

# Federal Trade Commission



Fiscal Year 2021  
Congressional Budget Justification



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JOSEPH J. SIMONS  
CHAIRMAN

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

February 10, 2020

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

The Honorable John Kennedy  
Chairman  
Subcommittee on Financial Services and General Government  
United States Senate  
Washington, DC 20510

Dear Chairmen Quigley and Kennedy:

This letter transmits the budget justification for the Federal Trade Commission (FTC) in support of the President's fiscal year (FY) 2021 budget request.

The FTC's FY 2021 budget requests a program level of \$330,199,000 and 1,140 full-time equivalent (FTE) positions. 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.

This budget justification includes the FTC's Annual Performance Plan and Report. The performance data presented here are a reliable and complete assessment for the year. More information can be found in the *Verification and Validation of Performance Data* section and the *Data Quality Appendix* located at <https://www.ftc.gov/reports/2018-2022-performance-data-quality-appendix>.

By direction of the Commission.

Sincerely,

A handwritten signature in blue ink that reads "Joseph J. Simons".

Joseph J. Simons  
Chairman

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# Budget Request



Budget Request Summary  
(\$ in thousands)

Budget by Goal:	Fiscal Year 2020		Fiscal Year 2021		Change	
	FTE	Dollars	FTE	Dollars	FTE	Dollars
Protecting Consumers	612	\$186,198	612	\$185,783	---	-\$415
Promoting Competition	528	144,802	528	144,416	---	-386
<b>Total</b>	<b>1,140</b>	<b>\$331,000</b>	<b>1,140</b>	<b>\$330,199</b>	<b>---</b>	<b>-\$801</b>

**Budget by Funding Source:**

Offsetting Collections						
HSR Filing Fees		\$141,000		\$136,000		-\$5,000
Do Not Call Fees		18,000		13,000		-5,000
<b>Subtotal Offsetting Collections</b>		<b>\$159,000</b>		<b>\$149,000</b>		<b>-\$10,000</b>
General Fund		172,000		181,199		9,199
<b>Total</b>		<b>\$331,000</b>		<b>\$330,199</b>		<b>-\$801</b>

# Needed Resources for FY 2021

The FTC is a highly effective independent agency with a unique dual mission to protect consumers and promote competition. For more than one hundred years, the FTC has championed the interests of American consumers. The FTC is dedicated to advancing consumer interests while encouraging innovation and promoting competition in our dynamic economy. To maintain its high level of performance in FY 2021, the FTC is requesting \$330,199,000 and 1,140 FTEs. This is an overall decrease of \$801,000 from the level provided in the FY 2020 Consolidated Appropriations Act. The FTC will offset this reduction through staff attrition and an adjusted hiring strategy.

## 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 requested appropriations language for FY 2021 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.

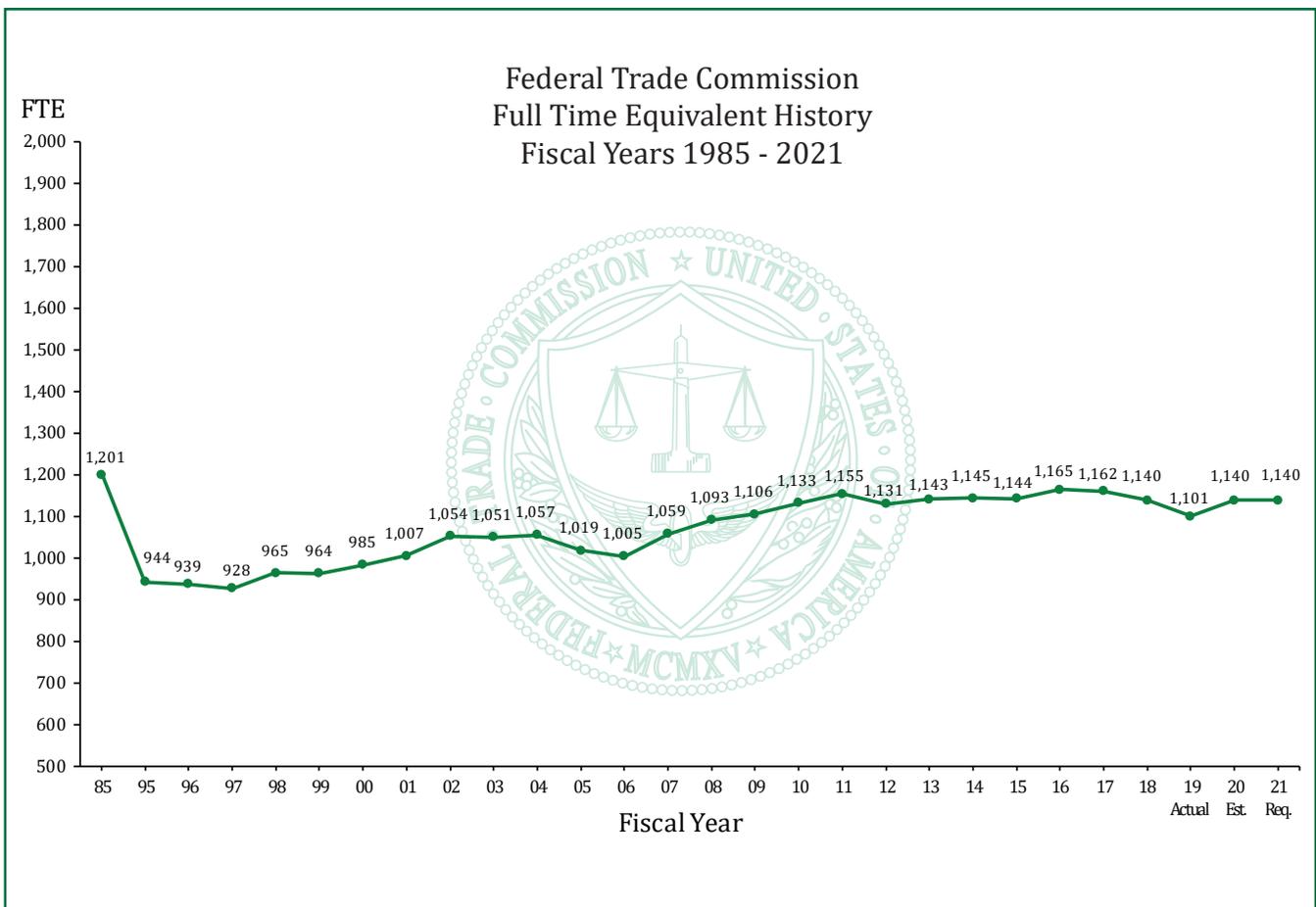
**Other Provisions:** The requested appropriations language continues in effect provisions in prior-year appropriation acts that: (1) allow for the purchase of uniforms and hire of motor vehicles; (2) allow for services as authorized by 5 U.S.C. 3109; (3) limit to \$300,000 the amount available for contracts 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 \$149,000,000 in FY 2021. The FTC assumes the \$181,199,000 difference between offsetting collections and the \$330,199,000 request will be funded through a direct appropriation.

**HSR Premerger Filing Fees.** This submission assumes offsetting HSR fee collections will provide the FTC with \$136,000,000. 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 2021 Overview Statement

## HIGHLIGHTS OF FY 2019 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 consumer 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 robocalls. The FTC also enforced its orders against repeat offenders, referring cases to criminal authorities as appropriate.

In FY 2019, the FTC filed 49 complaints in federal district court and obtained 81 permanent injunctions and orders requiring defendants to pay more than \$723.2 million in consumer redress or disgorgement of ill-gotten gains. Defendants also were required to pay approximately \$137.8 million<sup>1</sup> under three civil contempt orders. In addition, cases referred to the Department of Justice (DOJ) resulted in 12 court judgments imposing civil penalties of approximately \$146.8 million. Furthermore, the FTC issued 21 new administrative complaints and entered 21 final administrative orders.

In FY 2019, the Commission also issued 11 reports on consumer protection and released 42 new consumer and business education publications.

### Protecting Privacy and Data Security

- **Consumer Privacy:** To settle charges that Facebook, Inc. violated a 2012 FTC order by deceiving users about their ability to control the privacy of their personal information, the company agreed to pay a record-breaking \$5 billion penalty. To ensure the company modifies its behavior and is accountable for users' privacy, the settlement order also imposes unprecedented new restrictions on Facebook's business operations and creates multiple channels of compliance. For example, the order requires Facebook to restructure its approach to privacy from the corporate board-level down, and it establishes strong new mechanisms to ensure that Facebook executives are accountable for the decisions they make about privacy and that those decisions are subject to meaningful oversight. The \$5 billion civil penalty is the largest ever imposed on any company for violating consumers' privacy and almost 20 times greater than the largest privacy or data security penalty ever imposed worldwide. It is also one of the largest penalties ever assessed by the U.S. government for *any* violation.

<sup>1</sup> This does not include the Facebook settlement, which would require the company to pay \$5 billion in civil penalties, because the final order and judgment has not yet been entered by the court.

Separately, the FTC filed an administrative complaint against data analytics company Cambridge Analytica, and filed settlements for public comment with Cambridge Analytica's former chief executive and an app developer who worked with the company, alleging they employed deceptive tactics to harvest personal information from tens of millions of Facebook users for voter profiling and targeting. As part of a proposed settlement with the FTC, two of the defendants—app developer Aleksandr Kogan and former Cambridge Analytica CEO Alexander Nix—agreed to administrative orders restricting how they conduct any business in the future and requiring them to delete or destroy any personal information they collected from Facebook users. Cambridge Analytica, which has filed for bankruptcy, has not settled the FTC's allegations.

- **Children's Privacy Law Violations:** Google LLC and its subsidiary YouTube, LLC agreed to pay a record \$170 million to settle allegations by the FTC and the New York Attorney General that the YouTube video sharing service illegally collected personal information from children without their parents' consent. The FTC and New York Attorney General alleged that YouTube earned millions of dollars by using the identifiers, commonly known as cookies, to deliver targeted ads to viewers of child-directed channels. The settlement requires Google and YouTube to pay \$136 million to the FTC and \$34 million to New York for allegedly violating the Children's Online Privacy Protection Act (COPPA) Rule. The \$136 million penalty is by far the largest amount the FTC has ever obtained in a COPPA case since Congress enacted the law in 1998. The settlement also requires Google and YouTube to develop, implement, and maintain a system that permits channel owners to identify their child-directed content on the YouTube platform so that YouTube can ensure it is complying with COPPA. In addition, the companies must notify channel owners that their child-directed content may be subject to the COPPA Rule's obligations and provide annual training about complying with COPPA for employees who deal with YouTube channel owners.

The operators of the video social networking app Musical.ly, now known as TikTok, agreed to pay \$5.7 million to settle FTC allegations that the company illegally collected personal information from children. This is the largest civil penalty ever obtained by the FTC in a children's privacy case. The complaint alleged that the operators of the Musical.ly app violated the [Children's Online Privacy Protection Act \(COPPA\) Rule](#) by failing to: notify parents about the app's collection and use of personal information from users under 13 years old; obtain parental consent before such collection and use; and delete personal information at the request of parents.

Three dating apps were removed from Apple's App Store and Google's Google Play Store following allegations by the FTC that the apps allowed children as young as 12 to access them and violated COPPA and the FTC Act. The FTC warned Ukraine-based Wildec LLC, which operates the apps Meet24, FastMeet, and Meet4U, that the three dating apps appeared to be in violation of COPPA and the FTC Act's prohibition against unfair practices. The apps have been removed from the app stores until they address the alleged violations outlined by the FTC.

- **Data Security:** Equifax agreed to pay at least \$575 million, and potentially up to \$700 million, as part of a global settlement of claims by the FTC, the Consumer Financial Protection Bureau (CFPB), and 50 U.S. states and territories that the credit reporting company’s failure to take reasonable steps to secure its network led to a data breach in 2017 that affected approximately 147 million people. As part of the settlement, Equifax will pay \$300 million to a fund that will provide affected consumers with credit monitoring services. The fund will also compensate consumers who bought credit or identity monitoring services from Equifax and paid other out-of-pocket expenses as a result of the 2017 data breach. Equifax will add up to \$125 million to the fund if the initial payment is not enough to compensate consumers for their losses. In addition, beginning in January 2020, Equifax will provide all U.S. consumers with six free credit reports each year for seven years—in addition to the one free annual credit report that Equifax and the two other nationwide credit reporting agencies currently provide. The company also has agreed to pay \$175 million to 48 states, the District of Columbia and Puerto Rico, as well as \$100 million to the CFPB in civil penalties. In addition to the monetary relief to consumers, Equifax is also required to implement a comprehensive information security program and obtain third-party assessments of its information security program every two years.

Smart home products manufacturer D-Link Systems agreed to implement a comprehensive software security program to settle FTC allegations of misrepresentations that the company took reasonable steps to secure its wireless routers and internet-connected cameras. The FTC alleged that, despite promoting the security of its products by claiming it offered “advanced network security,” D-Link failed to perform basic secure software development, including testing and remediation to address well-known and preventable security flaws. As part of the proposed settlement, D-Link is required to implement a comprehensive software security program, including specific steps to ensure that its internet-connected cameras and routers are secure. In addition, D-Link is required for 10 years to obtain biennial, independent, third-party assessments of its software security program.

- **Background Screening:** RealPage, Inc. agreed to pay \$3 million to settle FTC charges that the company failed to take reasonable steps to ensure the accuracy of tenant screening information that it provided to landlords and property managers, a violation of federal law that caused some potential renters to be falsely associated with criminal records. This is the largest civil penalty the FTC has obtained against a background screening company.
- **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). Trained counselors advise identity theft victims about their rights and the remedies available to them under federal law. 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 report identity theft to the IRS electronically through the FTC's [IdentityTheft.gov](https://www.ftc.gov/identitytheft) website. Tax-related identity theft happens when someone uses a stolen Social Security number to file a tax return and claim a refund. Victims of tax-related identity theft need to file an [IRS Identity Theft Affidavit](https://www.irs.gov/identity-theft), also known as IRS Form 14039, before the IRS can begin to resolve the problem.

- **Privacy Conference:** The FTC hosted its fourth annual PrivacyCon event highlighting the latest research and trends in consumer privacy and data security. This year's event featured panels on: (1) Privacy Policies, Disclosures, and Permissions; (2) Consumer Preferences, Expectations, and Behaviors; (3) Tracking and Online Advertising; and (4) Vulnerabilities, Leaks, and Breach Notifications.

### Stopping Deceptive Advertising and Marketing Practices

- **Telemarketing Robocalls:** The FTC and its law enforcement partners, including State Attorneys General, undertook a major crackdown on illegal robocalls, bringing 94 actions nationwide against operations responsible for more than one billion calls pitching a variety of products and services, including credit card interest rate reduction services, money-making opportunities, medical alert systems, and debt-reduction scams. As part of the FTC's ongoing effort to help stem the tide of these universally loathed pre-recorded telemarketing calls, "Operation Call it Quits" also included dissemination of new information for consumers about illegal robocalls and continued efforts to promote the development of technology-based solutions to block robocalls and combat caller ID spoofing.

The coordinated law enforcement effort has already seen results. For example, the FTC and the Florida Attorney General's Office settled their allegations that the Roman and Lifewatch defendants bombarded seniors with at least a billion unsolicited robocalls pitching supposedly "free" medical alert systems. The order resolving these claims requires the Lifewatch and Roman defendants to pay \$25.3 million and \$8.9 million, respectively, which judgments will be partially suspended upon the defendants' payment of \$2 million. Both defendants also agreed to be banned from telemarketing, as well as from misrepresenting the terms associated with the sale of any other product or service, and other bans. In another settlement, 17 Life Management defendants agreed to be permanently banned from engaging in telemarketing and debt relief services. The court also imposed a judgment of \$23.1 million on these defendants that will be suspended once defendants turned over virtually all of their assets. Earlier in 2019, a federal court entered a judgment of more than \$23 million against, and permanently banned Life Management defendant, Kevin W. Guice, from the telemarketing and debt-relief industries. As part of the crackdown, the FTC also announced four new cases against First Choice Horizon LLC, 8 Figure Dream Lifestyle, Derek Jason Bartoli, and Media Mix 365.

- **False Health Claims:** At the request of the FTC, a federal court temporarily halted Redwood Scientific’s advertising of three dissolvable oral film strips that the FTC alleged were deceptively marketed as effective smoking cessation, weight-loss, and sexual-performance aids. The court also temporarily halted the company from enrolling consumers in any auto-ship continuity plan without the consumer’s express informed consent. The FTC obtained a settlement against Danielle Cadiz that permanently banned her from all robocall activities, including ringless voicemails, among other prohibitions, and imposed a suspended judgment of \$18.2 million. Litigation continues against the remaining Redwood Scientific defendants.

In another case, the Regenerative Medical Group defendants agreed to settle charges of deceptively advertising that “amniotic stem cell therapy” can treat serious diseases, including Parkinson’s disease, autism, macular degeneration, cerebral palsy, multiple sclerosis, and heart attacks. The settlement prohibited the defendants from making these and other health claims in the future unless the claims are true and supported by competent and reliable scientific evidence. The settlement also imposed a partially suspended \$3.31 million judgment and required the defendants to notify current and former patients about the order within 30 days.

As part of its ongoing efforts to ensure that dietary supplements and other health-related products are advertised truthfully, and that efficacy claims made for such products are supported by competent and reliable scientific evidence, the FTC joined the U.S. Food and Drug Administration (FDA) in sending three warning letters to companies based in Florida, South Carolina, and New Mexico. Specifically, the FTC warned the companies about advertisements claiming to treat Alzheimer’s and remediate or cure other serious illnesses including Parkinson’s, heart disease, and cancer. Additionally, the FTC and FDA also sent warning letters to three companies marketing products containing cannabidiol to treat and cure a variety of serious diseases and conditions.

- **E-Liquid and E-Cigarette Products:** The FTC and the FDA sent four warning letters to firms that manufacture and market flavored e-liquid products. The letters cite postings by influencers on social media sites such as Facebook, Instagram, and Twitter that endorse the target companies’ products, without any warnings that the products contain nicotine, an addictive chemical.
- **Deceptive Organic Claims:** Miami Beach-based retailer Truly Organic Inc. and its founder and CEO, Maxx Harley Appelman, will pay \$1.76 million to settle FTC charges that their nationally marketed bath and beauty products are neither “100% organic” nor “certified organic” by the U.S. Department of Agriculture. Truly Organic also advertised their products as vegan, even though certain products contained non-vegan ingredients like honey and lactose, according to the FTC complaint. The court order also bars the defendants from making similar deceptive advertising claims.
- **Sham Health Insurance Plans:** The FTC halted Simple Health Plans LLC, a Florida-based operation that allegedly collected more than \$100 million by preying on Americans in search of health insurance by selling these consumers worthless plans that left tens of thousands of people uninsured. Many of these consumers incurred

substantial medical expenses and were stuck with thousands of dollars in unpaid medical bills.

- **Deceptive Medical Journal Marketing:** A federal judge ordered journal publisher and conference organizer Srinubabu Gedela and his companies to pay more than \$50.1 million to resolve FTC charges that they made deceptive claims to academics and researchers about the nature of their conferences and publications, and hid steep publication fees. The FTC alleged that OMICS Group Inc., iMedPub LLC, Conference Series LLC, and the owner of these companies, Gedela, advertised hundreds of online academic journals and international conferences for scientists and medical professionals, and deceptively claimed that their journals provided authors with rigorous peer review and had editorial boards made up of prominent academics. In reality, many articles were published with little to no peer review, and many individuals represented to be editors had not agreed to be affiliated with the journals.
- **Deceptive Lead Generators:** Career Education Corporation (CEC), an Illinois-based operator of several post-secondary schools, agreed to pay \$30 million to settle FTC charges that it used sales leads from lead generators that falsely told consumers they were affiliated with the U.S. military, and that used other unlawful tactics to generate leads. In addition to the \$30 million in consumer redress, the stipulated order requires CEC to launch a system to review all materials that lead generators use to market its schools, to investigate complaints about lead generators, and to not use or purchase leads obtained deceptively or in violation of the Telemarketing Sales Rule. The order also prohibits misrepresentations about any other benefits of any post-secondary school or any other of the defendants' products or services.
- **Fake Dating Profiles:** The FTC sued online dating service Match Group, Inc., the owner of Match.com, Tinder, OKCupid, PlentyOfFish, and other dating sites, alleging that the company used fake love interest advertisements to trick hundreds of thousands of consumers into purchasing paid subscriptions on Match.com. The agency also alleged that Match has unfairly exposed consumers to the risk of fraud and engaged in other allegedly deceptive and unfair practices. For instance, the FTC alleged Match offered false promises of "guarantees," failed to provide services to consumers who unsuccessfully disputed charges, and made it difficult for users to cancel their subscriptions.
- **Endorsements:** The FTC announced its first case challenging a marketer's use of fake paid reviews on an independent retail website. In settling the agency's complaint, Cure Encapsulations, Inc. and its owner, Naftula Jacobowitz, resolved allegations that they made false and unsubstantiated claims for their garcinia cambogia weight-loss supplement and that they paid a third-party website to write and post fake reviews on Amazon.com. The settlement imposes a judgment of \$12.8 million, which will be suspended upon payment of \$50,000 to the FTC, and prohibits the defendants from making weight-loss, appetite-suppression, fat-blocking, or disease-treatment claims for any dietary supplement, food, or drug unless they have competent and reliable scientific evidence in the form of human clinical testing supporting the claims, among other requirements.

