



Federal Trade Commission

Fiscal Year 2023
Congressional Budget Justification

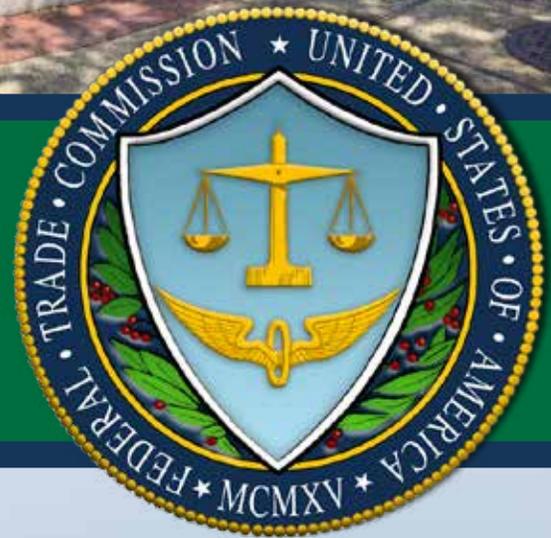




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Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

March 28, 2022

The Honorable Mike Quigley
Chairman
Subcommittee on Financial Services and General Government
U.S. House of Representatives
Washington, DC 20515

The Honorable Chris Van Hollen
Chairman
Subcommittee on Financial Services and General Government
United States Senate
Washington, DC 20510

Dear Chairmen Quigley and Van Hollen:

This letter transmits the budget justification for the Federal Trade Commission (FTC) in support of the President's fiscal year (FY) 2023 budget request.

The FTC's FY 2023 budget requests a program level of \$490,000,000 and 1,440 full-time equivalent (FTE) positions. This is an increase of \$139,000,000 from the FY 2022 annual CR level. As the justification materials describe, this budget will permit the FTC to continue to meet the ongoing challenges of its mission to protect consumers and promote competition.

By direction of the Commission.

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission



Budget Request



Budget Request Summary

(\$ in thousands)

Budget by Goal:	Fiscal Year 2022		Fiscal Year 2023		Change	
	FTE	Dollars	FTE	Dollars	FTE	Dollars
Protecting Consumers	612	\$191,461	760	\$250,387	148	\$58,926
Promoting Competition	528	159,539	680	239,613	152	80,074
Total	1,140	\$351,000	1,440	\$490,000	300	\$139,000

Budget by Funding Source:

Offsetting Collections

HSR Filing Fees	\$150,000	\$274,500	\$124,500
Do Not Call Fees	19,000	13,000	-6,000
Subtotal Offsetting Collections	\$169,000	\$287,500	\$118,500
General Fund	182,000	202,500	20,500
Total	\$351,000	\$490,000	\$139,000

Needed Resources for FY 2023

The FTC is an independent agency with a unique dual mission to police unfair methods of competition and target unfair or deceptive practices across the economy. The FTC is dedicated to advancing the interests of consumers, workers, and honest businesses while encouraging innovation and promoting a fair economy and widespread prosperity. To maintain its high level of performance in FY 2023, the FTC is requesting \$490,000,000 and 1,440 FTE. This is an overall increase of \$139,00,000 and 300 FTE above the FTC's annual CR level for FY 2022. This budget request seeks to recognize and address some of the increased demand on the agency's resources. Over the past five years, annual consumer reports to the FTC increased from 2.9 to 5.7 million. Consumer fraud reports alone increased from 1.3 to 2.8 million and reported consumer fraud losses exploded from \$1.1 billion in 2017 to over \$5 billion in 2021. The increased demand on our competition resources is no less dramatic: In fiscal year 2021, the FTC and DOJ received notice of an astounding 3,520 transactions. That represents a 66% increase above the 10-year high. This budget request also leverages the agency's existing Regional Office structure to expand the agency's candidate pool and community presence, promotes the expansion of workplace flexibilities, and implements a more flexible workforce that will work seamlessly on both Consumer Protection and Competition matters. The agency will work closely with leaders in each of these programmatic areas and the existing Regional Offices to develop a comprehensive plan for operationalizing these changes that will address issues such as space, logistics and administrative support, and management and reporting structure. More specifically this request consists of the following:

- Increase of \$12,840,600 for mandatory expenses needed to support the agency's existing FTE levels at FY 2023 costs. Examples include costs to support the anticipated pay raise in FY 2023, costs for upward grade classifications pursuant to C.F.R. 531.401 et seq., and corresponding benefit increases for each of these pay adjustments.
- Increase of \$65,400,000 for 300 additional FTE:
 - 201 FTE to be evenly distributed in BCP, BC, and the FTC Regional Offices. The FTC plans to leverage its Regional Office structure and promote increased use of workplace flexibilities to expand its candidate pool when recruiting for new employees, allowing for a greater diversity of perspectives and experiences and expanding the agency's presence in affected communities. The FTC will also cross-train attorneys so they can support either mission depending on the demands of the market, which have historically fluctuated unpredictably. Building up this nimble workforce will be critical to keeping pace with evolving economic realities. The 201 FTE will support:
 - identifying, challenging, and litigating anticompetitive mergers and conduct;
 - development and implementation of HSR rulemaking proposals;
 - processing and reviewing workload associated with increased HSR merger filing activity;
 - increasing the FTC's technology enforcement capacity to meet the demands of anticompetitive practices in the pervasive technology markets when warranted;
 - conducting merger and merger remedy retrospectives;
 - increasing paralegal workforce to assist in investigations, litigation and policy projects;
 - increasingly complex consumer protection investigations, including privacy and data security issues;
 - ensuring effective compliance monitoring and enforcement investigations;
 - emerging technology in the area of marketing practices; and

- enhancing the FTC’s ability to understand quickly evolving technological issues implicated by its casework and keep pace with litigation demands.
- 20 FTE in the Bureau of Economics (BE) to provide increased support and economic analysis to BC and BCP matters and to increase the amount of economic analysis that guides the Commission’s consumer protection and competition policies and enforcement.
- 25 FTE in the Office of Policy Planning (OPP) to provide increased market monitoring, research capacity, financial analysis, and technological expertise in support of consumer protection and competition policy work.
- 10 FTE in the Office of General Counsel (OGC) to advise the Commission, Bureaus, and Offices on legal matters such as jurisdiction, statutory authority, administrative procedures, amicus briefs, etc.
- 10 FTE in the Commissioners Offices to address the increased workload throughout the agency.
- 3 FTE in the Office of the Secretary to provide support needed to publish case and policy-related content to the FTC.gov website.
- 4 FTE in the Office of the Administrative Law Judges to support the agency’s increased litigation via administrative complaint proceedings.
- 17 FTE in the Office of the Executive Director (OED):
 These additional FTE will serve a variety of functions, such as improving data governance, supporting migration of IT services to the cloud, supporting personnel security, program management, acquisitions and purchase card program support, improving risk management, HR operations and information systems, and evaluating and improving the agency’s training programs.
- 2 FTE in the Office of Public Affairs (OPA) to provide additional media relations and strategic communications support to internal stakeholders.
- 2 FTE in the Office of the Inspector General (OIG) to address increases in investigative activity under the Inspector General’s jurisdiction.
- 2 FTE in the Office of Congressional Relations (OCR) to address increased Congressional correspondence, information requests, and oversight.
- 2 FTE in the Office of Equal Employment Opportunity and Workplace Inclusion (EEOWI) to improve the FTC’s workplace inclusion and diversity programs.
- 1 FTE in the Office of International Affairs to build deeper and stronger relationships with competition, consumer protection, and privacy enforcers to further the FTC’s enforcement and policy objectives, particularly with respect to meeting the challenges of digital markets.
- 1 FTE in the Office of the Chief Privacy Officer to address the ever-changing landscape of personal proprietary data privacy.
- Increase of \$60,759,400 for agency critical non-compensation related investments:
 - \$21,269,400 for systems modernization and infrastructure upgrades to support larger decentralized workforce.
 - \$9,900,000 for the costs associated with rent for an additional 300 FTE.
 - \$4,950,000 for other costs attributable to 300 FTE such as IT Equipment, software/licenses, security, HR Services, and other support services.

- \$2,640,000 for other non-comp costs such as travel, training, equipment, supplies, and inflationary costs associated with current contracts.
- \$15,000,000 for BC expert witness contracts expected with the increase resources.
- \$5,000,000 for costs associated with changes and updates to the current security requirements and system infrastructure in the Consumer Sentinel Network, BCP expert witnesses, tech lab upgrades, and increased levels of consumer assistance and outreach.
- \$2,000,000 for expert technology consulting contracts to bridge capacity needs until technologists are hired in OPP.

JUSTIFICATION FOR PROGRAMMATIC INCREASES

Bureau of Consumer Protection

This budget leverages the agency’s Regional Office structure to establish a more fulsome national presence and to expand the agency’s access to the best and brightest employee candidates and to establish closer proximity to the communities the FTC serves. The Regions already have a heavy BCP litigation workload, and they handle a variety of matters, depending on FTC priorities at the time. This budget envisions building on this flexible mindset by intentionally bringing on staff who can be trained to conduct both consumer protection and competition work. The Regional Offices would provide the organizational infrastructure for a dispersed and nimble workforce that could be deployed to address agency enforcement priorities across program areas. This increased capacity will bolster BCP’s work across its divisions, as described below.

A more robust regional presence will increase the FTC’s ability to protect consumers in an increasingly digital world by adding staff to each of the agency’s eight regional offices, each of which is already engaged in cutting-edge consumer protection work. The Regions also have unique partnerships with local, state, and federal government counterparts, as well as legal service providers and NGOs, in their respective geographic areas – an important function given that, as shown in the table below, fraud and other consumer issues are prevalent in every Region.

Calendar Year 2021 Consumer Sentinel Network (CSN) Stats by Region

Region	Number of Fraud and Other Reports	Fraud Dollar Loss	Number of Identity Theft Reports
East Central	611,341	\$562,493,380	197,211
Midwest	413,119	\$408,313,721	210,304
Northeast	457,626	\$586,925,792	201,498
Northwest	153,800	\$248,394,765	26,298
Southeast	778,740	\$714,444,154	274,152
Southwest	442,285	\$466,259,623	197,957
Western Los Angeles	307,013	\$583,737,719	106,653
Western San Francisco	308,265	\$570,526,444	115,184

Increasing the number of staff who can maintain and build these partnerships will also allow BCP to keep abreast of emerging consumer protection issues across the country, increase collaboration with underserved communities, and bring more effective and efficient law enforcement actions with state and local partners.

The FTC’s regional offices each handle cases across key areas to address the challenges consumers face: privacy and data security risks; deceptive claims in advertising and marketing; protecting consumers in the financial marketplace; and fraud targeting specific populations. In addition, the Regions support the FTC’s longstanding efforts to fight other unfair and deceptive practices, including illegal robocalls. For example, over the last year,

the FTC's regional offices have contributed substantially to the agency's enforcement of consumer protection laws via numerous cases brought, litigated, or resolved. These matters include: (1) the Midwest Region's *Amazon Flex* case, which returned nearly \$60 million to more than 140,000 Amazon drivers to reimburse them for illegally withheld tips; (2) the Southwest Region's *MoviePass* case, which resolved allegations that the company blocked subscribers from using the service as advertised and failed to secure their personal data; (3) the East Central Region's *Environmental Safety International* case against a company that made millions of illegal robocalls, resulting in a telemarketing ban and \$1.6 million payment; (4) the Southeast Region's *Critical Resolution Mediation* case, which resulted in permanent industry bans on a bogus debt collector and its owners; and (5) the Western Region Los Angeles' pending litigation against Frontier Communications, alleging deceptive marketing of internet connection speeds.

In each of these areas, staff in the Regions will allow the agency to investigate and litigate more and increasingly complex matters, such as those involving health privacy and children's privacy; unfair or deceptive practices by platforms; frauds using new technologies in the areas of online and mobile transactions; harmful practices in multilevel marketing and the gig economy; and unlawful conduct in the fintech and payment processing space.

The Sentinel Network Services (SNS) contract with Leidos covers the operation of the Consumer Response Center (CRC), the Consumer Sentinel Network (CSN), and the National Do Not Call (DNC) Registry. The contract covers costs associated with Identitytheft.gov, which provides a one-stop website integrated with the FTC's consumer complaint system, allowing consumers who are victims of identity theft to rapidly file a complaint with the FTC and then get a personalized guide to recovery that helps streamline many of the steps involved. The contract also covers the operations and maintenance costs associated with recent enhancements to the CSN to meet both FTC's and law enforcement's requirements for more advanced analytical tools and search optimization to more efficiently identify targets. The contract covers operations and maintenance associated with the implementation of machine learning to allow for the de-duplication of fraud and DNC complaints in CSN searches, along with improved categorization of complaints currently classified as "Other." Additional funding is needed to cover costs associated with changes and updates to the current security requirements and system infrastructure in the Consumer Sentinel Network, as outlined in the Executive Order on Improving the Nation's Cybersecurity, the Zero Trust Assessment, and the Rev 5 FISMA Security and Privacy Controls. In addition, as shown in the 2021 Data Book, the number of fraud and other reports received by the FTC has increased over time.

Additional funding is needed for consulting expert contracts to enable BCP to enter into contracts with individuals and firms to assist with providing technical analysis and other capabilities, such as building tools need for investigations, usability testing, and quick copy testing.

BCP needs increased funding for expert costs associated with technology cases, including big tech, and other large cases. Expert witnesses are an important part of cases, and an expert's testimony can make the difference between a successfully litigated case and a dismissal. Additionally, expert reports and deposition testimony are often crucial in pretrial motions practice and in obtaining a favorable settlement.

Additional funding is needed to pay for some of the professional services associated with using Relativity, such as the vendors' staff time required to perform analytics index management (allowing for data analytics). Attorneys rely on these analytics features (including advanced keyword searching, email threading, and concept clustering) for efficient document review, particularly in cases with large numbers of documents.

Additional funding is needed to upgrade and acquire new items for the Tech Lab to ensure BCP is keeping up with technological advances to support the increasingly complex nature of BCP investigations. BCP also requires funding to systematically refresh and upgrade all Tech Lab equipment, so the Lab does not risk operating with end-of-life equipment.

Sophisticated advertising monitoring services would provide unlimited searching across specific brands/products or market segments to see how much money was spent on various types of advertising during a given time period. It also would provide links to the specific ad creatives, including allowing BCP staff to download video files of TV commercials.

Bureau of Competition

This budget leverages the agency's Regional Office structure to establish a national presence and to expand the agency's access to the best and brightest employee candidates to carry out the Competition mission. Currently, only three Regions have Competition expertise and this budget will expand that expertise to all Regional Offices.

In FY 2020, the Commission established the Bureau of Competition's Technology Enforcement Division (TED) to reinvigorate and refocus BC's commitment to identifying and challenging anticompetitive mergers and conduct in complex and increasingly pervasive technology markets. While pursuing this work, FTC staff are severely outmatched by the resources that dominant technology firms can deploy, such that the number of attorneys and experts working for defendants can outmatch FTC by ten to one. BC's FTE request reflects the substantial resources BC needs to increase the capacity of TED to meet the anticompetitive challenges in the technology markets, while also boosting capacity in its divisions focused on merger enforcement, anticompetitive practices, and healthcare markets. In addition, the FTE request accounts for commensurate increases in legal support and provides additional staff for BC's Premerger Notification Office, which administers the HSR program on behalf of the FTC and Department of Justice (DOJ). BC's reinvigorated focus on complex technology markets, its unprecedented litigation workload, and the ongoing high level of reported merger activity necessitate these increases in BC's staffing levels.

BC's expended increase in workload requires significant expert witness resources. BC retains expert witnesses in support of investigations and litigations. Expert witnesses are a critical element of all antitrust litigations, where explaining complex market dynamics to generalist judges is essential. These witnesses typically are highly skilled economists and other experienced industry practitioners who work hand-in-hand with FTC staff attorneys and economists to develop the analytical support necessary to successfully challenge an antitrust case and to rebut analyses conducted by defendants' experts. It is commonplace for defendants in FTC litigations to outspend the Commission by a significant amount on expert support, which often results in FTC experts having to conduct more extensive—and thus more costly—rebuttal analyses. In recent years, the Commission's substantial litigation docket has generated projected expert spending that far exceeds our available budgeted resources, sometimes by as much as five times, potentially threatening the Commission's ability to challenge meritorious cases.

This budget envisions mitigating some limited amount of these costs by building out some infrastructure of analytical resources within OPP; data analysts, financial analysts, and technologists could take on some of the initial investigative work and analytical support that traditionally is done by an expert witness' support staff. However, that infrastructure will be limited, and due to the need for expert economist testimony at trial that cannot always be provided by BE economists, it is not feasible to replace all, or even most, of these costs with in-house support.

Bureau of Economics

Economic analysis underlies law enforcement and rulemaking activities that the FTC undertakes to advance its competition and consumer protection missions. Additional BE FTE will be used to provide antitrust economists to support BC activities, including: support for FTC merger and nonmerger enforcement investigations and litigation; and research to help the FTC focus antitrust enforcement to maximize the agency's ability to maintain competitive markets. Additional FTEs would also be used to increase the number of statisticians, financial analysts, and research analysts, who work alongside the agency's economists.

Additional consumer protection economists will help the agency provide day-to-day guidance on rulemakings and investigations, enhance litigation support, and make policy recommendations directly to the Commission to ensure all consumer protection actions taken by the Commission are informed by rigorous economic analysis.

Office of Policy Planning

Additional FTE in OPP will allow the agency to incorporate a greater range of analytical tools and skillsets into the agency's work. Bringing on data analysts, financial analysts, and technologists who are deeply familiar with the mechanics of evolving markets and business practices will ensure that the FTC is better positioned to more fully understand market realities. As more of the economy becomes digitized, this expertise will be indispensable. In addition, the significant increase to OPP is a strategic investment in the agency's ability to anticipate market problems and address them swiftly. Additional resources will allow the agency to engage in timely intervention as it will have had the resources to be attentive to evolving business practices and emerging technologies. OPP will also provide analysis and research of antitrust and consumer protection issues on an ongoing basis, acting as a central resource to both program areas and promoting a more holistic, interdisciplinary approach. Having this expertise in-house will reduce reliance on external experts and will build institutional knowledge by having FTC employees work on these projects continuously.

Office of General Counsel

OGC requests additional FTE to provide legal advice to the agency on a number of issues such as jurisdiction, statutory authority, administrative procedure, confidentiality, congressional requests for information, rulemaking proceeding, and ethics and employment law, among other things. The additional FTE will allow OGC to provide better and more timely advice and assistance on these legal issues, which will in turn allow the agency to better carry out its important missions.

Office of the Executive Director

The Office of the Executive Director is requesting additional FTE and funding to accommodate an increase of 300 FTE and reliable infrastructure associated with expanded workplace flexibilities. Additional funding will be used for additional space, security, IT investments for infrastructure and IT modernization, HR support and HC systems, acquisition support, and all other costs associated with 300 additional FTE.

Other Support Offices

Other additional FTE are requested for the Commissioners, Office of International Affairs, Office of Congressional Relations, Office of Public Affairs, Office of Administrative Law Judges, Office of the Secretary, Office of the Inspector General, Office of Equal Employment Opportunity and Workplace Inclusion, and the Office of the Chief Privacy Officer to assist in the management and support activities needed to address the current workload and help achieve the agency's goals of protecting consumers and promoting competition

APPROPRIATIONS LANGUAGE PROVISIONS

Federal Deposit Insurance Corporation Improvement Act: The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) amended the Federal Deposit Insurance Act. As originally enacted, the FDICIA imposed various statutory responsibilities on the FTC that the agency did not have the resources or expertise to perform effectively. Accordingly, since 1992, Congress, with Administration support, has prohibited the FTC from spending funds on some or all of the responsibilities assigned to it under section 151 of the Act.

The appropriations language for FY 2022 continues the spending restriction, reflecting legislation enacted in October 2006, which maintains an appropriately narrow role for the FTC under section 151. This role enables the FTC to continue to enforce the provisions requiring non-federally-insured depository institutions to disclose that they do not have federal insurance and that the federal government does not guarantee the depositor will get back his or her money, and retains the implementation ban with respect to "look-alike" provisions.

Other Provisions: The requested appropriations language continues in effect provisions in prior-year appropriation acts that: (1) allow for the purchase of uniforms and hire of motor vehicles; (2) allow for services as authorized by 5 U.S.C. 3109; (3) limit to \$300,000 the amount available for contracts for collection services in accordance with 31 U.S.C. 3718; (4) allow up to \$2,000 for official reception and representation expenses; (5) allow for the collection of offsetting fees;

(6) allow for the gross sum appropriated to be reduced as offsetting fees are collected; and (7) allow all funding to be available until expended.

OFFSETTING FEE COLLECTIONS

This submission assumes that total offsetting collections from HSR filing fees and DNC fees will provide the FTC with \$287,500,000 in FY 2023. The FTC assumes the \$202,500,000 difference between offsetting collections and the \$490,000,000 request will be funded through a direct appropriation.

HSR Premerger Filing Fees. This submission assumes offsetting HSR fee collections will provide the FTC with \$274,500,000. These fees are authorized by section 605 of Public Law 101-162, as amended effective February 1, 2001, in the FY 2001 Commerce-Justice-State Appropriations Act (Section 630, Public Law 106-553). The HSR Act requires that fees be split 50-50 between the FTC and the Antitrust Division of the U.S. Department of Justice.

