov/omb/financial_fia_improper/
- Reports Consolidation Act of 2000 (page I): http://www.gpo.gov/fdsys/pkg/PLAW-106publ531/pdf/PLAW-106publ531.pdf
- Telemarketing Sales Rule (page III): http://www.law.cornell.edu/uscode/text/15/chapter-87

## MANAGEMENT'S DISCUSSION & ANALYSIS SECTION:

- The Affordable Care Act of 2010 (page 24): http://www.whitehouse.gov/healthreform/healthcare-overview
- American Customer Satisfaction Index (page 10): http://www.theacsi.org
- Children's Online Privacy Protection Act (page 23): http://www.business.ftc.gov/privacy-and-security/childrens-privacy
- Circular A-123, "Management's Responsibility for Internal Control" (page 26): http://www.whitehouse.gov/omb/circulars_a123_rev/
- Debt Collection Improvement Act of 1996 (page 28: http://www.dol.gov/ocfo/media/regs/DCIA.pdf
- Do Not Call Registry (page 9): www.donotcall.gov
- Energy Independence and Security Act of 2007 (page 25): http://www.gpo.gov/fdsys/pkg/BILLS-110hr6enr/pdf/BILLS-110hr6enr.pdf
- Equal Credit Opportunity Act (page 2): http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre15.shtm
- Federal Human Capital Survey (page 18): http://www.fedview.opm.gov
- Federal Information Security Management Act (page 28): http://csrc.nist.gov/drivers/documents/FISMA-final.pdf
- FTC Guides for the Use of Environmental Marketing Claims (page 23): http://www.ftc.gov/bcp/edu/microsites/energy/about_guides.shtml
- Hart-Scott-Rodino Act (page 24): http://www.ftc.gov/bc/hsr

- Prompt Payment Act (page 28): http://www.fms.treas.gov/prompt/regulations.html
- Statement on Standards for Attestation Engagement (page 26): http://www.aicpa.org/Research/Standards/AuditAttest/Pages/SSAE.aspx

## PERFORMANCE SECTION:

- Complaint Assistant (page 49): https://www.ftccomplaintassistant.gov
- Consumer Sentinel (page 49): http://www.ftc.gov/sentinel/
- Federal Employee Viewpoint Survey (page 96): http://www.fedview.opm.gov
- Hart-Scott-Rodino Act (page 71): http://www.ftc.gov/bc/hsr
- National Do Not Call Registry (page 49): www.donotcall.gov
- OnGuardOnline (page 60): www.onguardonline.gov
- Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act of 2006 (page 54): http://www.gpo.gov/fdsys/pkg/PLAW-109publ455/pdf/PLAW-109publ455.pdf

## OTHER ACCOMPANYING INFORMATION:

- Improper Payments Elimination and Recovery Act (page 147): http://www.gpo.gov/fdsys/pkg/BILLS-111s1508enr/pdf/BILLS-111s1508enr.pdf

# APPENDIX D: CONTACT INFORMATION AND ACKNOWLEDGEMENTS


| | |
|---|---|
| **FEDERAL TRADE COMMISSION** | 600 Pennsylvania Avenue, NW<br>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/news-events/press-releases |


## 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 | Valerie Green |
| PAR Telephone | 202-326-2901 |
| PAR Email Address | gpra@ftc.gov |
| PAR Fax Number | 202-326-2329 |
| PAR Mailing Address | Federal Trade Commission<br>attn: PAR, M/D H-774<br>600 Pennsylvania Avenue, NW<br>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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