- Consumer Review Fairness Act:** The FTC issued five separate proposed administrative complaints and orders enforcing the Consumer Review Fairness Act (CRFA), which prohibits businesses from using form contract provisions that bar consumers from writing or posting negative reviews online, or threatening them with legal action if they do. These are the first Commission actions exclusively focused on enforcing the CRFA. The companies settling the FTC’s complaints include a Pennsylvania-based HVAC and electrical provider, a Massachusetts-based flooring firm, a Nevada-based horseback trail riding operation, a Florida vacation rental company, and a company that manages rental homes in Maryland. Three agreed to separate Commission orders barring them from using such non-disparagement clauses in form contracts for goods and services, and requiring them to notify consumers who signed such contracts that the prohibited text is not enforceable. Two agreed to separate Commission orders including injunctive and other relief related to the use of form contract terms that prohibit, restrict, penalize, or transfer rights in consumer reviews from consumers to the companies, along with agreeing to notify affected consumers that the challenged contract provisions are void, and that they have the right to post honest reviews online.
- Made in the USA Workshop:** The FTC held a public workshop in September to consider “Made in USA” and other types of U.S.-origin claims made by domestic and foreign sellers, consumer protection of such claims, the need for any changes to the FTC’s existing guidance, and other relevant issues. Workshop panels included experts representing a wide range of perspectives, such as large and small manufacturers, retailers, and other industry representatives, and consumer groups.
- False Online Advertisements:** Triangle Media Corporation, the operators of a worldwide negative option scam, agreed to settle FTC charges that they deceptively advertised “risk-free” trial offers for only the cost of shipping and handling, but then charged consumers full price for the trial product and enrolled them in expensive, ongoing continuity plans without their knowledge or consent. The court orders resolving the FTC’s complaint bar the defendants from such illegal conduct and require them to turn over more than \$9 million in assets. In another case, AH Media Group, the operators of a deceptive negative option scheme, agreed to a court-ordered preliminary injunction temporarily barring them from a wide range of conduct. The preliminary injunction stops the defendants from misleading consumers about supposedly “free trial” offers, enrolling them in unwanted continuity plans, billing them without their authorization, and making it nearly impossible for them to cancel or get their money back.
- Deceptive Newspaper Subscription Scheme:** Following a five-week trial, a federal court in Oregon issued an order requiring Liberty Publishers defendants to pay \$8.9 million and granting the FTC’s request to permanently ban the defendants from direct mail marketing, to prohibit them from future misrepresentations in connection with the sale of goods and services, and to prevent them from benefiting from any consumer information obtained in connection with the subscription scheme. This resolves FTC charges the defendants operated a complicated web of companies

that illegally sent consumers deceptive “Notice of Renewal/New Order” mailers for newspaper subscriptions.

- **Video Game “Loot Boxes”:** The FTC held the workshop, “Inside the Game: Unlocking Consumer Issues Surrounding Loot Boxes,” examining consumer protection issues related to video game “loot boxes”—in-game rewards players can buy while playing a video game. The workshop brought together a variety of stakeholders, including industry representatives, consumer advocates, trade associations, academics, and government officials to discuss concerns regarding the marketing and use of loot boxes and other in-game purchases and the potential behavioral impact of these virtual rewards on young consumers.
- **Online Event Ticket Sales Workshop:** The FTC held a workshop that brought together a variety of stakeholders—including industry representatives, consumer advocates, trade associations, academics, and government officials—to discuss problematic practices in the online event ticket marketplace. The workshop featured four panel discussions focusing on ticket bots and the BOTS Act, consumer protection issues around ticket availability, the adequacy of ticket prices and fee disclosures, and other ticketing practices that can cause consumer confusion.
- **Green Lights & Red Flags Workshops:** The FTC will host a series of “Green Lights & Red Flags” workshops with its regional partners in cities across the country. Rebooting an earlier series of business seminars, the all-new workshops will address social media marketing, data security, and other trending topics on marketers’ minds. The first public workshop, held in Atlanta, focused on truth-in-advertising basics and data security compliance.
- **Nixing the Fix: A Workshop on Repair Restrictions:** The FTC held a workshop examining ways in which manufacturers may limit third-party repairs of various consumer products. “Nixing the Fix: A Workshop on Repair Restrictions” examined how manufacturers may limit repairs by consumers and repair shops and whether those limitations affect consumer protection, including consumers’ rights under the Magnuson-Moss Warranty Act, which is aimed at helping consumers make informed purchasing decisions and access remedies if a product does not perform as specified.

### **Protecting Consumers in the Financial Marketplace**

- **Student Loan Debt Relief:** The FTC obtained settlements with Student Debt Doctor and American Student Loan Consolidators (ASLC) as part of “Operation Game of Loans,” a coordinated federal-state law enforcement initiative targeting deceptive student loan debt relief schemes announced by the FTC in October 2017. Student Debt Doctor agreed to a partially suspended \$13 million judgment requiring the defendants to pay approximately \$2.2 million to settle FTC allegations that it illegally collected at least \$7 million from consumers struggling to pay student loan debt. ASLC agreed to a partially suspended judgement of \$23 million requiring defendants to pay approximately \$1.3 million. The FTC alleged the ASLC operators pretended to be affiliated with the U.S. Department of Education or with consumers’ loan servicers, and tricked consumers into believing that illegal upfront fees of up to \$899 were

being used to pay off their student loans. The FTC also alleged that the defendants collected at least \$23 million from student loan borrowers by falsely promising loan forgiveness, lowered monthly payments, and reduced interest rates.

The FTC alleged that Impetus Enterprise, Inc., a California-based student debt relief scheme, bilked consumers out of millions of dollars using false promises that they could reduce their monthly payments, or eliminate or reduce their student loan debt. Operators of the scheme, including recidivist scammer Tuan Duong, falsely promoted a 96 percent success rate in reducing consumers' student loan payments, according to the FTC's complaint. In fact, the consumers who purchased these services often did not receive any debt relief and lost hundreds of dollars. Separately, the FTC stopped the operators of Mission Hills Federal and Federal Direct Group, entities that allegedly bilked more than \$23 million from thousands of consumers with false claims that the companies would service and pay down consumers' student loans.

The FTC charged the operators of two similar student loan debt relief schemes, and a financing company that assisted them, with bilking millions of dollars from consumers. The defendants allegedly charged illegal upfront fees that they led consumers to believe went towards consumers' student loans, and falsely promised that their services would permanently lower or even eliminate consumers' loan payments or balances. The defendants also signed up customers for high-interest loans to pay the fees without making required disclosures. In one action, brought jointly by the FTC and the State of Minnesota, Manhattan Beach Ventures (MBV), the student debt relief company, and Equitable Acceptance Corporation (EAC), the financing company, agreed to be banned from the debt relief business in order to settle the charges. The order also imposed a \$4.2 million judgment on MBV, of which all but \$156,000 was suspended. In the second action, the financing company, EAC, agreed to settle but the FTC's litigation continues against Student Advocates Team, the student debt relief defendants. Under the orders in both cases, EAC was required to pay nearly \$28 million, all but \$1 million of which is suspended based on inability to pay.

- **Fake Credit Repair Scheme:** At the request of the FTC, a federal court has temporarily halted and frozen the assets of Grand Teton Professionals, an alleged credit repair scheme that charged illegal upfront fees and falsely claimed to repair consumers' credit. The FTC alleges that since at least 2014, two of the defendants, Douglas Filter and Marcio G. Andrade, have operated an unlawful credit repair scam that bilked consumers out of at least \$6.2 million.
- **Deceptive and Abusive Debt Collection Practices:** The FTC and New York Attorney General's Office sued Campbell Capital LLC, a New York-based debt collection operation, for tricking people into agreeing to pay more money than what they allegedly owed, according to the defendants' own business records. The complaint alleges the defendants' employees often completed forms that showed they demanded more money than consumers allegedly owed—a practice known as “overbiffing” in the debt collection industry. The complaint also alleges that employees pretended to work for law enforcement agencies and threatened

consumers with arrest. Other collectors falsely claimed to work on behalf of attorneys and told consumers they would face lawsuits if they did not make a payment on an alleged debt. Separately, at the request of the FTC, a federal court halted and froze the assets of Global Asset Financial Services Group, a debt collection scheme that allegedly bilked consumers out of millions of dollars using deceptive and threatening tactics to collect phantom debts that they did not owe. In another case, Hylan Asset Management, the defendants behind a New York-based debt collection scheme, agreed to be permanently banned from the debt collection industry under a settlement with the FTC and the New York Attorney General, which had alleged that the defendants bilked consumers out of millions of dollars by brokering and collecting on fake debts that were not owed. The two orders entered in that case also impose judgments of approximately \$11.7 million that will be suspended upon payment by defendants of \$794,575.

- **Deceptive Consumer Loans Servicing:** Avant, LLC, an online lending company, agreed to a judgment of \$3.85 million to settle FTC charges that it engaged in deceptive and unfair loan servicing practices, such as imposing unauthorized charges on consumers' accounts and unlawfully requiring consumers to consent to automatic payments from their bank accounts.
- **Deceptive Refinancing Marketing:** The FTC approved a final consent order with SoFi, resolving allegations that it misrepresented how much money student loan borrowers have saved or will save from refinancing their loans with the company. Under the final order, SoFi is prohibited from misrepresenting to consumers how much money consumers will save or have saved using its products and from making any claims about any such savings unless the claims are backed up with reliable evidence.
- **Payment Processors:** Payment processor Allied Wallet, its CEO and owner Ahmad Khawaja, and two other officers, Mohammad Diab and Amy Rountree, agreed to settle FTC charges that they assisted numerous scams by knowingly processing fraudulent transactions to consumers' accounts. According to the FTC's complaint, the operators of Allied Wallet knowingly processed payments for merchants that were engaged in fraud. These include merchants that were subject to law enforcement action by the FTC and the Securities and Exchange Commission (SEC), such as Stark Law, a phantom debt collection scheme; TelexFree, a pyramid scheme; and MOBE and Digital Altitude, two business coaching schemes that defrauded consumers with claims they would make substantial income. The orders impose judgments of over \$110 million, most of which will be suspended due to inability to pay. The order against Diab requires him to pay \$1 million to the FTC, and the order against Khawaja and his companies requires him to turn over a residence in Los Angeles, California.

In another case, the FTC and the Ohio Attorney General alleged that Madera Merchant Services and B&P Enterprises generated remotely created payment orders (RCPOs) or checks that allowed many unscrupulous merchants, including deceptive telemarketing schemes, to withdraw money from their victims' bank accounts. The telemarketing operations that Madera and B&P Enterprises supported

included, among others, student debt relief schemes American Financial Benefits Center and Impetus Enterprise, and the credit interest reduction scheme operated by Educare and Tripletel. The FTC and Ohio alleged that, using RCPOs, Madera and B&P Enterprises withdrew more than \$13 million from accounts of victims of these telemarketing operations since January 2016. Since 2016, the defendants opened more than 60 accounts with at least 25 different financial institutions to process RCPOs for the schemes they supported.

- **Crowdfunding Scheme:** The FTC took legal action against the operator of a deceptive crowdfunding scheme who told consumers he was raising money to develop a high-tech backpack and other products, but failed to deliver any of the products and instead used much of the funds for himself. The FTC alleges that Douglas Monahan, operating through iBackPack of Texas, LLC, raised more than \$800,000 from consumers through four crowdfunding campaigns, falsely claiming the funds would be used to develop a handful of products including “iBackPack,” which would incorporate batteries for charging laptops and phones, cables, and a Bluetooth speaker.

### **Protecting Small Businesses, Older Americans, Veterans, and Service Members**

- **Scams Targeting Small Businesses:** At the request of the FTC, a federal court handed down a final judgment and order requiring nine related Canadian and U.S. defendants to pay more than \$4.6 million for tricking small businesses into paying for internet directory listings, search engine optimization services, or website design and hosting services they never ordered. The case against the Premium Business Pages defendants is part of the multi-agency “Operation Main Street” law enforcement initiative targeting scams directed at small businesses announced in June 2018. In another case, a federal court permanently halted A-1 Janitorial, a New York-based office supply scam. In late 2017, the FTC charged the defendants with targeting small businesses and charging them for supposedly free samples of cleaning and other products. Under the court order settling the FTC’s charges, the defendants are barred from such illegal conduct and will pay \$2.7 million for consumer refunds.

In the PointBreak Media robocall scheme, a federal court in Florida granted summary judgment against two individuals, a default judgment against seven defendants, and approved six settlement agreements involving 11 defendants. In 2018, the FTC charged PointBreak Media with deceiving small business owners by falsely claiming to represent Google, falsely threatening businesses with removal from Google search results, and falsely promising first-place or first-page placement in Google search results. The court found the primary perpetrators of the scheme, Dustin Pillonato and Justin Ramsey, liable for each count the FTC alleged. The order requires them to pay over \$3.3 million and transfer custody of dozens of pieces of jewelry to the FTC. The order also bans them telemarketing, using remotely created checks to debit consumers’ accounts, and marketing, promoting, or selling search optimization products or services, among other prohibitions. The default judgment against Aaron Michael Jones, a recidivist robocaller, imposes similar bans and a \$2.4 million non-suspended judgment.

The FTC, along with the Department of Homeland Security, the National Institute of Standards and Technology, and the Small Business Administration, launched a national education campaign to help small business owners understand common cyber threats and how they can help protect their businesses. The campaign grew out of a series of roundtable discussions that the FTC held with small business owners to discuss cybersecurity challenges they face. The new campaign materials include fact sheets, videos, and quizzes covering a dozen topics ranging from cybersecurity basics to secure remote access.

The FTC hosted a forum on small business financing, examining trends and consumer protection issues in this marketplace, including the recent proliferation of online loans and alternative financing products.

- **Scams Targeting Older Americans:** The FTC, Department of Justice, and other federal and state partners announced an initiative aimed at cracking down on elder fraud, with a particular focus on tech support scams. As part of the initiative, the FTC halted Elite IT Partners, Inc., a tech support scam the FTC alleges used deceptive tactics to gain access to consumers' computers and then sell costly and unnecessary computer repair and other services. The vast majority of the scheme's victims were older consumers, according to the complaint.

The operators of Next-Gen, a sweepstakes scam that appeared to target seniors, agreed to forfeit \$30 million in cash and assets and will be permanently banned from the prize promotion business under its settlement with the FTC and State of Missouri. The settlement requires the defendants to turn over more than \$21 million in cash, as well as two luxury vacation homes, a yacht, a Bentley automobile, and other personal property. The case represents the largest forfeiture the FTC has ever obtained in a case against a sweepstakes scam, and the proceeds will be used to refund money to victims.

The FTC released the report, "Protecting Older Consumers 2017-2018: A Report of the Federal Trade Commission," outlining the FTC's comprehensive research, law enforcement, and education efforts aimed at protecting older Americans. The report concludes that older adults are good at reporting frauds they encounter and highlights some of the top scams where older consumers are more likely to report losing money than younger age groups, such as technical support scams; business imposter scams; prizes, sweepstakes, and lottery scams; and family or friend imposter scams.

### **Fighting Other Fraud**

- **Tech Support Scams:** As part of their settlements with the FTC, Office Depot, Inc. agreed to pay \$25 million, and its tech support software supplier, Support.com, agreed to pay \$10 million, to settle FTC allegations that the companies tricked customers into buying millions of dollars' worth of computer repair and technical services by deceptively claiming their software found symptoms of malware on the customers' computers.

- **Investment Schemes:** A federal court halted the largest overseas investment scam the FTC has ever targeted. The FTC alleged that the defendants—including recidivist Andris Pukke, who not only established the scam, but perpetuated it while serving a prison sentence for obstruction of justice—took in more than \$100 million, marketing lots in what supposedly would become a luxury development in Central America known by several names, including Sanctuary Belize, Sanctuary Bay, and The Reserve. The Commission alleged that defendants duped consumers into buying Sanctuary Belize lots by falsely promising that the development would include luxury amenities, it would be completed soon, and the value of the lots would appreciate rapidly. Belize’s Atlantic International Bank Limited (AIBL) agreed to pay \$23 million, representing approximately all of its U.S.-based assets, to settle FTC charges that it assisted various related entities in deceiving U.S. consumers as part of a scheme to sell property in Sanctuary Belize. Litigation continues against the remaining defendants.
- **Government Imposter Scams:** American Immigration Center defendants agreed to pay \$2.2 million to settle charges that they falsely implied that their websites were affiliated with the U.S. Citizenship and Immigration Services. The defendants allegedly used such deception since 2010 to sell immigration form preparation services to consumers, many of whom were attempting to reach the government site to renew their green cards or apply for naturalization. The settlement also bars the defendants from continuing their misleading business practices.
- **Business Opportunity Scams:** The FTC and the State of Minnesota alleged that Sellers Playbook lured consumers into buying its expensive “system” by claiming that purchasers were likely to earn thousands of dollars per month selling products on Amazon. The company used false and unsubstantiated claims, such as make “\$20,000 a month” and “Potential Net Profit: \$1,287,463.38.” Few, if any, consumers achieved these results, and most lost money. The Sellers Playbook defendants agreed to a ban from selling or assisting others to sell any business opportunity or business coaching program and to a \$20.8 million judgment that will be partially suspended upon the surrender of certain funds and assets. In another case, four defendants in a multi-million dollar business coaching scheme known as Digital Altitude, including the scheme’s former CEO, agreed to pay \$1.9 million to settle FTC allegations that they deceived consumers by claiming they could earn “six figures in 90 days.”
- **Get-Rich-Quick Schemes:** The FTC alleged the FBA Stores defendants, who have no affiliation with Amazon.com, falsely claimed their “Amazing Wealth System” would enable consumers to create a profitable online business selling products on Amazon. Buyers, however, did not earn the advertised income. Most of them lost significant amounts of money, and many often experienced problems with their Amazon stores, including suspension and the loss of their ability to sell on Amazon.com. The marketer of the scheme and his companies agreed to a settlement banning them from marketing and selling business opportunities and business coaching services and to the surrender approximately \$2.55 million in funds and assets to the FTC.

- **Unauthorized Billing:** The two principals of the Apex Capital Group internet marketing operation and the 12 corporate defendants they controlled (the Apex Capital defendants) agreed to court orders settling the FTC’s allegations related to their alleged operation of a multinational scheme to defraud consumers via deceptive “free trial” offers and negative option continuity plans. Under two separate court orders, the Apex Capital defendants will be barred from the illegal conduct alleged in the FTC’s complaint, and will surrender assets valued at likely more than \$3 million—and which may yield over \$6 million—depending on the sale of certain assets. Litigation continues against two defendants in the case. In another case, the FTC alleged Gopalkrishna Pai and the companies he controlled violated the Restore Online Shoppers’ Confidence Act through negative option marketing, costing consumers tens of millions of dollars.
- **Contact Lens Rule Violation:** The FTC charged Lawrence L. Duskin with providing contact lenses to consumers without obtaining the required prescription, failing to verify the prescription information, and failing to keep the records required by the Contact Lens Rule. The settlement order imposes a \$575,000 financial judgment against Duskin, the largest civil penalty to date in a matter alleging violations of the Contact Lens Rule. Upon payment of \$60,000, the remainder of the \$575,000 will be suspended.

### 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:** In addition to the record-setting Facebook penalty (see Protecting Privacy and Data Security section), the FTC brought the following contempt cases. MoneyGram International, Inc. agreed to pay \$125 million to settle allegations that the company failed to take steps required under a 2009 FTC order to crack down on fraudulent money transfers that cost U.S. consumers millions of dollars. The \$125 million payment is part of a global settlement that resolves allegations that MoneyGram also violated a separate 2012 deferred prosecution agreement with the Department of Justice. In addition to the monetary payment, MoneyGram has agreed to an expanded and modified order that will supersede the 2009 order and apply to money transfers worldwide. The modified order requires, among other things, that the company block the money transfers of known fraudsters and provide refunds to fraud victims in circumstances where its agents fail to comply with applicable policies and procedures. In addition, the modified order includes enhanced due diligence, investigative, and disciplinary requirements.

The ringleader of CD Capital Investments, a California-based student loan debt relief scheme, agreed to settle the FTC’s charges that he bilked \$11 million from consumers who were trying to reduce their student loan monthly payments or get loan forgiveness. Under the modified court order, recidivist scammer Tuan Duong admits he violated the 2016 order and is now banned from the telemarketing industry.

Thomas Wells and his payment processing company, Priority Payout Corp., agreed to settle FTC charges that they repeatedly violated a 2009 court order issued against them. The settlement permanently bans Wells and Priority Payout Corp. from engaging in, and assisting others with, payment processing, and includes a \$1.8 million contempt judgment against them. In agreeing to settle the FTC's charges, Wells and Priority Payout Corp. admit that the FTC has sufficient evidence to show that they violated the 2009 order, including that they facilitated processing of consumer payments for merchants while knowing or consciously avoiding knowing that the merchants' business practices were, or were likely to be, deceptive or unfair.

- **Criminal Referrals:** The FTC continues to refer egregious violators to criminal law enforcement agencies for prosecution. In FY 2019, FTC staff actively worked on 197 new formal requests for cooperation from our criminal law enforcement partners, including 77 federal, 100 state, and 20 local requests. Prosecutors relied on FTC information and support to charge nine defendants and obtain 23 pleas or convictions. Twenty-five defendants received sentences totaling 140 years. Two of these defendants received sentences of 25 years and 20 years for running a sweepstakes scam from call centers in Costa Rica in which they posed as representatives of the FTC and SEC to defraud older Americans out of millions of dollars. In other matters, eight defendants received sentences of six years or more.

### **Economic Research and Outreach**

In addition to conducting analysis on the economic effects of consumer protection enforcement actions, the FTC conducts research and outreach on the economics of consumer protection more generally. As part of a continued effort to advance the application of economics to consumer protection policy analysis and law enforcement, the FTC hosted a one-day symposium in December 2018 on the economics of consumer protection, in conjunction with an economics journal, "Economic Inquiry." The symposium featured presentations of consumer protection relevant research as well as panel discussions by prominent economists. In November 2018, the Commission hosted its Eleventh Annual Microeconomics Conference, convening researchers, regulators, and others to discuss antitrust and consumer protection policy issues that FTC economists encounter in their work.