Do Not Call Fees. This submission assumes offsetting collections of \$13,000,000 from DNC fees. These fees, first collected in FY 2003, will be used to maintain and enforce a national database of telephone numbers of consumers who choose not to receive telephone solicitations from telemarketers and to carry out other Telemarketing Sales Rule activities.



Fiscal Year 2023 Overview Statement

HIGHLIGHTS OF FY 2021 ACCOMPLISHMENTS

PROTECTING CONSUMERS

This fiscal year, in furtherance of the agency's consumer protection mission, the FTC emphasized four key areas to address the challenges consumers face: privacy and data security risks; deceptive claims in advertising and marketing; protecting consumers in the financial marketplace; and fraud targeting specific populations. In addition, the FTC continued its longstanding efforts to fight other unfair and deceptive practices, including illegal robocalls. The FTC also enforced its orders against repeat offenders, referring cases to criminal authorities as appropriate.

In FY 2021, the FTC filed 27 complaints in federal district court and obtained 40 permanent injunctions and orders requiring defendants to pay more than \$178.5 million in consumer redress or disgorgement of ill-gotten gains. Defendants also were required to pay approximately \$172 million under two civil contempt orders. In addition, cases referred to the Department of Justice (DOJ) resulted in eight court judgments imposing over \$152.7 million in civil penalties. Furthermore, the FTC issued 22 new administrative complaints and entered 20 final administrative orders requiring defendants to pay over \$63.7 million. The FTC also reviewed compliance for hundreds of matters, including nearly 2000 defendants.

In FY 2021, the Commission also issued 14 reports on consumer protection and released 223 new consumer and business education publications.

Stopping Deceptive Advertising and Marketing Practices

- **COVID-19 Consumer Protection Act:** Congress passed the COVID-19 Consumer Protection Act in December 2020, making it illegal under the FTC Act to engage in deceptive marketing related to the treatment, cure, prevention, mitigation, or diagnosis of novel Coronavirus Disease 2019 (COVID-19), or any government benefit related to COVID-19. The law also authorizes the FTC to seek civil monetary penalties for first-time violations, a remedy not normally available under the FTC Act.

In its first case under the new law, the FTC brought an enforcement action against St. Louis-based chiropractor Eric Anthony Nepute and his company Quickwork LLC with violating the COVID-19 Consumer Protection Act and the Federal Trade Commission Act, by deceptively marketing products containing vitamin D and zinc as scientifically proven to treat or prevent COVID-19. In the complaint filed by DOJ on behalf of the FTC, the Commission is asking the court to exercise a provision of the new law to impose monetary penalties on Nepute and Quickwork, and to grant a preliminary injunction against the defendants. According to the complaint, the defendants marketed the vitamin D and zinc products under the brand name "Wellness Warrior," and claimed that they were as, or more, effective than vaccines that are currently available.

The FTC also brought an enforcement action against Frank Romero (d/b/a Trend Deploy), an online marketer, for falsely promising consumers that he could quickly deliver facemasks and other personal protective equipment during the COVID-19 pandemic and failing to deliver on customers' orders or offer cancellations or refunds. The FTC alleges Romero violated the COVID-19 Consumer Protection Act by misrepresenting mask quality, and the Mail, Internet, or Telephone Order Merchandise Rule for failing to cancel and refund orders.

- **COVID-19 Related Claims:** The FTC and the state of Arkansas brought an enforcement action against the operators of Blessings in No Time (BINT), a "blessing loom" investment program, alleging that it has operated as an illegal pyramid scheme that bilked tens of millions of dollars from thousands of consumers, targeted African Americans, and harmed people struggling financially during the COVID-19 pandemic. In their joint complaint, the FTC and Arkansas charged that the operators of BINT lured people into joining

their program by falsely promising investment returns as high as 800 percent. The complaint alleges that some BINT members paid as much as \$62,700 to participate. In reality, though, as in other pyramid schemes, the vast majority of participants have lost money, the complaint alleges.

At the request of the FTC, a federal court in Ohio issued a temporary restraining order against 25 counterfeit websites that were allegedly playing on consumers' COVID-19 pandemic fears to trick them into paying for Clorox and Lysol products that the defendants never delivered. In some cases, consumers reported that when they tried to return to the fake website to seek a refund, it was gone in a matter of days or weeks, while the defendants moved on to set up a new website with a different URL.

The FTC approved a final administrative consent order settling charges that Marc Ching, a California-based marketer of a supplement called Thrive, which consists mainly of Vitamin C and herbal extracts, made baseless claims that it can treat, prevent, or reduce the risk of COVID-19. The final order bars Ching's false and unsubstantiated health claims and requires him to send written notices to customers and retailers of Thrive explaining that it will not treat, prevent, or reduce the risk of COVID-19. Ching also must tell customers and retailers that the three CBD-containing products will not treat cancer. Finally, the letters must inform customers and retailers of Ching's settlement with the FTC.

The medical director of California-based Golden Sunrise Nutraceutical, Inc. agreed to settle FTC charges that he took part in deceptively advertising a \$23,000 treatment plan as a scientifically proven way to treat COVID-19. Dr. Stephen Meis agreed to pay \$103,420 to provide refunds to defrauded consumers and to a bar from making similar unsupported health claims in the future.

- **COVID-19 Response:** The FTC continued to work with other enforcement authorities and stakeholders to stop scammers and others engaging in unfair and deceptive business practices during the COVID-19 crisis. The FTC has sent cease and desist orders warning marketers to stop making unsubstantiated claims that their products and therapies can prevent or treat COVID-19, the disease caused by the novel coronavirus. The FTC sent cease and desist orders to the sellers of intravenous (IV) Vitamin C infusions, ozone therapy, peptide therapy, and supplements warning them to stop making unsubstantiated claims that their products and therapies can treat or prevent COVID-19. The FTC also sent cease and desist orders to companies claiming that everything from copper water bottles to personal training, iodine, infrared saunas, bead bracelets, and water filtration systems could prevent or treat COVID-19. Currently there is no scientific evidence that these products or services can prevent or treat the COVID-19. The orders warn the recipients of the FTC's new authority to seek civil penalties under the COVID-19 Consumer Protection Act. Violators who make deceptive claims related to the treatment, cure, or prevention of COVID-19 are subject to penalties of up to \$43,792 per violation, and the FTC is ramping up its enforcement of the Act.

The FTC and CFPB sent joint notification letters to the nation's largest apartment landlords, which collectively own more than 2 million units, reminding them of their obligations under the ongoing national eviction moratorium put in place as a result of the ongoing COVID-19 pandemic. The moratorium, which was extended by the Centers for Disease Control and Prevention (CDC) until June 30, 2021, prohibited evictions in certain circumstances in order to keep people in their homes and prevent the spread of the disease.

- **Driving Tipping Practices:** Amazon agreed to pay more than \$61.7 million to settle FTC charges that it failed to pay Amazon Flex drivers the full amount of tips they received from Amazon customers. The FTC alleged that in its app and numerous marketing materials, Amazon advertised that drivers could earn \$18 to \$25 per hour plus 100% of customer tips. According to the FTC, during a two-and-a-half year period from 2016 to 2019, Amazon Flex used about \$61.7 million in tips to subsidize drivers' base pay. Customers thought they were tipping drivers, not Amazon, and drivers were left shortchanged. The FTC's complaint alleges that the company stopped its behavior only after becoming aware of the FTC's investigation in

2019. The \$61.7 million represents the full amount that Amazon allegedly withheld from drivers and will be used by the FTC to compensate drivers.

- **Operation Income Illusion:** The FTC, along with 19 federal, state, and local law enforcement partners announced a nationwide crackdown on scams that target consumers with fake promises of income and financial independence that have no basis in reality. The impact of these scams has intensified as scammers take advantage of the COVID-19 pandemic and financial crisis. The crackdown, Operation Income Illusion, encompasses more than 50 law enforcement actions against the operators of work-from-home and employment scams, pyramid schemes, investment scams, bogus coaching courses, and other schemes that can end up costing consumers thousands of dollars. In addition to ten previously announced cases, the FTC brought four new law enforcement cases as part of Operation Income Illusion, and announced a new settlement in a previously filed case.

The four new cases include Digital Income System, RagingBull.com, Moda Latina, and Randon Morris. In the Digital Income System case, the FTC alleges that the Florida-based scam falsely told consumers that by selling memberships in the defendants' programs, consumers were likely to earn large sums of money. The defendants allegedly charged consumers a substantial amount of money, ranging from \$1,000 to \$25,000. The complaint states, however, that the vast majority of consumers who paid the defendants never earned substantial income, and in fact, many consumers earned nothing.

In the RagingBull.com case, the FTC alleges that the defendants fraudulently marketed investment-related services that they claimed would enable consumers to make consistent profits and beat the market. Instead, the FTC alleges that consumers, many of them retirees, older adults, and immigrants, have lost at least \$137 million to the scam in just the last three years.

The owners of Moda Latina, who operated a bonus income scam targeting Latina consumers with promises of wealth and financial security, agreed to be permanently prohibited from selling money-making opportunities under the terms of a settlement with the FTC. The settlement also includes a monetary judgment over \$7 million, which is partially suspended.

The FTC permanently banned Randon Morris, an alleged work-from-home scammer, from selling or promoting business opportunities and from using robocalls. The settlement also includes a monetary judgment of more than \$2 million, which is partially suspended due to an inability to pay. The FTC alleged that the defendants initiated millions of robocalls nationwide to promote sham work-from-home business opportunity programs. The defendants lured consumers into purchasing these programs with false promises that consumers could earn hundreds of dollars a day and claimed an affiliation with Amazon.com where none existed. They also invoked the coronavirus pandemic in robocall messages to prey on consumers who are concerned about working outside of their homes during a national public health crisis.

The ten defendants in the "8 Figure Dream Lifestyle" case agreed to settle FTC charges that they targeted older adults while selling phony money-making opportunities. Under the terms of two stipulated final orders, the defendants either are banned from selling money-making methods or business coaching programs, and nine of the defendants are banned from using robocalls for most purposes, including marketing or advertising. In addition, three defendants are prohibited from selling any investment opportunities. The stipulated final orders impose monetary judgements totaling more than \$32 million, which are partially suspended, and the defendants have surrendered assets totaling more than \$1.25 million to the FTC.

- **Sham Charity Telefundraisers:** The FTC, along with 46 agencies from 38 states and D.C., halted a massive telefunding operation that bombarded 67 million consumers with 1.3 billion deceptive charitable fundraising calls (mostly illegal robocalls) and collected more than \$110 million using their deceptive solicitations. Associated Community Services (ACS) and a number of related defendants agreed to settle charges by the FTC and state agencies that they duped generous Americans into donating to charities that failed

to provide the services they promised. According to the complaint, the defendants knew that the organizations for which they were fundraising spent little or no money on the charitable causes they claimed to support, in some cases as little as one-tenth of one percent. The defendants kept as much as 90 cents of every dollar they solicited from generous donors on behalf of the charities. The settlements permanently prohibit the defendants from any fundraising work or consulting on behalf of any charitable organization or any nonprofit organization that claims to work on behalf of causes similar to those outlined in the complaint. They are also prohibited from using robocalls for any form of telemarketing, using abusive calling practices, or making any misrepresentation about a product or service. In addition, the defendants are required to clearly and conspicuously disclose when a donation they are requesting is not tax deductible. In addition, the two corporate defendants, Directele Inc. and The Dale Corporation, are required to cease operations and dissolve. The defendants are also subject to monetary judgments over \$110 million, which will be partially suspended due to an inability to pay after payment of approximately \$495,000.

- **Deceptive Advertisements:** Wellco, Inc., a New York-based company and its CEO, agreed to settle FTC charges that they sold hundreds of thousands of indoor TV antennas and signal amplifiers to consumers using deceptive claims that the products would let users cancel their cable service and still receive all of their favorite channels for free. The settlement imposes a \$31.82 million judgment against the defendants, which will be suspended upon payment of \$650,000.
- **Telemarketing Robocalls:** In the FTC's second case against a Voice over Internet Protocol (VoIP) service provider, Alcazar Networks Inc. and its owner settled FTC charges that they facilitated tens of millions of illegal telemarketing phone calls, including some calls from overseas and some that displayed spoofed caller ID numbers. The settlement bars the defendants from similar misconduct in the future, imposes a monetary penalty of \$105,562, and requires them to screen and monitor their customers. Separately, the owners of Environmental Safety International, Inc., a New Jersey-based company that sells septic tank cleaning products, agreed to a permanent ban on telemarketing and will pay more than \$1.6 million to settle FTC charges that the company and its telemarketer made illegal robocalls to consumers, including tens of millions of calls to numbers listed on the agency's Do Not Call Registry. In addition, the defendants will turn over a residential property as part of the settlement. In another case, the remaining seven defendants in the massive Grand Bahama Cruise Line (GBCL) operation agreed to a settlement that permanently bans them from making telemarketing robocalls and imposes a \$6.4 million civil penalty that will be partially suspended once the two remaining individual defendants each pay a \$50,000 civil penalty to the U.S. Treasury. The FTC alleged that the defendants involved in the GBCL operation made or facilitated millions of illegal calls to consumer nationwide, pitching free cruise vacations between Florida and the Bahamas.
- **False Internet Speed Claims:** The FTC, along with law enforcement agencies from Arizona, Indiana, Michigan, North Carolina, Wisconsin, and California, sued Internet service provider Frontier Communications, alleging that the company did not provide many consumers with Internet service at the speeds it promised them, and charged many of them for more expensive and higher-speed service than Frontier actually provided. The FTC alleges that Frontier did not provide many consumers with the maximum speeds they were promised and the speeds they actually received often fell far short of what was touted in the plans they purchased. The FTC's allegations concern Frontier's Digital Subscriber Line Internet service, which Frontier provides to approximately 1.3 million consumers, many in rural areas, across 25 states.
- **Made in the USA:** Glue maker Chemence, Inc., and its company president James Cooke, agreed to settle FTC charges that they supplied pre-labeled and pre-packaged glues with deceptive "Made in USA" claims to trade customers to use in marketing the strong, fast-acting glues under retailer brand names. The FTC settled an earlier suit against Chemence in 2016 for making deceptive Made in USA advertising claims for products sold under its own brand names, including Kwik Fix, Hammer Tite, and Krylex. The settlement

requires Chemence and Cooke to pay \$1.2 million to the FTC, the highest monetary judgment ever for a Made in USA case.

Gennex Media LLC, which sells customizable promotional products such as wristbands, lanyards, temporary tattoos, and buttons, and its owner, Akil Kurji, agreed to settle FTC charges that they made false, misleading, or unsupported advertising claims that their “Brandnex” products were all or virtually all made in the United States. The settlement requires Gennex and Kurji to pay a monetary judgement of over \$146,000.

The FTC also finalized a new rule that will crack down on marketers who make false, unqualified claims that their products are “Made in the USA.” Under the rule, marketers making unqualified Made in USA claims on labels must prove that their products are “all or virtually all” made in the United States. The new rule codifies a broader range of remedies by the FTC, including the ability to seek redress, damages, penalties, and other relief from those who lie about a Made in USA label. It will enable the Commission for the first time to seek civil penalties of up to \$43,280 per violation of the rule. The rule prohibits marketers from including unqualified Made in USA claims on labels unless: 1) final assembly or processing of the product occurs in the United States; 2) all significant processing that goes into the product occurs in the United States; and 3) all or virtually all ingredients or components of the product are made and sourced in the United States.

- **False Health Claims:** A Baltimore-based company, Agora Financial, LLC, and several of its affiliates agreed to pay more than \$2 million to settle FTC charges that they tricked seniors into buying pamphlets, newsletters, and other publications that falsely promised a cure for type 2 diabetes or promoted a phony plan to help them cash in on a government-affiliated check program. The settlement also bars Agora and the other defendants from making such false or unsupported claims.

In another case, the FTC approved final administrative consent orders against three companies, BASF SE, its subsidiary, BASF Corp. and DIEM Labs, which together have agreed to pay more than \$416,000 to settle charges that they deceptively marketed two dietary fish oil supplements as clinically proven to reduce liver fat in adults and children with non-alcoholic fatty liver disease (NAFLD). The final orders cover Hepaxa, Hepaxa PD, and any other product containing one or more omega-3 fatty acids or promoted to benefit cardiac, metabolic, or hepatic (liver) health or functions. They prohibit the companies from claiming that such products reduce liver fat in adults or children with NAFLD or cures, treats, or mitigates any disease, unless the claim is true and substantiated by competent and reliable scientific evidence in the form of randomized human clinical testing.

The FTC and the Georgia Attorney General’s Office sued the co-founders of the Stem Cell Institute of America for marketing stem cell therapy to seniors nationwide using bogus claims that it is effective in treating arthritis, joint pain, and a range of other orthopedic ailments. The agencies’ complaint also alleges that the Canton, Georgia-based defendants promoted the false or unsubstantiated claim that stem cell therapy is comparable or superior to surgery, steroid injections, and painkillers, and that they provided chiropractors and other healthcare practitioners with the means of deceiving consumers about such treatments.

The FTC joined the FDA in sending cease and desist orders to five companies that may be making false or unsubstantiated claims that their products can cure, treat, mitigate, or prevent infertility and other reproductive disorders in violation of the FTC Act, and that are unapproved and misbranded.

The FTC sent cease and desist letters to 10 companies suspected of advertising unproven treatments or cures for diabetes, ordering the companies to stop making unsubstantiated claims within 15 days or face potential legal action by the FTC. The FTC demands were issued jointly with U.S. Food and Drug Administration (FDA) warning letters, in which the FDA warned the companies that their diabetes products

are both unapproved and misbranded, in violation of the Federal Food, Drug, and Cosmetic Act (FD&C Act).

- **Operation CBDceit:** The FTC announced the first law enforcement crackdown on deceptive claims in the growing market for cannabidiol (CBD) products. The FTC took action against six sellers of CBD-containing products for allegedly making a wide range of scientifically unsupported claims about their ability to treat serious health conditions, including cancer, heart disease, hypertension, Alzheimer’s disease, and others. The settlements require each of the companies, and individuals behind them, to stop making such unsupported health claims immediately, and several are required to pay monetary judgments to the agency. The orders settling the FTC’s complaints also bar the respondents from similar deceptive advertising in the future, and require that they have scientific evidence to support any health claims they make for CBD and other products. The sellers include Bionatrol Health, LLC, Epichouse LLC (First Class Herbalist CBD), CBD Meds, Inc., HempmeCBD, Reef Industries, Inc., and Steves Distributing, LLC.

In another case, the FTC approved a final administrative consent order against Arizona-based Kushly Industries LLC (Kushly) and the company’s owner, Cody Alt, for allegedly making false or unsupported health claims during the marketing and sale of cannabidiol (CBD) products to consumers. According to the FTC, Kushly and Alt made false or unsubstantiated claims that their CBD products could effectively treat or cure a host of conditions, from common ailments, like acne and psoriasis, to more serious diseases, including cancer and multiple sclerosis. In addition, the complaint alleges the respondents falsely told consumers that scientific studies or research proves that CBD product effectively treat, mitigate, or cure the diseases, including hypertension, Parkinson’s disease, and Alzheimer’s disease. The final order settling the FTC’s charges bars the respondents from the illegal conduct alleged in the complaint and requires them to pay the FTC \$30,583.14, which is the amount consumers paid Kushly for products sold using the deceptive marketing.

- **Better Online Ticket Sales Act:** In the first cases brought under the Better Online Ticket Sales (BOTS) Act, the FTC took legal action against three ticket brokers based in New York who allegedly used automated software to illegally buy up tens of thousands of tickets for popular concerts and sporting events, then subsequently made millions of dollars reselling the tickets to fans at higher prices. The three ticket brokers are subject to a judgment of more than \$31 million in civil penalties for violating the BOTS Act, which will be partially suspended upon payment of \$3.7 million. The FTC alleges that the brokers violated the BOTS Act in a number of ways, including using automated ticket-buying software to search for and reserve tickets automatically, software to conceal their IP addresses, and hundreds of fictitious Ticketmaster accounts and credit cards to get around posted event ticket limits.
- **Dark Patterns Workshop:** The FTC hosted a virtual workshop examining digital “dark patterns,” a range of potentially deceptive or unfair user interface designs used on websites and mobile apps. “Bringing Dark Patterns to Light: An FTC Workshop” featured five panel discussions examining: what dark patterns are and why they are employed; how dark patterns affect consumers; how dark patterns affect communities of color; how dark patterns target children and teens; and potential strategies for dealing with dark patterns.
- **Franchise Rule Workshop:** The FTC hosted an online public workshop as part of the agency’s review of the Franchise Rule, which is designed to ensure that consumers who are considering buying a franchise have key information they need to weigh the risks and benefits of that potential investment. The three panel discussion focused on representations that franchisors make about financial performance, the use of disclaimers, and the format of the disclosure document required by the Rule.
- **Green Lights & Red Flags: FTC Rules of the Road for Business Workshop:** The FTC and its regional partners in Dallas hosted a free, virtual workshop to discuss advertising and data security basics for small businesses, advertising professionals, and attorneys who advise them. The workshop brought together

Texas business owners, marketing executives, and attorneys with national and state legal experts to provide practical insights about how established consumer protection principles apply in today's fast-paced marketplace.