### **International Consumer Protection**

Strong cross-border cooperation is critical to effective law enforcement. In FY 2019, 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, including spam, spyware, internet and telemarketing fraud, identity theft, data security, and privacy.

- The FTC cooperated with a wide range of foreign agencies and multilateral organizations on 48 enforcement-related investigations, cases, and projects and worked closely with international counterparts on several significant enforcement actions involving large-scale international frauds. These include the FTC’s litigation against the massive overseas real estate investment scam, Sanctuary Belize, that targeted American consumers, as well as the FTC’s case against Apex Capital Group and related U.K. and Latvian defendants for deceptive online “free trial” offers and unauthorized continuity plans, and a lawsuit against a Canadian-based operation, Educare Centre Services, Inc., that sold sham credit card interest rate reduction services to U.S. consumers through Dominican Republic-based telemarketers and also used a Canada-based VoIP provider. In these and many other matters, the FTC used its authority under the U.S. SAFE WEB Act (SAFE WEB) to share information or provide investigative assistance to foreign authorities.
- The FTC also signed a memorandum of understanding ([MOU with the United Kingdom’s Competition and Markets Authority](#)) to strengthen enforcement cooperation on consumer protection matters. The new agreement enhances cooperation between the two agencies, and SAFE WEB provides the FTC with key powers to carry out this cooperation. The MOU streamlines sharing investigative information and complaint data, simplifies requests for investigative assistance, and facilitates joint law enforcement investigations. It also provides strong and clear confidentiality and data safeguards
- The FTC’s cross-border enforcement cooperation covers the full range of FTC investigations and cases. One example is a [sweep of elder fraud cases](#) involving assistance from the International Mass-Marketing Fraud Working Group (IMMFWG), which the FTC co-chairs along with the Department of Justice and U.K. law enforcement. The FTC worked with its IMMFWG partners on the sweep to provide “exceptional assistance” on tech-support frauds involving elderly victims, and released simultaneous technical-support fraud consumer education campaigns along with partners in Canada, the Netherlands, and the United Kingdom. The FTC also joined with regulators from Australia, New Zealand, Northern Ireland, and England, and Wales, several international charities, and non-governmental participants in the first [International Charities Fraud Awareness Week](#), releasing a new video, “Make Your Donations Count.”
- In the privacy area, the FTC used key provisions of the SAFE WEB Act to collaborate successfully with foreign authorities in several investigations and cases including in the [Cambridge Analytica case](#), filed alongside the FTC’s \$5 billion settlement with Facebook. The FTC relied on key provisions of the Act to exchange information with the United Kingdom’s Information Commissioner’s Office.
- The FTC is continuing to combat cross-border harms emanating from jurisdictions such as India, which has been a source of government imposter scams and tech support scams, among other fraudulent telemarketing activity. In addition to filing and coordinating enforcement actions in U.S. courts, the FTC has continued to build the capacity of Indian law enforcement to investigate, arrest, and prosecute

the promoters of these scams located in India. A centerpiece of this effort was the fourth annual conference, organized by the FTC with the U.S.-India Business Council, on “Stepping up to Stop Indian Call Center Fraud.” Participants on the first day included more than 140 U.S. and foreign law enforcement, telecom, anti-fraud programs, payment systems, and consumer groups to discuss the emerging threats and measures that can help promote more law enforcement, better communication, and enhanced technical solutions. The following day, law enforcers from around the world met to identify common targets and consider additional tools, building on earlier successful lawsuits and prosecutions, to combat impersonation frauds that originate in India. The FTC has also conducted capacity-building sessions in India and continued to work closely with foreign law enforcers from Australia, Canada, and the U.K. to plan future law enforcement initiatives on Indian call center fraud.

- The agency also continued to strengthen its ties with international enforcement networks such as the International Consumer Protection and Enforcement Network (ICPEN), the Unsolicited Communications Enforcement Network (UCENet), the above-mentioned IMMFWG, and the Global Privacy Enforcement Network (GPEN). This past year, the FTC worked in all of these networks to expand the number of participating authorities and strengthen the use of data (including consumer complaint data) and technology to support the networks’ cross-border enforcement cooperation activities.
- In the policy arena, the FTC has continued to work to develop market-oriented policies benefiting U.S. consumers to complement its international enforcement work. In particular, the FTC took a leading role in continuing to implement the 2016 Organisation for Economic Co-operation and Development (OECD) Guidelines on Consumer Protection in Electronic Commerce, developing three good practice guides for businesses (on online advertising, consumer ratings and reviews, and consumer data) and playing a lead role on long-term empirical work relating to consumer understanding of online pricing and measurement of the benefits of consumer protection. FTC staff has also actively engaged in consumer protection issues related to the Internet Corporation for Assigned Names and Numbers (ICANN), the organization that deals with internet domain names, including issues relating to Whois data and privacy laws.
- The FTC continued its work to protect consumer privacy in cross-border data transfer systems, helping to expand the Asia-Pacific Economic Cooperation (APEC) Cross-Border Privacy Rules and implement the EU-U.S. Privacy Shield Framework (“Privacy Shield”) as well as the Swiss-U.S. Privacy Shield. In particular, the FTC worked with the U.S. Department of Commerce to implement the Privacy Shield, which became operational in August 2016. The FTC also participated with EU and U.S. officials in the highly successful [third annual review](#) of the framework. The agency also continued to work with other agencies in the U.S. government and with our partners in Europe to ensure businesses and consumers can continue to benefit from both of the Privacy Shield programs. Carrying out its enforcement role under these international frameworks, the FTC brought a number of cases in FY 2019.

- During FY 2019, the FTC conducted several technical assistance missions for developing consumer protection and privacy agencies, supported by a mix of funding sources, including in-kind donations from the recipient agencies. The FTC’s programming included training sessions in Brazil, Costa Rica, India, Nigeria, Peru, Singapore, and Zambia. One highlight was the 10th African Consumer Protection Dialogue Conference, “Celebrating a Decade Growth for African Cross Border Consumer Protection Collaboration,” which included representatives from nearly 20 African countries, along with officials from regional bodies and multinational organizations. Participants [reaffirmed their commitment](#) to the 2013 African Dialogue Principles on Cooperation in Consumer Protection Enforcement (“Livingstone Principles”) and pledged to [continue with plans to implement them](#). These missions provided foreign regulators and law enforcers with information on the FTC’s approach to emerging digital consumer protection issues, as well as practical investigational skills and tools for cross-border cooperation.
- As part of the FTC’s International Fellows program, which provides foreign officials with a first-hand appreciation of FTC practices and approaches, the FTC hosted International Fellows from Gambia, Japan, Kenya, South Korea, and the U.K. to work directly with agency staff on consumer protection and privacy matters.

### Law Enforcement Tools

- **Consumer Response Center (CRC):** In FY 2019, the CRC handled more than 40,000 inquiries and complaints from consumers and businesses each week, for a total of 2.1 million complaints and inquiries.
- **Consumer Sentinel Network (CSN):** During FY 2019, more than 8.5 million fraud, identity theft, financial, and Do Not Call (DNC) complaints were added to the FTC’s CSN database. Approximately 2,500 law enforcement agency partners worldwide have access to CSN.
- **National DNC Registry:** The Registry has continued to protect consumers from receiving unwanted commercial telemarketing calls. In FY 2019, the number of telephone numbers on the Registry exceeded 239 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, the FTC staff provided a comment to the National Telecommunications and Information Administration regarding the development of the Administration’s approach to consumer privacy. The comment discusses the FTC’s balanced approach to privacy that weighs the risks of data misuse with the benefits of data to innovation and competition. The comment also offers observations on the timely topics of security, transparency, choice, and FTC enforcement. It concludes with a discussion of the future of privacy policymaking in the United States.

## 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 2019, the agency brought 23 competition law enforcement actions, including 21 merger actions and 2 conduct actions. Of the agency's 21 merger enforcement actions, 9 proposed acquisitions were abandoned or restructured to address Commission concerns that the original transaction would likely have harmed competition, results that preserved competition in the markets affected without resorting to litigation. In 10 merger matters, the Commission issued a consent order requiring the companies to divest assets or curb behavior to prevent the merger from leading to competitive harm. The FTC also authorized two federal court challenges to block proposed mergers that were likely to harm competition. In addition to its merger enforcement work, the Commission also initiated two federal court actions in conduct matters, including one alleging illegal monopolization involving a health technology company. In addition to its competition enforcement work, the FTC hosted several important workshops, published three reports, and pursued advocacy opportunities to promote competition and educate stakeholders about its benefits. The FTC also 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. In FY 2019, the FTC received notice of over 2,000 acquisitions and brought three civil penalty actions against firms that failed to meet their filing obligations.

### 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 engaging in competition advocacy.

- **Pharmaceutical and Medical Device Mergers:** During FY 2019, 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, in May 2019, the FTC's Administrative Law Judge issued an initial decision upholding the Commission's administrative complaint alleging that Otto Bock's consummated acquisition of Freedom Innovations eliminated head-to-head competition between the two top sellers of prosthetic knees equipped with microprocessors, entrenching Otto Bock's position as the dominant supplier in the market. Microprocessor knees are prescribed to patients with above-the-knee amputations who are relatively ambulatory. These complex medical devices reduce the risk of falling, cause less pain, and promote the health and function of the sound limb. In November 2019, the Commission upheld the initial decision. This matter is currently on appeal in federal court.

In another matter, the Commission issued a consent order settling charges that Fresenius Medical Care's proposed acquisition of NxStage Medical would likely have

reduced competition and harmed consumers in the market for bloodline tubing sets used in hemodialysis treatment. Under the order, NxStage was required to divest to B. Braun all assets and rights to research, develop, manufacture, market, and sell its bloodline tubing sets, and to continue to provide B. Braun with tubing sets until it can establish sufficient independent manufacturing capacity.

In August 2019, the Commission issued a consent order settling charges that Boston Scientific's proposed acquisition of BTG would have violated federal antitrust law. According to the Commission's complaint, the proposed acquisition would likely have harmed competition in the U.S. market for drug eluting beads (DEBs), microscopic beads used in combination with chemotherapy drugs to block blood flow to liver tumors in the treatment of certain liver cancers. Under the terms of the settlement, Boston Scientific was required to divest its DEB business, as well as its similar bland bead product line in order to maintain the competitive viability of the assets and ensure the divestiture's effectiveness.

- **Healthcare Mergers:** The FTC continued to vigorously challenge anticompetitive acquisitions involving healthcare and healthcare-related services. This year, the FTC successfully concluded litigation of its federal court injunction action challenging a proposed physician group merger in North Dakota. In *FTC v. Sanford Health*, the Commission, jointly with the Attorney General of North Dakota, charged that Sanford Health's proposed acquisition of a rival physician group would reduce competition in the market for the provision of adult primary care physician services, pediatric services, and obstetrics and gynecology services in the Mandan region of North Dakota. In December 2017, the federal court for the District of North Dakota granted a preliminary injunction pending a full administrative hearing on the merits before the FTC's administrative law judge. In June 2019, the Eighth Circuit Court of Appeals upheld the district court's ruling. Shortly after the appellate decision, the parties announced the abandonment of their proposed acquisition and the Commission dismissed its administrative complaint.

In a second matter, the Commission issued a consent order settling charges that UnitedHealth Group's proposed acquisition of DaVita Medical Group would have harmed competition in healthcare markets in two counties in Nevada. According to the complaint, the deal would have substantially reduced competition for (1) managed care provider organization (MCPO) services sold to Medicare Advantage insurers, and (2) Medicare Advantage plans sold to Medicare Advantage members in the Las Vegas area. In addition, the proposed acquisition would have resulted in anticompetitive effects due to the vertical integration of UnitedHealth Group's UnitedHealthcare, the area's leading Medicare Advantage insurer, with a larger combined MCPO service provider. The proposed acquisition would position UnitedHealth Group to raise the costs of or withhold its MCPO services to rival Medicare Advantage insurers, harming competition and likely raising prices to the Centers for Medicare and Medicaid Services (CMS) and to seniors in the Las Vegas Area, who would incur higher cost-sharing payments and receive fewer benefits and lower quality healthcare services. The consent order requires UnitedHealth Group to

divest DaVita's HealthCare Partners of Nevada to Intermountain Healthcare, and to provide various transition services to maintain the viability of the divested assets.

- **Pharmaceutical Pay-for-Delay Settlements:** The FTC continued to engage in vigorous antitrust enforcement to combat anticompetitive reverse payment patent settlements, also known as “pay-for-delay” tactics, in which a brand name drug company pays a potential generic competitor to delay its entry into the market.

The Commission successfully concluded several pending federal court reverse-payment settlement cases with broad settlements. For instance, Teva, the world's largest generic drug maker, settled charges against several of its affiliates in three pending cases by agreeing not to use two of the most common and pernicious forms of reverse payment settlements to impede generic entry. In a separate settlement, AbbVie agreed to settle claims against its subsidiary Solvay, bringing to a close the FTC's litigation that led to the Supreme Court's ruling in *FTC v. Actavis*. In its 2009 complaint, the Commission charged Solvay Pharmaceuticals and two generic drug manufacturers with entering into an anticompetitive reverse-payment agreement that delayed the release of generic equivalents to its testosterone replacement drug, Androgel. After the Supreme Court ruled in *FTC v. Actavis* that such agreements are subject to antitrust scrutiny, the case was remanded for trial; the settlement with AbbVie ended this case. The settlement does not resolve the FTC's separate charges against AbbVie, on appeal before the Third Circuit, involving sham litigation as well as reverse-payment patent settlements.

The Commission also continues to develop the law on reverse payment settlements post-*Actavis*. In March 2019, the Commission ruled in an administrative proceeding that Impax Laboratories entered an illegal agreement to delay its generic version of brand name pain medication Opana ER in exchange for the brand's commitment not to market an authorized generic—often called a no-AG commitment. In its unanimous decision, the Commission explained that under *Actavis*, eliminating the risk of competition through a reverse payment settlement itself constitutes anticompetitive harm, and that Impax failed to show that the procompetitive benefits of the agreement related to the restraint at issue rather than the settlement as a whole. In May 2019, Impax petitioned for review of the Commission's order in the Fifth Circuit.

Based on the FTC's review of agreements filed with the agency under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, pharmaceutical companies continue to settle patent disputes. In the wake of the Supreme Court's decision in *Actavis*, however, fewer of these settlements contain problematic payments from the brand company to its potential generic competitor.

- **Dental Supply Agreement not to Discount:** Between October 2018 and February 2019, Commission staff litigated the administrative complaint against Benco, Henry Schein, and Patterson—the nation's three largest dental supply firms, which collectively control more than 85 percent of the \$10 billion nationwide dental products and services market. According to the complaint, these suppliers colluded to refuse discounts to buying groups representing dental practitioners, depriving independent dentists of the benefits of group purchasing for supplies

and equipment ranging from gloves and sterilization products to dental chairs and lights. Additionally, the complaint alleged that Benco also violated Section 5 of the FTC Act by inviting a fourth dental supplier to join the collusive agreement. In October 2019, the Administrative Law Judge issued an initial decision holding that two of the three respondents (Benco & Patterson) named in the FTC's complaint had refused to provide discounts to, or otherwise service, buying groups representing dental practitioners in violation of federal antitrust law. None of the parties involved appealed the decision to the Commission, and the initial decision became final in November 2019, concluding the administrative proceeding.

- **Pharmaceutical Monopolization via Abuse of Government Processes:** This year, the Commission continued litigation of an appeal to its first-ever litigated victory in a sham litigation matter. In FY 2018, the U.S. District Court for the Eastern District of Pennsylvania granted the Commission's request for a permanent injunction in *FTC v. AbbVie*, and awarded \$448 million in equitable monetary relief to consumers harmed by AbbVie's use of baseless "sham" patent infringement lawsuits. AbbVie has appealed the court's judgment, and the FTC is appealing the court's pre-trial dismissal of allegations that AbbVie also entered into a reverse payment settlement to delay generic competitors from introducing lower-priced versions of the testosterone replacement drug AndroGel.
- **Monopolization in E-Prescribing Services:** In April 2019, the Commission authorized staff to seek a permanent injunction in federal court against Surescripts LLC for employing threats and various exclusionary tactics, including loyalty and exclusivity agreements, to maintain its monopolies in two e-prescribing markets: routing and eligibility. E-prescription routing enables healthcare providers to transmit prescriptions directly to pharmacies, whereas eligibility services enable healthcare providers to electronically determine patient eligibility for prescription coverage. According to the complaint, Surescripts monopolized these e-prescription markets by preventing customers on both sides of each market from using additional platforms (a practice known as multihoming), effectively thwarting competitors' success, and maintaining its roughly 95 percent share, in each market. This matter is pending in federal court.
- **Monopolization in Opioid Treatment Markets:** In July 2019, Reckitt Benckiser Group plc agreed to pay \$50 million to settle FTC charges that it used deceptive schemes to prevent lower-priced generic competition to its branded drug Suboxone—a prescription oral medication used to minimize withdrawal symptoms in patients with opioid addiction. According to the Commission's complaint, Reckitt misrepresented facts concerning the safety of its Suboxone tablets in order to shift patients to its newly developed oral film version, for which the company had a longer period of regulatory exclusivity, a practice known as "product hopping." Reckitt (through former subsidiary Indivior) then abused the FDA's citizen petition process by using these same invalid safety claims to further delay regulatory approval of competing generic Suboxone tablets. The stipulated order for permanent injunction and equitable monetary relief bars Reckitt from similar conduct in the future, and

requires the company to notify the FTC of its plans to reintroduce any reformulated versions of existing products.

### Consumer Goods Services

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

- **Office Supplies:** In January 2019, the FTC issued a consent order resolving charges that Staples Inc.'s acquisition of office supply distributor Essendant Inc. may have harmed competition in the market for office supply products sold to small and mid-sized businesses. According to the complaint, prior to the merger, Staples competed with independent dealers supplied by Essendant to sell office products to mid-sized business customers. The deal would have given Staples access to commercially sensitive information about Essendant's reseller customers and their end customers, allowing Staples to offer higher prices when bidding against these resellers for end customer business. Under the order, Staples must establish a firewall separating its business-to-business sales operations from Essendant's wholesale business, thereby limiting Staples' access to commercially sensitive information of independent dealers who buy from Essendant.
- **Wine and Spirits:** In April 2019, the Commission successfully maintained competition in the wine and spirit distribution markets in several states when distributors Republic National Distributing Company and Breakthru Beverage Group decided to abandon their proposed merger. Leading up to the abandonment, staff compiled extensive testimonial, documentary, and economic evidence supporting concerns that the transaction likely would harm both wine and spirits suppliers and foodservice customers who depend on these distribution services.
- **Cell Phone Technology:** In May 2019, the U.S. District Court for the Northern District of California decided that Qualcomm Inc.'s baseband processor licensing practices violated Sections 1 and 2 of the Sherman Act and constituted an unfair method of competition under the FTC Act. In FY 2017, the FTC sought to permanently block Qualcomm's use of these anticompetitive tactics to maintain its monopoly in the supply of these processors, a key semiconductor device used in cell phones and other consumer products. The FTC alleged that Qualcomm violated the antitrust laws by using its dominant position to impose on cell phone manufacturers onerous and anticompetitive supply and licensing terms, which increased competitors' costs. The trial on these charges occurred in January 2019. This matter is pending on appeal in federal court.
- **Foodservice Distribution:** In September 2019, the Commission issued a consent order to remedy concerns that US Foods' proposed acquisition of Services Group of America would harm competition in four regional markets for broadline foodservice distribution. More specifically, the Commission's complaint alleged that the deal would eliminate competition for these services in Eastern Idaho, Western North Dakota, Eastern North Dakota, and the Seattle area, limiting customers' ability to switch between distributors to obtain better pricing and service. Under the terms of

the order, the FTC required US Foods to divest three key distribution centers in the affected regions to maintain competition post-merger.

- **Title Insurance Services:** In September 2019, the Commission moved to block the merger of Fidelity National Financial and Stewart Information Services, alleging that the merger would reduce competition in state markets for title insurance underwriting for large commercial transactions, as well as in several local markets for title information services. Title insurance is used to protect parties to real estate transactions from financial loss resulting from defects in the property's title. According to the complaint, only four providers possess the financial strength, commercial expertise, and national footprint to underwrite large commercial transactions. The complaint further alleges that the transaction would likely harm competition in six local markets for title information services, where access to proprietary title plant databases of detailed, indexed information on chain of title are necessary for the issuance of title insurance policies. The parties abandoned their proposed merger following issuance of the Commission's complaint.

### **Chemicals and Industrial Goods**

The FTC continues to devote significant resources to maintain competition in markets for chemicals and industrial goods. The Commission brought several significant actions in these industries in FY 2019.

- In FY 2019, the Commission successfully concluded its litigation challenging Tronox Limited's proposed acquisition of Cristal. The merging firms are two of the largest suppliers of chloride process titanium dioxide (TiO<sub>2</sub>), a white pigment used in a wide variety of products including paint, industrial coatings, plastics, and paper. According to the complaint, the deal would have increased the likelihood of coordination among the remaining competitors in the industry, as well as the likelihood that Tronox could unilaterally reduce output and increase prices. After an administrative hearing on the merits of this matter concluded in June 2018, the Commission filed a motion for a preliminary injunction in federal court to enjoin the transaction pending the outcome of the administrative proceeding. In September 2018, the district court granted the FTC's request for a preliminary injunction, and in December 2018, the ALJ issued an initial decision upholding the Commission's complaint. In April 2019, following the ALJ's decision, the Commission issued a consent order settling its charges and requiring Tronox to divest Cristal's North American TiO<sub>2</sub> assets to an FTC-approved buyer.
- In August 2019, the Commission authorized staff to seek a preliminary injunction in federal court Evonik Industries AG's \$625 million proposed acquisition of PeroxyChem Holding Company, alleging that the merger would substantially reduce competition for the production and sale of hydrogen peroxide in the Pacific Northwest and Southern and Central United States. Hydrogen peroxide, a commodity chemical with few if any substitutes, is used for oxidation, disinfection, and bleaching, among other applications. Most hydrogen peroxide produced in the North America is used by paper customers for bleaching pulp and de-inking recycled paper. According

to the complaint, the proposed merger would eliminate head-to-head competition between the firms, increasing the likelihood of coordination in a highly concentrated market that is “already vulnerable to coordination, functioning as an oligopoly, and with a long history of price fixing.” The Commission issued an administrative complaint challenging the acquisition. This matter is currently pending in federal court after completion of a preliminary injunction hearing in November 2019; the administrative trial is scheduled to begin in January 2020.

- In another matter, the FTC issued a consent order settling its challenge to Linde AG’s proposed \$80 billion acquisition of rival industrial gas supplier Praxair, Inc. According to the complaint, the proposed merger would have joined the second and third largest global industrial gas suppliers, creating the largest supplier in the world, and harming competition in nine product markets including bulk liquid oxygen, nitrogen, argon, carbon dioxide, and hydrogen; bulk refined helium; on-site hydrogen and carbon monoxide; and excimer laser gases. These industrial gases have a wide array of applications in a variety of industries including energy, healthcare, manufacturing, food and beverages, and aerospace. The Commission’s order required a series of divestitures including the sale, to Messer Group, of Linde’s bulk liquid oxygen, nitrogen, and argon business, as well as sixteen carbon dioxide facilities and a number of source contracts equivalent to Paxair’s helium source contract volume (less volume divested under order of the European Commission or Chinese competition authority); Linde’s U.S. excimer laser gas business; and Linde’s North American liquid nitrogen production facility and related assets. The parties will further divest to Matheson Tri-Gas five of Linde’s hydrogen-carbon monoxide (HyCO) facilities outside of the Gulf Coast region, and its hydrogen pipeline in the Gulf Coast and related assets, and will divest two more of Linde’s HyCO plants to their respective customers, Celanese Corporation and LyondellBasell Industries.
- In December of 2018, the Commission issued a consent order placing restrictions on the court-approved bankruptcy sale of M&G’s unfinished North American PET resins production facility to a joint venture of three PET resin producers, including Mexican company Alpek S.A.B de C.V. (DAK), Thai company Indorama Ventures, and Taiwanese company Far Eastern New Century (FENC). The North American market for PET resin, a plastic polymer used primarily to make bottles and other food packaging, is highly concentrated raising concerns that the acquisition would have harmed competition. The new venture, Corpus Christi Polymers LLC, planned to finish and operate the facility, which would also produce purified terephthalic acid (PTA, a key input for PET production). Recognizing the procompetitive benefits of this efficient new facility serving customers in the North American market, the FTC’s order prevents the three purchasing firms from acting individually or in concert to exercise market power, or to transmit amongst themselves more competitively sensitive information than is necessary to accomplish the legitimate purposes of the joint venture.
- In another matter in the chemicals sector, Quaker Chemical Corp and Houghton International Inc. agreed to divest certain products and assets to settle FTC charges

that their proposed \$1.4 billion merger would harm competition. According to the Commission's complaint, the acquisition would likely have reduced or eliminated competition in the North American markets for aluminum hot rolling oil (AHRO), and steel cold rolling oil (SCRO), critical inputs in the production of sheet metal. Under the FTC order, Quaker was required to divest to Total, Houghton's North American AHRO and SCRO product lines, as well as certain product lines used in conjunction with AHRO and SCRO, including steel cleaners and AHRO compatible hydraulic fluids.

## Energy

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

- **Retail Fueling Stations:** In FY 2019, the Commission issued an order requiring Marathon Petroleum, whose subsidiary Speedway operates the second-largest chain of gasoline and convenience stores in the United States, to divest retail fuel assets in five New York localities to settle charges that its proposed acquisition of Express Mart would likely have been anticompetitive. Retail fuel markets are frequently small and highly localized, making these divestitures critical to preserving competition among retail gasoline and diesel suppliers in the Farmington, Fayetteville, Johnson City, Rochester, and Whitney Point, New York communities.
- **Natural Gas Distribution:** In September 2019, the Commission challenged NEXUS Gas Transmission, LLC's acquisition of an Ohio natural gas pipeline. According to the Commission's complaint, the acquisition of Generation Pipeline LLC, owner/operator of a 23-mile pipeline in the Toledo area, would have harmed competition for natural gas pipeline transportation in a three-county area, through the use of non-compete clauses which would have prevented competitor North Coast from competing in the market for three years, eliminating actual and potential competition for these services, and leading to reduced customer choice and ultimately higher prices. The FTC's order requires the parties to eliminate the non-compete clause from their sales agreement and further bars the parties from participating in agreements to restrict competition or any planned acquisition in the area without prior Commission approval.
- **Ethanol Market Concentration Report:** In November 2018, as required by the Energy Policy Act of 2005, the Commission issued its 14th 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 2019, the FTC filed two amicus brief in federal court and four competition advocacy comments (one to state legislators and three to federal government agencies).
  - » FTC staff continued to pursue competition advocacy to reduce pharmaceutical prices. In particular, staff submitted separate comments to the Food and Drug Administration on its citizen-petition process and the nonproprietary naming of biological products.
  - » FTC staff also submitted a comment to the Department of Health and Human Services on a proposed rule regarding interoperability and information blocking in health information technology.
  - » FTC staff continued to analyze the competitive effects of state-based certificate of need regulations, testifying before the Alaska Senate about how such laws can limit competition for healthcare services.
  - » Finally, FTC staff continued to engage in advocacy regarding the proper application of state-action antitrust immunity. Notably, the Commission filed two amicus briefs on state-action issues with the U.S. Circuit Court of Appeals for the Eleventh Circuit.
- **Reports:** During FY 2019, the FTC published reports and issued working papers addressing an array of competition issues. In May 2019, the Commission issued a report analyzing branded drug firms' patent settlements with generic competitors. The report summarized data on patent settlements filed with the FTC and the U.S. Department of Justice during FY 2016, as required under the Medicare Modernization Act of 2003. This was the Commission's third annual snapshot of such deals since *FTC v. Actavis*, in which the U.S. Supreme Court held that a branded drug manufacturer's reverse payment to a generic competitor to settle patent litigation can violate the antitrust laws. In June 2019, FTC staff issued a report on its standalone authority under Section 5 of the FTC Act to address high pharmaceutical prices.
- **Workshops:** During FY 2019, the Commission conducted several public workshops and conferences on emerging competition issues. From September 2018 through June 2019, the FTC held 14 sessions over the course of 23 days as a part of its Hearings on Competition and Consumer Protection in the 21st Century. In addition to the 393 individuals from outside the agency who participated in the Hearings, 71 members of FTC staff also participated. The hearings garnered a combined online audience of over 21,000 in addition to those who attended in person. The FTC held hearing sessions in Washington, DC; New York City; and Omaha, Nebraska.

The Hearings addressed several areas of competition and consumer protection policy, including: the consumer welfare standard; corporate concentration; horizontal and vertical mergers; monopsony power; multi-sided platforms; potential and nascent competition; antitrust in labor markets; innovation and intellectual property; privacy,

big data, and competition; artificial intelligence; the common ownership of minority interests in competing companies; data security; consumer privacy; broadband competition; the FTC's international mission; merger retrospectives; state consumer protection and competition issues; consumer protection remedies; and error-cost considerations, among other areas of interest. FTC staff is currently developing the output of the Hearings.

The FTC also held a workshop in June 2019 to assess the impact of certificates of public advantage on prices, quality, access, and innovation for healthcare services. Additionally, the FTC held its Eleventh Annual Microeconomics Conference.

### International Antitrust

- In FY 2019, 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. For example, the FTC engaged on policy issues of common interest and shared merger enforcement techniques and experience with staff from the competition agencies of Argentina, Australia, Brazil, Canada, Chile, China, Costa Rica, Egypt, the European Union, France, Germany, India, Indonesia, Ireland, Israel, Italy, Japan, South Korea, Mexico, Namibia, New Zealand, Nigeria, Pakistan, Peru, Spain, Taiwan, Ukraine, and the United Kingdom. The FTC continued to develop tools, facilitate case cooperation, and engage more frequently in deeper cooperation and coordination on individual matters with foreign counterparts. It also worked with the Department of Justice and several foreign competition agencies to develop the ICN's [Framework on Competition Agency Procedures](#) (an "opt-in" framework to advance basic fairness principles among all competition authorities), which has over 70 competition agency signatories.
- The FTC continued its robust international enforcement cooperation on cases of mutual concern. In fiscal year 2019, the FTC cooperated on 36 merger and anticompetitive conduct cases of mutual concern with counterpart agencies from 21 jurisdictions. Many of these matters involved cooperation with several agencies to achieve effective, sound, and consistent outcomes.
- The FTC played important leadership roles in the International Competition Network (ICN) and the competition bodies of the OECD, UNCTAD, and APEC. Through our engagement, we promote convergence toward best practices on substantive analysis and on principles of due process, share insights on law enforcement and policy initiatives, and emphasize good policies and practices regarding consumer welfare-based enforcement, intellectual property rights, the territorial scope of remedies, and procedural fairness. The FTC is a leader in the ICN, a preeminent venue for the coordination of international antitrust policy. In FY 2019, the FTC continued to serve on the ICN Steering Group, as well as co-chairing the Merger Working Group and the implementation group to promote use of ICN best practice recommendations and work product. The FTC led projects to develop [recommended practices for procedural fairness in competition agency enforcement](#), [practical guidance for merger enforcement cooperation](#), and [online training materials](#) to promote sound analytical and procedural practices across all aspects of antitrust enforcement. In

light of emerging digital economy issues that competition agencies are facing, the FTC proposed important new work to explore the interface between competition, consumer protection, and data privacy law and policy.

- In the OECD, the FTC played a lead role in developing the Competition Committee's long-term projects on competition in the digital economy and market studies, and is collaborating with the OECD's Secretariat to develop work on, among other topics, procedural fairness in competition investigations and enforcement, the application of competition laws to intellectual property rights, international enforcement cooperation, and competitive neutrality.
- The FTC, along with DOJ's Antitrust Division, continued to conduct bilateral high-level and staff dialogues with key counterparts. In 2019, we continued engagement with counterparts in China to discuss procedural fairness, enforcement of monopolization laws, and the antitrust treatment of the exercise of intellectual property rights. We also held high-level bilateral meetings with colleagues from foreign competition authorities, including from Canada, the European Union, Japan, South Korea, and Mexico, covering timely issues including digital platforms, vertical mergers, procedural fairness, and the antitrust treatment of the exercise of intellectual property rights.
- The FTC worked with other U.S. government agencies in a coordinated and effective manner to address competition issues that implicate broader U.S. policy interests, such as the protection of intellectual property and non-discriminatory treatment of U.S. companies. For example, the FTC has been part of the interagency group that addressed investigative procedure issues under the South Korea-US free trade agreement, and worked with the Department of Treasury, DOJ, and the Department of State, among others, on the development of G7 and G20 statements to achieve outcomes that furthered U.S. policy and interests on issues involving competition in the digital economy.
- With the rapid growth in the number of jurisdictions with competition laws, the FTC has expanded its program of technical assistance to help other agencies apply their laws in ways that support competitive markets and compatible analysis and outcomes in cross-border matters. The FTC continued its technical assistance programs with Brazil, India, the Philippines, and Ukraine by placing resident advisors in their competition agencies. The FTC also assisted the Philippine and Vietnamese authorities in drafting implementing regulations for their new antitrust laws and guidelines, and conducted 29 competition technical assistance programs in 19 jurisdictions, including regional programs for Africa and Eastern Europe, supported by a mix of funding sources.
- The FTC International Fellows and Interns program enables staff from counterpart agencies to work directly with FTC staff on antitrust investigations and cases, subject to appropriate confidentiality protections. From the program's inception in 2007 through the end of FY 2019, the FTC has hosted 85 international competition colleagues from 31 jurisdictions, including 5 officials during FY 2019.

## **PLANNED ACTIVITIES IN FY 2020 AND BEYOND**

### **INITIATIVE SUPPORTING BOTH CONSUMER PROTECTION AND COMPETITION MISSIONS**

#### **Hearings on Competition and Consumer Protection in the 21<sup>st</sup> Century**

On June 12, 2019, the FTC concluded its series of hearings examining whether broad-based changes in the economy, evolving business practices, new technologies, or international developments might require adjustments to competition and consumer protection law, enforcement priorities, and policy. With the conclusion of the Hearings and all associated public comment periods, we have begun the task of turning all of this material into further, valuable output, which may include reports, statements, guidance, and speeches. This work will be forward-looking and will both support the enforcement mission of the Commission and identify additional policy initiatives (effectuated through advocacy or amicus participation).

#### **PROTECTING CONSUMERS**

The FTC protects consumers from unfair and deceptive practices in the marketplace. The FTC conducts investigations, sues companies and people that violate the law, develops rules to protect consumers, and educates consumers and businesses about their rights and responsibilities. The agency also collects complaints about a host of consumer issues, including fraud, identity theft, financial matters, and DNC violations. The FTC makes these complaints available to law enforcement agencies worldwide.

#### **Protecting Consumers from Fraud**

Fraud affects all consumers, and the FTC will place an increased emphasis on law enforcement efforts to stop scams, focusing on those schemes that cause the most significant consumer harm. In particular, the FTC will take enforcement actions to stop imposter scams in which the perpetrators pose as government agents, legitimate technical support companies, family members, or others.

The FTC also will focus on frauds targeting specific populations, including older Americans, military consumers, and small businesses. Con artists continue to target consumers in financial distress. Therefore, the FTC will continue to take enforcement actions to stop deceptive or other unlawful conduct in mortgage assistance relief and other debt relief services, payday lending, and debt collection. This deceptive or other unlawful conduct can have severe consequences for consumers who can least afford it.

The FTC is committed to protecting military consumers from scams. The FTC's website [Military.Consumer.gov](https://www.ftc.gov/military-consumer) provides tools to help service members and their families avoid fraud and make informed financial decisions. With deployments and frequent relocations, military families regularly need to rent or buy a new place to live, manage money while on the move, and be vigilant about dealing with businesses in new locales. The FTC will continue to devote resources to conduct outreach to military consumers.

The FTC will continue to offer materials to help businesses avoid becoming victims of fraud; these materials are available via the FTC's Business Center at [business.ftc.gov](https://business.ftc.gov) and the agency's small business website at [ftc.gov/SmallBusiness](https://ftc.gov/SmallBusiness).

### **Protecting Consumers as Technology Evolves**

The FTC will continue to focus on identifying consumer protection issues associated with the use of new technology, including a careful consideration of the costs and benefits of practices and the importance of fostering innovation. The FTC also will take enforcement action against deceptive advertisements that appear in new formats and new media (e.g., apps, games, videos, and social networks). In addition, the agency will continue to evaluate consumer protection issues in the mobile marketplace through surveys and workshops. The FTC also will continue its efforts to root out entities responsible for illegal robocalls, enforce its DNC rules, and work with other stakeholders and industry to help develop technology-based solutions. The FTC will continue to conduct research on emerging technologies to assist with enforcement actions, educate consumers, and inform policy.

### **Protecting Consumer Privacy and Data Security**

The FTC will continue to take a leading role in efforts to protect consumers from unfair or deceptive practices related to the privacy and security of their personal information, while preserving the many benefits that technological advances offer. The agency will stop unfair and deceptive consumer privacy and data security practices through law enforcement focused on matters that cause or are likely to cause substantial injury to consumers. It will promote strong and balanced privacy protections through policy initiatives on a range of topics.

The FTC also will participate in interagency groups, promote self-regulatory efforts, provide technical assistance to Congress on draft legislation, and participate in international privacy initiatives.

In addition, the FTC will continue to be the repository for identity theft complaints and to make them available to federal criminal law enforcement agencies. Our trained counselors will continue to advise identity theft victims about the rights and remedies available to them under federal law, and to educate all consumers about how to avoid becoming victims. The FTC will continue to make enhancements to [IdentityTheft.gov](https://IdentityTheft.gov), the federal government's one-stop resource to help consumers report and recovery from identity theft.

### **Stopping Deceptive Advertising**

The FTC will continue to challenge false and unsubstantiated advertising claims. These actions will target various health-related claims, including disease prevention and treatment claims; claims aimed at baby boomers, seniors, military members, and rural consumers; and claims exploiting emerging health threats. The FTC also will challenge false and unsubstantiated environmental marketing claims. Additionally, the FTC will be seeking data from marketers of e-cigarettes about their advertising expenditures, similar to data the Commission seeks periodically from Cigarette and Smokeless Tobacco companies.

## Ensuring Compliance with FTC Orders

Order enforcement plays an integral part in fulfilling the FTC's consumer protection mission. The agency will continue to place a high priority on enforcing orders against repeat offenders, as well as those who act with them.

## Cross-Border Enforcement and Policy Development

The FTC will continue its enforcement against cross-border fraud and policy development efforts in the international arena. First and foremost, the FTC will seek reauthorization of the U.S. SAFE WEB Act, which provides the FTC with critical tools for cross-border enforcement and cooperation. Using the SAFE WEB tools and other mechanisms for cross-border cooperation, including technology-based systems, the FTC will continue to create and sustain international partnerships and networks to pursue matters involving foreign defendants, evidence, and assets and to develop new initiatives with foreign counterparts on consumer fraud. The FTC will continue to explore new ways of using complaint data, including information from [econsumer.gov](https://www.econsumer.gov) and data visualization tools to target its international efforts and to promote reciprocal enforcement by its foreign partners.

The FTC will continue to promote international development of market-oriented consumer protection policies that effectively address consumer harm. It will continue to highlight the importance of strong enforcement as a key component of consumer protection, including on privacy and data security and messaging abuses such as robocalls and spam, within the OECD, APEC (including the Electronic Commerce Steering Group), the International Conference of Data Protection and Privacy Commissioners, and other multilateral policy organizations. In particular, the FTC will continue to participate in the implementation of the OECD's 2016 Guidelines on Consumer Protection in the Context of Electronic Commerce and the revised United Nations Guidelines on Consumer Protection and on the consumer protection and privacy implications of the [OECD's Recommendation on Artificial Intelligence](#), adopted in May 2019, and the [G20 AI Principles](#) adopted in June 2019. The FTC will also continue to engage with European privacy and data protection authorities under the EU-U.S. and Swiss-U.S. Privacy Shield frameworks to help businesses comply with data protection requirements when transferring personal data from the European Union and Switzerland to the United States and enforce the agreements in the U.S. in support of transatlantic commerce.

The FTC also will continue to take enforcement actions involving cross-border issues, including by enforcing against companies that make false or deceptive membership claims or fail to abide by commitments under the Privacy Shield frameworks. The FTC will participate actively in enforcement networks such as ICPEN, IMMFWG, GPEN, and UCENet and encourage coordinated enforcement actions that protect U.S. consumers. The FTC will continue to engage in technical assistance and capacity-building activities in jurisdictions such as India with a focus on preventing fraud aimed at American consumers and enhancing enforcement cooperation to combat deceptive schemes.

## **MAINTAINING AND PROMOTING COMPETITION**

The FTC's competition work is critical to protect and strengthen free and open markets. Robust competition promotes lower prices, higher quality products and services, and greater innovation, all of which benefit consumers and the economy. A vigorous, open, and competitive marketplace provides the incentive and opportunity for new ideas and innovative products and services. The FTC will continue to use all of the tools at its disposal to promote competition and protect consumers from anticompetitive mergers and business practices.

### **Challenging Anticompetitive Mergers**

Identifying anticompetitive mergers remains a top priority of the agency's competition mission. The premerger notification requirements of the HSR Act provide the FTC with an effective starting point for identifying anticompetitive mergers before they are consummated, thereby preventing competitive harm. The FTC also devotes attention to identifying unreported, often consummated, mergers that could harm consumers. Reviewing and challenging anticompetitive mergers will continue to require substantial agency resources. Nonetheless, the FTC will continue its vigorous antitrust enforcement to maintain competition in a broad array of economic sectors of great importance to American consumers, including healthcare, technology, manufacturing, and consumer goods and services.

### **Promoting Competition in Healthcare and Pharmaceuticals**

The rapidly rising cost of healthcare is a matter of concern for consumers, employers, insurers, and the nation as a whole. Health-related products and services account for a significant percentage of gross domestic product each year as healthcare costs continue to rise. The FTC will continue to take action against anticompetitive agreements among healthcare providers and to challenge anticompetitive mergers of hospitals, medical device manufacturers, pharmaceutical companies, and other healthcare providers that contribute to the rising cost of healthcare. The agency also will continue its vigorous advocacy to promote healthcare competition by advising local, state, and federal entities, upon request, on the competitive implications of pending government actions.

### **Continuing Emphasis on Technology and Intellectual Property**

The FTC continues to promote competition in complex and innovative high-tech markets through its ongoing enforcement, research, and advocacy efforts. Competition in technology sectors can be especially important to ensure that technological advances continue to drive innovation and growth in the economy, introducing more efficient products and processes into the marketplace, increasing quality, and decreasing prices. Antitrust matters increasingly intersect with intellectual property issues, raising difficult questions about how best to integrate these two bodies of law to further the common goal of promoting innovation.