- **Right to Repair:** The FTC unanimously voted to ramp up law enforcement against repair restrictions that prevent small businesses, workers, consumers, and even government entities from fixing their own products. The policy statement adopted is aimed at manufacturers' practices that make it extremely difficult for purchasers to repair their products or shop around for other service providers to do it for them. By enforcing against restrictions that violate antitrust or consumer protection laws, the Commission is taking important steps to restore the right to repair.

In a report to Congress, the FTC identified numerous types of repair restrictions, such as using adhesives that make parts difficult to replace, limiting the availability of spare parts, and making diagnostic software unavailable. The report's findings, including that "there is scant evidence to support manufacturers' justifications for repair restrictions," are primarily based on responses to the Commission's requests for public comments and empirical research issued in connection with its July 2019 workshop, "Nixing the Fix: A Workshop on Repair Restrictions."

Protecting Privacy and Data Security

- **Children's Online Privacy Protection Act:** The operators of an online coloring book app will be required to notify parents and offer refunds to current underage subscribers to settle FTC allegations that they violated a children's privacy law by collecting and disclosing personal information about children who used the app without notifying their parents and obtaining their consent. The FTC alleged that the Toronto-based KuuHub Inc., along with its Finnish subsidiaries Kuu Hubb Oy and Recolor Oy, violated the Children's Online Privacy Protection Act Rule (COPPA Rule). The Rule requires websites and apps to provide notice to parents and obtain verifiable parental consent before collecting personal information from children if the website or app—or even a portion of the website or app—is directed at children under 13. Under the settlement, the companies must delete all the personal information they collected from children under 13 unless they obtain parental consent, and must offer current paid subscribers of the Recolor app a refund if they were under the age of 18 when they signed up for the app. The companies also agreed to a \$3 million monetary penalty, which will be suspended upon payment of \$100,000 due to their inability to pay the full amount.

The FTC announced that Aristotle International, Inc. (Aristotle) has been removed from the list of self-regulatory organizations that police for compliance with the Children's Online Privacy Protection Act (COPPA). Operators of websites and online services that paid Aristotle fees to participate in its self-regulatory program can no longer receive favorable regulatory treatment. Aristotle was one of seven FTC-approved Safe Harbor organizations and is the first to be removed from the list of FTC-approved children's privacy self-regulatory programs since the COPPA Rule went into effect two decades ago.

- **Consumer Privacy:** Everalbum, Inc., a California-based developer of a photo app, settled FTC allegations that it deceived consumers about its use of facial recognition technology and its retention of the photos and videos of users who deactivated their accounts. The settlement requires Everalbum to obtain consumers' express consent before using facial recognition technology on their photos and videos and requires the company to delete models and algorithms it developed by using the photos and videos uploaded by its users.

Flo Health, Inc., the developer of a period and fertility-tracking app used by more than 100 million consumers, settled FTC allegations that the company shared the health information of users with outside data analytics providers after promising that such information would be kept private. The FTC alleged that despite promising to keep users' health data private, Flo shared sensitive health data from millions

of users of its Flo Period & Ovulation Tracker app with marketing and analytics firms, including Facebook and Google. The settlement requires Flo Health, Inc. to obtain the affirmative consent of users of the company's fertility-tracking app before sharing their personal health information with others and to obtain an independent review of their privacy practices. Flo Health must also notify affected users about the disclosure of their health information and instruct any third party that received users' health information to destroy that data.

- **Data Security:** The FTC finalized a settlement with SkyMed International, Inc., a Nevada-based company that provides travel emergency services, over allegations it failed to take reasonable steps to secure sensitive consumer information such as health records. The settlement requires SkyMed to send a notice to affected consumers detailing the information exposed by the data breach. The company must implement a comprehensive information security program and obtain biennial assessments of this program by a third party. The settlement also prohibits SkyMed from misrepresenting how it secures personal data, the circumstances of and response to a data breach, and whether the company has been endorsed by or participates in any government-sponsored privacy or security program.

The operators of the MoviePass subscription service agreed to settle FTC allegations they took steps to block subscribers from using the service as advertised, while also failing to secure subscribers' personal data. Under the proposed settlement, MoviePass, Inc., its parent company Helios and Matheson Analytics, Inc. (Helios), and their principals, Mitchell Lowe and Theodore Farnsworth, will be barred from misrepresenting their business and data security practices. In addition, any businesses controlled by MoviePass, Helios, or Lowe must implement comprehensive information security programs.

The FTC finalized a settlement with Zoom Video Communications, Inc., over allegations it misled consumers about the level of security it provided for its Zoom meetings and compromised the security of some Mac users. The final order requires Zoom to implement a comprehensive security program, review any software updates for security flaws prior to release and ensure the updates will not hamper third-party security features. The company must also obtain biennial assessments of its security program by an independent third party, which the FTC has authority to approve, and notify the Commission if it experiences a data breach.

Ascension Data & Analytics, LLC, a mortgage industry data analytics company, was required to implement a comprehensive data security program as part of a settlement resolving FTC allegations that the firm failed to ensure one of its vendors was adequately securing personal data about tens of thousands of mortgage holders.

- **Stalking App:** The FTC banned SpyFone and its CEO Scott Zuckerman from the surveillance business over allegations that the stalkerware app company secretly harvested and shared data on people's physical movements, phone use, and online activities through a hidden device hack. The company's apps sold real-time access to their secret surveillance, allowing stalkers and domestic abusers to stealthily track the potential targets of their violence. SpyFone's lack of basic security also exposed device owners to hackers, identity thieves, and other cyber threats. In addition to imposing the surveillance-business ban, the FTC's order requires SpyFone to delete the illegally harvested information and notify device owners that the app had been secretly installed. This is the second case the FTC has brought against stalkerware apps, and the first where the FTC obtained a ban.
- **Health Apps and Connected Devices:** The FTC issued a policy statement affirming that health apps and connected devices that collect or use consumers' health information must comply with the Health Breach Notification Rule, which requires that they notify consumers and others when their health data is breached. In a policy statement adopted during an open meeting, the Commission noted that health apps, which can track everything from glucose levels for those with diabetes to heart health to fertility to sleep,

increasingly collect sensitive and personal data from consumers. The statement noted that these apps have a responsibility to ensure they secure the data they collect, which includes preventing unauthorized access to such information.

- **Privacy Conference:** The FTC hosted its sixth annual PrivacyCon event virtually, with a focus on privacy and security risks associated with algorithms, online advertising, and the Internet of Things. PrivacyCon 2021 highlighted exciting new research and built on discussions in the United States and around the globe on trends related to consumer privacy and data security.
- **Fair Credit Reporting Act:** Smart home security and monitoring company Vivint Smart Homes Inc. agreed to pay \$20 million to settle FTC allegations that the Utah-based firm misused credit reports to help unqualified customers obtain financing for the company's products and services. Under the settlement, Vivint will pay a \$15 million civil penalty and an additional \$5 million to compensate injured consumers. In the complaint filed by DOJ on behalf of the FTC, the Commission alleged that Vivint violated the Fair Credit Reporting Act (FCRA) by improperly obtaining credit reports in order to qualify potential customers for financing for its smart home monitoring and security products. The FTC also alleged that Vivint violated the FTC's Red Flags Rule by failing to implement an identity theft prevention program, which is required of certain companies that regularly use or obtain credit reports.

AppFolio, a California-based company that provides background reports to property management companies, agreed to pay \$4.25 million as part of a settlement with FTC over allegations the firm failed to follow reasonable procedures to ensure the accuracy of its reports about potential tenants, which violates the FCRA. The settlement also prohibits AppFolio from providing non-conviction criminal or eviction records older than seven years and requires the company to maintain reasonable procedures to ensure the maximum possible accuracy of information included in its background reports.

- **Orders to Social Media and Video Streaming Companies:** The FTC issued orders to nine social media and video streaming companies, requiring them to provide data on how they collect, use, and present personal information, their advertising and user engagement practices, and how their practices affect children and teens. The FTC issued the orders under Section 6(b) of the FTC Act, which authorizes the Commission to conduct wide-ranging studies that do not have a specific law enforcement purpose. The orders were sent to Amazon.com, Inc., ByteDance Ltd., which operates the short video service TikTok, Discord Inc., Facebook, Inc., Reddit, Inc., Snap Inc., Twitter, Inc., WhatsApp Inc., and YouTube LLC.
- **Identity Theft:** The FTC maintains the federal government's central repository for identity theft complaints. Consumers can file complaints through the agency's website or by calling a toll-free number (1-877-ID-THEFT). Identity theft victims can go online to the FTC's [IdentityTheft.gov](https://www.ftc.gov/identitytheft) website and get a free, personalized identity theft-recovery plan. The one-stop website is integrated with the FTC's consumer complaint system, allowing consumers who are victims of identity theft to rapidly file a complaint with the FTC and then get a personalized guide to recovery that helps streamline many of the steps involved. Victims can create user accounts, get detailed, custom recovery plans based on their unique experiences, and create the documents they need to alert police, the nationwide consumer reporting agencies, and the Internal Revenue Service (IRS). Consumers can also report identity theft to the IRS electronically through the FTC's [IdentityTheft.gov](https://www.ftc.gov/identitytheft) website.

Protecting Consumers in the Financial Marketplace

- **Operation Corrupt Collector:** The FTC, along with more than 50 federal and state law enforcement partners, announced Operation Corrupt Collector, a nationwide law enforcement and outreach initiative to protect consumers from phantom debt collection and abusive and threatening debt collection practices. This crackdown encompasses more than 50 enforcement actions against debt collectors engaged in these illegal practices.

As part of the initiative, defendants in the Absolute Financial Services, LLC and National Landmark Logistics LLC cases agreed to be permanently banned from the debt collection industry as part of settlements resolving FTC charges they threatened consumers with legal action to collect on debts that did not exist. The FTC alleged the defendants used illegal robocalls to leave messages with consumers that threatened lawsuits and arrest. The messages did not identify the caller as a debt collector, and when consumers would return the calls, the defendants would present themselves as mediators or attorneys. In most cases, the debts being collected by National Landmark and Absolute Financial were not actually owed by the consumers, either because they never existed in the first place or had been previously paid off. The settling defendants in the National Landmark Logistics case agreed to a monetary judgment of over \$16.4 million, which is partially suspended due to an inability to pay. Litigation against the remaining defendants continues. The settlement with Absolute Financial Services includes a monetary judgment of over \$11.2 million, which is partially suspended due to an inability to pay.

In another case brought as part of the sweep, Critical Resolution Mediation LLC, an Atlanta-based debt collector, agreed to a settlement permanently banning them from the debt collection industry and to a monetary judgment of more than \$3 million, which is partially suspended upon payment of more than \$266,000 to the FTC. The FTC alleged that its agents threatened consumers with arrest and imprisonment and tried to collect debts that consumers did not actually owe.

- **Deceptive Debt Collection Practices:** The FTC took action against Midwest Recovery Systems, LLC, a debt collection company, for allegedly placing bogus or highly questionable debts onto consumers' credit reports to coerce them to pay the debts. The settlement prohibits the company from the practice known as "debt parking" and requires them to delete the debts it previously reported to credit reporting agencies. The settlement includes a monetary judgment of \$24.3 million, which will be partially suspended based on an inability to pay. One defendant is also required to sell his stake in another debt collection company and provide the proceeds from that sale to the FTC.
- **Student Loan Debt Relief:** The operators of Student Advocates Team, LLC, a student loan debt relief scheme, agreed to settle FTC charges that they collected illegal upfront fees and falsely promised to lower or even eliminate consumers' loan payments or balances. The orders ban the settling defendants from providing debt relief services, prohibits them from violating the Telemarketing Sales Rule, and includes a monetary judgment against certain defendants of more than \$24.5 million, which is partially suspended due to an inability to pay.
- **Payday Lending:** The owners and operators of a Lead Express, Inc., a vast payday lending scheme that overcharged consumers millions of dollars, agreed to a permanent ban from the lending industry and to deem that nearly all outstanding debt held by the company, made up entirely of illegal financial charges, as paid in full. The scheme, which was operated online under the names Harvest Moon Financial, Gentle Breeze Online, and Green Stream Lending, used deceptive marketing to convince consumers that their loans would be repaid in a fixed number of payments. The FTC's complaint alleged that the company instead continued to draw millions of dollars in payments from consumers' bank accounts long after the loans' original principal amount and stated repayment cost had been repaid, and would do so until consumers completely closed their bank accounts or found some other way to cut off payments.
- **Deceptive Consumer Loans:** Online lender LendingClub Corporation agreed to pay \$18 million to settle FTC charges that the company deceived consumers about hidden fees that it charged and about whether their loan applications were approved. In addition, the settlement bars LendingClub from making misrepresentations to loan applicants and requires that the company clearly and conspicuously disclose the amount of any prepaid, up-front, or origination fee and the total amount of funds that borrowers will receive. The FTC sued LendingClub in April 2018, charging that the company falsely promised loan applicants that they would receive a specific loan amount with "no hidden fees," when in reality the company

deducted hundreds or even thousands of dollars in hidden up-front fees from the loans. The FTC also alleged that LendingClub told consumers they were approved for loans when they were not, and took money from consumers' bank accounts without authorization.

- **Payment Processors:** Complete Merchant Solutions, LLC (CMS) and its former CEO, Jack Wilson, agreed to settle FTC charges that they illegally processed millions of dollars in consumer credit card payments for fraudulent schemes when they knew or should have known that the schemes were defrauding consumers. Those schemes included Apply Knowledge and Tarr, which were ultimately shut down by an FTC enforcement action, and USFIA, which was shut down following an enforcement action by the U.S. Securities and Exchange Commission. The settlement includes a monetary judgment of \$1.5 million and a number of restrictions, including a ban from acting as a payment processor for any companies that offer “free trials” for nutraceutical products and prohibitions on engaging in credit card laundering and helping clients evade fraud-monitoring programs established by financial institutions.

In another case, two Florida companies and their CEO agreed to be permanently barred from offering payment-processing services to settle FTC allegations that they aided a criminal student debt relief scam that bilked \$62 million from thousands of students and their families. The settlement also includes a monetary judgment of over \$28.6 million on the CEO and his companies, which will be partially suspended due to their inability to pay the full amount. According to the FTC's complaint, Moneta Management, LLC, Moneta Management, Inc., and their CEO Michael Todd Greene knowingly provided false or deceptive information to credit card and ACH processors to obtain merchant processing for the scam operated by Brandon Frere and his three companies. Frere and his companies reached a settlement with the FTC in November 2020 and also pleaded guilty to federal criminal charges in 2019.

- **Financing for Coaching Schemes:** Seed Consulting, Inc. agreed pay \$2.1 million and to stop charging consumers thousands of dollars to apply for multiple credit cards in their names in order to pay for expensive and often ineffective training programs under a settlement with the FTC. The FTC alleged that Seed Consulting, LLC's services were pitched by training companies as a way to get “funding” to people who wanted to start a business or become a real estate investor. The complaint alleged that Seed did not actually provide any funds to consumers but instead charged them \$3,000 to \$4,000 to apply for numerous credit cards with total credit lines of more than \$50,000, a practice known as “credit card stacking.”
- **Hidden Fees:** The FTC filed an administrative complaint against FleetCor and its CEO, Ronald Clarke, alleging they charged customers hundreds of millions of dollars in unauthorized fees associated with fuel cards. FleetCor, marketing under the “Fuelman” brand name and through co-branded cards with businesses around the country, allegedly falsely told its business customers that they would save money, be protected from unauthorized charges, and have no set-up, transaction, or membership fees. In reality, according to the FTC's complaint, customers generally have not achieved the advertised per-gallon savings by using FleetCor's cards. The FTC filed a suit in federal court against FleetCor and Clarke in December 2019, alleging that they charged hundreds of millions of dollars in hidden and undisclosed fees to their customers after making false promises they could save customers on their fuel costs. However, in a ruling last year, the Supreme Court determined that the FTC was not able to seek redress for consumers under section 13(b) of the FTC Act. In an effort to ensure that the agency's case against the fuel card marketer is still able to recover money lost by consumers, the FTC has filed a new administrative complaint.
- **Income Falsification:** In the Tate's Auto Group case, Richard Berry, the owner and manager of a group of bankrupt auto dealerships in Arizona and New Mexico, agreed to pay \$450,000 to resolve charges that he and the dealerships deceived consumers and falsified information on vehicle financing applications. The settlement also prohibits Berry from misrepresenting information in documents associated with a consumer's purchase, financing, or leasing of a motor vehicle, and misrepresenting the costs or any other material fact related to vehicle financing. Many of the affected consumers were members of the Navajo Nation.

- **Mobile Banking App:** Beam Financial, Inc., the operator of a mobile banking app, agreed to be banned from mobile banking and to provide full refunds to users as part of a settlement with the FTC over allegations the company falsely promised users they would have “24/7” access to their funds and earn high interest rates on their accounts. The FTC alleged that Beam promised users of their free mobile banking app that they could make transfers out of their accounts and would receive their requested funds within three to five business days. In fact, the FTC alleged that some users waited weeks or months to receive their money, which was particularly difficult for users who were struggling with lost income as a result of the COVID-19 pandemic.

Protecting Every Community

- **Scams Targeting Older Americans:** The FTC released the report, “Protecting Older Consumers 2019-2020: A Report of the Federal Trade Commission,” outlining the FTC’s research, law enforcement, and education efforts aimed at protecting older adults. In 2019, as in prior years, adults aged 60 and older are less likely to report losing money to fraud than younger adults, but report much higher individual dollar losses. People aged 80 and older reported losing the most, with a median individual reported loss of \$1,600. Older adults reported losing the most money to romance scams, with \$84 million in reported losses, followed by government imposter scams at \$61 million, and prizes, sweepstakes, and lottery scams at \$51 million. Protecting older adults in the marketplace is one of the FTC’s top priorities.
- **Community Advocate Initiative:** The FTC launched a new initiative aimed at partnering with community legal aid organizations to expand its outreach to lower-income communities to encourage them to report fraud and provide them with advice to help recover. The Community Advocate Center initiative provides a new way for organizations that provide free and low-cost legal services to report fraud and other illegal business practices their clients have experienced directly to the FTC on behalf of their clients. By participating with the FTC’s Community Advocate Center, organizations can connect members of their communities to specific, concrete steps they can take to try to get their money back. They also will receive aggregated data detailing the types of fraud and other illegal business practices affecting their communities, such as the methods scammers use to defraud consumers, methods they use to demand payment, and the amount of money consumers report losing. Information about the Community Advocate center is available at ReportFraud.ftc.gov/community.
- **Scams Targeting Incarcerated People:** At the request of the FTC, a federal court issued a temporary restraining order against Marc and Courtney Grisham and two companies they operate, Disruption Theory LLC and Emergent Technologies LLC, which do business as inmatecall.com and inmatecallsolutions.com. The FTC alleges that the operators advertised and marketed calling plans for unlimited minutes, which they did not provide. Prison and jail calls are provided by specialized service providers, which have contracts with correctional facilities and charge for calls at predetermined per-minute rates. Specialized service providers have not and do not currently offer unlimited calling plans. This is the first case the FTC has brought involving inmate calling plans.

Separately, the owner and operator of Inmate Magazine Service will be permanently banned from selling or marketing magazine subscriptions. The settlement with the FTC and Florida Office of Attorney General includes a monetary judgment of \$2.2 million, which is partially suspended based on an inability to pay, with owner Roy Snowden required to turn over the contents of nine different bank accounts used for the scheme. The FTC and State of Florida alleged Inmate Magazine Service charged hundreds of incarcerated people and their families millions of dollars for magazine subscriptions that show up late or not at all. The FTC and State of Florida alleged that Inmate Magazine Service, Inc. (IMS) and its owner, Roy Snowden, marketed magazine subscriptions to consumers serving prison sentences, as well as their families, offering to send the magazines to the prisoners while they were incarcerated and promising the magazines would arrive within 120 days. In fact, the complaint alleged that in many cases the magazines never arrived or

were delivered far later than promised, with no notification to the consumers about delayed shipment or the chance to cancel their orders as required by the FTC’s Mail, Internet, or Telephone Order Merchandise Rule.