This focus on technology markets places increasing demands on the FTC's antitrust enforcement mission in both the merger and nonmerger areas. The FTC remains vigilant about firms illegally using a dominant market position to thwart competition in order to raise prices, reduce the quality or choice of goods and services, or inhibit innovation; or about groups of competitors acting collectively to increase prices or stifle innovation. The FTC's Bureau of Competition recently [announced](#) the creation of the Technology Enforcement Division dedicated to monitoring competition in U.S. technology markets, investigating any potential anticompetitive conduct in those markets, and taking enforcement actions when warranted.

### **Preventing Anticompetitive Activity in the Energy Sector**

The FTC continues to focus closely on gasoline markets, investigating industry practices and pricing, and will move quickly to address any anticompetitive mergers and other anticompetitive activities that could artificially raise energy costs. Under its Gasoline and Diesel Price Monitoring Project, the FTC will continue to track retail gasoline and diesel fuel prices in 360 cities nationwide and wholesale prices in 20 major urban centers to identify unusual changes in gasoline prices. If staff detects any such changes, they will promptly investigate the cause.

### **Increasing Consumer and Business Outreach**

The FTC will continue its efforts to educate businesses and consumers on compliance with the antitrust laws and the important role of competition in ensuring the mix of price, choice, and innovation valued by consumers. The FTC will look for opportunities to expand the reach of the "Competition Matters" blog by addressing frequently asked questions and issues of importance to consumers and businesses, and the agency will participate in business outreach through the Commission's "Green Lights & Red Flags" events. Finally, the FTC's Premerger Notification Office, which responds to thousands of calls seeking guidance about premerger filing requirements, will continue to give clear guidance to companies about these regulations and ensure that its interpretations comport with congressional intent and sound public policy. FTC staff will also continue to provide advisory opinions to businesses that request review of proposed conduct.

### **Promoting Global Competition**

The FTC will continue to develop its cooperative relationships with key international counterpart agencies and will update and develop additional cooperation tools to ensure sound and consistent enforcement. The FTC will continue to work with competition agencies worldwide to promote best practices and to minimize procedural and policy differences. The FTC plays a lead role in urging convergence toward best practices through its active participation in international bodies, such as the ICN and OECD, and continues to advocate for, develop, and promote the implementation of international best practices in core substantive and procedural areas, including procedural fairness. In 2020, the FTC will co-host the ICN's annual conference with the DOJ Antitrust Division. This will provide a unique opportunity to shape the agenda and lead the discussion of emerging competition policy topics such as enforcement involving the digital economy, ensuring procedural

fairness in antitrust investigations, and international cooperation. The FTC will continue its outreach in order to strengthen cooperative relationships with our counterpart agencies through its International Fellows and Interns and technical assistance programs. The Commission will continue to work with other U.S. agencies as appropriate to address global issues of mutual concern, including through competition provisions of trade agreements.

### **Advocating for Competition before the Courts and Other Government Agencies**

The FTC works to minimize government-imposed barriers to a competitive marketplace by responding to policymakers' inquiries about how to apply sound competition principles as they make decisions affecting consumer welfare. The FTC and its staff will continue to speak out and file comments on proposed government action (legislation, regulation, and other rules) affecting competition in a broad range of industries. The FTC and its staff also will continue to provide guidance on important competition policy issues by issuing reports and filing amicus briefs to help courts resolve important competition issues.

### **Enforcing FTC Orders, Ensuring the Effectiveness of FTC Merger Orders, and HSR Compliance**

The FTC will continue its compliance program to ensure that consumers receive the full benefits of competition preserved or restored by the agency's consent orders. The FTC also will continue to enforce compliance with the HSR premerger notification rules, and take appropriate action when firms fail to meet the filing requirements.

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Annual Performance Report  
for Fiscal Year 2019  
and Annual Performance Plan  
for Fiscal Years 2020 and 2021



Budgeted Resources by Objective  
(\$ in thousands)

<b>Strategic Goal 1: Prevent fraud, deception, and unfair business practices in the marketplace.</b>	<b>FY 2020 FTE</b>	<b>FY 2020 Amount</b>	<b>FY 2021 FTE</b>	<b>FY 2021 Amount</b>
Objective 1.1: Identify and take actions to address deceptive or unfair practices that harm consumers.	512	\$155,438	512	\$155,086
Objective 1.2: Provide the public with knowledge and tools to prevent harm to consumers.	73	22,970	73	22,918
Objective 1.3: Collaborate with domestic and international partners to enhance consumer protection.	27	7,790	27	7,779
<b>Total</b>	<b>612</b>	<b>\$186,198</b>	<b>612</b>	<b>\$185,783</b>

<b>Strategic Goal 2: Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.</b>	<b>FY 2020 FTE</b>	<b>FY 2020 Amount</b>	<b>FY 2021 FTE</b>	<b>FY 2021 Amount</b>
Objective 2.1: Identify and take actions to address anticompetitive mergers and practices that cause harm to consumers.	453	\$123,756	453	\$123,408
Objective 2.2: Engage in effective research and stakeholder outreach to promote competition, advance its understanding, and create awareness of its benefits to consumers.	53	14,502	53	14,472
Objective 2.3: Collaborate with domestic and international partners to preserve and promote competition.	22	6,544	22	6,536
<b>Total</b>	<b>528</b>	<b>\$144,802</b>	<b>528</b>	<b>\$144,416</b>

FTE by Objective  
(\$ in thousands)

Protecting Consumers	Fiscal Year 2020				Fiscal Year 2021			
	Objective Number			Total FTE	Objective Number			Total FTE
	1	2	3		1	2	3	
Privacy and Identity Protection	50	8	3	61	50	8	3	61
Financial Practices	61	6	4	71	61	6	4	71
Marketing Practices	108	5	9	122	108	5	9	122
Advertising Practices	51	5	3	59	51	5	3	59
Enforcement	52	1	1	54	52	1	1	54
Consumer Response and Operations	24	1	---	25	24	1	---	25
Litigation Technology and Analysis	36	1	---	37	36	1	---	37
Consumer and Business Education	---	21	---	21	---	21	---	21
Economic and Consumer Policy Analysis	2	5	1	8	2	5	1	8
Management	9	3	---	12	9	3	---	12
Support	119	17	6	142	119	17	6	142
<b>Total</b>	<b>512</b>	<b>73</b>	<b>27</b>	<b>612</b>	<b>512</b>	<b>73</b>	<b>27</b>	<b>612</b>

Promoting Competition	Fiscal Year 2020				Fiscal Year 2021			
	Objective Number			Total FTE	Objective Number			Total FTE
	1	2	3		1	2	3	
Premerger Notification	15	3	---	18	15	3	---	18
Merger and Joint Venture Enforcement	187	10	5	202	187	10	5	202
Merger and Joint Venture Compliance	9	2	---	11	9	2	---	11
Nonmerger Enforcement	116	6	5	127	116	6	5	127
Nonmerger Compliance	1	---	---	1	1	---	---	1
Antitrust Policy Analysis	3	16	7	26	3	16	7	26
Other Direct	16	4	---	20	16	4	---	20
Support	106	12	5	123	106	12	5	123
<b>Total</b>	<b>453</b>	<b>53</b>	<b>22</b>	<b>528</b>	<b>453</b>	<b>53</b>	<b>22</b>	<b>528</b>

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# About This Report and Plan

The following document is the combined Annual Performance Report for FY 2019 and Annual Performance Plan for FY 2020-2021 for the Federal Trade Commission (FTC or Commission). The performance report and performance plan are structured around three strategic goals and their supporting objectives as established in the FTC Strategic Plan for FY 2018-2022. The FTC's strategic goals, objectives, and performance measures articulate what the agency intends to accomplish to meet its mandated mission (Goals 1 and 2), support and improve the management functions vital to core mission success (Goal 3), and demonstrate the highest standards of stewardship.

- **Strategic Goal 1:** Protect consumers from unfair and deceptive practices in the marketplace
- **Strategic Goal 2:** Maintain competition to promote a marketplace free from anticompetitive mergers, business practices, or public policy outcomes
- **Strategic Goal 3:** Advance the FTC's performance through excellence in managing resources, human capital, and information technology

To see more of the FTC's [performance](#) and [budget](#) documents, please visit the agency's website.

## AGENCY AND MISSION INFORMATION

The FTC works to protect and strengthen free and open markets and to promote informed consumer choice, both in the United States and around the world. While the FTC is primarily a law enforcement agency, the FTC also uses a variety of other tools to fulfill its mission, including rulemaking, research, studies on marketplace trends and legal developments, and consumer and business education.

### Our Mission

Protecting consumers and competition by preventing anticompetitive, deceptive, and unfair business practices through law enforcement, advocacy, and education without unduly burdening legitimate business activity.

### Our Vision

A vibrant economy characterized by vigorous competition and consumer access to accurate information.

### Our History and Organization

The FTC is an independent agency that reports to the President and to Congress on its mission to protect consumers and promote competition. This work includes pursuing

vigorous and effective law enforcement; advancing consumers' interests by sharing its expertise with Congress and state legislatures and U.S. and international agencies; developing policy and research tools through hearings, workshops, and conferences; and creating practical and plain-language educational programs and materials for consumers and businesses in a global marketplace with constantly changing technologies.

The FTC has a long tradition of maintaining a competitive marketplace for both consumers and businesses. In 1914, President Woodrow Wilson signed the Federal Trade Commission Act into law, creating the FTC, which then absorbed its predecessor, the Bureau of Corporations, in 1915. When the FTC was created in 1914, its purpose was to prevent unfair methods of competition in commerce as part of the battle to “bust the trusts.” Over the years, Congress passed additional laws giving the agency greater authority over anticompetitive practices.

Recognizing that unfair and deceptive practices can also distort a competitive marketplace and cause harm to consumers, in 1938 Congress amended the FTC Act and granted the FTC authority to stop “unfair or deceptive acts or practices in or affecting commerce.” Since then, the FTC also has been directed to enforce a wide variety of other consumer protection laws and regulations. In total, the Commission has enforcement or administrative responsibilities [under more than 70 laws](#). In addition, the agency maintains a website at [www.ftc.gov](http://www.ftc.gov) that provides information for consumers and businesses, as well as online forms to file complaints.

### **Organizational Structure**

The FTC is headed by a Commission, consisting of five members, each of whom is nominated by the President, confirmed by the Senate, and serves a staggered seven-year term. The President chooses one commissioner to act as Chair. No more than three commissioners may be from the same political party. The FTC accomplishes its mission through three bureaus: the Bureau of Consumer Protection (BCP), the Bureau of Competition (BC), and the Bureau of Economics (BE). Their work is aided by the Office of the General Counsel (OGC), the Office of International Affairs (OIA), the Office of Policy Planning (OPP), the Office of the Secretary (OS), the Office of the Executive Director (OED), the Office of Congressional Relations, the Office of Public Affairs (OPA), the Office of Administrative Law Judges, the Office of Equal Employment Opportunity and Workplace Inclusion, and the Office of the Inspector General (OIG). For more information about the agency's components, visit its [organizational structure webpage](#).

The agency's headquarters are located in Washington, D.C. with seven regional offices across the United States. The agency had 1,130 staff on board at the end of FY 2019. The total new budget authority for FY 2019 was \$309.7 million.

## VERIFICATION AND VALIDATION OF PERFORMANCE DATA

The performance results described in this report enable the FTC to administer its programs, gauge programmatic success, and make adjustments necessary to improve program quality. The [Data Quality Appendix](#) provides detailed descriptions and information on data sources, quality, and collection for the FTC's performance measures. Additionally, the following steps outline how the agency ensures the performance information it reports is complete, reliable and accurate:

- The FTC has adopted a central internal repository for performance data entry, reporting, and review. This electronic data tool reduces human error, increases transparency, and facilitates review of the agency's performance information.
- The agency maintains written procedures used to ensure timely reporting of complete, accurate, and reliable results relative to the performance measures.
- The agency strives to set meaningful and realistic targets that also challenge the agency to better leverage its resources. This includes ensuring ongoing monitoring and updating of performance targets. Further, when appropriate, program managers are required to explain how they will improve performance when targets are not met.
- The agency conducts periodic performance measurement reviews throughout the fiscal year with FTC staff. This process includes substantiating that results reported are accurate.
- To ensure that performance results meet standards for reliability, validity, and integrity, the agency conducts semi-annual reviews of the source documentation and performance calculation methodology for performance goals documented in the agency Strategic Plan and the Data Quality Appendix.

Agency program managers also monitor and maintain automated systems and databases that collect, track, and store performance data, with support provided by the Office of the Chief Information Officer (OCIO). In addition to the general controls the FTC has in place, which ensure only authorized staff can access key systems, each system incorporates internal validation edits to ensure the accuracy of data contained therein. These application edits include checks for reasonableness, consistency, and accuracy. Crosschecks between other internal automated systems also provide assurances of data accuracy and consistency. In addition to internal monitoring of each system, experts outside of the primary business units (i.e., BC and BCP) routinely monitor the data collection. For example, senior economists from BE review statistical data used by BC to calculate performance results. The Financial Management Office (FMO) is responsible for providing direction and support on data collection methodology and analysis, ensuring that data quality checks are in place, and accurately reporting performance data.

## **ENTERPRISE RISK MANAGEMENT (ERM)**

The FTC has implemented an ERM program to assess risks systematically across major program areas. ERM assesses the full spectrum of the agency's risks related to achieving its strategic objectives as specified in the agency's Strategic Plan. ERM assessment results provide agency leadership with a portfolio view of risk to help inform decision-making.

The Office of Management and Budget revised Circular A-123 in 2016 to integrate the ERM process with Internal Controls. To support the new requirements, the agency has been systematically identifying risks and highlighting areas for mitigation. For FY 2018, the FTC standardized risk management and monitoring activities throughout the agency, and also added risk registers to important risk areas such as Privacy Office functions and fraud risk identification and mitigation. For FY 2019, the ERM program leveraged existing registers to enhance evidence-building functions of monitoring activities through data collection and analysis. In FY 2020, the ERM program will continue to enhance ERM to promote a higher-performing process and culture.

Annual Performance Goals: Fiscal Years 2015 to 2021  
 For additional performance information, please see the reports available at  
<http://www.ftc.gov/about-ftc/performance>.

	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2019 Target	FY 2020 Target	FY 2021 Target
<b>Goal 1: Protect consumers from unfair and deceptive practices in the marketplace.</b>								
<b>Objective 1.1: Identify and take actions to address deceptive or unfair practices that harm consumers.</b>								
<b>Performance Goal 1.1.1</b> Percentage of the FTC's consumer protection law enforcement actions that targeted the subject of consumer complaints to the FTC.	93.8%	91.2%	94.4%	89.6%	87.8%	80.0%	80.0%	
<b>Performance Goal 1.1.2</b> Rate of customer satisfaction with the FTC's Consumer Response Center. (A) Website (B) Call Center	(A) 81 (B) 82	(A) 81 (B) 83	(A) 80 (B) 84	(A) 80.3 (B) 85	(A) 81.2 (B) 84	(A) 74.2 (B) 74.2	average/standard rates for websites/ call centers	
<b>Key Performance Goal 1.1.3</b> Total consumer savings compared to the amount of FTC resources allocated to consumer protection law enforcement. (New 3 yr. rolling average)	N/A	\$8.80 in consumer savings per \$1 spent	\$35.20 in consumer savings per \$1 spent	\$39.00 in consumer savings per \$1 spent	\$38.60 in consumer savings per \$1 spent	\$7.00 in consumer savings per \$1 spent	\$7.00 in consumer savings per \$1 spent	
<b>Key Performance Goal 1.1.4</b> Amount of money returned to consumers or forwarded to the U.S. Treasury resulting from FTC enforcement action.	N/A	\$95.20 million	\$2.69 billion	\$3.25 billion	\$3.52 billion	\$65.00 million	\$65.00 million	
<b>Objective 1.2 Provide consumers and businesses with knowledge and tools that provide guidance and prevent harm.</b>								
<b>Key Performance Goal 1.2.1</b> Rate of consumer satisfaction with FTC consumer education websites.	Data Not Available	76.0	77.0	77.0	77.7	74.2	average rates for websites	
<b>Performance Goal 1.2.2</b> Number of workshops and conferences the FTC convened that address consumer protection issues.	17	12	19	11	12	10	10	
<b>Performance Goal 1.2.3</b> Number of consumer protection reports the FTC released.	6	8	10	18	11	10	10	

	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2019 Target	FY 2020 Target	FY 2021 Target
<b>Objective 1.3 Collaborate with domestic and international partners to enhance consumer protection.</b>								
<b>Performance Goal 1.3.1</b> Number of investigations or cases in which the FTC and other U.S. federal, state and local government agencies shared evidence or information that contributed to FTC law enforcement actions or enhanced consumer protection.	435	387	359	369	453	375		375
<b>Key Performance Goal 1.3.2</b> Number of investigations or cases in which the FTC obtained foreign-based evidence or information or engaged in other mutual assistance that contributed to FTC law enforcement actions, or in which the FTC cooperated with foreign agencies and/or multilateral organizations on enforcement matters.	58	53	50	43	48	40		40
<b>Performance Goal 1.3.3</b> Number of instances of policy advice or technical assistance provided to foreign consumer protection and privacy agencies, directly and through international organizations.	76	66	66	64	71	60		60
<b>Performance Goal 1.3.4</b> Percentage of consumer protection advocacy comments and amicus briefs filed with entities including federal and state legislatures, agencies, or courts that were successful, in whole or in part.	100.0%	85.7%	85.7%	*	*	60.0%		60.0%
<b>Goal 2: Maintain competition to promote a marketplace free from anticompetitive mergers, business practices, or public policy outcomes</b>								
<b>Objective 2.1 Identify and take actions to address anticompetitive mergers and practices.</b>								
<b>Key Performance Goal 2.1.1</b> Percentage of full merger and nonmerger investigations in which the FTC takes action to maintain competition.	57.7%	54.6%	49.1%	67.9%	62.9%	40.0 to 70.0%		40.0 to 70.0%
<b>Performance Goal 2.1.2</b> Consumer savings through merger actions taken to maintain competition.	\$2.41 billion	\$2.59 billion	\$2.59 billion	\$2.66 billion	\$3.09 billion	\$2.10 billion		\$2.10 billion

\* Results not available at time of publication.

	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2019 Target	FY 2020 Target	FY 2021 Target
<b>🔑 Key Performance Goal 2.1.3</b> Total consumer savings compared to the amount of FTC resources allocated to the merger program.	\$51.30 in consumer savings per \$1 spent	\$46.40 in consumer savings per \$1 spent	\$55.60 in consumer savings per \$1 spent	\$50.30 in consumer savings per \$1 spent	\$65.90 in consumer savings per \$1 spent	\$42.00 in consumer savings per \$1 spent	\$42.00 in consumer savings per \$1 spent	
<b>Performance Goal 2.1.4</b> Consumer savings through nonmerger actions taken to maintain competition.	\$1.03 billion	\$1.02 billion	\$1.12 billion	\$1.10 billion	\$1.77 billion	\$900.00 million	\$900.00 million	
<b>🔑 Key Performance Goal 2.1.5</b> Total consumer savings compared to the amount of FTC resources allocated to the nonmerger program.	\$48.60 in consumer savings per \$1 spent	\$52.30 in consumer savings per \$1 spent	\$39.60 in consumer savings per \$1 spent	\$40.10 in consumer savings per \$1 spent	\$75.80 in consumer savings per \$1 spent	\$40.00 in consumer savings per \$1 spent	\$40.00 in consumer savings per \$1 spent	
<b>Objective 2.2 Engage in effective research, advocacy, and stakeholder outreach to promote competition and advance its understanding.</b>								
<b>Performance Goal 2.2.1</b> Number of workshops, seminars, conferences, and hearings convened or co-sponsored that involve significant competition-related issues.	4	3	3	7	11	3	3	
<b>Performance Goal 2.2.2</b> Number of reports and studies the FTC issued on key competition-related topics.	9	9	11	9	4	8	8	
<b>Performance Goal 2.2.3</b> Percentage of competition advocacy comments and amicus briefs filed with entities including federal and state legislatures, agencies, or courts that were successful, in whole or in part.	80.0%	64.7%	58.6%	*	*	60.0%	60.0%	
<b>Objective 2.3 Collaborate with domestic and international partners to preserve and promote competition.</b>								
<b>🔑 Key Performance Goal 2.3.1</b> Percentage of FTC cases involving at least one substantive contact with a foreign antitrust authority in which the agencies followed consistent analytical approaches and reached compatible outcomes.	100%	100%	96%	98%	100%	95%	95%	
<b>Performance Goal 2.3.2</b> Number of instances in which the FTC provided policy advice or technical assistance to foreign competition agencies or government.	144	171	160	151	165	120	130	

\* Results not available at time of publication.

	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2019 Target	FY 2020 Target	FY 2021 Target
<b>Goal 3: Advance the FTC's performance through excellence in managing resources, human capital, and information technology.</b>								
<b>Objective 3.1 Optimize resource management and infrastructure.</b>								
<b>Performance Goal 3.1.1</b> The extent to which the FTC is prepared to protect people and property and to continue mission essential operations during emergencies. (A) Achieve a favorable COOP rating (B) The number of products and activities related to Physical Security that inform staff and provide opportunities to practice emergency procedures.	(A) 90% (B) N/A	(A) 90% (B) N/A	(A) 95% (B) N/A	(A) 95% (B) 39	(A) 95% (B) 70	(A) 80% (B) 42	(A) 80% (B) 42	
<b>Performance Goal 3.1.2</b> Percentage of survey respondents who are satisfied with the timeliness of administrative operations.	N/A	N/A	81%	82%	87%	75%	75%	
<b>Performance Goal 3.1.3</b> Achieve a favorable (unmodified) audit opinion from the agency's independent financial statement auditors.	Unmodified opinion							
<b>Performance Goal 3.1.4</b> Percentage of new entrant, annual, and termination Public Disclosure Reports that are filed within the required timeframe.	N/A	N/A	N/A	98.3%	98.4%	95.0%	95.0%	
<b>Performance Goal 3.1.5</b> Percentage of contract actions awarded within FTC's established Procurement Action Lead Time (PALT).	N/A	78%	65%	57.4%	67%	65%	70%	75%

	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2019 Target	FY 2020 Target	FY 2021 Target
<b>Objective 3.2 Cultivate a high-performing, diverse, and engaged workforce.</b>								
<b>Performance Goal 3.2.1</b> The extent to which FTC employees consider their agency a best place to work.	79%	81%	83%	85%	84%	66%	Exceed government-wide average by 10 points	
<b>Performance Goal 3.2.2</b> The extent employees believe the FTC encourages an environment that is open, diverse, and inclusive.	70%	75%	78%	78%	78%	62%	Exceed government-wide average by 10 points	
<b>Performance Goal 3.2.3</b> The extent to which employees believe the FTC cultivates engagement throughout the agency.	79%	82%	83%	83%	84%	68%	Exceed government-wide average by 10 points	
<b>Performance Goal 3.2.4</b> The extent to which employees believe FTC management promotes a results-oriented performance culture.	65%	70%	73%	74%	75%	61%	Exceed government-wide average by 10 points	
<b>Objective 3.3 Optimize technology and information management that supports the FTC mission.</b>								
<b>Performance Goal 3.3.1</b> Availability of information technology systems.	99.82%	99.75%	99.70%	99.71%	99.98%	99.50%	99.60%	99.70%
<b>Performance Goal 3.3.2</b> Percentage of IT spend on Provisioned IT Services.	N/A	N/A	N/A	36.6%	37.0%	37.0%	40.0%	45.0%
<b>Performance Goal 3.3.3</b> Achieve a favorable FTC Cybersecurity Index score.	N/A	N/A	N/A	3 of 8	6 of 8	6 of 8	6 of 8	
<b>Performance Goal 3.3.4</b> Percentage of the FTC's paper records held at the Washington National Records Center (WNRC) that are processed and appropriately either (a) destroyed or (b) transferred to the National Archives and Records Administration.	N/A	N/A	N/A	N/A	16.8% (2,779 boxes)	≥ 25.0% of WNRC holdings processed (4,100 boxes)	≥ 50.0% of WNRC holdings processed	≥ 75.0% of WNRC holdings processed
<b>Performance Goal 3.3.5</b> Successfully transfer permanent electronic records dated between 2004 and 2016 to NARA in a timely manner.	N/A	N/A	N/A	N/A	100%	Transfer permanent electronic records dated 2004-2006	Transfer permanent electronic records dated 2007-2009	Transfer permanent electronic records dated 2010-2012

## Strategic Goal 1: Protect Consumers From Unfair and Deceptive Practices in the Marketplace

The FTC protects consumers from unfair and deceptive acts and practices in the marketplace by conducting investigations, suing companies and people that violate the law, developing rules to protect consumers, and educating consumers and businesses about their rights and responsibilities. The agency also collects complaints about a host of consumer issues, including fraud, identity theft, financial matters, and Do Not Call violations. The FTC makes these complaints available to law enforcement agencies worldwide.

Because the FTC has jurisdiction over a wide range of consumer protection issues, it must effectively use its limited resources by targeting its law enforcement and education efforts to achieve maximum impact and by working closely with federal, state, international, and private sector partners in joint initiatives. In addition, the agency engages in dialogue with a broad range of stakeholders to understand emerging issues. The FTC also conducts research on a variety of consumer protection topics.

The FTC focuses on investigating and litigating cases that cause or are likely to cause substantial injury to consumers. This includes not only monetary injury, but also, for example, unwarranted health and safety risks. By focusing on practices that are actually harming or likely to harm consumers, the FTC can best leverage its limited resources.

### Strategic Objectives

The FTC has established three objectives to guide work in this area:

- **Objective 1.1:** Identify and take actions to address deceptive or unfair practices that harm consumers.
- **Objective 1.2:** Provide consumers and businesses with knowledge and tools that provide guidance and prevent harm.
- **Objective 1.3:** Collaborate with domestic and international partners to enhance consumer protection.

Goal 1 and its supporting Strategic Objectives comprise the first of two Mission-Focused components of the FTC's FY 2019 Performance Report and FY 2020-2021 Performance Plan.

**Objective 1.1: Identify and take actions to address deceptive or unfair practices that harm consumers.**

**Goal Leader: Director, Bureau of Consumer Protection**

**Strategies and External Factors**

Strategy	Related Performance Measures	Related External Factors
Monitor and review Consumer Sentinel Network database and monitor marketplace practices for complaint trends and data to support existing claims.	Measure 1.1.1 Measure 1.1.2 Indicator 1.1.IND.1 Indicator 1.1.IND.3	<ul style="list-style-type: none"> <li>• Number of complaints</li> <li>• Volume of complaints</li> </ul>
Take law enforcement action that focuses on preventing fraud and harm to consumers, protects consumer privacy, and targets those who violate federal court and administrative orders violators obtained by the FTC.	Measure 1.1.3 Measure 1.1.4 Indicator 1.1.IND.2	<ul style="list-style-type: none"> <li>• Congressional legislation, budget, and staffing changes</li> <li>• Litigation costs</li> </ul>
<p>External Factors (extended descriptions):</p> <ul style="list-style-type: none"> <li>• <b>Number of complaints:</b> The number of complaints received by the agency can influence the agency’s ability to identify unlawful practices.</li> <li>• <b>Volume of complaints:</b> The volume of complaints about specific practices can influence the identification of trends, targets and policy concerns.</li> <li>• <b>Congressional legislation, budget constraints, and staffing issues:</b> New legislation changes to existing laws and changes in budget and staffing can all impact the agency’s ability to take law enforcement action.</li> <li>• <b>Costs:</b> Costs related to litigation, processing and storing increasingly large amounts of electronic investigation and case data.</li> </ul>		

**Progress Update**

The agency continued to focus its resources on areas that cause the greatest harm to consumers. For example, in the area of scams and fraud, the operators of Next-Gen, a sweepstakes scam that appeared to target seniors, agreed to forfeit \$30 million in cash and assets and to be permanently banned from the prize promotion business under a settlement with the FTC and the State of Missouri. In a contempt case, MoneyGram International agreed to pay \$125 million to settle allegations that the company failed to take steps required under a 2009 FTC order to crack down on fraudulent money transfers that cost U.S. consumers millions of dollars. In FY 2019, the FTC filed or obtained settlements in 121 consumer protection matters in district court, reached 30 administrative consent agreements related to consumer protection, and returned more than \$478 million in redress to consumers.

In the area of privacy, the agency announced that Facebook, Inc. would pay a record-breaking \$5 billion penalty, and submit to new restrictions and a modified corporate structure that will hold the company accountable for the decisions it makes about its users' privacy. Facebook will take these actions as part of a settlement of FTC charges that the company violated a 2012 FTC order by deceiving users about their ability to control the privacy of their personal information. The FTC also alleged that Facebook violated the FTC Act's prohibition against deceptive practices when it told users it would collect their phone numbers to enable a security feature, but did not disclose that it also used those numbers for advertising purposes. In a children's privacy case, Google LLC and its subsidiary YouTube, LLC agreed to pay a record \$170 million to settle allegations by the FTC and the New York Attorney General that the YouTube video sharing service illegally collected personal information from children without their parents' consent. The settlement requires Google and YouTube to pay \$136 million to the FTC and \$34 million to New York for allegedly violating the Children's Online Privacy Protection Act (COPPA) Rule. The \$136 million penalty is by far the largest amount the FTC has ever obtained in a COPPA case since Congress enacted the law in 1998. The agency also hosted its fourth PrivacyCon event to continue and expand collaboration among leading privacy and security researchers, academics, industry representatives, consumer advocates, and the government to address the privacy and security implications of emerging technologies.

Equifax agreed to pay at least \$575 million, and potentially up to \$700 million, as part of a global settlement with the FTC, the Consumer Financial Protection Bureau, and 50 U.S. states and territories in a data security case that alleged that the credit reporting company's failure to take responsible steps to secure its network led to a data breach in 2017 that affected approximately 147 million people.

The FTC and its law enforcement partners announced "Operation Call it Quits," a major crackdown on illegal robocalls targeting operations around the country that are responsible for more than one billion calls pitching a variety of products and services, including credit card interest rate reduction services, money-making opportunities, and medical alert systems. The joint crackdown is part of the FTC's ongoing effort to help stem the tide of universally loathed pre-recorded telemarketing calls. It also includes new information to help educate consumers about illegal robocalls. In addition, the FTC continues to promote the development of technology-based solutions to block robocalls and combat caller ID spoofing. The FTC and its partners announced 94 actions, including four new cases and three new settlements from the FTC.

As in past years, the FTC focused on its greatest asset in protecting consumers—its staff. FTC staff has continued to work to identify, develop, and communicate best practices and updated procedures to maximize the efficiency of the FTC's consumer protection work. BCP also continued to make law enforcement training a priority in FY 2019. BCP continued to expand the content on BCP Lit, its widely used internal training and information platform. BCP added new training materials, legal resources, and investigation and litigation advice to BCP Lit, as well as revised and updated existing training content on the platform. The Bureau also conducted a variety of seminars, brown bags, and lectures on topics

including the Restore Online Shoppers' Confidence Act, cryptocurrencies, and collection of judgments. BCP also sent several staff attorneys to deposition and trial advocacy training programs run by the National Institute for Trial Advocacy (NITA). In addition, BCP's Office of Technology Research and Investigation (OTech) worked to keep BCP's staff current and tech-savvy, providing training on topics such as bitcoin tracing, malvertising (malicious advertising), and the use of open source resources in investigations. BCP also continued to offer its mentoring program to staff.

BCP also continued to allocate resources to identifying opportunities to streamline its investigatory processes and minimize the burden imposed on legitimate business practices. BCP devoted significant time to identifying litigation support tools that will enhance staff efficiency and effectiveness in investigation and litigation.

### **Challenges or Barriers**

BCP faces resource challenges such as rising costs for expert witness contracts, travel, and litigation support tools. Overcoming these challenges is critical as BCP litigates larger and more complex cases involving traditional frauds, as well as cases in emerging technologies, privacy and data security, and deceptive advertising in new media channels.

### **FY 2020-2021 Next Steps and Future Actions to Meet Strategic Objective**

- Evaluate whether enforcement activities are tracking the areas of greatest concern and whether new practices or technologies require additional law enforcement focus.
- Evaluate the effectiveness of the FTC's enforcement efforts in those areas in which a baseline measure can be determined.
- Continue to evaluate the efficacy of promulgated rules and regulations and other policy documents.

**Performance Measures**

**Performance Goal 1.1.1:** Percentage of the FTC’s consumer protection law enforcement actions that targeted the subject of consumer complaints to the FTC.

The FTC collects complaints about a host of consumer issues, including fraud, identity theft, financial matters, and Do Not Call violations. Complaints are an integral component when determining the areas of greatest concern and injury to consumers. This measure gauges how well the FTC’s consumer protection law enforcement actions target the subject of consumer complaints.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
93.8%	91.2%	94.4%	89.6%	80.0%	87.8%	Exceeded	80%	80%

**FY 2019 Highlights:** In FY 2019, 87.8%, or 43 of 49, of BCP’s law enforcement actions targeted the subject of consumer complaints to the FTC. Because BCP augments identification of targets from its databases with other strategies for generating enforcement leads—such as monitoring compliance with FTC orders, ad monitoring, internet surfs, mobile application surveys, and direct referrals from government and private-sector partners—the results vary from year to year.

**Performance Goal 1.1.2:** Rate of customer satisfaction with the FTC’s Consumer Response Center.

This goal measures how satisfied consumers are with the FTC’s Consumer Response Center, which is responsible for collecting consumer complaints. Satisfaction is measured separately for consumers filing complaints through online forms (a), and for those filing complaints through the call center (b). The Consumer Response Center is often consumers’ first contact with the FTC, and if consumers do not have a satisfactory experience, they may be less likely to file complaints. Consumer complaints help the FTC to identify consumer protection issues and trends in the fast-changing, increasingly global marketplace.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
(a) 81 (b) 82	(a) 81 (b) 83	(a) 80 (b) 84	(a) 80.3 (b) 85.0	(a) 74.2 (b) 74.2	(a) 81.2 (b) 84.0	(a) Exceeded (b) Exceeded	(A) average satisfaction rate from ACSI’s E-Government Satisfaction Index  (B) standard rate for call centers from the Citizen Service Levels Interagency Committee	

**Key Performance Goal 1.1.3:** Total consumer savings compared to the amount of FTC resources allocated to consumer protection law enforcement.

This measure tracks the efficiency of the FTC’s consumer protection law enforcement spending. We compare how much money the FTC saves consumers each year through law enforcement to the amount the FTC spends on consumer protection law enforcement. Consumer savings comprise: (a) the amount of money returned to consumers and (b) an estimate of the amount of harm that would have occurred but for the FTC’s law enforcement action. To calculate this latter figure, the FTC assumes that the unlawful conduct would have continued for one year but for our action. The FTC also assumes that the amount of harm that would have occurred in that year is the same as what consumers lost in the past. Performance Goals 2.1.3 and 2.1.5 are similar measures that track the impact of antitrust law enforcement. The amount reported is a three-year rolling average (average of the current year and two prior year totals).

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
N/A	\$8.80 in consumer savings per \$1 spent	\$35.20 in consumer savings per \$1 spent	\$39.00 in consumer savings per \$1 spent	\$7.00 in consumer savings per \$1 spent	\$38.60 in consumer savings per \$1 spent	Exceeded	\$7.00 in consumer savings per \$1 spent	\$7.00 in consumer savings per \$1 spent

**FY 2019 Highlights:** The agency saved consumers on average around 40 times the amount of resources devoted to the consumer protection program in the past three years, or an average of \$3.9 billion per year. This is largely attributable to the Volkswagen, Triangle Media Corporation, and Next-Gen cases.

**Correction:** Due to the addition of a previously uncounted redress case, FY 2016 Actual changed from \$8.60 to \$8.80, FY 2017 Actual changed from \$35.00 to \$35.20, and FY 2018 Actual changed from \$38.90 to \$39.00.

**Key Performance Goal 1.1.4:** The amount of money the FTC returned to consumers or forwarded to the U.S. Treasury resulting from FTC enforcement action.

This goal tracks the FTC’s effectiveness in returning money to consumers who were defrauded and forwarding money to the U.S. Treasury (e.g., if sending money to individuals is impracticable, or if funds were paid as a civil penalty). The FTC targets law enforcement efforts on violations that cause the greatest amount of consumer harm; the amount of money returned to consumers or forwarded to the U.S. Treasury is a useful indicator that the FTC is targeting the right defendants. The number reported is a three-year rolling average (average of the current year and two prior year totals).

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
N/A	\$95.20 million	\$2.69 billion	\$3.25 billion	\$65.00 million	\$3.52 billion	Exceeded	\$65.00 million	\$65.00 million

**FY 2019 Highlights:** In the last three years, the annual average of the total amount returned to consumers and forwarded to the U.S. Treasury is \$3.52 billion. In FY 2019, the FTC returned \$478.4 million to consumers and forwarded \$150.0 million to the U.S. Treasury. The FTC returned money to more than 2.2 million consumers in dozens of cases, including Vemma, Midway Industries, Tarr Inc., and Sage Auto Group. The money returned to the U.S. Treasury included civil penalties obtained in settlements with Google, YouTube, Musical.ly, and RealPage. In addition, in FY 2019, some FTC orders required defendants to self-administer refund programs worth more than \$344.0 million in refunds to consumers, including Volkswagen, Green Tree, and AdoreMe.

**Correction:** Due to the addition of a previously uncounted redress case, FY 2016 Actual changed from \$80.6 million to \$95.2 million, FY 2017 Actual changed from \$2.67 billion to \$2.69 billion, and FY 2018 Actual changed from \$3.22 billion to \$3.25 billion.

**Other Indicators**

**Indicator 1.1.IND.1:** Number of complaints collected and entered into the Consumer Sentinel Network (CSN) database.

The agency assimilates a large number of consumer complaints, including complaints about Do Not Call violations. The agency receives these complaints from a variety of sources, including direct consumer complaints to the FTC and complaints received by the FTC’s partners. In this manner, the FTC will collect robust information to inform its law enforcement efforts.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
9.7 million	8.7 million	8.5 million

**Indicator 1.1.IND.2:** The percentage of redress cases in which money designated for distribution is mailed to consumers within 6 months.

This indicator ensures that the FTC returns redress dollars to injured consumers as quickly as possible. Money is considered “designated for distribution” when the FTC is in receipt of all funds, legal issues are resolved, and a usable claimant list is ready. If there is a claims process in which consumers must apply for a refund, then dollars are “designated for distribution” after all claims have been reviewed and verified.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
95.5%	90.9%	91.7%

**Indicator 1.1.IND.3:** Number of contributors to the Consumer Sentinel Network (CSN).

CSN allows members to access consumer complaints submitted directly to the FTC, as well as complaints shared by data contributors, including the Consumer Financial Protection Bureau, multiple State Attorneys General, and all North American Better Business Bureaus. By expanding the number of data contributors, the FTC will have better information with which to inform its law enforcement efforts. Sentinel does not include data from commercial data brokers or information resellers.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
N/A	42	43

**Objective 1.2: Provide consumers and businesses with knowledge and tools that provide guidance and prevent harm.**

**Goal Leaders: Director, Bureau of Consumer Protection; Director, Bureau of Economics**

**Strategies and External Factors**

Strategy	Related Performance Measures	Related External Factors
Focus consumer and business education where deception, unfair practices and information gaps cause the greatest injury.	Indicator 1.2.IND.2 Indicator 1.2.IND.3	<ul style="list-style-type: none"> <li>• Budget for printing and distribution</li> <li>• Budget for content creation and web services</li> </ul>
Creatively use new technologies and private and public partnerships to reach new and underserved audiences.	Indicator 1.2.IND.1 Indicator 1.2.IND.3	<ul style="list-style-type: none"> <li>• Budget for staff</li> </ul>
Educate consumers about how to avoid identity theft and provide information to victims.	Measure 1.2.1 Indicator 1.2.IND.1 Indicator 1.2.IND.2 Indicator 1.2.IND.3	<ul style="list-style-type: none"> <li>• Budget for printing and distribution</li> <li>• Budget for content creation and web services</li> <li>• Budget for staff</li> </ul>
Increase public awareness by publicizing the FTC consumer complaint and identity theft websites and toll free numbers.	Indicator 1.2.IND.1 Indicator 1.2.IND.3	<ul style="list-style-type: none"> <li>• Budget for staff</li> </ul>
Provide more educational resources for small businesses.	Indicator 1.2.IND.2 Indicator 1.2.IND.3	<ul style="list-style-type: none"> <li>• Budget for printing and distribution</li> </ul>
Continue to focus on target audiences such as military service members, older adults, children and parents.	Indicator 1.2.IND.1 Indicator 1.2.IND.2	<ul style="list-style-type: none"> <li>• Budget for printing and distribution</li> <li>• Budget for staff</li> </ul>
<p>External Factors (extended descriptions):</p> <ul style="list-style-type: none"> <li>• <b>Budget for printing and distribution:</b> Budgetary limitations affect the FTC’s ability to increase dissemination of information.</li> <li>• <b>Budget for content creation and web services:</b> Budgetary limitations affect the FTC’s ability to maximize its reach through its web services.</li> <li>• <b>Budget for staff:</b> Budgetary limitations on staff size and contracted communication support affect the FTC’s ability to increase outreach.</li> </ul>		

## **Progress Update**

**Outreach to Specific Consumer Audiences.** The FTC creates tailored messages and materials for diverse audiences and collaborates with partner organizations and agencies to disseminate FTC information to their constituents in those target communities. For example, the FTC has reached older adults through its award-winning Pass It On campaign, which it updated earlier this year. The website at [ftc.gov/PassItOn](https://ftc.gov/PassItOn) was redesigned for ease of navigation and new topics were added, including unwanted calls, home repair scams, and money mule scams. The agency continues to promote these resources through webinars and presentations in collaboration with other federal agencies such as the Consumer Financial Protection Bureau, local government offices on aging, legal services providers, non-profit organizations such as AARP, and at the World Elder Abuse Awareness Day Global Summit.

The FTC has reached military service members through continued, years-long collaboration with the Department of Defense Office of Financial Readiness and other military partners. The FTC's resources, found at [MilitaryConsumer.gov](https://MilitaryConsumer.gov), are shared by the agency and its partners through social media outreach and media coverage, and culminate in national outreach efforts each year during July's Military Consumer Month.

**Protecting Small Businesses.** The FTC developed and has been promoting, presenting, and disseminating clear, easy-to-use resources that inform small businesses about cyber threats and provide tips on how to deal with them. These materials, which are co-branded with the National Institute of Standards and Technology (NIST), the Department of Homeland Security (DHS), and the Small Business Administration (SBA), enable business owners to better understand cybersecurity and train their employees. Those agencies and other partners are helping to publicize these materials. The agency has also focused on expanding the reach of its Spanish language campaign materials, in collaboration with Small Business Development Corporations. Further, in collaboration with the SBA and the Better Business Bureau, the FTC has been promoting and disseminating its "Scams and Your Small Business" guide in English and Spanish, which describes common scams and the steps businesses can take to avoid them.

**Public Hearings.** The FTC held a series of public hearings (the 21st Century Hearings) examining whether broad-based changes in the economy, evolving business practices, new technologies, or international developments might require adjustments to competition and consumer protection law, enforcement priorities, and policy. The 21st Century Hearings and the associated public comment process provided the FTC with a broad and diverse array of viewpoints to stimulate evaluation of the Commission's near- and long-term law enforcement and policy agenda.