Fighting Other Fraud

- **Scams Targeting Small Businesses:** Yellowstone Capital, a provider of merchant cash advances, agreed to pay more than \$9.8 million to settle FTC charges that it took money from businesses’ bank accounts without permission and deceived them about the amount of financing business owners would receive and other features of its financing products. In addition, the settlement permanently prohibits the defendants from misleading consumers about the terms of their financing, including the amount and timing of any fees and whether business owners are required to be personally liable for the financing. The defendants will also be prohibited from making withdrawals from consumers’ bank accounts without their express informed consent. Merchant cash advances are a form of financing in which a company provides money to a small business up front in exchange for a larger amount repaid through daily automatic payments. In this case, the FTC alleged that Yellowstone and its owners continued withdrawing money from businesses’ bank accounts for days after their balance had been repaid. The complaint alleged that these unauthorized withdrawals left businesses without needed cash and that any refunds from the company could take weeks or months.
- **Eyeglass Rule:** The FTC sent 28 cease and desist orders to eyeglass prescribers warning them of potential violations of the agency’s Ophthalmic Practice Rules, known as the Eyeglass Rule, which ensures consumers the right to comparison shop for prescription eyeglasses. The Eyeglass Rule requires prescribers to provide patients with a copy of their eyeglass prescription immediately after an eye exam that includes a refraction, even if the patient does not request it. Some prescribers who provide contact lens fittings in addition to eye examinations were also warned of potential violations of the agency’s Contact Lens Rule, which requires prescribers to provide a copy of the contact lens prescription to the patient at the end of the contact lens fitting, even if the patient does not request it. The orders warn the prescribers that violations of the Eyeglass Rule or the Contact Lens Rule may result in legal action, including civil penalties of up to \$42,530 per violation.
- **ReportFraud.ftc.gov:** The FTC launched a new website, ReportFraud.ftc.gov, where consumers can easily report fraud and all other consumer issues directly to the FTC. At ReportFraud.ftc.gov, consumers will find a streamlined and user-friendly way to submit reports to the FTC about scams, frauds, and bad business practices. The FTC has long encouraged consumers to report these issues to the FTC when they encounter them—whether or not they lost money to the fraud. One new feature of the site is that consumers who file a report will receive next steps from the FTC with advice on what to do based on their particular report. The FTC has more information available for consumers, including a new video explaining how the site works. The site takes the place of the FTC Complaint Assistant, and the site is also in Spanish at ReporteFraude.ftc.gov.

Order Enforcement and Criminal Referrals

The FTC continues to place a priority on aggressively enforcing its orders against repeat offenders and refers matters to criminal authorities as appropriate.

- **Contempt Cases:** A federal district court entered final orders to finalize the \$120.2 million judgment against the primary Sanctuary Belize defendants, successfully putting an end to the largest land fraud in FTC history. The defendants, including Andres Pukke (the primary defendant in the *Ameridebt* case), sold lots in a purported luxury development in remote southern Belize to U.S. retirees. In truth, the development was little more than jungle with few, if any, amenities. After a four-week trial, the court held all of the trial defendants liable on all counts in the *de novo* action; found judgment in the amount of \$120.2 million; found Pukke and his business partner in contempt for violations of the *Ameridebt* order; and

stated that Pukke will receive a complete real estate ban and a telemarketing ban, while the other defendants will receive telemarketing bans and partial real estate bans.

- **Criminal Referrals:** The FTC continues to refer egregious violators to criminal law enforcement agencies for prosecution. In FY 2021, FTC staff actively worked on 175 new formal requests for cooperation from our criminal law enforcement partners, including 77 federal, 91 state, and 7 local requests. Prosecutors relied on FTC information and support to charge 26 new defendants and obtained 30 new pleas or convictions. Twenty-six defendants received sentences totaling 109 years. One of the newly arrested individuals, Samir Haj, was charged with the unlawful importation and sale of an unregistered pesticide product marketed as a killer of airborne viruses such as COVID-19. Another, Travis Peterson, was charged with operating a charity scam that solicited donations by falsely claiming the money would benefit veterans and their families. Five of these defendants were sentenced to prison terms ranging from seven and one-half to nine years for claiming to be lawyers and government agents and threatening Spanish-speaking individuals across the United States with imprisonment and deportation if they did not accept and pay for English-language courses and other products.

Economic Research and Outreach

In addition to conducting analysis on FTC matters, the FTC conducts research and outreach on the economics of consumer protection more generally. In June 2020, the Bureau of Economics published a joint report with the Bureau of Consumer Protection on the results of a qualitative study of automobile buyers conducted by the FTC that consisted of in-depth interviews with 38 consumers about the car buying and financing process. In November 2020, the Commission hosted its Thirteenth Annual Microeconomics Conference, convening researchers, regulators, and others to discuss antitrust and consumer protection policy issues that FTC economists encounter in their work. In December 2020, the “Review of Industrial Organization” published an article in its annual Antitrust and Regulatory Update Special Issue entitled “Economics at the FTC: Fertilizer, Consumer Complaints, and Private Label Cereal” highlighting research conducted in the Bureau of Economics.

International Consumer Protection

Strong cross-border cooperation is critical to effective law enforcement. Despite challenges due to COVID-19, in FY 2021, the FTC’s Office of International Affairs (OIA) assisted with numerous consumer protection investigations, litigations, and enforcement-related projects. OIA also continued to develop strong bilateral relationships with foreign consumer, privacy, and law enforcement authorities around the globe and represented the agency in international organizations and enforcement networks on a range of complex global consumer policy and enforcement issues, online frauds, digital advertising, and privacy and data security.

- The FTC cooperated with a wide range of foreign agencies and multilateral organizations on enforcement-related investigations, cases, and projects. In 2020, Congress reauthorized the U.S. SAFE WEB Act, which supports information sharing and investigative assistance with the agency’s foreign counterpart. Following the reauthorization, the FTC entered into an updated [memorandum of understanding](#) (MOU) with two Nigerian enforcement agencies, the Federal Competition and Consumer Protection Commission (FCCPC) and the Economic and Financial Crimes Commission.
- The FTC continued to pursue enforcement cooperation with foreign counterparts on COVID-19 matters, referring false and misleading health claims for COVID-19 treatments and cures originating abroad to foreign agencies. In response, some foreign agencies issued their own cease-and-desist letters or took other actions against companies in their jurisdictions. To date, most of the foreign entities that received warning letters have complied with the FTC’s request to cease making all such claims for products that they promote or make available in the U.S. The agency also led an International Consumer Protection and Enforcement Network (ICPEN) project on COVID-19, together with Colombia’s Superintendency of Industry and Commerce (SIC).

- To complement its international enforcement work, the FTC provided input to international policy organizations such as the OECD, UNCTAD, the OAS, APEC, and the Global Privacy Assembly, as well as regional networks including the Asia Pacific Privacy Authorities, the African Consumer Protection Dialogue, and FIAGC.
- Using new technologies, in FY 2021, the FTC conducted several virtual technical assistance missions and capacity-building training sessions for developing consumer protection and privacy agencies in Peru, Bahrain, Paraguay, the United Arab Emirates, and Ukraine. The FTC also hosted, with COMESA, a virtual meeting of the African Consumer Protection Dialogue, which included more than 20 African countries, the U.S. Consumer Product Safety Commission, and the Australian Competition and Consumer Commission.

Law Enforcement Tools

- **Consumer Response Center (CRC):** In FY 2021, the CRC handled more than 51,000 inquiries and complaints from consumers and businesses each week, for a total of 4.3 million complaints and inquiries.
- **Consumer Sentinel Network (CSN):** In FY 2021, more than 10.9 million fraud, identity theft, financial, and DNC complaints were added to the FTC's CSN database. Approximately 2,800 law enforcement users worldwide have access to CSN.
- **National DNC Registry:** The Registry has continued to protect consumers from receiving unwanted commercial telemarketing calls. In FY 2021, the number of telephone numbers on the Registry exceeded 244 million.

Advocacy Tools

The FTC files comments with federal and state government bodies advocating for policies that promote the interests of consumers and highlighting the role consumer and empirical research might play in their decision-making. For example, staff submitted a comment to the Department of Veterans Affairs (VA) in response to its request for [comment](#) on its Interim Final Rule titled Authority of VA Professionals to Practice Health Care. The comment supports the Rule, which confirms the VA's current practice of allowing licensed VA health care professionals to deliver health care services in a state other than the health care professional's state of licensure, and also confirms the VA's authority to establish national standards of practice for health care professionals in all VA medical facilities. The comment explained that the COVID-19 public health emergency, for which the VA had to rapidly deploy licensed health care professionals to locations where they may not be licensed, highlighted the need for this regulatory preemption. By improving access to care, avoiding delays in care, and potentially improving outcomes, the Rule benefits veterans, especially those at underserved locations and other locations without sufficient staff to meet veterans' needs.

MAINTAINING AND PROMOTING COMPETITION

The FTC vigorously enforces the antitrust laws in a range of sectors of critical importance to American consumers, including technology, healthcare, energy, consumer goods and services, and manufacturing. In FY 2021, despite the continued effects of a global pandemic, the agency continued its vigorous enforcement, bringing twenty-one competition law enforcement actions, consisting of eighteen merger actions and three conduct actions. Of the agency's eighteen merger enforcement actions, seven proposed acquisitions were abandoned or restructured to address Commission concerns that the original transaction likely would have harmed competition; these results preserved competition in the markets affected, without resource-intensive litigation. In five merger matters, the Commission issued a consent order requiring the companies to divest assets to prevent the merger from leading to harming competition. The FTC also initiated administrative adjudication against six mergers that were likely to harm competition; in all six instances, FTC staff also sought preliminary injunction against the merger in federal court.

In addition to its merger enforcement, the Commission also initiated a federal court action in two conduct matters, and issued a consent order in one matter.

The FTC continued to monitor and enforce compliance with consent orders, as well as with merger and acquisition reporting obligations under the Hart-Scott-Rodino (HSR) Act. This year, the FTC hosted a series of three public question and answer sessions to collect input as staff continue considering changes to the HSR rules, which notably include adjustments to reporting requirements relating to aggregate acquisitions amongst associates, and de minimis filing exemptions for acquisitions of 10 percent or less of an issuer's voting securities. The rulemaking initiative will also gather data related to a variety of potential future changes to the HSR rules.

In FY 2021, amidst the pandemic, the FTC has witnessed the highest volume of HSR notifications since Congress amended the filing thresholds in 2001, stretching staff resources to their limit. In fiscal year 2021, the FTC and DOJ received notice of an astounding 3,520 transactions, representing a 66% increase above the 10-year high. Developed quickly in response to the challenges of remote work, the FTC's electronic HSR filing platform has worked seamlessly, allowing staff to process the record volume of filings; a permanent HSR e-filing solution is in development.

Technology

- **Monopolization in Technology Markets:** In the past two years, the Commission has reinvigorated its focus on increasingly important technology markets, which raise novel antitrust challenges for protecting consumers from anticompetitive mergers and conduct while they continue to benefit from new products and services available on these popular platforms. In December 2020, the Commission authorized staff to file a landmark monopolization case against Facebook in federal court alleging the company has engaged in a systematic strategy, including the acquisition of nascent competitors, to maintain its monopoly, and allowing Facebook to impose anticompetitive terms on software developers. This matter is pending in federal court. After the judge granted Facebook's motion to dismiss the FTC's complaint, the Commission filed an amended complaint in August 2021. In January 2022, the judge denied Facebook's motion to dismiss the amended complaint.

The Commission seeks to prevent monopolistic conduct by the companies who build the systems that make technology widely available. The Commission charged Broadcom with illegal monopolization in markets for semiconductor components, or chips, used to deliver television and broadband internet services. According to the FTC's complaint, through the use of exclusive dealing and related anticompetitive conduct, Broadcom illegally maintained its monopoly power by entering into long-term agreements with both OEMs and service providers that prevented them from purchasing chips for competing firms, requiring customers to purchase, use, or bid Broadcom's chips on an exclusive or near-exclusive basis. The complaint further alleges that Broadcom leveraged its power over the supply of chips to extract from customers' exclusivity and loyalty commitments for five related products. Under the terms of the consent order, Broadcom must stop requiring its customers to exclusively or nearly exclusively source components from Broadcom.

Healthcare and Pharmaceuticals

The healthcare and pharmaceutical sectors were again a priority area for competition enforcement. In general, the FTC works to promote competition in healthcare by eliminating impediments to entry by generic drug producers, stopping illegal conduct by providers of healthcare products and services, preventing anticompetitive mergers in the industry, and using its policy tools to advocate for sound competition policy within the United States and globally where appropriate.

- **Pharmaceutical, Medical Device and Diagnostics Mergers:** During FY 2021, the FTC reviewed numerous proposed and consummated acquisitions in the pharmaceutical and medical device industries and took action to preserve competition that otherwise would have been lost due to these transactions. For example, the Commission issued an administrative complaint challenging Illumina Inc.'s proposed acquisition of Grail, makers of DNA-sequencing-based, non-invasive early detection liquid biopsy test used in screening for multiple types of cancer. According to the complaint, Illumina is the only provider of these multi-cancer

early detection (MCED) testing services in the United States, and the deal would likely diminish innovation in the U.S. market for MCED services, which have the potential to identify up to 50 types of cancer and save millions of lives. This matter is pending in administrative adjudication.

In a second matter, The Commission issued a consent order requiring medical device manufacturers Stryker Corp. and Wright Medical Group to divest all assets related to Stryker's total ankle replacements and finger joint implant products to remedy concerns that their proposed merger would harm competition in the two medical device markets. According to the complaint, the two firms supply products that customers view as close substitutes, driving head-to-head competition that leads to improved product quality, better service, and lower prices.

In a pharmaceutical matter, the Commission issued a consent order requiring Pfizer Inc. and Mylan to divest assets and abide by other conditions to settle FTC charges that the proposed combination of Upjohn Inc. and Mylan N.V. would harm current or future competition in ten generic drug markets. According to the complaint, the proposed combination would harm current competition for seven product markets. The deal would further harm future competition by delaying or eliminating entry in three additional product markets. Under the terms of the order, Pfizer agreed to spin off its Upjohn division, which includes its authorized generic business Greenstone, LLC.

- **Healthcare Mergers:** The FTC continued its enforcement against anticompetitive mergers and acquisitions of healthcare providers. This year, the FTC issued an administrative complaint and authorized staff to seek a preliminary injunction in federal court enjoining Hackensack Meridian Health's proposed acquisition of Englewood Health Foundation. According to the complaint, the deal would eliminate close competition between the health care providers in the Bergen County, NJ area, giving the combined hospital system increased leverage with insurers, leading to higher insurance premiums, co-pays, deductibles, and other out-of-pocket expenses. Following a two-week hearing, the US District Court for the District of New Jersey granted the Commission's request for preliminary injunction in August 2021. In March 2022, the Third Circuit Court of Appeals affirmed the district court decision. This matter is pending in administrative adjudication.

In a second matter, the Commission took action to block two anticompetitive health care services mergers. In November 2020, the Commission issued an administrative complaint challenging Methodist Le Bonheur Healthcare's proposed \$350 million acquisition of two Memphis-area hospitals from Tenet Healthcare Corporation. The Commission's complaint alleged that the transaction would have lessened competition for inpatient general acute care services in the Memphis area by reducing from four to three the number of hospital systems operating in the area, leading to higher prices and reduced quality. Shortly after the FTC issued its complaint, the parties abandoned their proposed transaction.

- **Pharmaceutical Monopolization:** This year, the Commission authorized staff to seek a permanent injunction alleging that a second agreement between Endo Pharmaceuticals and Impax Laboratories violated the antitrust laws by eliminating competition in the market for oxycodone ER. According to the complaint, after withdrawing its reformulated version of Opana ER voluntarily due to FDA safety concerns, Endo entered into an agreement with Impax, the only other authorized seller of the product, thereby eliminating potential competition from a reformulated Endo product, and allowing the firms to share the monopoly profits. This matter is pending in federal court. The FTC previously found that a 2010 agreement between the parties in which Endo paid Impax not to compete by launching a generic version of Opana ER was an illegal reverse-payment settlement. That Commission decision is currently on appeal.

Consumer Goods and Services

The Commission continued to take action to preserve competition in the consumer goods and services sector.

- **Apartment Listing Services:** In November 2020, the Commission issued an administrative complaint, and authorized staff to seek a preliminary injunction in federal court, to block CoStar Group's proposed acquisition of competitor RentPath Holdings. The two firms both operate two-sided online platforms such as Apartments.com (CoStar) or Rent.com (RentPath) for renters to identify available apartments. According to the complaint, the acquisition would significantly increase concentration for internet listing services advertising for large apartment complexes (more than 100 units) in 49 metropolitan areas throughout the United States. After the Commission issued its complaint, the parties announced the abandonment of the proposed merger, and the Commission subsequently dismissed the complaint and withdrew the matter from adjudication.
- **Razors:** In December 2020, abandoned its proposed acquisition of nascent rival Billie, a direct-to-consumer seller of women's shaving and body care products after the Commission issued an administrative complaint seeking to block the transaction. According to the complaint, the acquisition would have allowed Procter & Gamble, the leader in both women's and men's wet shave razors, to eliminate the threat to its business posed by the growing rival firm, and return to its dominant position to the detriment of consumers. Following the abandonment, the Commission dismissed its complaint and withdrew the matter from adjudication.
- **Spirits:** In December 2020, wine and spirits maker E. & J. Gallo Winery agreed to exclude product lines from its asset purchase agreement with competitor Constellation Brands to settle FTC charges that their proposed transaction as originally structured would violate federal antitrust law. According to the complaint, the proposed acquisition would eliminate direct competition between the firms and substantially lessen competition in U.S. markets for six wine and spirits products, including low-priced sparkling wine, brandy, and sherry, as well as entry-level on-premise sparkling wine and high-color concentrates.

Chemicals and Industrial Goods

The FTC continues to devote significant resources to maintain competition in markets for chemicals and industrial goods.

- **Cement:** In May 2021 the Commission issued an administrative complaint challenging Lehigh Cement Company's proposed acquisitions of rival cement producer Keystone Cement Company. The complaint alleged the deal would have harmed competition in the market for gray Portland cement, a key ingredient used to make concrete, in the eastern Pennsylvania and western New Jersey areas by reducing from four to three, the number of significant competitors in the market. Cement markets are generally local or regional due to the substantial transportation costs driven by the extreme weight of the products. The complaint further alleges that the existing competition between the two rival firms has caused aggressive price competition in the market. Shortly after the Commission issued its complaint, the parties announced the abandonment of the deal and the Commission withdrew the matter from adjudication.

Energy

The FTC devotes significant resources to investigating competition issues in energy markets, which are critically important to American consumers. The FTC continues to review proposed acquisitions involving energy products.

- **Retail Gasoline and Diesel Fuel:** In April 2021, the FTC issued a consent order requiring Casey's General Stores, Buck's Intermediate Holdings, and Steven Buchanan to divest retail fuel assets in local gasoline and diesel fuel markets in two states to settle charges that Casey's proposed acquisition would violate federal antitrust law. According to the complaint, the acquisition as proposed would harm competition for the retail sale of gasoline and diesel fuel in seven local markets in Nebraska and Iowa. Under the terms of the

consent order, Casey's is required to divest three Casey's outlets and three Buckey's outlets to Western Oil II, LLC and its affiliate Danco II, LLC.

In another retail fuel matter, in June 2021, the Commission issued a consent order requiring 7-Eleven and Marathon Petroleum to divest hundreds of retail fueling stations in 293 local markets across 20 states to settle FTC charges that 7-Eleven's consummated acquisition of Marathon's Speedway subsidiary violated federal antitrust law. According to the complaint, the acquisition would harm competition in 140 markets for retail gasoline sales, 29 markets for diesel fuel sales, and 124 markets for both gasoline and diesel fuel sales throughout the following states: Arizona, California, Florida, Illinois, Indiana, Kentucky, Massachusetts, Michigan, North Carolina, New Hampshire, Nevada, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Virginia, and West Virginia.

- **Ethanol Market Concentration Report:** In March 2021, as required by the Energy Policy Act of 2005, the Commission issued its 16th annual "Report on Ethanol Market Concentration," addressing the state of ethanol production in the United States.

Competition Advocacy, Reports, Workshops, and Outreach

Providing policymakers with a framework to analyze competition issues is an important component of the FTC's mission to promote competition for the benefit of consumers. Government-imposed impediments can be among the most durable restraints on competition. Therefore, in response to requests, the FTC advises local, state, and federal entities on the potential competitive implications of pending governmental actions that may have a major impact on consumers.

- **Advocacy:** In FY 2021 the FTC filed two amicus brief in federal court and a competition advocacy comment to another federal agency.
 - Staff submitted an amicus brief in *UFCW Local 1500 Welfare Fund, et al. v. AbbVie Inc., et al.*, addressing two legal errors committed by the district court in applying *FTC v. Actavis, Inc.*, 570 U.S. 136 (2013). First, the court seemingly ruled that because the settlements merely allowed "early" competition before AbbVie's patents expired, they did not contain "Actavis-like" reverse payments and were pro-competitive as a matter of law. Second, the court erred to the extent it based dismissal on the public policy favoring settlement.
 - Staff submitted a second amicus brief jointly with the Consumer Financial Protection Bureau in *Bradley Tewinkle v. Capital One, N.A.* arguing that the term "applicant" as used in the Equal Credit Opportunity Act (ECOA), 15 U.S.C. § 1691(a)(1), is best read to refer to existing holders of credit as well as persons who have sought but not yet been granted credit.
 - Staff submitted an advocacy comment to the Department of Veterans Affairs (VA) in response to its request for [comment](#) on its Interim Final Rule titled Authority of VA Professionals to Practice Health Care. The comment supports the Rule, which confirms the VA's current practice of allowing licensed VA health care professionals to deliver health care services in a state other than the health care professional's state of licensure, and also confirms the VA's authority to establish national standards of practice for health care professionals in all VA medical facilities. The comment explained that the COVID-19 public health emergency, for which the VA had to rapidly deploy licensed health care professionals to locations where they may not be licensed, highlighted the need for this regulatory preemption. By improving access to care, avoiding delays in care, and potentially improving outcomes, the Rule benefits veterans, especially those at underserved locations and other locations without sufficient staff to meet veterans' needs.