## **Challenges or Barriers**

The FTC continues to encounter challenges in meeting the demand for educational materials available in print. The agency works to mitigate these issues through judicious use of funding, publication revisions, streamlining the catalog of printed materials, and emphasizing materials available on the agency's website.

### FY 2020-2021 Next Steps and Future Actions to Meet Strategic Objective

- Measure the number of education messages disseminated each year and assess the number and range of public and private sector organizations that partner with the FTC on outreach.
- Review the focus of FTC education efforts, determine whether the agency needs to reach new audiences in light of changes in demographics, advertising, marketing practices, and emerging technologies, and identify strategies or partnerships that will allow the FTC to reach those audiences.
- Develop resources for children to help them apply critical thinking skills to decisions around consumer protection issues.

### Performance Measures

**Key Performance Goal 1.2.1:** Rate of consumer satisfaction with FTC consumer education websites.

This measure gauges the effectiveness, helpfulness, and usability of the FTC’s consumer education websites. Consumer education serves as the first line of defense against deception and unfair practices. Well-informed consumers are better able to protect themselves from bad actors in the marketplace. This measure includes the customer satisfaction scores for [Consumer.ftc.gov](http://Consumer.ftc.gov) and [Bulkorder.ftc.gov](http://Bulkorder.ftc.gov).

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
Data Not Available	76.0	77.0	77.0	74.2	77.7	Exceeded	Average satisfaction rate from ACSI’s E-Government Satisfaction Index	

**FY 2019 Highlights:** In FY 2019, the FTC evaluated [Bulkorder.ftc.gov](http://Bulkorder.ftc.gov) and [Consumer.ftc.gov](http://Consumer.ftc.gov) to determine the rate of customer satisfaction with FTC consumer education websites. The combined rate of customer satisfaction for [bulkorder.ftc.gov](http://bulkorder.ftc.gov) and [consumer.ftc.gov](http://consumer.ftc.gov) was 77.7. The average citizen satisfaction score for participating federal government websites was 74.2.

**Performance Goal 1.2.2:** Number of workshops and conferences the FTC convened that address consumer protection issues.

The FTC convenes workshops and conferences through which experts and other experienced and knowledgeable parties discuss significant consumer protection issues and ways to address those issues. This indicator helps the FTC ensure that enforcement and education efforts are augmented by encouraging discussions among all interested parties as well as empirical research on novel or challenging consumer protection problems.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
17	12	19	11	10	12	Exceeded	10	

**FY 2019 Highlights:** In FY 2019, the FTC convened or co-sponsored 12 workshops and conferences that addressed consumer protection problems. These events brought together approximately 20,421 participants.

**Performance Goal 1.2.3:** Number of consumer protection reports the FTC released.

FTC staff prepare reports regarding current important topics in consumer protection, and these reports are the basis for this measure. Consumer protection reports provide information to policy makers, both internally and externally, to help them understand important contemporary issues. This measure also ensures that the FTC releases a variety of informative reports to the public that help promote the understanding and awareness of consumer protection issues.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
6	8	10	18	10	11	Exceeded	10	

**FY 2019 Highlights:** In FY 2019, the FTC published 11 consumer protection-related reports in areas including cigarettes, smokeless tobacco, privacy and data security, protecting older consumers, informational injury, and class actions. Among these 11 were three annual reports: the Do-Not-Call Registry, the Consumer Sentinel Network Data Book, and the Refunds to Consumers Report.

## Other Indicators

**Indicator 1.2.IND.1:** Number of federal, state, local and international, and private partnerships to maximize the reach of consumer and business education campaigns.

This indicator helps determine the extent to which the FTC’s print education publications reach consumers through federal, state, local, international, and private organizations. Organizations, such as congressional offices, state Attorneys General, small businesses, schools, police departments, and banks, work as partners with the FTC by distributing these materials to their clients and customers. These organizations can order free bulk quantities of education materials via an online order system: <https://www.bulkorder.ftc.gov>. For a measure of the quantity of publications distributed, see Indicator 1.2.IND.2.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
12,944	12,705	14,346

**Indicator 1.1.IND.2:** Number of consumer protection messages accessed (a) in print and (b) digitally.

These indicators gauge the reach of the agency’s education messages for consumers and businesses in print and via the web. The print measure counts the total quantity of publications ordered from [bulkorder.ftc.gov](http://bulkorder.ftc.gov). The digital indicator counts the number of page views of FTC consumer education articles, blog posts, and other materials on FTC websites, as well as the page views of FTC business education plain-language guidance articles and blog posts.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
(a) 14.5 million (b) N/A	(a) 13.2 million (b) 45.2 million	(a) 13.7 million (b) 49.5 million

**Indicator 1.2.IND.3:** Number of social media followers and email subscribers.

This indicator gauges the extent of consumer and business outreach via social networks and email communications.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
481,064	512,545	449,048

**Objective 1.3: Collaborate with domestic and international partners to enhance consumer protection.**

**Goal Leaders: Director, Bureau of Consumer Protection; Director, Office of International Affairs; Director, Office of Policy Planning**

**Strategies and External Factors**

Strategy	Related Performance Measures	Related External Factors
Work with domestic and international partners, in government and the private sector to share information.	Measure 1.3.1	<ul style="list-style-type: none"> <li>• Information-sharing challenges</li> </ul>
Pursue the development of international consumer protection enforcement models or approaches that protect consumers and maximize choice and economic benefit.	Measure 1.3.2	<ul style="list-style-type: none"> <li>• Information-sharing challenges</li> <li>• U.S. SAFE WEB Act Sunset</li> </ul>
Share information, engage in investigative assistance and otherwise develops and strengthens enforcement cooperation on investigations, cases, and enforcement-related projects with agency and law enforcement counterparts	Measure 1.3.2	<ul style="list-style-type: none"> <li>• Information-sharing challenges</li> <li>• U.S. SAFE WEB Act Sunset</li> </ul>
Actively participate in multinational organizations that engage in cooperative enforcement against mass-marketing fraud, messaging abuses, and privacy and data security breaches.	Measure 1.3.2	<ul style="list-style-type: none"> <li>• Information-sharing challenges</li> <li>• U.S. SAFE WEB Act Sunset</li> </ul>
Provide policy advice to foreign consumer protection agencies.	Measure 1.3.3	<ul style="list-style-type: none"> <li>• Information-sharing challenges</li> <li>• U.S. SAFE WEB Act Sunset</li> </ul>

Strategy	Related Performance Measures	Related External Factors
Provide technical assistance to countries establishing consumer protection regimes, as well as providing selected foreign officials with an opportunity to work alongside FTC attorneys, investigators, and economists to learn about the FTC's approach to consumer protection enforcement and to promote further cooperation.	Measure 1.3.3	<ul style="list-style-type: none"> <li>• Information-sharing challenges</li> <li>• U.S. SAFE WEB Act Sunset</li> </ul>
Target advocacy activities to encourage federal regulators to ensure proper consumer protections are in place. Utilize amicus briefs to assist in consistent interpretation of statutes.	Measure 1.3.4 Indicator 1.3.IND.1	<ul style="list-style-type: none"> <li>• Opposition to advocacy</li> </ul>
<p>External Factors (extended descriptions):</p> <ul style="list-style-type: none"> <li>• <b>Information-sharing challenges:</b> When matters involve international targets, evidence, or assets, the FTC has limited control over a number of factors, including the extent to which foreign governments will provide information or cooperate with the FTC on law enforcement matters. Recently enacted data-protection rules in Europe and other jurisdictions may present some information sharing challenges. In addition, foreign legal rules often prohibit or limit foreign courts from recognizing or enforcing FTC judgments and orders, including asset preservation or collection orders.</li> <li>• <b>U.S. SAFE WEB Act Sunset:</b> The FTC uses its U.S. SAFE WEB Act authority to expand its international enforcement efforts and continues its outreach efforts to foreign governments to increase cooperation. With the Act due to sunset in 2020, it may be difficult for the agency to enter new, long-term cooperation arrangements due to uncertainty. Accordingly, the FTC will seek Congressional support to preserve this important authority.</li> <li>• <b>Opposition to Advocacy:</b> Domestic advocacy seeks to influence the decisions made by outside parties. Those decision makers often receive pressure from other organizations, who may be making recommendations that are not consistent with our own.</li> </ul>		

## Progress Update

In the enforcement area, the FTC worked closely with its federal, state, local, and international partners on numerous investigations, exceeding the targets for collaboration with both domestic and international counterparts to enhance consumer protection. The agency's collaborative domestic efforts included the Life Management Services case, an enforcement action the FTC brought with the State of Florida. In the FBA Stores case, the FTC shared information with and received information from the Washington State Office of the Attorney General, Utah Division of Consumer Protection, Utah County Attorney's Office (Bureau of Investigations), Utah County Sheriff's Office, Lindon City Police Department, and U.S. Marshals Service, along with Amazon.com. The FTC also worked closely with its federal, state, and local partners on numerous investigations, including Operation Call It Quits, a major crackdown in illegal robocalls that included 7 actions by the FTC and 87 enforcement actions from 25 federal, state, and local agencies.

The FTC worked closely with international counterparts on several significant enforcement actions involving large-scale international frauds including the FTC's litigation against the massive overseas real estate investment scam, Sanctuary Belize, that targeted American consumers. The FTC was able to obtain \$23 million from a Belizean bank, representing approximately all of its U.S.-based assets, for restitution to U.S. purchasers. The FTC also sued Apex Capital Group and related U.K. and Latvian defendants for deceptive online "free trial" offers and unauthorized continuity plans. The settlement imposes financial judgements and bars the defendants from credit card laundering and from using negative option features to sell dietary supplements, cosmetics, foods, or drugs. The agency also filed suit against the Canadian operators of the Educare credit interest rate reduction scheme that marketed sham services to consumers through telemarketers based in the Dominican Republic and elsewhere. In these and many other cases that the Commission brought in FY 2019, the Commission relied on provisions of the U.S. SAFE WEB Act—which allows the FTC to reach foreign conduct that has a "reasonably foreseeable" effect on U.S. consumers or that involves "material conduct" in the U.S.—to obtain favorable court decisions against international defendants. It also relied on the SAFE WEB Act's information-sharing provisions to develop evidence in these matters.

The agency also strengthened enforcement cooperation by signing a memorandum of understanding with the United Kingdom's Competition and Markets Authority. The new MOU streamlines the sharing of investigative information and complaint data, simplifies requests for investigative assistance, and aids joint law enforcement investigations. It also provides strong and clear confidentiality and data safeguards and promotes cooperation at the International Consumer Protection and Enforcement Network (ICPEN). In addition, the FTC worked with members of the International Mass Marketing Fraud Working Group (IMMFWG), which the FTC co-chairs along with DOJ and U.K. law enforcement, providing exceptional assistance in a recent tech-support fraud takedown. The assistance was designed to combat an increasingly common form of elder fraud in which criminals trick victims into giving remote access to their computers under the guise of providing technical support. The IMMFWG's law enforcement network facilitated the simultaneous release in Canada, The Netherlands, the United Kingdom, and the United States of consumer

education campaigns on technical consumer fraud. The FTC also joined with regulators from Australia, New Zealand, Northern Ireland, England and Wales, several international charities, and non-governmental participants in the first International Charities Fraud Awareness Week, releasing a new video, “Make Your Donations Count.”

The FTC continued its work to protect consumer privacy in cross-border data transfer systems, helping to expand the Asia-Pacific Economic Cooperation (APEC) Cross Border Privacy Rules (CBPR) and implement the EU-U.S. Privacy Shield. The FTC worked with the Department of Commerce to carry out its Privacy Shield commitments, and participated with EU and U.S. officials in the third annual review of the framework. The European Commission declared the Privacy Shield a “success story,” pointing to increased FTC enforcement actions as contributing to the effective functioning of the framework. The agency also continued to work with other agencies in the U.S. government and with our partners in Europe to ensure that businesses and consumers can continue to benefit from the Privacy Shield. The FTC also continued to deliver training to new and developing agencies through its technical assistance program. One highlight was the 10th African Consumer Protection Dialogue Conference, organized by the FTC, at which participants from nearly 20 African agencies and regional bodies reaffirmed their commitment to the “Livingstone Principles” on cross-border enforcement cooperation, and pledged to continue to implement them.

Fulfilling its enforcement role for cross-border data transfer frameworks, the FTC entered seven new orders with companies that allegedly misrepresented their participation in the EU-U.S. Privacy Shield Framework (and the Swiss-U.S. Privacy Shield Framework), bringing the agency’s total to 15 Privacy Shield cases. This includes the FTC’s July 2019 action against Cambridge Analytica, which alleged two Privacy Shield counts for a false claim of participation and failure to affirm ongoing protections for data. The agency also continued to strengthen its ties with international enforcement networks, such as the ICPEN, the Unsolicited Communications Enforcement Network (UCENet), the IMMFWG, and the Global Privacy Enforcement Network (GPEN). During the past year, the FTC worked in all of these networks to expand the number of participating authorities and strengthen the use of data (including consumer complaint data) and technology to support the networks’ cross-border enforcement cooperation activities.

In the policy arena, the FTC has continued to work to develop market-oriented policies benefiting U.S. consumers to complement its international enforcement work. For example, the FTC has taken a leading role in developing international best practices to protect consumers in the digital economy by helping to shape implementation of the principles in the Organization for Economic Cooperation and Development’s (OECD) 2016 Recommendation on Consumer Protection in E-commerce. This year, the FTC worked with the OECD to issue “good practice guides” on online advertising, online consumer reviews and ratings, and the use of consumer data, which provide tips for businesses to carry out the principles in the 2016 E-commerce Recommendation.



which, in appropriate cases, could include information sharing and investigative assistance pursuant to the U.S. SAFE WEB Act.

- Engage in enforcement cooperation pursuant to the APEC CBPR and work to expand membership in the CBPR system.
- Work with international partners to strengthen cooperation among enforcement partners, bilaterally and through multilateral organizations such as the ICPEN, UCENet, and the IMMFWG. Enhanced cooperation may include new and expanded initiatives with foreign criminal authorities and private sector partners, particularly in countries that are increasingly the source of fraud directed at American consumers.
- Use U.S. SAFE WEB Act authority and new technological tools to expand cooperation and information sharing with counterpart agencies. Seek Congressional support to preserve this important authority before the Act sunsets in 2020.
- Continue to engage through the OECD to continue to implement the 2016 OECD
- Guidelines on Consumer Protection in Electronic Commerce through collaborations among the FTC and other international networks and organizations, and conduct-related work on consumer trust and decision-making in ecommerce and technology-driven markets and the economics of consumer protection.
- Further develop empirical evidence internationally on effects of new technologies and business models on consumer behavior including work on measuring the effects of consumer protection, including measuring harm from consumer fraud and consumer law violations.
- Engage with the Intergovernmental Group of Experts on Consumer Protection at the United Nations Conference on Trade and Development (UNCTAD) to develop and implement best practices under the revised UN Guidelines on Consumer Protection and develop new opportunities for capacity building and technical cooperation with developing agencies.
- Continue to build and expand a robust international consumer protection and privacy technical assistance program for newer consumer protection and privacy agencies, especially in Latin America, Southeast Asia, and Africa.
- Engage in targeted, multi-stakeholder approaches to enforcement capacity building in India, focusing on India-based call center fraud.
- Further develop the International Fellows and staff exchange programs.
- File comments or otherwise engage in advocacy with local, state, federal, and foreign government entities that evaluate the costs and benefits of proposed policies on consumers and an awareness of the intersection of competition and consumer protection concerns.
- File amicus briefs with federal courts, when appropriate, to address issues that affect consumer protection.

- Evaluate whether the advice and comments (e.g., advocacy filings, amicus briefs, etc.) that the FTC provides to local, state, and federal government entities on consumer protection policies have been considered and adopted.

**Performance Measures**

**Performance Goal 1.3.1:** Number of investigations or cases in which the FTC and other U.S. federal, state and local government agencies shared evidence or information that contributed to FTC law enforcement actions or enhanced consumer protection.

This measure tracks the amount of information sharing by the FTC and other domestic law enforcement agencies to further the goal of protecting consumers from fraud. The geographic location and other demographics may affect the types of fraud that consumers encounter, making it important for government agencies to share information and resources to enhance consumer protection.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
435	387	359	369	375	453	Exceeded	375	

**FY 2019 Highlights:** BCP continues to place an emphasis on leveraging resources with domestic partners, and encourages staff to work with other U.S. federal, state, and local government agencies to further the goal of protecting consumers from fraud. In FY 2019, BCP shared information with other U.S. federal, state, and local government agencies in 226 investigations or cases. In FY 2019, BCP received information from other U.S. federal, state, and local government agencies in 227 investigations or cases.

**Key Performance Goal 1.3.2:** Number of investigations or cases in which the FTC obtained foreign-based evidence or information or engaged in other mutual assistance that contributed to FTC law enforcement actions or in which the FTC cooperated with foreign agencies and/or multilateral organizations on enforcement matters.

The Office of International Affairs (OIA) works to expand cooperation and coordination between the FTC and international consumer protection partners through information sharing, investigative assistance, and the development of investigative best practices and enforcement capacity. This measure counts the number of investigations and cases in which the FTC and foreign consumer protection agencies shared information or engaged in other enforcement cooperation.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
58	53	50	43	40	48	Exceeded	40	

**FY 2019 Highlights:** In FY 2019, the FTC cooperated in 48 instances on consumer protection and privacy matters to obtain or share evidence or engage in other enforcement cooperation in investigations, cases, and enforcement-related projects. Foreign authorities assisted the FTC in activities such as sharing consumer complaints, obtaining corporate records, and providing other investigative information. The FTC also provided assistance to numerous foreign authorities through various mechanisms using its authority under the U.S. SAFE WEB Act and other cooperation tools to share information and provide investigative assistance using compulsory process. The FTC also cooperated on enforcement matters with international enforcement organizations such as the ICPEN, the GPEN, the UCENet, and the IMMFWG.

**Performance Goal 1.3.3:** Number of instances of policy advice or technical assistance provided to foreign consumer protection and privacy agencies, directly and through international organizations.

This measure quantifies FTC’s efforts to develop policies and best practices that promote consumer protection and privacy and data security by assisting countries in developing and implementing consumer protection laws, rules, and best practices. These efforts include providing policy advice, direct technical assistance and capacity building to developing agencies, and professional development opportunities through the International Fellows program.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
76	66	66	64	60	71	Exceeded	60	

**FY 2019 Highlights:** In FY 2019, the FTC provided policy input to foreign consumer protection and privacy agencies in 71 instances. This included policy advice and technical input on a wide range of consumer and privacy policy issues delivered through seminars, substantive consultations, oral presentations, and written comments. Of the inputs, 11 represent technical assistance missions to new and developing consumer protection and privacy agencies, and five represent International Fellows from Japan, Kenya, South Korea, The Gambia, and the U.K, who worked alongside FTC staff in support of the consumer protection mission.

**Performance Goal 1.3.4:** Percentage of consumer protection advocacy comments and amicus briefs filed with entities including federal and state legislatures, agencies, or courts that were successful, in whole or in part.

The FTC’s consumer protection advocacy takes many forms—including advocacy comments, amicus briefs, workshops, reports, and testimony. This measure evaluates the success rate for resolved consumer protection advocacy comments and amicus briefs. While the FTC is primarily a law enforcement agency, advocacy work is a cost-effective way to further the FTC’s consumer protection mission, and allows the FTC to address situations where consumer protection may be affected by the actions of public entities, including regulators and legislators.

To determine whether an advocacy comment or amicus brief is successful, staff waits for the relevant case, legislative process, or agency rulemaking to be fully resolved. Once resolved, the outcome is compared to the policy recommendations within the advocacy comment or the legal arguments set forth in the amicus brief. Advocacies are classified as successful, partially successful, moot, or unsuccessful based on the outcome achieved. We do not attempt to quantify or measure how much effect our advocacy had on the decision. While most advocacies contain either consumer protection recommendations or competition recommendations, a few advocacy comments may have both, and are thus counted in this performance goal as well as Performance Goal 2.2.3.

\*Results for this measure are reported a year behind. FY 2019 data will be available in FY 2020.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
100.0%	85.7%	85.7%	*	60.0%	*	N/A	60.0%	

**Other Indicator**

Indicator 1.3.IND.1: Number of advocacy comments and amicus briefs on consumer protection issues filed with entities, including federal and state legislatures, agencies, and courts.

Whereas Performance Goal 1.3.4 measures the success of our consumer protection advocacy comments and amicus briefs, this indicator reports the quantity of consumer protection advocacy comments and amicus briefs filed each year. While the FTC is primarily a law enforcement agency, advocacy work is a cost-effective way to further the FTC’s consumer protection mission, and allows the FTC to address situations where consumer protection may be affected by the actions of public entities, including regulators and legislators. While most advocacies contain either consumer protection recommendations or competition recommendations, a few advocacy comments may have both, and are thus counted in this indicator as well as Indicator 2.2.IND.1.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
7	4	3

## Strategic Goal 2: Maintain Competition to Promote a Marketplace Free From Anticompetitive Mergers, Business Practices, or Public Policy Outcomes.

Vigorous competition results in lower prices, higher quality goods and services, and innovative and beneficial new products and services. By enforcing the antitrust laws, the FTC helps to ensure that consumers benefit from competition. The FTC's efforts to maintain competition focus primarily on preventing anticompetitive mergers and business practices. The FTC also engages in policy research and development, advocacy, and education to deter anticompetitive practices, reduce compliance costs, and encourage governmental actors at the federal, state, and local levels to evaluate the effects of their policies on competition and consumers. This work is critical to protect and strengthen free and open markets – the cornerstone of a vibrant economy.