- **Workshops:** In FY 2021, the Bureau of Economics hosted its Thirteenth Annual Microeconomics Conference. The workshop brought together scholars working in areas related to the FTC’s antitrust, consumer protection, and public policy missions.

International Antitrust

In FY 2021, the FTC continued to develop cooperative relationships with foreign antitrust agencies to ensure close collaboration on cross-border cases and convergence toward sound competition policies. Through our robust international enforcement cooperation program, the FTC cooperates and coordinates with foreign counterparts on matters of common concern. In fiscal year 2021, the FTC cooperated on 33 merger and anti-competitive conduct cases with counterpart agencies from 14 jurisdictions. Many of these matters involved cooperation with several agencies to achieve effective, sound, and consistent outcomes.

- The FTC, along with DOJ’s Antitrust Division, continued to conduct high-level and staff dialogues with key counterparts including with colleagues from the competition authorities of Australia, Brazil, Canada, the European Union, India, Japan, South Korea, Mexico, New Zealand, and the United Kingdom. Notably, the FTC worked with key counterparts to launch the Multilateral Pharmaceutical Merger Task Force, with the goal of updating approaches to analyzing the effects of pharmaceutical mergers. Initiated by the FTC, the [working group](#) includes the Canadian Competition Bureau, the European Commission Directorate General for Competition, the U.K.’s Competition and Markets Authority, the U.S. Department of Justice Antitrust Division, and Offices of several State Attorneys General. The Commission also continued its engagement in multilateral fora, including organizing the ICN’s most significant training event of the year, a virtual workshop series over four weeks for 200 case handlers from over 60 jurisdictions.
- Building on recommendations developed in the report “[The FTC’s Role in a Changing World](#),” the Commission worked to develop advanced cooperation tools and continued and deepened its work with other U.S. government agencies to address competition issues that implicate broader U.S. policy interests in a coordinated and effective manner. For example, the FTC has served as a key U.S. interlocutor in the G7 discussions pertaining to competition and the digital economy and participates in the US-EU Trade and Technology Council, co-leading the parallel competition policy dialogue.

Descriptions





Protecting Consumers

The FTC advances its goal of protecting consumers through five law enforcement areas (Privacy and Identity Protection, Financial Practices, Marketing Practices, Advertising Practices, and Enforcement), as well as through five additional functions (Litigation Technology and Analysis, Consumer Response and Operations, Consumer and Business Education, Economic and Consumer Policy Analysis, and Management). The FTC's eight regional offices also further this goal by bringing a variety of consumer protection cases within the five law enforcement areas and maintaining important contacts with state Attorneys General and other state and local consumer protection officials.

Privacy and Identity Protection

The goal of Privacy and Identity Protection is to protect consumers' privacy and to help consumers prevent, mitigate, and remediate the damage caused by identity theft. This program uses a combination of law enforcement, consumer and business education, and policy initiatives to accomplish this goal.

- Consumer Privacy and Data Security:** Privacy and Identity Protection leads nationwide efforts to protect consumers from unfair, deceptive, or other illegal practices involving the use and protection of consumers' information. Law enforcement under Section 5 of the FTC Act is a central part of this program, including cases in which companies collect, use or share user information in ways inconsistent with user expectations, or fail to take reasonable steps to secure users' data. Another key priority is protecting the privacy of children under age 13 by enforcing the Children's Online Privacy Protection Act, which requires online services that collect personal information from children to provide parents with notice and get their consent prior to collection, minimize data collection and retention, delete kids' data upon request, and limit

Protecting Consumers: Budget by Activity (\$ in thousands)

	Fiscal Year 2022		Fiscal Year 2023	
	FTE	Dollars	FTE	Dollars
Privacy and Identity Protection	61	\$13,408	101	\$24,054
Financial Practices	71	15,632	91	21,581
Marketing Practices	122	27,094	119	28,067
Advertising Practices	59	13,003	78	18,328
Enforcement	54	11,820	63	14,827
Consumer Response and Operations	25	19,085	29	22,861
Litigation Technology and Analysis	37	8,118	45	10,647
Consumer and Business Education	21	7,494	25	8,900
Economic and Consumer Policy Analysis	8	1,692	17	4,078
Management	12	2,625	24	5,589
Subtotal Direct	470	\$119,971	592	\$158,932
Support	142	\$71,490	168	\$91,455
Total	612	\$191,461	760	\$250,387

uses of data. In the area of financial privacy, the FTC enforces rules implementing the privacy provisions and security of the Gramm-Leach-Bliley Act including requirements that financial institutions implement reasonable administrative, technical, and physical safeguards to protect customer records and information. In addition to its enforcement efforts, the FTC issues reports and hosts workshops, such as the annual PrivacyCon, at which new research on privacy and security issues is presented.

- **Accuracy and Privacy of Credit Information:** Privacy and Identity Protection works to ensure the accuracy and privacy of consumer information used to screen applicants for loans, jobs, insurance, and other benefits. Privacy and Identity Protection enforces the Fair Credit Reporting Act (FCRA), which holds credit bureaus and furnishers of information responsible for the accuracy of credit report information, gives consumers the right to check and correct their credit reports, limits how such information may be used, and requires reasonable procedures to ensure that such information is obtained only by entities with a permissible purpose to use it.
- **Identity Theft:** The FTC serves as a centralized repository for consumer complaint, victim assistance, and education services on avoiding and responding to identity theft and is the leading source of this information for consumer assistance and law enforcement training. Consumers can report incidents of identity theft online or by phone, and the complaints are entered into the FTC's Consumer Sentinel Network, which is accessible to domestic and international law enforcement partners. Additionally, the Commission also issues numerous education materials to help consumers protect themselves from identity theft and to deal with its consequences when it does occur. Through the FTC's IdentityTheft.gov website (robodeidentidad.gov in Spanish), the agency provides a free, one-stop resource people can use to report and recover from identity theft that includes specific advice tailored to the types of identity theft the consumer reported.

Financial Practices

Financial services play an important role in the daily lives of virtually all Americans. Financial Practices works to ensure financial services providers give truthful information, gain consumers' consent to charges, and abide by other basic rules, so that consumers can make better-informed decisions and that law-abiding companies operate on a level playing field.

- **Lead Generation and Short-Term Lending:** Financial Practices protects consumers applying for short-term loans, by ensuring that lending companies do not gain an unfair competitive advantage by promising false loan terms and also by taking action against companies that sell consumers' sensitive loan application information (leads) to non-lenders, often without the consumers' knowledge or consent, subjecting them to potential fraud and misuse.
- **Small Business Financing:** Small businesses are a critical part of the economy, and they rely on financing to survive and grow. Financial Practices protects small businesses and their owners from deceptive and unfair practices in the marketing, servicing, and collection of loans and other alternative forms of financing – through both education and enforcement efforts.
- **Motor Vehicle Sales, Financing, and Leasing:** For most consumers, the purchase of a car or truck is their most expensive financial transaction, other than the cost of housing. Financial Practices leads the FTC's efforts to protect consumers from deceptive or unfair practices in auto purchasing, financing, and leasing transactions.
- **Debt Collection:** The Fair Debt Collection Practices Act prohibits deceptive, unfair, and abusive debt collection practices that can harm consumers who are unable to pay their debts due to job loss or other financial problems. Financial Practices uses enforcement and education to protect consumers from such harmful practices. It also conducts public workshops and makes policy recommendations on developments in the debt collection marketplace.

- **Debt Relief and Credit Repair Services:** Financial Practices targets firms that make deceptive offers to assist consumers in reducing or renegotiating their debt, including a mortgage, or repairing their credit. These claims mislead consumers already in financial distress about what services they will provide and how much they charge for them. The scams vary, and include offers to provide mortgage loan modification, foreclosure relief, short sales, mortgage refinancing, loan forgiveness, debt settlement, debt negotiation, and credit counseling. Victims often find themselves in even more dire financial straits than before engaging the services.
- **Student Loans and Education:** Consumers invest substantial time and money in education, often incurring steep debt. Financial Practices leads the FTC’s enforcement efforts against deceptive and unfair practices in the education sector, including by taking action against high school diploma mills that charge consumers for worthless certificates, higher education institutions that deceive consumers about their employment and earnings prospects, and education lead generators that lure consumers into providing their personal information under false pretenses.
- **Emerging Financial Practices:** As new consumer and small business financial products emerge in the non-bank financial marketplace, Financial Practices has been examining these developments, reaching out to stakeholders, gathering information through public dialogue and workshops, and bringing actions emphasizing that companies using new technologies must follow the same basic laws as traditional market participants, including by honoring promises to consumers and gaining consumers’ consent to charges.

Marketing Practices

Marketing Practices fights frauds that target consumers. Its enforcement priorities include scams with high-dollar losses and those that target or disproportionately impact particular segments of the population. Marketing Practices spearheads the FTC’s work to pursue those that violate the Do Not Call and Robocall Rules, and tackles online and high-tech fraud. Marketing Practices also enforces the Commission’s rules that prohibit spam and protect purchasers of franchises and business opportunities, funeral services, and certain products with warranties. By leading the Every Community Initiative and Legal Services Collaboration, Marketing Practices seeks to enhance the FTC’s work to fight fraud that targets or disproportionately affects particular segments of the population, such as lower-income communities, communities of color, older consumers, veterans and active service members, small business owners, rural communities, and others.

- **Fraudulent Schemes:** One focus of the FTC’s fraud program is to stop scams harming people who seek to work independently or generate additional income. Marketing Practices targets fraudulent business opportunity and investment schemes, including coaching and mentoring scams, fraudulent multi-level marketing operations, schemes purporting to teach consumers how to generate income trading in financial markets and investing in real estate, and invention-promotion scams. Marketing Practices also targets “imposter” schemes, where scammers impersonate government agencies or well-known companies to enhance the credibility of otherwise deceptive sales pitches. In addition, Marketing Practices brings actions to stop deceptive prize promotion schemes, grant scams, fake healthcare plans, and sham charitable fundraising. Marketing Practices also coordinates the FTC’s work to reduce fraud through research and analysis into how fraud affects different segments of the population and how the agency can best respond to fight fraud affecting every community. As part of this mission, Marketing Practices leads the coordination of the FTC’s elder justice work.
- **Telemarketing Fraud and Do Not Call:** Marketing Practices enforces the Telemarketing Sales Rule (TSR), including the TSR’s Do Not Call and Robocall Rules, to shut down abusive and deceptive telemarketing schemes. Working closely with state Attorneys General, other federal, state and international law enforcers, as well as private sector partners, Marketing Practices targets areas for law enforcement, organizes enforcement sweeps, and helps publicize consumer and business education to combat telemarketing fraud and violations of the Do Not Call and Robocall Rules. Marketing Practices also has spearheaded innovation

to spur development of technological tools that block unwanted calls and to advance the next generation of Caller ID authentication.

- **Internet Fraud:** Marketing Practices leads the FTC’s law enforcement efforts to prevent and halt online fraud. Recent law enforcement initiatives have focused on “tech support” scammers, who tell consumers that their computers are infected with malware or have performance problems in order to sell them expensive online repair software to remedy the supposed infection or problem when, in reality, there are no problems with the consumers’ computers.
- **Facilitating Fraud:** Marketing Practices targets law enforcement against entities that facilitate fraud, such as Voice over Internet Protocol service providers, “voice blasters,” and lead generators that assist illegal robocallers, as well as payment processors that participate in fraudulent schemes by providing fraudsters with access to the banking or credit card systems, while helping the fraudsters avoid anti-fraud detection systems.
- **Rule Enforcement:** In addition to enforcing the TSR, Marketing Practices enforces the Commission’s Franchise and Business Opportunity Rules, which require specific material disclosures in the marketing and sale of a franchise or a business opportunity. Marketing Practices also enforces the CAN-SPAM Rule, the BOTS Act, and the FTC’s interpretations of the Magnuson-Moss Warranty Act, and coordinates the agency’s enforcement of the Funeral Rule. As an outgrowth of its work under the Magnuson-Moss Warranty Act, Marketing Practices is spearheading the agency’s work addressing repair restrictions imposed by manufacturers and sellers.

Advertising Practices

Advertising Practices enforces the nation’s “truth-in-advertising” laws and, through reports, advocacy, and industry outreach, articulates the FTC’s policies on advertising regulation. Whether ads appear online, on television or radio, or in newspapers, magazines, or social media, these laws require companies to tell the truth and to back up their claims with reliable, objective evidence. Advertising Practices uses a variety of tools to protect consumers from misleading claims, including bringing law enforcement actions in federal and administrative courts, issuing cease and desist demands, providing guidance to industries, and providing consumer and business education. Working to protect consumers’ health, safety, and economic interests, these efforts span a broad range of products and practices.

- **Advertising for Foods, Over-the-Counter Drugs, Dietary Supplements, Medical Devices, and Health-Related Services:** Advertising Practices devotes substantial resources to ensuring the accuracy of health claims in advertising and takes action against companies making deceptive representations. During the Coronavirus pandemic, Advertising Practices has sued marketers for violations of the recently enacted [COVID-19 Consumer Protection Act](#). In addition to traditional law enforcement actions, Advertising Practices works with other federal agencies and partners to combat misleading health claims by sending cease and desist demands targeting not only perennial scams, but also bogus products purported to treat, cure, or prevent COVID-19. Advertising Practices monitors deceptive advertising of addiction-related services, including enforcement of the [Opioid Addiction Recovery Fraud Prevention Act](#). The FTC also creates educational materials to help companies understand claims substantiation requirements and to help consumers spot deceptive claims.

- Online Advertising and Marketing:** Advertising Practices monitors and develops effective enforcement strategies for issues including influencer marketing, online reviews, “native advertising” (the practice of blending advertisements with news, entertainment, and other editorial content in digital media), and other emerging trends in digital advertising. Advertising Practices enforces the basic principles, incorporated in the FTC’s Endorsement Guides, that endorsements must be truthful and not misleading, and that material connections between advertisers and endorsers should be disclosed clearly. Based on the idea that consumers have a right to know when they are receiving a sales pitch, this principle similarly applies to social media marketing (including consumer-generated content), paid search results, and native advertising. The FTC issued an Enforcement Policy Statement on Deceptively Formatted Advertisements, as well as an educational Business Guide on Native Advertising, addressing these issues. Advertising Practices also enforces the [Consumer Review Fairness Act](#), which prohibits provisions in form contracts that restrict a consumer’s ability to post truthful reviews about a seller’s goods, services, or conduct. Advertising Practices engages in significant outreach to educate businesses, especially small businesses, about how to comply with the FTC Act when using endorsers, influencers, and online reviews (such as answering questions sent to Endorsements@FTC.gov).
- Deceptive National Advertising:** Advertising Practices addresses deceptive national advertising practices in a variety of media and marketplaces through law enforcement, staff guidance, and policy work. This work includes cases and cease and desist demands against television and data service providers, online ticket sellers, and online travel sites; guidance to advertisers on making effective disclosures online; overseeing the agency’s approach to broadband claims; and workshops on the ticket resale market and lootboxes in online games.
- Tobacco, E-Cigarette, and Alcohol Advertising:** Advertising Practices leads the FTC’s efforts to stop the deceptive or unfair marketing of tobacco, including e-cigarettes, and alcohol, administers federal laws governing the rotation of health warnings on ads and packaging for cigarettes, and publishes annual reports on cigarette and smokeless tobacco advertising and marketing. The FTC has announced its intention to publish similar reports on e-cigarette advertising and marketing. The FTC coordinates with the Food and Drug Administration (FDA), as the FDA has assumed many tobacco-related responsibilities pursuant to the [Family Smoking Prevention and Tobacco Control Act](#). For example, the FTC and FDA sent joint cease and desist demands to sellers of e-liquids (nicotine-containing liquids used to refill vape pens) that were sold in packages closely resembling candy, cookies, and juice popular with very young children. Advertising Practices also monitors self-regulation of the alcohol advertising industry, and encourages improved standards and compliance.
- Contact Lens and Eyeglass Rule Administration and Enforcement:** Advertising Practices enforces the Contact Lens and Eyeglass Rules, which require that contact lens and eyeglass prescribers (optometrists and ophthalmologists) automatically provide patients with a copy of their prescriptions at the completion of a lens or eyeglass fitting. The Contact Lens Rule also prohibits lens sellers from providing lenses to customers without first verifying prescription information. Advertising Practices has brought a number of cases enforcing the Contact Lens Rule, has sent cease and desist demands to numerous prescribers and sellers

regarding possible Contact Lens Rule or Eyeglass Rule violations, and engages in ongoing business education. In 2020, the agency issued amendments to the Contact Lens Rule, and it has initiated regulatory review of the Eyeglass Rule.

Enforcement

Enforcement litigates civil contempt and civil penalty actions to enforce federal court injunctions and administrative orders in consumer protection cases; coordinates actions with criminal law enforcement agencies through its Criminal Liaison Unit; develops, reviews, and enforces a variety of consumer protection rules and guides; administers the Bureau's green marketing program; coordinates the negative option initiative; and handles bankruptcy and collection matters in consumer protection cases.

- **Order Enforcement:** Enforcement is responsible for ensuring compliance with all administrative and federal court orders entered in FTC consumer protection cases. To carry out this mission, Enforcement actively monitors compliance with consumer protection orders, conducts investigations of possible order violations, litigates civil contempt actions in federal court to enforce injunctions, and initiates court actions to obtain civil penalties for administrative order violations.
- **Criminal Liaison Unit:** The Criminal Liaison Unit (CLU) encourages criminal prosecution of those responsible for consumer fraud by identifying fraudulent activities, bringing them to the attention of criminal law enforcement authorities, and coordinating civil and criminal enforcement actions. CLU works closely with prosecutors, criminal investigative agents, and FTC staff to ensure the smooth progress of parallel prosecutions. In addition to identifying and referring specific fraudulent activity, CLU also educates criminal law enforcement authorities about the FTC and its mission, and provides legal and practical advice to FTC staff.
- **Rules and Guides:** Enforcement develops, reviews, and enforces a variety of consumer protection rules and guides. For example, in the energy arena, Enforcement is responsible for rules requiring the disclosure of operating costs of home appliances (the Appliance Labeling Rule), octane ratings for gasoline (the Fuel Rating Rule), and the efficiency rating of home insulation (the R-Value Rule). Enforcement also has responsibility for rules and guides as diverse as the Mail or Telephone Order Merchandise Rule, which requires companies to ship goods when promised; the Textile, Wool, Fur, and Care Labeling Rules, which require proper origin and fiber content labeling of textile, wool, and fur products, and care instructions; and the Jewelry Guides, which provide guidance on the marketing of precious metals, gemstones, and pearls.
- **Green Marketing:** The FTC's Green Marketing program focuses on advertising claims that tout the environmental benefits of products and services. Enforcement administers the program by developing the Commission's Environmental Marketing Guides, litigating enforcement actions, and conducting consumer research and other studies to better understand the marketplace.
- **Negative Option Marketing:** Enforcement coordinates the Negative Option Marketing initiative that addresses deceptive practices in the use of negative option offers (i.e., any offer in which a seller interprets consumers' silence, failure to take an affirmative action to reject goods or services, or failure to cancel a sales agreement as acceptance of an offer). To accomplish this mission, Enforcement litigates civil actions against marketers that deceive consumers; hosts workshops with industry representatives, consumer groups, and members of the academic community; and issues reports that discuss marketing trends and provide guidance to industry.
- **Made-in-the USA (MUSA):** The Enforcement Division runs the Commission's MUSA program, bringing law enforcement actions against those who deceptively make country of origin claims; drafting rules to address MUSA claims; and counseling companies to ensure consumers receive accurate, truthful information
- **Bankruptcy:** Enforcement's bankruptcy/commercial law attorneys represent the Commission in federal bankruptcy court and advise staff generally on a host of bankruptcy and commercial law issues. The

bankruptcy group preserves and enforces the Commission's claims for monetary relief, ensures that defendants do not use bankruptcy as a haven from law enforcement actions, and counsels staff on a wide variety of bankruptcy and commercial law issues related to monetary relief.

- **Collections:** Enforcement conducts investigations, attaches assets, and litigates contempt actions in order to collect outstanding monetary judgments obtained by the Bureau of Consumer Protection. Additionally, Enforcement coordinates collection activities with the Department of the Treasury.

Litigation Technology and Analysis

Litigation Technology and Analysis plays a central role in BCP's investigation and litigation of consumer protection matters, including working with attorneys to assess litigation support needs, managing the technological tools used to conduct investigations and litigation, and evaluating and implementing emerging technologies. In an age of increasingly complex technology, staff needs access to the best tools available in order to investigate targets and marshal evidence. Litigation Technology and Analysis is responsible for various efforts and activities, including:

- **Digital Forensic Unit:** The Digital Forensic Unit conducts forensic examinations of digital media to identify, collect, analyze, and preserve electronically stored information for use in court.
- **E-Discovery Unit:** The E-Discovery Unit uses technological tools to process, organize, manage, and produce electronically stored information.
- **Forensic Accounting:** Forensic accountants analyze financial information to help locate assets and maximize the amount of money that can be recovered and returned to consumer victims.
- **Honors Paralegal Program:** Honors paralegals provide a wide range of assistance to BCP on investigations, litigation, and policy initiatives.
- **Tech Lab:** The Tech Lab provides BCP staff innovative tools to investigate targets, detect unfair or deceptive activity, capture evidence, and conduct research. The Lab's stand-alone network is designed to allow BCP staff to replicate consumers' experiences with desktop, mobile, and other devices.
- **Office of Technology Research and Investigation:** This Office conducts independent studies and investigations, identifies the consumer protection issues associated with new technologies, and provides technical expertise and training to BCP staff.
- **Technology Planning:** The Division's staff analyzes and anticipates BCP's technological needs in fulfilling its consumer protection mission.

Consumer Response and Operations

Consumer Response and Operations hears directly from consumers across the country and analyzes information to assist in targeting law enforcement and educational efforts, measures the impact of mission activities, returns money to consumers obtained as a result of FTC lawsuits, and identifies needs and allocates resources within BCP.

- **Consumer Response Center:** The Consumer Response Center responds to consumer complaints and inquiries received by the toll-free consumer complaint lines, 877-FTC-HELP and 877-ID-THEFT, the FTC's Internet complaint forms at www.ftc.gov/complaint, and postal mail. Information from complaints is entered into the FTC's Consumer Sentinel Network and used to target law enforcement and consumer and business education activities.
- **Consumer Sentinel Network:** The Consumer Sentinel Network is the FTC's secure website that provides approximately 2,800 law enforcement users worldwide with access to more than 50 million consumer fraud, identity theft, financial, and Do Not Call Registry reports largely collected during the past five years.

Every year the FTC publishes a report of the top consumer complaints received, including a break out of complaint data on a state-by-state basis.

- **National Do Not Call Registry:** The National Do Not Call Registry is the mechanism through which consumers can elect to avoid receiving telephone solicitations from telemarketers. Telemarketers are required to remove any telephone numbers included in the registry from their calling lists. The registry currently has over 244 million active telephone number registrations.
- **Data Analysis Team:** The Data Analysis Team performs analytical research, provides data to the public on interactive dashboards, and creates reports about trends in consumer protection complaints. The Data Analysis Team also provides analytical support to the Bureau's law enforcement efforts through collecting, refining, and analyzing data in support of litigation and investigative efforts.
- **Office of Claims and Refunds:** The Office of Claims and Refunds (OCR) is responsible every year for distributing millions of dollars of refunds obtained as a result of FTC lawsuits. For example, from January 2021 through December 2021, the FTC's law enforcement actions resulted in more than \$472 million in refunds to defrauded consumers, including \$403 million mailed directly by the FTC to 3.5 million people.
- **Operations:** Operations manages budget and performance measurements, including strategic planning for the Bureau; oversees and supports procurement efforts on behalf of the Bureau; monitors and reports on human capital management to the Director's Office; and works closely with the other Bureau divisions and regions to ensure administrative and resource needs are met.

Consumer and Business Education

Consumer and Business Education runs creative national campaigns to educate consumers about their rights and businesses about their responsibilities. It applies skill in communications, design, and building partnerships to help prevent and solve consumer protection problems.

- **Outreach to Consumers and Businesses:** Consumer and Business Education creates print and online consumer and business education material in partnership with other divisions in the Bureau of Consumer Protection and participates in hundreds of outreach events including webinars, trainings, and presentations. It publishes hundreds of blog posts in English and Spanish and sends regular email alerts to over 511,000 subscribers. Consumer and Business Education manages the FTC's bulk publication ordering website (ftc.gov/bulkorder), through which an average of 10,464 organizations a year, including police, libraries, schools, banks and congressional offices, order free material to distribute in their communities. In FY 2021, which included the pandemic, the FTC distributed over 6.1 million pieces of consumer and business education through the bulkorder site. (In a more normal year, for example FY 2019, the number distributed was 13.7 million pieces.) On a regular basis, DCBE conducts national and local outreach with partners to reach a variety of audiences, including older adults, ethnic media, housing organizations, and re-entry groups by using webinars, tele-town halls, Twitter chats, Facebook Live events, as well as interviews with local and national media.
- **COVID-19:** Consumer and Business Education developed a multi-media campaign, complete with a dedicated website about scams associated with the COVID-19 pandemic (ftc.gov/coronavirus and ftc.gov/coronavirus/scams). The site contains a library of more than 180 consumer and business blog posts and scam alerts on topics ranging from relief checks and treatment claims to charity fraud, government impersonator scams, and misinformation and rumors. The site also houses social media shareables, infographics, and materials in other languages; it served as a hub of resources and helpful information that DCBE and other Bureau staff promoted in their frequent outreach to consumers and small businesses through and with federal and state agencies, national and local non-profit organizations, legal services, consumer advocates, and ethnic, local, and national media.

Aided by the American Rescue Plan funds, the FTC has increased its outreach to historically underserved communities, which have been targeted by COVID-19 scams. The FTC has actively engaged with ethnic and community media journalists nationwide to learn about issues affecting these communities. The agency is currently placing multilingual anti-fraud messaging into targeted print and radio markets. This messaging will reach Asian-American, Black, Latino, and Tribal communities on topics that include scams related to COVID-19 and other topics.

The FTC also has used new methods to reach people in economically and geographically diverse communities. For example, the FTC conducted national radio media tours with the National Association of Attorneys General (NAAG) focused on scams related to vaccine passports and certificates, travel, vaccine lotteries and giveaways, and other topics. Segments of the recorded interview were heard more than 7.6 million times over a seven-week period. Similarly, in November 2021, the FTC and NAAG partnered on a national radio tour that focused on consumer finances and resiliency — segments of which were heard more than 9 million times over five weeks.

- **IdentityTheft.gov:** The Divisions of Consumer and Business Education and Consumer Response and Operations continue to operate IdentityTheft.gov (robodeidentidad.gov), an innovative website where people who have experienced identity theft can report identity theft and get personal recovery plans. The mobile- and tablet-accessible site also produces Identity Theft Reports that people can use in place of police reports in most cases to help restore their credit to its pre-crime status. The site also lets consumers report tax-related identity theft to the IRS. IdentityTheft.gov is integrated with the Consumer Sentinel Network so that consumers' identity theft reports become available to law enforcement agencies nationwide. Since the launch of the site in January 2016 through FY 2021, people submitted more than 3.8 million identity theft reports through IdentityTheft.gov. In FY 2021, Consumer and Business Education distributed more than 1.3 million print publications related to identity theft (in FY 2019, the number distributed reached more than 3.46 million). Outreach to Military Servicemembers: Consumer and Business Education developed and currently manages the Military Consumer campaign together with the U.S. Department of Defense's (DoD's) Office of Financial Readiness and the Consumer Financial Protection Bureau, among other partners. The campaign addresses unique challenges of military life that often make military personnel and families targets for scammers. Service members and their families, along with the DoD's Personal Financial Managers who serve them, use the campaign website (MilitaryConsumer.gov) as a tool for financial readiness.
- **Kids' Online Safety and Cyberbullying:** Consumer and Business Education continues to distribute "Net Cetera" and "Heads Up" (ftc.gov/netcetera) to teach kids and parents about staying safe online. Consumer and Business Education has distributed more than 20 million free copies of these two guides to groups including schools, school districts, law enforcement, libraries and other community organizations nationwide.
- **Pass It On:** The Pass It On campaign (ftc.gov/PassItOn and ftc.gov/Pasalo in Spanish), tailored to active older adults (65+), is a research-based campaign to share information about fraud and encourage readers to share the information with a friend. The campaign includes engaging videos and a collection of print and online material in English and Spanish about topics that include identity theft and imposter scams. These materials build on and refresh the readers' knowledge by briefly summarizing how a scam works and gives action steps to take in response. More than 15 million pieces of Pass It On educational material have been distributed since the campaign launched through FY 2021.
- **Data Security:** The FTC continued its successful efforts to educate businesses and consumers alike about privacy and data security, distributing more than 2.9 million copies of educational materials to help them address ongoing issues. Our popular "Start with Security" business outreach campaign (ftc.gov/StartWithSecurity) continues with its suite of free publications (including guides and videos) that help

businesses protect personal information, learn steps to take if a data breach occurs, and help customers avoid identity theft. These materials are available in English and Spanish.

- **Business Education:** Consumer and Business Education manages the FTC’s online business education website (business.ftc.gov), and publishes hundreds of blog posts annually for business people from business small and large, attorneys, and other professionals. Consumer and Business Education issued new or significantly revised business guidance on the Internet of Things, the Consumer Review Fairness Act, data security and cybersecurity, and the Fair Credit Reporting Act.
- **Small Business:** Consumer and Business Education continues its focus on educating small business, in part through blog posts on small business financing, data security, scams and deceptive practices targeting small business, and general business guidance. Ongoing relationships with federal agencies such as the Small Business Administration (SBA) and the Federal Deposit Insurance Corporation (FDIC) present opportunities to speak to the public about protecting small business owners, including veteran-owned businesses, from fraud and to share free resources to help businesses with cybersecurity. Consumer and Business Education also collaborated with SBA’s District offices in Maine and Rhode Island to offer webinars for small business owners in those states about cybersecurity, advertising law principals, and identity theft, in addition to a webinar in Spanish on scams that target small business. Consumer and Business Education also continues growing partnerships with Small Business Development Centers (SBDCs) across the nation, such as the Women’s Business Development Center of Virginia and others through America’s SBDCs network. Ongoing outreach and education efforts also continue through the Better Business Bureau (BBB) and its network.
- **Partnerships with Law Enforcement:** Consumer and Business Education establishes partnerships with attorneys general, law enforcement, and consumer protection advocates who share FTC information with their constituents and communities. Consumer and Business Education also manages National Consumer Protection Week, an annual collaboration with local, state, and national groups that highlights consumer education and fraud prevention. Campaign partners include consumer protection, law enforcement, regulatory, aging, non-profit, and education groups nationwide.

Economic and Consumer Policy Analysis

Staff conducts economic and consumer policy analysis to provide the Commission and other policy makers with information to assess and formulate consumer protection policy. In addition to evaluating the likely economic effects of Commission law enforcement actions and contributing economic and statistical analysis to the development of enforcement cases, this work includes economic research and advocacy activities that foster understanding of consumer good markets and consumer protection policy choices. They also work to ensure that consumer interests are represented before various governmental and self-regulatory bodies dealing with consumer-related issues.

- **Consumer Research and Data Development:** To advance the development of sound policy, economic and consumer policy analysis supports data and research projects analyzing how marketing claims and policies affect consumers’ and firms’ decisions. Past studies examined the effects of different types of disclosures on consumer understanding of “recycled content” and “organic” claims for non-food products and the likely effects on consumer choice of “resort fee” pricing in the hotel industry.
- **Economic Studies of Markets for Consumer Goods and Services:** Economic and consumer policy analysis supports targeted economic studies of issues in consumer goods markets that are important to improving our understanding of key consumer protection issues. Recent examples include studies of credit reporting accuracy, consumer auto buying experiences, class-action notification practices, and consumer complaints among different demographic groups. The program also supports consumer surveys, such as those

measuring consumer susceptibility to fraud, and workshops with outside experts in relevant areas, such as research roundtables on individualized pricing, privacy and data security, and the sharing economy.

- **Economic Support of Consumer Protection Advocacy:** Bureau of Economics staff also provides input for comments to other federal agencies on issues related to consumer protection goals. In the past, they have supported the development of comments to the FDA on food labels and direct-to-consumer prescription drug advertising. More recently, comments included those sent to the FDA on homeopathy, to the Federal Reserve Board on rules and regulations regarding subprime loans, and to the Consumer Financial Protection Bureau and the Department of Housing and Urban Development on various changes in mortgage disclosure documents.

Other Direct Functions

Several other functions within the Consumer Protection Mission directly support our primary law enforcement work, including:

- **Employee Development and Training:** Through its Employee Development and Training Program, the FTC ensures that staff receives the training necessary to perform their jobs. BCP provides training through ongoing seminars, “brown bags,” and lectures on topics such as administrative litigation, tolling agreements, managing investigations efficiently, judgment collection, PayPal, robocalls, and advanced Relativity training. BCP also sponsors periodic seminars for investigators, and provides technical trainings throughout the year. In addition, BCP offers a mentoring program to staff. Staff also participates in the FTC Agency-Wide Diversity Council.
- **Recruiting:** The Bureau of Consumer Protection, in coordination with the Human Capital Management Office, conducts outreach to dozens of law schools and attends several recruiting events to select summer legal interns. Some of these interns receive offers of permanent employment as entry-level attorneys. In addition, the Bureau recruits lateral attorneys and other staff as needs arise.
- **Administrative Support:** Staff in the Director’s office provide support to senior Bureau management to ensure all administrative needs are met, such as arranging travel, tracking the Bureau’s accomplishments, scheduling internal and external meetings, maintaining a log of current cases, and interacting with callers and visitors.



Promoting Competition

The FTC promotes competition through five primary law enforcement activities (Premerger Notification, Merger and Joint Venture Enforcement, Merger and Joint Venture Compliance, Nonmerger Enforcement, and Nonmerger Compliance) supported by Antitrust Policy Analysis and other direct functions.

Premerger Notification

Mergers that substantially reduce competition can raise costs, reduce output, reduce wages, inhibit innovation, lead to diminished product quality, and restrict consumer choice. The Premerger Notification Program, codified in the Hart-Scott-Rodino (HSR) Act, is the FTC's primary means of identifying potentially anticompetitive deals. Under the Act, entities meeting certain thresholds must file notifications with the FTC and the Department of Justice and wait a prescribed period before consummating their transactions. This waiting period provides the antitrust enforcement agencies an opportunity to prevent potentially anticompetitive mergers before they occur. In addition, the FTC reviews news publications, industry research, and customer complaints to identify potentially harmful mergers not subject to the HSR reporting requirements. To distinguish between mergers that threaten competitive markets and those likely to promote competition or be competitively neutral, the FTC conducts thorough investigations that incorporate detailed economic analysis to assess the likely effects on competition.

The FTC's Premerger Notification Program supports effective and efficient competition enforcement by:

- **Facilitating Compliance with HSR Requirements:** The FTC's Premerger Notification Office (PNO) provides information and guidance to ensure that parties to transactions understand when a filing is required and what information they must supply under the HSR Act.
- **Providing Initial HSR Review:** Mergers reported under the HSR Act vary tremendously in their complexity and potential for anticompetitive effects. In the majority of cases, the agency can make a reasonable judgment within a few days about whether a merger is potentially anticompetitive based on information

Promoting Competition: Budget by Activity (\$ in thousands)

	Fiscal Year 2022		Fiscal Year 2023	
	FTE	Dollars	FTE	Dollars
Premerger Notification	18	\$4,549	22	\$6,496
Merger and Joint Venture Enforcement	202	48,909	263	72,178
Merger and Joint Venture Compliance	11	2,753	13	3,841
Nonmerger Enforcement	127	31,147	166	46,811
Nonmerger Compliance	1	255	3	905
Antitrust Policy Analysis	26	6,070	38	10,160
Other Direct	20	4,905	25	7,111
Subtotal	405	\$98,588	530	\$147,502
Support	123	\$60,951	150	\$92,111
Total	528	\$159,539	680	\$239,613

provided in the HSR filing. To identify potentially anticompetitive transactions, the PNO prepares a summary description and a preliminary antitrust analysis of reported transactions. These summaries are then reviewed by the Bureau of Competition's litigation divisions, the Bureau of Economics, and the Merger Screening Committee, which includes participants from both Bureaus and convenes regularly to consider which matters require further action.

- **Coordinating with the Antitrust Division of the Department of Justice:** The PNO administers the HSR Program for the FTC and the Antitrust Division of the Department of Justice (the Antitrust Division), which share authority to challenge anticompetitive mergers. The PNO shares transaction information and works with the Antitrust Division to ensure that the two agencies consistently and uniformly apply Premerger Notification Rules. The agencies use a "clearance" process to ensure that only one agency initiates an investigation and, if necessary, challenges any given transaction. Assignment to one agency or the other takes place after preliminary review of a transaction, based primarily on each agency's relative expertise in the markets relevant to the proposed transaction.
- **Balancing Efficacy of Investigations and the Burden on Business:** The Premerger Notification Program strives to balance comprehensive investigations with being cognizant of not unduly burdening filing parties while fulfilling the competition enforcement responsibilities of the FTC and the Antitrust Division. To that end, the FTC periodically develops and recommends improvements to HSR rules and procedures and develops and implements improvements where appropriate.

Merger and Joint Venture Enforcement

As noted above, anticompetitive mergers or joint ventures can harm consumers significantly by raising prices, reducing output, reducing product quality, restricting consumer choice, or inhibiting innovation. The Merger and Joint Venture Enforcement Program seeks to prevent these effects in any market in which the FTC has reason to believe a merger is likely to substantially lessen competition, particularly in sectors of the economy that are important to consumers such as technology, health care (including pharmaceuticals), energy, and retail goods and services.

Effective merger enforcement requires the Commission to identify anticompetitive transactions and obtain appropriate relief to maintain competition in the market. To identify whether a merger is anticompetitive, staff must determine whether the merger may 1) create or enhance the ability of the remaining firms to raise prices, reduce output, diminish innovation, or otherwise harm customers, or 2) increase barriers to entry or expansion.

The FTC uses a three-tiered approach to merger enforcement:

- **Identify Potentially Anticompetitive Mergers:** As described above, a Merger Screening Committee—a committee that includes participants from both the Bureaus of Competition and Economics—convenes regularly to consider which matters require further action.
- **Prevent Anticompetitive Mergers:** The most effective and cost-efficient strategy for protecting consumers from acquisitions that may substantially lessen competition is to prevent the harm from occurring. Often, the FTC is able to preserve competition through negotiated settlements resulting in a consent order, or through the parties' voluntary restructuring or abandonment of a transaction. Where these methods are inappropriate or unavailable, the FTC uses its authority under Section 13(b) of the Federal Trade Commission Act to enjoin anticompetitive mergers pending an adjudicative proceeding. Likewise, when the Commission identifies likely anticompetitive consummated mergers, it initiates an administrative proceeding to adjudicate the violation of law and restore competition. Whether achieved by consent or in an administrative proceeding, the most common remedy for a merger involving horizontal competitors is divestiture of the assets necessary to preserve or restore competition; in other instances, such as mergers involving vertically related firms, the FTC may also use behavioral remedies to prevent competitive harm.

- **Educate Public About Anticompetitive Transactions:** To enhance the FTC’s ability to deter future anti-competitive mergers and acquisitions, the agency strives to increase public awareness of the benefits of competition and the factors the FTC considers as it determines whether to take law enforcement action. To this end, the Commission promotes transparency by releasing guidelines and policy statements, and making public facts underlying enforcement actions to provide companies with the information needed to evaluate the likelihood that similar transactions may also violate the law. In specific matters, the agency may also issue public statements, including analyses to aid public comment, complaints, and closing statements, to explain the disposition of the case.

Merger and Joint Venture Compliance

The Merger and Joint Venture Compliance program is responsible for the design and implementation of Commission merger consent orders and for monitoring compliance with order provisions. Staff also monitor and take action to address violations of HSR filing requirements.

- **Implementation of Agreements and Orders:** Merger compliance staff work with enforcement staff, the merging parties, and buyers to monitor the faithful and timely implementation of merger order provisions and ensure that they are sufficient to retain or restore competition in the relevant markets. When the divestiture of assets is delayed, the competitive viability of the assets may decline. To avoid delay, the FTC typically seeks to identify an “up-front” buyer or incorporates order provisions that limit the time within which divestiture must be completed.
- **Monitor Compliance:** Merger compliance staff closely monitor compliance with order provisions and, where necessary, recommend that fallback order provisions be invoked, such as trustee-managed divestiture or the divestiture of larger asset packages. Where violations of order provisions occur, staff may recommend civil penalty actions. Civil penalty actions entail investigation and, where necessary, federal court litigation. In addition to structural remedies, staff also monitor compliance with behavioral order provisions such as bans on the dissemination of competitively sensitive information or requirements to seek approval for, or give notice before, completing specified future mergers or acquisitions.
- **Review Petitions to Modify Orders:** From time to time, parties under order submit petitions seeking modification or termination of all or part of their orders, often due to new market dynamics or other changes in circumstances. The FTC’s merger compliance staff reviews these petitions to assess their impact on competition and makes recommendations for Commission action accordingly.
- **HSR Act Compliance:** Merger compliance staff also investigate and take action where firms have failed to meet their filing obligations under the HSR Act. In instances where a violation has occurred, staff may recommend civil penalty action, which must be filed in federal court.

Nonmerger Enforcement

Antitrust enforcement supports free and open markets by preventing business practices that restrain competition or foreclose entry by new competitors. To this end, the Commission investigates business practices that may make it more difficult for other firms to enter the market or that enable existing competitors to collude.

The FTC challenges a wide variety of business practices that may harm consumers by allowing firms to raise prices beyond competitive levels, or to reduce output, quality, innovation, or consumer choice. These anticompetitive practices generally fall into three broad categories: horizontal restraints, distributional restraints, and unilateral conduct. Identifying and proving these types of violations requires legal and economic analysis and thorough investigation to distinguish between conduct that may threaten the operation of open and competitive markets and conduct that promotes competition or otherwise benefits consumers.

- **Horizontal Restraints:** The horizontal restraints component of nonmerger enforcement looks at anti-competitive agreements between competitors. While some agreements among competitors can be

procompetitive, under certain market conditions, horizontal agreements can restrain competition that otherwise benefits consumers, without a legitimate business justification. For example, horizontal restraints, such as price-fixing, bid-rigging, or market allocation, can harm consumers by raising prices or by reducing the quantity and quality of goods and services offered in a particular market. The mission of this program is to deter, detect, investigate, and remedy anticompetitive collusion or its facilitation.

- **Distributional Restraints:** Restraints on the distribution of goods from manufacturers to consumers can facilitate horizontal collusion, or restrict channels of distribution in ways that allow a firm with market power to exclude new competitors, leading to higher prices, reduced quality, or fewer choices. Under certain circumstances, potentially unlawful distributional restraints may include agreements restricting prices or other terms of resale, or agreements restricting the sale or purchase and distribution of goods from firms other than the parties to the agreement.
- **Single-Firm Violations:** A firm with market power is prohibited from using anticompetitive tactics to exclude new competitors that could challenge its monopoly and provide beneficial competition. While neither the possession of market power nor the attempt to achieve it through vigorous or aggressive competition violate the antitrust laws, obtaining, increasing, or maintaining market power by unreasonably exclusionary means is unlawful. The Commission's enforcement efforts challenging single-firm violations aim to prevent or remedy instances in which firms unlawfully gain or maintain appreciable market power through anticompetitive conduct or unfair methods of competition.
- **Educate Public about Anticompetitive Conduct:** The FTC primarily uses its law enforcement tools to deter anticompetitive conduct and encourage voluntary compliance with the antitrust laws. However, the Commission also releases guidelines and policy statements, and makes public facts underlying enforcement actions to provide companies with the information needed to evaluate the likelihood that similar conduct may also violate the law. In specific matters, the agency may also issue public statements, including analyses to aid public comment, complaints, and closing statements, to explain the disposition of the case. The agency also provides comments to federal, state, and local government agencies, as well as amicus curiae briefs, advisory opinions, and legal and economic analyses to help inform others about emerging issues relating to anticompetitive conduct.

Nonmerger Compliance

As in its Merger Enforcement Program, the Commission obtains orders in its Nonmerger Enforcement Program to stop harmful conduct and prevent its recurrence. Crafting appropriate orders and monitoring adherence to order terms requires close consultation between enforcement and compliance staff. When appropriate, the Commission may also obtain equitable monetary remedies in federal court, such as disgorgement of ill-gotten gains, in order to deprive wrongdoers from capitalizing on illegal conduct.

- **Implementation of Agreements and Orders:** Nonmerger compliance staff work with enforcement staff and the parties monitor the faithful and timely implementation of order provisions and ensure that they are sufficient to deter anticompetitive conduct while permitting procompetitive conduct to continue.
- **Monitor Compliance:** To monitor compliance, staff review periodic compliance reports required by the orders, conduct follow-up interviews with the reporting parties, monitor relevant media, maintain contacts with the original complainants and other industry participants, and conduct investigations of suspected order violations as needed. Where violations of order provisions occur, staff may recommend civil penalty actions. Civil penalty actions entail investigation and, where necessary, federal court litigation.
- **Review Petitions to Modify Orders:** From time to time, parties under order submit petitions seeking modification or termination of all or part of their orders, often due to new market dynamics or other changes in circumstances. The FTC's nonmerger compliance staff reviews these petitions to assess whether the

original order continues to serve the public interest and makes recommendations for Commission action accordingly.

Antitrust Policy Analysis

Staff conducts antitrust policy analysis to provide the Commission and other policymakers with information to assess and formulate competition policy. Antitrust policy analysis includes the design and completion of economic, industry, or other research that improves the agency's understanding of markets and enables the FTC to identify markets and circumstances in which law enforcement actions would make the greatest impact. Among the types of activities supported are:

- **Economic and Qualitative Studies of Competition in Markets:** The FTC conducts empirical studies, engages in research, and holds workshops and other public events to help the agency better understand how competition benefits consumers in different markets and contexts. These activities also enable the FTC to bring together industry, economic, and legal experts to assess competition policy challenges in specific sectors of the economy.
- **Reports and Policy Papers:** The FTC issues reports and policy papers discussing the application of antitrust principles to various markets of great importance to consumers, such as technology, health care, energy, and retail goods and services.
- **Competition Advocacy:** To promote sound competition policy and share the agency's significant expertise in competition analysis, the FTC staff often responds to invitations to comment on the competitive effect of proposed laws, rules, or regulations before federal, state, or local governments, as well as self-regulatory bodies.

Other Direct Functions

Several other functions within the Competition Mission directly support our primary law enforcement and competition policy work, including:

- **Recruiting:** The Bureau of Competition, in cooperation with the Human Capital Management Office, the Equal Employment Opportunity and Workplace Inclusion Office, and other offices in the FTC, conducts interviews at numerous law schools and legal recruiting fairs each year to identify and select entry-level attorneys and legal interns. The Bureau also recruits lateral attorneys and other staff members as needs arise.
- **Employee Development and Training:** Through its Employee Development and Training Program, the FTC ensures that attorneys and support personnel receive the training necessary to do their jobs. Hallmarks of the training program are the Bureau of Competition Training Council's seminar series, the summer program for law student interns, and the Bureau of Competition Mentoring Program. Staff also participates in the FTC Agency-Wide Diversity Council.
- **Investigation, Litigation Support, and Electronic Filing:** Investigation and Litigation Support staff are responsible for processing and loading all document productions received during the course of investigations and litigation. This group develops standards for documentary productions and data submissions and uses appropriate technological solutions to ensure Commission staff have timely access to this information.

In FY 2020, due to the COVID-19 pandemic, the Premerger Notification Office suspended all hard-copy and DVD filing submission and implemented a temporary e-filing system for use by the FTC and DOJ to accept HSR filings. Electronic filing improves processing time, minimizes data entry, and reduces costs for both the enforcement agencies and filing parties. This temporary e-filing system will remain in use while the PNO works to develop a permanent, cloud-based e-filing solution.

- **Information Systems Management:** The Bureau of Competition's Information Systems Management staff manages the records systems necessary to report on the work of the Promoting Competition Mission. It

also coordinates activities with the FTC's Office of the Chief Information Officer, including the development of intranet resources for staff.

- **Liaison with State Officials:** FTC staff and management coordinate antitrust activities and enforcement with state Attorneys General, including training, consultations, and joint investigations of potentially anticompetitive mergers and business practices, to the extent allowed by applicable laws.

Support

Support consists of management and support activities within the FTC to foster and help achieve the agency’s goals of Protecting Consumers and Promoting Competition.

Commissioners

The Commissioners are responsible for ensuring the effective and efficient execution of the FTC’s Congressionally mandated mission. They formulate Commission policy, which guides and directs the staff’s work; authorize enforcement actions; and allocate the required resources. They also monitor the FTC’s progress in accomplishing stated goals.

Office of Policy Planning

The Office of Policy Planning (OPP) conducts research, develops policy recommendations, and generates written comments and reports on a variety of competition and consumer protection issues. OPP staff research and analyze emerging issues relating to competition in a variety of industries, including issues at the intersection of competition and intellectual property, in order to enrich the Commission’s expertise and inform enforcement decisions involving novel or complex legal issues. OPP staff frequently work directly with case teams on enforcement matters. OPP advocates for robust competition and consumer protection policies in a variety of federal and state venues by analyzing the competitive ramifications of certain legislative, regulatory, and other policy approaches, making recommendations on how certain policy choices may enhance or impede competition, gathering evidence to identify competitive problems and evaluate how best to address emerging

Support: Budget by Activity (\$ in thousands)

	Fiscal Year 2022		Fiscal Year 2023	
	FTE	Dollars	FTE	Dollars
Commissioners	37	\$7,524	47	\$10,209
Office of the General Counsel	50	10,606	60	13,438
Office of the Secretary	10	1,954	13	2,747
Office of Administrative Law Judges	5	1,000	9	1,963
Office of the Executive Director	133	104,167	150	145,640
Office of Congressional Relations	6	1,154	8	1,675
Office of Public Affairs	11	2,914	13	3,492
Office of Inspector General	7	1,862	9	2,394
Office of Equal Employment Opportunity	3	666	5	1,154
Office of the Chief Privacy Officer	3	594	4	854
Total Support	265	\$132,441	318	\$183,566
Allocation of Support:				
Protecting Consumers	142	\$71,490	168	\$91,455
Promoting Competition	123	\$60,951	150	\$92,111
Total Support	265	\$132,441	318	\$183,566

competitive issues, and providing legal and economic analysis upon request. Where appropriate, OPP staff coordinates the FTC's advocacy role with other governmental entities.

OPP staff frequently obtains public input from businesses, consumer groups, academics, and other outside sources through a variety of informal and formal means, including discussions with stakeholders, public hearings, fact-gathering workshops, roundtable policy discussions, and studies conducted pursuant to the FTC's Section 6(b) authority.

Office of General Counsel

The General Counsel is the Commission's chief legal officer and adviser. The Office's major functions are representing the Commission in court regarding certain matters and providing legal counsel and policy advice to the Commission, the operating Bureaus, and other Offices.

- **Litigation:** In its litigating capacity, the Office of General Counsel (OGC) provides fundamental support to both missions of the agency. OGC defends actions seeking judicial review of Commission orders and trade regulation rules, handles both offensive and defensive appeals of Commission actions seeking preliminary and permanent injunctive relief, prepares pleadings in appellate matters in which the agency is appearing as an amicus, defends the agency in lawsuits and counterclaims brought in district court (including Freedom of Information Act litigation), works with the Department of Justice ("DOJ") Antitrust Division on joint matters, and works with the Office of the Solicitor General on cases in which the agency has an interest.

OGC also counsels staff on the conduct of law enforcement investigations, enforces civil investigative demands and other compulsory processes, advises staff on issues relating to the discovery of electronically stored information, and frequently assists staff in responding to discovery requests directed to the FTC or its staff. It assists DOJ in defending cases brought to enjoin or otherwise challenge agency action, or to obtain monetary damages against the FTC or its personnel. OGC also furnishes advice and assistance concerning other litigation activities.

- **Legal Counsel:** In its counseling capacity, OGC provides confidential legal guidance to the Commission on a wide range of procedural and substantive issues in adjudicative matters, working to ensure that the agency's adjudicatory process is efficient and fair. It also advises the Commission and staff on legal and policy issues, such as agency jurisdiction, statutory authority, administrative procedure, professional responsibility, and other matters relating directly to the agency's enforcement goals.

OGC handles a number of matters related to confidentiality and access to information. OGC administers the agency's Freedom of Information Act ("FOIA") program, advises on sharing and protecting confidential information submitted to the Commission, and administers requests by state, federal, and international law enforcement agencies for access to non-public documents. OGC assists with briefings of Congressional committees and subcommittees, assists in preparing testimony for Congressional hearings, analyzes proposed legislation affecting the agency, and responds to Congressional requests for agency documents.

- **Rulemaking:** OGC contributes to the FTC's rulemaking defining unfair methods of competition and unfair or deceptive acts or practices, working closely with the Bureaus of Competition and Consumer Protection to create a strategic approach to rulemaking across mission areas. OGC also prepares the Commission's semi-annual regulatory agenda.
- **Federal Ethics:** OGC counsels Commissioners and staff to ensure compliance with the Ethics in Government Act. Its work protects the agency by helping Commissioners and staff avoid conflicts of interest, determining whether former employees may appear in Commission proceedings, and providing reports to the Office of Government Ethics.

- **FOIA:** The FOIA Unit is comprised of attorneys and Government Information Specialists. Often described as the law that keeps citizens “in the know” about government activity, FOIA provides every individual with the right to access information related to the internal workings of the FTC, including access to consumer complaints, investigative records, and congressional correspondence. Attorneys and Government Information Specialists at the FTC process over a thousand FOIA requests per year and ensure compliance with FOIA, the Privacy Act, and the Commission Rules of Practice.
- **Opinion and Analysis:** OGC assists the Commission in drafting opinions and provides all necessary support for the Commission’s adjudicatory functions. Staff provides the Commission with an analysis of complex legal issues and contributes advice and drafting assistance on cutting-edge topics related to the FTC’s adjudicatory responsibilities.
- **Employment, Labor, and Appropriations:** OGC advises agency staff on personnel, labor-management relations, equal employment opportunity, procurement law, and appropriations law matters. OGC represents the FTC in legal proceedings before such agencies as the Merit Systems Protection Board, the Federal Labor Relations Authority, the Equal Employment Opportunity Commission, and the General Services Board of Contract Appeals.
- **Energy:** OGC is involved in most aspects of the FTC’s energy-related work, with primary emphasis on two major areas: crude oil/petroleum products/natural gas and the electric power industry.

Office of International Affairs

The Office of International Affairs (OIA) is responsible for the international aspects of the FTC’s goals of promoting competition and protecting consumers. As markets have become more global and the number of antitrust, consumer protection, and privacy laws and agencies continues to grow, the FTC must increasingly address international issues to fulfill its competition and consumer protection objectives on behalf of American consumers.

OIA’s work comprises three areas: supporting the FTC’s consumer protection and competition case teams with respect to international issues in investigations and cases; building mechanisms for international enforcement cooperation; and working with other nations and international organizations to promote sound competition and consumer protection policies. This work includes providing technical assistance to enable developing competition and consumer protection agencies to obtain the legal and economic skills necessary to adopt and implement sound policies to incorporate into their enforcement, including in cross-border matters.

- **Competition:** OIA assists the FTC’s competition mission through advice to case teams on international issues such as access to foreign witnesses and evidence and through its work in various bilateral and multilateral fora.
 - **Bilateral Relationships:** Effective cooperation with counterpart agencies is a necessity given that many FTC cases involve parties based outside the United States, evidence located abroad, or matters under parallel review by foreign competition agencies. Pursuant to formal cooperation agreements and a network of informal arrangements and relationships, OIA works with FTC staff and foreign agencies to achieve consistent approaches to cases of mutual concern and to promote convergence toward fair procedures, sound analysis, and enforcement that leads to compatible outcomes.
 - **Activities in Multilateral Competition Fora:** The FTC is a leader in the multilateral organizations that facilitate dialogue and convergence toward sound competition policy and enforcement. In the International Competition Network (ICN), the FTC is a key member of the organization’s Steering Group and leads the ICN’s implementation work and online training project. It works to develop sound guidance in the areas of digital markets, unilateral conduct, mergers, cooperation, competition advocacy, and agency effectiveness and helps to set the ICN’s long-term agenda. The FTC is also active in the

Competition Committee of the Organization for Economic Cooperation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), and regional organizations such as the Asia-Pacific Economic Cooperation (APEC). In all of these fora, the FTC shares U.S. experience in order to build consensus on sound antitrust policy and to promote effective cooperation on cases. For example, the FTC is playing a key role in developing the ICN and OECD Competition Committee's long-term projects on international enforcement cooperation.

- **Working Within the U.S. Government:** The FTC works with U.S. government agencies and in intergovernmental fora to address competition-related issues, for example as part of the interagency groups that negotiate competition chapters in free trade agreements and address issues that arise in antitrust enforcement by other countries.
- **Consumer Protection:** OIA helps the FTC accomplish its consumer protection and privacy goals by supporting the FTC's investigations and cases with international aspects, building international enforcement cooperation mechanisms, and fostering the development of sound policies that take into account rapid technological and other changes in the global marketplace. These activities include:
 - **Investigative and Litigation Advice and Assistance:** OIA supports case teams from BCP and OGC when international issues arise in FTC investigations and cases. OIA's work spans the range of enforcement-related activities, from providing advice and briefings on issues such as jurisdiction and service of process to obtaining evidence, including expert evidence, located abroad, to working with case teams and foreign attorneys to identify and secure foreign assets for consumer redress.
 - **International Enforcement Cooperation:** In 2006, Congress gave the FTC powers to combat cross-border consumer fraud more effectively through the U.S. SAFE WEB Act, which provides the FTC with key information sharing, investigative assistance, and cross-border enforcement authority. The FTC has used this authority, along with existing mechanisms, to pursue cross-border wrongdoers robustly and effectively. Congress has reauthorized the Act twice, first in 2012 and again in 2020. The FTC continues to expand its use of the Act's tools and will pursue making the Act's tools a permanent part of the FTC's authority.

The FTC also works closely with a range of Canadian and other foreign consumer protection, privacy, telecommunications and criminal enforcement authorities on advertising, telemarketing, Internet fraud, and privacy and data security investigations and cases. The FTC is a leader in the International Consumer Protection Enforcement Network (ICPEN), a global network of more than 65 consumer protection authorities that aims to protect consumers from fraudulent, deceptive, and unfair commercial practices around the world by sharing information about cross-border issues and encouraging global cooperation among law enforcement agencies. The FTC also manages [econsumer.gov](https://www.consumer.gov), ICPEN's online cross-border complaint site. The agency also serves on the governing committee of the Global Privacy Enforcement Network (GPEN), a network of nearly 70 privacy enforcement authorities from 50 jurisdictions. It also plays leading roles in the Global Antifraud Enforcement Network (GAEN), which includes civil and criminal law enforcers from around the world and the Unsolicited Communications Enforcement Network (UCE-NET), which includes consumer protection, telecommunications, and data protection authorities charged with enforcing laws against spam, robocalls, and other unwanted communications. The agency works closely with regional consumer protection networks in Asia, Africa, and Latin America. The agency also has entered into several memoranda of understanding on enforcement cooperation on consumer protection and privacy-related matters with foreign counterparts.

- **Promoting Sound Consumer Protection Policies:** OIA advocates for vigorous enforcement of the key rules that protect consumers from significant harm, including fraud, deception, and unfair practices in the global marketplace, through its policy work in international organizations such as the Organization

for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD). The FTC also works closely, in collaboration with the Department of Commerce, on mechanisms that protect consumer privacy and facilitate cross-border data flows such as the Asia-Pacific Economic Cooperation (APEC) Cross Border Privacy Rules system.

- **International Training Assistance:**

- **Cross-Cutting Technical Assistance:** The FTC provides technical assistance to developing competition, consumer protection, and data privacy regimes. It also shares staff investigative and analytical expertise and experience with colleagues in more advanced jurisdictions as they address more complex issues. Our program contributes to convergence toward sound policies that supports enhanced cross-border enforcement and ultimately benefits American consumers and businesses.

The FTC also responds to requests for comments on draft competition, consumer protection, and privacy legislation and hosts foreign officials who visit the agency to study the U.S. experience in administering its antitrust, consumer protection, and privacy laws.

- **International Staff Exchanges:** The FTC has established an International Fellows and Interns program that has enabled foreign competition, consumer protection, and privacy agency staff to work alongside their FTC counterparts, and an FTC staff exchange program. These programs implement the U.S. SAFE WEB Act's authorization of exchanges with foreign antitrust and consumer protection agencies. Over the past fourteen years, the FTC has hosted 131 International Fellows and Interns from 41 jurisdictions, including Argentina, Australia, Austria, Barbados, Brazil, Canada, Chile, China, Colombia, Ecuador, Egypt, El Salvador, the European Union, France, the Gambia, Honduras, Hungary, India, Israel, Japan, Kazakhstan, Kenya, Lithuania, Mauritius, Mexico, Nigeria, Pakistan, Peru, Philippines, Poland, Saudi Arabia, Singapore, South Africa, South Korea, Switzerland, Tanzania, Turkey, Ukraine, the United Kingdom, Vietnam, and Zambia. In addition, FTC staff have participated in outbound exchanges with the competition agencies of Canada, the European Union, Mexico, and the United Kingdom.

Office of the Secretary

The Office of the Secretary supports the Commission by implementing, processing, and advising the Commission and its staff on Commission voting and other decision-making procedures.

The Office creates official records of all Commission deliberations and actions taken. The Office also reviews, and the Secretary signs or otherwise validates, all official documents approved or authorized by the Commission. In addition, the Office forwards all Commission Notices to the Federal Register, after signature by the Secretary or the General Counsel, and manages the contract covering Federal Register publication expenditures.

The Office also maintains the agency Operating Manual, and prepares and forwards responses to most Congressional and White House correspondence raising constituent issues. In addition, the Office creates and preserves electronic copies of all relevant actions and documents in the Commission's internal document management system. The Secretary is also the legal custodian of Commission legal and public records, and is responsible for publishing the FTC Decisions Volumes, including more than 150 volumes covering the period from 1914 to 2018, which have recently been placed on the Commission website at www.ftc.gov.

Office of Administrative Law Judges

The Office of Administrative Law Judges performs the initial adjudicative fact-finding in Commission administrative complaint proceedings, guided by statutes, precedent, and rules of practice. The Administrative Law Judge holds pre-hearing conferences, resolves discovery, evidentiary, and procedural disputes, and conducts full adversarial evidentiary hearings. The judge's Initial Decision sets out relevant and material findings of fact with record citation, explains the legal standard, and applies the law to the facts.

The Office of Administrative Law Judges is also charged with conducting certain rulemaking proceedings for the Commission. After a hearing on the record, the judge conducting the proceeding recommends a decision to the Commission based on findings of fact and conclusions of law.

Office of the Executive Director

The Office of the Executive Director serves as the managerial and administrative arm of the Federal Trade Commission, with responsibility for the overall operation of the agency. The Office of the Executive Director works closely with the Bureaus on strategic planning and assessing the management and resource implications of any proposed action. The following Offices are located in the Office of the Executive Director:

- **Financial Management Office:** The Financial Management Office (FMO) is responsible for overseeing the FTC's budget formulation and execution processes, all procurement activities, payment of invoices, development and maintenance of financial policies, ongoing assessment and monitoring of internal controls, implementing and maintaining financial systems, accounting and reporting of financial transactions, and oversight of the FTC's travel management, strategic planning, enterprise risk management, and performance management activities. FMO staff collaborate with Congress, the Office of Management and Budget (OMB), the Department of the Treasury, and other federal agencies to accomplish government-wide goals.

Key FMO activities include:

- Advising senior management on budget development, justification, execution, and review; working with OMB and Congressional staff to obtain appropriations and subsequent apportionment authority; distributing enacted and Commission-approved resources to agency organizations and projects; and tracking agency resources.
- Conducting financial oversight and analysis to support the recording of financial transactions in the accounting system; paying invoices for purchases and services performed for the FTC; reconciling the agency's general ledger; reporting assets managed by the FTC, including accounts receivable from court orders, judgments, and receiverships; and reconciling balances with those maintained by Treasury and OMB.
- Reporting the agency's financial information to Treasury; preparing the consolidated financial statements; and producing the annual Agency Financial Report.
- Managing the FTC's acquisition activities of goods and services on behalf of the Bureaus and Offices; providing guidance and assistance with all aspects of the requisition process, including statements of work, requests for proposal, contract preparation, award, and administration; and training the agency's Contracting Officer Representatives.
- Managing the FTC's enterprise risk management and internal control program by continuously identifying and documenting risk related to achieving the agency's strategic goals and assessing the adequacy of financial and operational internal controls, identifying needed improvements, taking corresponding corrective actions, and reporting annually on the condition of the agency's internal controls.
- Managing the FTC's Oracle-based financial system through an integrated financial system that includes accounting, travel management, and acquisition lifecycle systems.
- Issuing the FTC's financial policies to implement laws and high-level government-wide requirements and policies (e.g., OMB Bulletins and Circulars).
- Managing and administering the federal purchase and travel card programs.

- Managing all components of the agency’s E-Travel system; supporting the Bureaus and Offices with all travel requirements, including planning, funding, booking, tracking, and approving travel; and ensuring compliance with the Federal Travel Regulations.
- The Chief Financial Officer serves as the agency’s Performance Improvement Officer, responsible for oversight of all performance management activities, including development of the FTC’s Strategic Plan, tracking of the agency’s performance metrics, and producing the FTC’s Annual Performance Plan/ Annual Performance Report.
- **Human Capital Management Office:** The Human Capital Management Office (HCMO) develops and implements human capital programs and policies to align with and support the FTC’s human capital strategic objectives. HCMO provides direction, technical advice, and policy guidance to FTC Bureaus, Offices, and leadership on a broad range of talent management and workforce issues, including workforce planning, position management and classification, staffing and placement, background investigations, performance management, workforce development, executive resources, compensation and leave, employee and labor relations, special emphasis programs, and employee benefits services and programs.

HCMO consults with the FTC workforce and collaborates with other federal agencies, such as the Office of Personnel Management (OPM) and OMB, to develop progressive programs and solutions for emerging human capital matters in support of government-wide human capital initiatives. HCMO supports the FTC’s mission by:

- Providing human capital services, strategies, and guidance to FTC Bureaus and Offices to recruit, hire, develop, engage, retain, or transition a diverse, highly skilled, and high-performing workforce.
- Leading Training Council activities to assess the competencies necessary and create core curriculums for critical FTC occupations.
- Establishing and administering policies, programs, and services related to employee and labor relations issues, including case support.
- Dedicating efforts to make the FTC a best place to work through its human capital programs and management initiatives.
- **Office of the Chief Administrative Services Officer:** The Office of the Chief Administrative Services Officer (OCASO) provides a broad range of administrative and information management services to the agency. In carrying out its support work, OCASO:
 - Acquires and manages office space, including infrastructure renovations and repairs;
 - Provides building and grounds management and oversees maintenance and custodial contracts;
 - Manages physical security, emergency preparedness, continuity of operations, health, and safety programs;
 - Provides logistical support and coordination for all types of FTC events;
 - Manages agency-wide support functions, including mail services, printing and copying, couriers, supplies, transit subsidies, parking, and furniture warehousing;
 - Serves all official Commission documents and receives and processes filings before the Commission;
 - Manages agency-wide electronic systems that process, track, and store records and information on Commission matters;
 - Provides library research, reference, and subscription services;

- Processes public comments in rulemakings, consent proceedings, workshops, studies, and other matters that solicit public comments; and
- Maintains the official public record in all FTC matters.

Office of the Chief Information Officer

The Office of the Chief Information Officer (OCIO) is responsible for providing the FTC with a robust, reliable, secure, rapidly scalable, and interoperable infrastructure; providing connectivity and computing capabilities; and allowing FTC staff and mission partners to access, share, and act on needed information electronically. OCIO develops, modernizes, and enhances mission critical IT applications and systems, business services, and related office automation tools and maintains a robust cybersecurity program that includes the FTC's disaster recovery and continuity of operations efforts. Some key activities performed by OCIO include:

- Providing mission critical information systems and services to facilitate litigation, forensic investigations, enforcement, and economic analysis activities;
- Ensuring availability of information technology systems through maintenance of a stable, modernized in-house technology infrastructure, including life-cycle management and technology enhancements and provisioning of secure cloud-based services in support of efficiency and improved operations;
- Enhancing agency productivity through customer support services, including equipment installation and repair; training and support in the use of information technology resources; and support of critical information systems and applications;
- Securing FTC data and information technology systems against current and emerging cybersecurity threats using sophisticated technologies and information assurance activities, providing increased security and compliance without hindering mission success and employee performance.

Office of Congressional Relations

The Office of Congressional Relations serves as the liaison between the FTC and Congress. It works closely with Congressional Committees and Members' offices, and keeps the Commission apprised of activity on Capitol Hill affecting competition, consumer protection, and the agency. It also coordinates the preparation of Congressional testimony and responses to Congressional inquiries about FTC actions, policies, and programs.

The Office of Congressional Relations:

- Develops, coordinates, and executes legislative advocacy for the FTC.
- Receives and helps coordinate responses to Members' inquiries on behalf of constituents.
- Plans and implements liaison activities with Congress, including briefings by FTC staff, meetings between Members of Congress and Commissioners, and constituent education events.
- Monitors hearings, legislation, and other Congressional activity affecting or of interest to the FTC.
- Coordinates the review by FTC staff of relevant legislation and provides feedback and technical assistance on bills to Congressional offices.
- Prepares agency witnesses to testify before Congress.
- Keeps Congressional staff abreast of major Commission actions.
- Assists nominees for FTC Commissioner positions through the confirmation process.

Office of the Chief Privacy Officer

The Office of the Chief Privacy Officer (OCPO) manages the FTC's internal privacy program and is responsible for ensuring that the Commission complies with all applicable privacy laws and guidance. OCPO identifies the privacy risks, controls, and mitigating solutions when making decisions involving the collection, use, sharing,

retention, disclosure, and destruction of personally identifiable information. It is also responsible for investigating and mitigating privacy incidents. OCPO accomplishes its support function by:

- Protecting personal information at the FTC throughout its life cycle, including creation/collection, use, sharing, disclosure, transfer, and disposal/disposition through various means, including, but not limited to:
- Using Privacy Threshold Analyses to conduct a privacy risk analysis for new information collections;
- Publishing Privacy Impact Assessments to provide transparency regarding information collections from members of the public;
- Conducting annual continuous monitoring to ensure that privacy and security risks are evaluated throughout the information life cycle; and
- Utilizing a process to ensure privacy risks are addressed when information systems are decommissioned.
- Supporting the FTC mission with an evolving privacy program, including:
- Developing and implementing a Data Breach Response Plan to respond to privacy events;
- Monitoring and analyzing quantitative and qualitative performance measures on the effectiveness of existing privacy activities and using that information to make needed adjustments; and
- Maintaining a list of the agency's social media accounts, applications, and websites to ensure compliance with federal information management laws and guidance.
- Promoting a culture of privacy among FTC staff, contractors, and third parties by, among other things:
- Providing privacy awareness trainings for all staff, including in-person privacy training for all new employees, contractors, and international visitors;
- Providing counsel and guidance to agency officials and staff on privacy-related issues; and
- Coordinating with agency staff to address privacy-related issues associated with information technology and security, legal, acquisitions, budget, and program offices.

Office of Public Affairs

The Office of Public Affairs (OPA) informs the news media, as well as the public at large, about the activities of the FTC and responds to media inquiries about Commission actions and policy. OPA also manages the agency's main website, [FTC.gov](https://www.ftc.gov), and social media accounts, which are critical communication tools for the agency.

In serving as liaison between the FTC, the media, and the public, OPA:

- Arranges and frequently staffs media appearances for the Chair, Commissioners, and other senior officials.
- Ensures that Commission news releases, supporting documents, and consumer and business education materials are disseminated to the media and the public on FTC websites, through use of social media, and other channels.
- Manages the FTC's official presence on Facebook, Twitter, and LinkedIn, including hosting live social chats, live-tweeting and live-streaming workshops and other events, and answering public questions using social media.
- Produces a daily "News Summary" on FTC activities consisting of interesting/influential tweets, clips from newspapers, magazines, online publications, and television.
- Drafts and maintains all social media privacy impact assessments and produces weekly social mentions reports to staff.

- Manages the operations and development of the FTC’s primary public website, FTC.gov, including related vendor contracts.
- Establishes governance, standards, and administrative guidance for public-facing web properties managed by offices across the agency.
- Coordinates the development and execution of the agency’s digital communications strategy, including collection and analysis of web traffic data and customer experience metrics.
- Provides training and support to FTC web content publishers and authors.
- Provides assistance to the media and bloggers covering FTC activities.
- Promotes and supports major FTC outreach activities and initiatives and uses new technology, as available, to advance these efforts.
- Provides Regional FTC offices with media training and outreach support as needed.
- Produces “Weekly Calendar and Sunshine Notices” reports to inform the public and the media of scheduled “open” Commission activities.
- Works with international, national, and regional media for coverage of Commission activities.
- Obtains transcripts and videotapes of broadcast coverage of Commission activities.
- Coordinates with staff on publication of FTC blogs, posts, and occasional guest posts.

Office of Inspector General

The Inspector General Act of 1978 created independent and objective units within the federal agencies to detect fraud, waste, and abuse and promote economy, efficiency, and effectiveness in agency operations. Each Office of Inspector General (OIG) is responsible for conducting audits and investigations relating to the agency’s programs and operations. The Inspector General Act Amendments of 1988 (5 U.S.C. app.) established an OIG within the FTC in 1989. The Office is led by the Inspector General, who has the functions, powers, and duties of an agency head or appointing authority. The Inspector General must keep the agency head and Congress fully and currently informed about problems and deficiencies in the agency’s operations and programs.

The Inspector General Act contains statutory guarantees of OIG independence, which ensure the objectivity of the OIG’s work and safeguards against efforts to compromise that objectivity or hinder OIG operations. Foremost among these safeguards are the Inspector General’s dual reporting to the agency head and Congress, and the requirement for agency management to provide timely access to agency personnel and information. The OIG’s independent mission requires that OIG staff be free in fact and appearance from personal, external, and organizational impairments to their independence. The OIG is responsible for the following activities within the FTC:

- **Audits and Evaluations:** The OIG conducts audits and evaluations that address the efficiency, effectiveness, and economy of FTC programs and operations. OIG reports provide information to FTC leadership that identify corrective actions, facilitate program improvements, and improve accountability. Audits and evaluations are systematic and independent assessments that provide timely and credible information for agency managers, policy makers, and others to determine the efficiency, effectiveness, impact, and/or sustainability of agency operations, programs, or performance.
- **Investigations of Fraud, Waste, and Abuse:** The OIG investigates allegations of criminal, civil, and administrative violations of laws, policies, and regulations on the part of FTC employees and individuals or entities that have contracts with the agency. Complaints and allegations of wrongdoing are generally referred to the OIG via the OIG Hotline, in-person, and via mail, and they come from a variety of sources, including FTC employees, other government agencies, and the public. The results of OIG investigations that uncover

criminal activity or civil violations are referred to the Department of Justice for consideration for criminal prosecution and/or civil penalties. Investigations that do not substantiate criminal or civil activity, or where criminal prosecution or civil remedies have been declined, are reported to FTC management for appropriate action.

- **Whistleblower Protection:** Federal law prohibits governmental personnel from retaliating against an employee who acts as a whistleblower by reporting suspected waste, fraud, or abuse to the OIG. Allegations of whistleblower retaliation are taken very seriously, and both the OIG and the U.S. Office of Special Counsel have the authority to investigate such matters.
- **Management Advisories:** The OIG issues periodic Management Advisories to inform management expeditiously of findings of systemic weaknesses or vulnerabilities identified during audits, investigations, or other oversight activity. Management Advisories typically contain recommendations for agency management.
- **Top Management Challenges:** The Reports Consolidation Act of 2000 requires that the Inspector General provide a summary of the OIG's 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.
- **Congressional Requests and Briefings:** In addition to keeping the Chairperson, Commissioners, and FTC senior management informed of the OIG's work, the Inspector General Act requires the OIG to keep appropriate Congressional committees informed of completed audit, evaluation, and investigation work through semiannual reports to the Congress. These reports summarize the work the OIG has completed and planned during the reporting period, as well as the status of OIG recommendations to management.

Separately, the OIG may respond to requests by Congressional committees, matters referred to the Department of Justice for possible prosecution, and any challenges encountered in obtaining timely information from management.

- **Peer Reviews:** The OIG's investigations and audit functions are subject to triennial external peer reviews conducted under requirements established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE), which is an independent entity within the Executive Branch comprised of federal Inspectors General. OIG staff take periodic training in the various OIG disciplines to ensure that they and the OIG programs adhere to Government Accountability Office, CIGIE, and other quality standards for ensuring accuracy, objectivity, and independence.

Office of Equal Employment Opportunity and Workplace Inclusion

The Office of Equal Employment Opportunity and Workplace Inclusion (OEEOWI) maintains a continuing affirmative employment program to promote EEO, and seeks to identify and eliminate discriminatory practices and policies within the FTC.

OEEOWI also manages the FTC's EEO discrimination complaint process, including recommending settlements and taking final action, as well as making final decisions on complaints that are consistent with regulations and directives governing the administrative complaint process. OEEOWI also serves as the principal advisor on EEO and affirmative employment programs, policies, and regulations including providing support and advice on issues related to EEO in all aspects of the FTC's employment lifecycle.

Additionally, OEEOWI promotes an inclusive and diverse work environment by maintaining relationships with a diverse group of bar associations and other professional organizations, and providing guidance to the FTC Diversity Council and FTC employee resource groups. OEEOWI, with the help of interested FTC staff, plans and organizes programs and activities for commemorative events and special observances throughout the year. OEEOWI also provides a variety of trainings to FTC staff, including on unconscious bias, on diversity/equity/inclusion, and on EEO laws.

Further, OEEOWI engages in proactive strategies to identify and eliminate barriers to EEO, provides information to FTC management and staff on EEOC regulations and directives, and implements comprehensive affirmative employment initiatives that conform to Federal laws, regulations, and sub-regulatory guidance governing EEO and workplace inclusion.

Appendix





Proposed Appropriations Language

Salaries and Expenses

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$2,000 for official reception and representation expenses, \$490,000,000, to remain available until expended: Provided, That not to exceed \$300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718: Provided further, That, notwithstanding any other provision of law, fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection (and estimated to be \$274,500,000 in fiscal year 2023), shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That, notwithstanding any other provision of law, fees collected to implement and enforce the Telemarketing Sales Rule, promulgated under the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101 et seq.), regardless of the year of collection (and estimated to be \$13,000,000 in fiscal year 2023), shall be credited to this account, and be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2023, so as to result in a final fiscal year 2023 appropriation from the general fund estimated at not more than \$202,500,000: Provided further, That none of the funds made available to the Federal Trade Commission may be used to implement subsection (e)(2)(B) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t).

Program and Financing

(\$ in millions)

Identification Code: 29-0100-0-1-376

	FY 2021 Actual	FY 2022 Estimate	FY 2023 Estimate
Obligations by Program Activity:			
0001	100	213	250
0002	87	164	240
0192	187	377	490
0799	187	377	490
0803	165	3	1
0900	352	380	491
Budgetary Resources:			
Unobligated Balance:			
1000	5	45	22
1021	9	3	5
1070	14	48	27
Budget Authority:			
Appropriations, discretionary:			
1100	188	188	202
1130	...	...	...
1160	188	188	202
Appropriations, mandatory:			
1200	30	...	...
1230	...	...	...
1260	30	...	...
Spending authority from offsetting collections, discretionary:			
1700	237	237	275
1700	13	13	13
1700	1	3	1
1701	1	...	...
1724	-87	-87	...
1750	165	166	289
1900	383	354	491
1930	397	402	518
Memorandum (non-add) entries:			
1941	45	22	27
Change in Obligated Balances:			
Unpaid Obligations:			
3000	77	70	111
3010	352	380	491
3020	-350	-336	-393
3040	-9	-3	-5
3050	70	111	204
Uncollected payments:			
3060	-1	-2	-2
3070	-1	...	...
3090	-2	-2	-2
Memorandum (non-add) entries:			
3100	76	68	109
3200	68	109	202
Budget Authority and Outlays (net):			
Discretionary:			
4000	353	354	491
Outlays, gross:			
4010	283	221	260
4011	64	89	133
4020	347	310	393
Offsets against gross budget authority and outlays:			
Offsetting collections (collected) from:			
4030	-1	-3	-1
4033	...	...	...
4034	-250	-250	-288
4040	-251	-253	-289
Additional offsets against gross budget authority only:			
4050	-1	...	...
4070	101	101	202
4080	96	57	104
Mandatory:			
4090	30	...	...
Outlays, gross:			
4100	3	...	...
4101	...	26	...
4110	3	26	...
4160	30	...	...
4170	3	26	...
4180	131	101	202
4190	99	83	104
Memorandum (non-add) entries:			
5090	32	119	206
5092	119	206	206
Unexpended balance memorandum entries:			
5311	4	44	...
5312	...	1	...
5313	5	19	...
5314	...	26	...
5321	44	...	...
5322	1	...	...
5323	19	...	...
5324	26	...	...
5331	77	69	...
5332	-1	-1	...
5333	76	67	...
5334	...	1	...
5341	69	...	...
5342	-1	...	...
5343	67	...	...
5344	1	...	...

Object Classification

(\$ in millions)

Identification Code: 29-0100-0-1-376

	FY 2021 Actual	FY 2022 Estimate	FY 2023 Estimate
Direct Obligations			
Personnel Compensation:			
11.1 Full-time permanent	1	193	232
11.3 Other than full-time permanent	...	...	...
11.5 Other personnel compensation	4	5	6
11.8 Special personal services payments	1	...	...
11.9 Total, Personnel Compensation	6	198	238
12.1 Civilian personnel benefits	56	61	76
21.0 Travel and transportation of persons	...	3	4
23.1 Rental payments to GSA	25	23	35
23.3 Communications, utilities, and miscellaneous charges	5	5	9
24.0 Printing and reproduction	2	2	2
25.1 Advisory and assistance services	73	65	98
25.2 Other services	5	4	4
25.3 Purchases of goods and services from government accounts	...	...	...
25.4 Operation and maint. of facilities	2	1	2
25.7 Operation and maint. of equipment	12	13	16
26.0 Supplies and materials	...	1	2
31.0 Equipment	1	1	4
99.0 Subtotal, Direct Obligations	187	377	490
Reimbursable Obligations			
Personnel Compensation:			
11.1 Full-time permanent	165	3	1
99.0 Subtotal, Reimbursable Obligations	165	3	1
99.9 Total, New Obligations	352	380	491

Personnel Summary

Identification Code: 29-0100-0-1-376	FY 2021 Actual	FY 2022 Estimate	FY 2023 Estimate
Direct			
1001 Full-time equivalent employment	1,123	1,140	1,440
Reimbursable			
2001 Full-time equivalent employment ¹	4	1	1

¹Includes 1 FTE reimbursed by other federal agencies

Inspector General's Request



Office of Inspector General

UNITED STATES OF AMERICA
 Federal Trade Commission
 WASHINGTON, D.C. 20580

March 28, 2022

In accordance with the requirements of Section 6(g)(1) of the Inspector General Act of 1978 (as amended), the Federal Trade Commission's Office of the Inspector General (OIG) submits the following information related to its requested budget for FY 2023:

- OIG requests aggregate funding of \$2,394,000 for FY 2023.
- OIG requests \$27,700 for all training needs. The requested amount satisfies all training requirements for the OIG in FY 2023.
- OIG requests \$8,618 for support of the Council of Inspectors General on Integrity and Efficiency (CIGIE). The requested amount satisfies all requirements for the OIG's CIGIE contribution in FY 2023.

<u>FY 2022 Budget</u> \$ in thousands		<u>FY 2023 Estimate</u> \$ in thousands		<u>Change</u> \$ in thousands	
Full Time Equivalents	Amount	Full Time Equivalents	Amount	Full Time Equivalents	Amount
7	\$1,862.0	9	\$2,394.0	2	\$532.0

Andrew Katsaros
 Inspector General
 Federal Trade Commission