### Strategic Objectives

The FTC has established three objectives to guide work in this area:

- **Objective 2.1:** Identify and take actions to address anticompetitive mergers and practices.
- **Objective 2.2:** Engage in effective research, advocacy, and stakeholder outreach to promote competition and advance its understanding.
- **Objective 2.3:** Collaborate with domestic and international partners to preserve and promote competition.

Goal 2 and its Strategic Objectives comprise the second of two mission-focused components of the FTC's FY 2019 Performance Report and FY 2020-2021 Performance Plan.

**Objective 2.1: Identify and take actions to address anticompetitive mergers and practices that harm consumers.**

**Goal Leaders: Director, Bureau of Competition (BC); Director, Bureau of Economics (BE)**

**Strategies and External Factors**

Strategy	Related Performance Measures	Related External Factors
Investigate potentially anticompetitive mergers and business conduct in ways that enhance enforcement outcomes and minimize burdens on businesses.	Measure 2.1.1 Measure 2.1.2 Measure 2.1.3 Measure 2.1.4 Measure 2.1.5 Indicator 2.1.IND.1 Indicator 2.1.IND.2	<ul style="list-style-type: none"> <li>• Resource Constraints</li> <li>• Legislative Landscape</li> </ul>
Use continuous learning to improve negotiation and litigation skills; refine investigative and decisional tools.	Measure 2.1.1 Measure 2.2.1	<ul style="list-style-type: none"> <li>• Resource Constraints</li> <li>• Legislative Landscape</li> </ul>
Achieve significant remedial, precedential, and deterrent effects through negotiated merger and nonmerger consent orders and winning litigated orders.	Measure 2.1.1 Measure 2.1.2 Measure 2.1.3 Measure 2.1.4 Measure 2.1.5 Indicator 2.1.IND.1 Indicator 2.1.IND.2	<ul style="list-style-type: none"> <li>• Resource Constraints</li> <li>• Legislative Landscape</li> </ul>
Improve compliance with consent decrees and orders and with HSR reporting obligations.	Measure 2.1.1	<ul style="list-style-type: none"> <li>• Resource Constraints</li> </ul>
Provide transparency in the decision-making process through analyses to aid public comment and updating guidance, etc.	Measure 2.1.1 Measure 2.2.1 Measure 2.2.2 Measure 2.2.3 Indicator 2.3.IND.1	
Conduct market research to inform future enforcement efforts.	Measure 2.1.1 Measure 2.1.2 Measure 2.1.3 Measure 2.1.4 Measure 2.1.5 Indicator 2.1.IND.1 Indicator 2.1.IND.2	<ul style="list-style-type: none"> <li>• Resource Constraints</li> <li>• Legislative Landscape</li> </ul>

Strategy	Related Performance Measures	Related External Factors
<p>External Factors (extended descriptions):</p> <ul style="list-style-type: none"> <li>• <b>Resource Constraints:</b> The dynamism of our economic and technological environments plays a direct role in the Commission’s ability to achieve success under this objective. Evolving technologies, automation, and intellectual property issues continue to increase the complexity of antitrust investigations and litigation. This complexity, coupled with fluctuations in merger activity and complaints of potentially harmful business conduct, sometimes lead to financial and personnel resource limitations. The Commission will continue its efforts to identify best practices and other investigatory efficiencies to alleviate these potential resource limitations.</li> <li>• <b>Legislative Landscape:</b> The ever-evolving legislative landscape, with respect to both federal and state antitrust enforcement authority, may directly impact the Commission’s ability to challenge anticompetitive mergers and business conduct. The FTC will continue to use its advocacy and educational tools to ensure that the Commission maintains the necessary authority for effective antitrust enforcement.</li> </ul>		

**Progress Update**

In FY 2019, the agency concluded 22 matters in which it took action to maintain competition, focusing on markets with the greatest impact on American consumers. This fiscal year saw a continuation of the Commission’s ambitious antitrust litigation docket, with 11 active litigations from the current or prior years.

The Commission successfully litigated its federal court injunction action challenging Qualcomm’s patent licensing practices for baseband processors used in cellular devices. The federal court granted the Commission’s injunction in May 2019, and the matter is now pending an appeal of the district court decision. The agency also secured litigated victories in two merger cases. The Commission successfully argued that Tronox’s acquisition of rival Cristal was likely to reduce competition in the North American market for chloride process titanium dioxide (TiO2), a white pigment used in products such as paint, paper, and plastics. After a federal court granted a preliminary injunction blocking the merger, the ALJ determined the merger as proposed was unlawful. The parties settled the Commission’s charges, agreeing to divest assets to a buyer that will maintain competition in the market. In the second matter, the FTC filed an administrative complaint to unwind Otto Bock Healthcare’s consummated acquisition of Freedom Innovations, two top sellers of microprocessor prosthetic knees typically prescribed for patients with above-the-knee amputations. The FTC alleged that the acquisition eliminated direct competition between the two firms and entrenched Otto Bock’s position as the dominant firm in the market, which would likely lead to higher prices and less innovation. In May 2019, the administrative law judge upheld the FTC’s charges and required the divestiture of the Freedom Innovations assets to an FTC-approved buyer. In November 2019, the Commission upheld the initial decision. This matter is currently pending on appeal to the Commission.

In other pending litigation, in April 2019, the Commission authorized staff to seek a permanent injunction in federal court alleging that Surescripts LLC, a healthcare technology company, employed various exclusionary tactics, including loyalty and exclusivity agreements, to maintain its monopolies in two e-prescribing markets: routing and eligibility. The complaint alleges that Surescripts monopolized these e-prescription markets by preventing customers on both sides of each market from using other platforms (a practice known as multihoming), effectively thwarting competitors' success in the market and maintaining its roughly 95% market share in each market. This matter is pending in federal court. And in August 2019 the Commission authorized staff to seek a preliminary injunction to block Evonik Industries' proposed acquisition of PeroxyChem, alleging that the merger would substantially reduce competition in regional North American markets for the production and sale of hydrogen peroxide. According to the complaint, the merger would increase the likelihood of coordination in a market already vulnerable to coordination, and would eliminate valuable head-to-head competition between the two firms in two markets, the Pacific Northwest and the Southern and Central United States. In January 2020, the district court denied the Commission's request for a preliminary injunction. This matter is still pending in administrative litigation.

The Commission also moved to block the merger of Fidelity National Financial and Stewart Information Services, alleging that the merger would reduce competition in state markets for title insurance underwriting for large commercial transactions, as well as in several local markets for title information services. Title insurance is used to protect parties to real estate transactions from financial loss resulting from defects in the property's title. According to the complaint, only four providers possess the financial strength, commercial expertise, and national footprint to underwrite large commercial transactions. The complaint further alleged that the transaction would likely harm competition in six local markets for title information services, where access to proprietary title plant databases of detailed, indexed information on chain of title are necessary for the issuance of title insurance policies. The parties abandoned their proposed merger following issuance of the Commission's complaint.

The Commission also continues to police against efforts by branded pharmaceutical manufacturers to use anticompetitive agreements to delay entry of lower cost generics. In March, the Commission found that Impax Laboratories engaged in an illegal pay-for-delay, or "reverse payment," settlement to block consumers' access to a lower-cost generic version of Endo Pharmaceuticals Inc.'s branded extended-release opioid pain reliever Opana ER. Endo had earlier settled the Commission's charges by agreeing not to enter into such agreements. The Commission's final order bars Impax from entering into any type of reverse payment that defers or restricts generic entry, including no-Authorized Generic commitments, as well as certain business transactions entered with the branded pharmaceutical manufacturer within 45 days of a patent settlement. This matter is now pending on appeal in federal circuit court.

Also notable this year, the Bureau of Competition created the Technology Enforcement Division ("TED")—a group of lawyers and specialists dedicated to monitoring competition

in U.S. technology markets. Launched in February 2019 and modeled on the FTC's successful 2002 Merger Litigation Task Force, which reinvigorated the Commission's hospital merger review program, TED will focus on potential anticompetitive conduct, including consummated acquisitions, by technology companies.

As in past years, the FTC focused on its greatest asset in promoting competition: its staff. First, FTC staff has continued to develop, identify, and communicate best practices and update procedures to maximize efficiency in our competition work. The agency also continued its emphasis on employee-led staff development through its Training Council and mentoring programs. These programs are cost-neutral, improve knowledge transfer on important antitrust issues, and enhance information sharing between practitioners, thereby supporting the long-term success of the competition mission.

The agency continued to devote resources to identifying opportunities to streamline its investigatory processes and minimize the burden imposed on legitimate business practices. This year, staff devoted significant time to identifying litigation support tools that will enhance staff efficiency and effectiveness in investigations and litigation.

### **Challenges or Barriers**

Resource constraints remain a significant challenge. Development and support of the technological tools necessary to improve processes and streamline operations require significant financial and staff resources. The rising costs of critical expert witness resources and the ongoing challenge of how to efficiently manage document productions of increasing size are two of the foremost barriers. Likewise, increases in caseload and merger notifications continue to put pressure on staffing resources.

The FTC also faces a challenging landscape in attempting to maintain competition in increasingly complex and pervasive technology markets that raise unique antitrust considerations. These challenges require the FTC to utilize the full range of policy and advocacy tools at its disposal to promote competition.

### **FY 2020-2021 Next Steps and Future Actions to Meet Strategic Objective**

- Leverage the limited resources dedicated to the new Technology Enforcement Division to ensure thoughtful and effective antitrust enforcement to maintain competition in critical technology markets.
- Work to secure additional resources necessary to effectively enforce the antitrust laws to ensure that consumers benefit from the lower prices, higher quality, increased innovation, and expanded choices that competition brings and that workers benefit from a competitive marketplace for their labor.
- Expand employee development programs to increase the antitrust expertise and investigative, negotiation, and litigation skills of legal staff through continuous learning and retrospective analysis.

- Monitor the duration of investigations and drivers of investigation length to identify where and if the Commission can streamline or otherwise improve its investigative processes.
- Utilize BC’s Training Council to identify legal staff development opportunities and provide targeted training programs to meet those needs.
- Focus on enhancing the investigative process using improved technological tools and the identification of “best practices” to streamline and standardize management of investigations and litigation.
- Maintain ongoing assessment of premerger notification filing requirements and screening methods to maximize efficiency and effectiveness with an emphasis on reducing the burden on filing parties and antitrust agencies.

### Performance Measures

🔑 **Key Performance Goal 2.1.1:** Percentage of full merger and nonmerger investigations in which the FTC takes action to maintain competition.

This measure tracks FTC actions taken to maintain competition, including litigated victories, consent orders, abandoned transactions, or restructured transactions (either through a fix-it-first approach or eliminating the competitive concern) in a significant percentage of full merger and nonmerger investigations.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
57.7%	54.6%	49.1%	67.9%	Between 40.0 - 70.0%	62.9%	Met	Between 40.0 - 70.0%	

**FY 2019 Highlights:** In FY 2019, the agency took action to maintain competition in 22 of 35 full merger and nonmerger investigations concluded. The FTC’s 22 actions included 10 consent orders, one litigated victory in federal and administrative court that was later concluded with a settlement (*Tronox/Cristal*), one federal appellate court victory (*Sanford/Mid Dakota Clinic*), three federal court stipulated injunctions, one matter in which the parties abandoned their transactions after the Commission authorized staff to challenge the proposed acquisition in federal court or administrative litigation (*Fidelity/Stewart*), and six abandoned transactions.

The agency concluded 19 merger actions in second request or compulsory process investigations in a broad array of industries such as medical devices, healthcare services, industrial goods and chemicals, consumer goods and services, and energy. The agency also concluded three actions against anticompetitive tactics that the agency had reason to believe harmed consumers or competition in the pharmaceutical industry. Of the 13 full investigations concluded without an action, nine were merger matters, and four were nonmerger matters.

**Note on Actuals prior to FY 2018:** Starting in FY 2018, the FTC adjusted how this measure is calculated. When counting full investigations, only those investigations where a second request, subpoena, or civil investigative demand has been issued are counted. Previously we also included other investigations with more than 150 staff hours spent. This change will slightly reduce the number of full investigations included and will thus shift the percentage result higher. Actual results from FY 2015-2017 are reported based on the previous formula.

**Performance Goal 2.1.2:** Consumer savings through merger actions taken to maintain competition.

This measure reports the estimated amount of money that the Commission saved consumers by taking action against potentially anticompetitive mergers. The number reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
\$2.41 billion	\$2.59 billion	\$2.59 billion	\$2.66 billion	\$2.1 billion	\$3.09 billion	Exceeded	\$2.1 billion	

**FY 2019 Highlights:** The FTC saved consumers on average an estimated \$3.09 billion per year through its merger actions to maintain competition in the past five years. This year, mergers actions in the healthcare, consumer goods and services, and chemicals industries resulted in considerable consumer savings, allowing the agency to continue to meet the target for this performance goal. Significant consumer savings from merger actions in FY 2015 continued to impact this performance goal in FY 2019, and targets have been adjusted accordingly.

**Key Performance Goal 2.1.3:** Total consumer savings compared to the amount of FTC resources allocated to the merger program.

This measure reports the estimated amount of money that the Commission saved consumers by taking action against potentially anticompetitive mergers compared to the amount spent on the merger program. The amount reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
\$51.30 in consumer savings per \$1 spent	\$46.40 in consumer savings per \$1 spent	\$55.60 in consumer savings per \$1 spent	\$50.30 in consumer savings per \$1 spent	\$42.00 in consumer savings per \$1 spent	\$65.90 in consumer savings per \$1 spent	Exceeded	\$42.00 in consumer savings per \$1 spent	

**FY 2019 Highlights:** In FY 2019, the FTC saved consumers approximately \$66 for every dollar devoted to its merger program. As mentioned in Performance Goal 2.1.2, merger actions in the healthcare, consumer goods and services, and chemicals industries resulted in considerable consumer savings, which, coupled with slightly reduced resource levels, allowed the agency to continue to meet the target for this performance goal. Significant consumer savings from merger actions in FY 2015 continued to impact this performance goal in FY 2019, and targets have been adjusted accordingly.

**Correction:** Due to a correction to the underlying data, FY 2018 Actual changed from \$50.20 to \$50.30.

**Performance Goal 2.1.4:** Consumer savings through nonmerger actions taken to maintain competition.

This measure reports the estimated amount of money that the Commission saved consumers by taking action against potentially anticompetitive business conduct. The number reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
\$1.03 billion	\$1.02 billion	\$1.12 billion	\$1.10 billion	\$900.00 million	\$1.77 billion	Exceeded	\$900.00 million	

**FY 2019 Highlights:** From FY 2015 – FY 2019, the FTC saved consumers on average an estimated \$1.77 billion per year through nonmerger actions taken to maintain competition. This year, nonmerger actions in the pharmaceutical industry contributed to that total, allowing the agency to continue to meet the target for this performance goal. Significant consumer savings from the historic Cephalon investigation in FY 2015 continued to impact this performance goal in FY 2019, and targets have been adjusted accordingly.

**Key Performance Goal 2.1.5:** Total consumer savings compared to the amount of FTC resources allocated to the nonmerger program.

This measure reports the estimated amount of money that the Commission saved consumers by taking action against potentially anticompetitive business conduct compared to the amount spent on the nonmerger program. The amount reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
\$48.60 in consumer savings per \$1 spent	\$52.30 in consumer savings per \$1 spent	\$39.60 in consumer savings per \$1 spent	\$40.10 in consumer savings per \$1 spent	\$40.00 in consumer savings per \$1 spent	\$75.80 in consumer savings per \$1 spent	Exceeded	\$40.00 in consumer savings per \$1 spent	

**FY 2019 Highlights:** In FY 2019, the FTC saved consumers approximately \$76 per dollar devoted to its nonmerger enforcement program. As mentioned in Performance Goal 2.1.4, nonmerger actions in the pharmaceutical industry, among others, contributed to that total, and when coupled with modest reductions in program spending, allowed the agency to again meet the target for this performance goal. Significant consumer savings from the historic Cephalon investigation in FY 2015 continued to impact this performance goal in FY 2019, and targets have been adjusted accordingly.

### Other Indicators

**Indicator 2.1.IND.1:** Average total sales for the current year plus the previous four fiscal years in the affected markets in which the Commission took merger enforcement action.

This indicator demonstrates that the Commission’s merger actions are guided in part by the size of the relevant geographic/product markets involved. It is important that the FTC use its resources in areas where the most positive change can be achieved. The number reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
\$88.3 billion	\$103.4 billion	\$112.7 billion

**Indicator 2.1.IND.2:** Average total sales for the current year plus the previous four fiscal years in the affected markets in which the Commission took anticompetitive market enforcement action.

This indicator demonstrates that the FTC’s nonmerger actions are, in part, guided by the size of the relevant product markets involved. It is important that the FTC use its resources in areas where the most positive change can be achieved. The amount reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
\$77.10 billion	\$75.50 billion	\$80.48 billion

**Objective 2.2: Engage in effective research, advocacy, and stakeholder outreach to promote competition and advance its understanding.**

**Goal Leaders: Director, BC; General Counsel, Office of the General Counsel; Director, Office of Policy Planning; Director BE**

**Strategies and External Factors**

Strategy	Related Performance Measures	Related External Factors
Improve the agency’s understanding of various practices and developments in the marketplace.	Measure 2.2.1 Measure 2.2.2	• Resource Constraints
Target advocacy activities to encourage state and federal government policymakers to evaluate the competitive implications of their existing and proposed policies.	Measure 2.2.3 Indicator 2.2.IND.1	• Resource Constraints • Opposition to Advocacy
Increase transparency and improve the public’s understanding of the FTC’s enforcement policies and the benefits of competition.	Measure 2.2.1 Measure 2.2.2 Measure 2.2.3 Indicator 2.2.IND.1	• Resource Constraints
External Factors (extended descriptions): <ul style="list-style-type: none"> <li>• <b>Resource Constraints:</b> Financial and personnel resource limitations, driven primarily by the costs of litigation, may reduce resources available for this objective.</li> <li>• <b>Opposition to Advocacy:</b> Domestic advocacy, whether to state legislators or regulators, federal regulators, or the courts, seeks to influence decisions made by outside parties. Those decision makers have ultimate control over the outcome, and thus our success rate. The targets of our advocacies often receive pressure from other organizations, which may be making recommendations that are not in line with our own.</li> </ul>		

## **Progress Update**

The FTC continued to organize public conferences to advance the agency's understanding of economic developments and emerging business practices and inform antitrust policy through consideration of diverse perspectives. In FY 2019, the agency hosted 11 public workshops or hearings in broad areas of competition policy. From September 2018 through June 2019, the FTC held 14 sessions over the course of 23 days as a part of its Hearings on Competition and Consumer Protection in the 21st Century ("21st Century Hearings" or "Hearings"). The sessions featured 393 thought leaders including economists, law professors, business professors, public interest group representatives, states' attorneys general, and foreign government counterpart representatives. In addition to the 393 individuals from outside the agency, 71 members of FTC staff also participated. The Hearings garnered a combined online audience of over 21,000 in addition to those who attended in person, and more than 1000 public comments were received in response. The FTC held Hearings sessions in Washington, DC, New York City, and Omaha, Nebraska.

The 21st Century Hearings addressed several areas of competition and consumer protection policy, including the consumer welfare standard; corporate concentration; horizontal and vertical mergers; monopsony power; multi-sided platforms; potential and nascent competition; antitrust in labor markets; innovation and intellectual property; privacy, big data, and competition; artificial intelligence; the common ownership of minority interests in competing companies; data security; consumer privacy; broadband competition; the FTC's international mission; merger retrospectives; state consumer protection and competition issues; consumer protection remedies; and error-cost considerations. FTC staff is currently working to determine the scope and timing of the output of the Hearings.

The FTC also held a workshop in June 2019 to assess the impact of certificates of public advantage ("COPAs") on prices, quality, access, and innovation for healthcare services. Additionally, the FTC held its Eleventh Annual Microeconomics Conference.

The FTC continued to respond to requests for comment from local, state and federal entities to provide policymakers with a framework to analyze the potential competitive implications of pending governmental actions that may have a major impact on consumers. In FY 2019, staff filed four advocacy comments to federal regulators, individual state legislators, and other organizations. These advocacy comments address a variety of industries and competition issues, including pharmaceuticals and biological products, certificates of need for healthcare entities, and health information technology. The FTC ensures that its advocacy activities are conducted with sensitivity to state policy and law-making authority.

The agency also furthered its efforts to advance public understanding of its competition decisions through the publication of analyses to aid public comment, speaking engagements, and the "Competition Matters" blog, which covers an array of competition policy and practice issues. In addition, the agency issued several reports dealing with competition issues, including an annual report analyzing branded drug firms' patent

settlements with generic competitors. The report summarized data on patent settlements filed with the FTC and DOJ during FY 2016 under the Medicare Modernization Act of 2003. This was the Commission's third annual snapshot of such deals since *FTC v. Actavis*, in which the U.S. Supreme Court held that a branded drug manufacturer's reverse payment to a generic competitor to settle patent litigation can violate the antitrust laws. The FTC also prepared a Congressionally-mandated report on its standalone authority under Section 5 of the FTC Act to address high pharmaceutical prices.

### **Challenges or Barriers**

The FTC will continue to identify opportunities to advance the public's and its own understanding of competition issues in a dynamic and increasingly complex marketplace, particularly with respect to health care, technology, and intellectual property. The agency must continue to use its limited resources to expand its advocacy and outreach efforts, but must balance this activity with increased demands from its resource-intensive enforcement efforts. The agency must also expand its use of technology and public interaction to better promote the consumer understanding of the benefits of competition.

### **FY 2020-2021 Next Steps and Future Actions to Meet Strategic Objective**

- Organize and/or participate in public conferences, workshops, and hearings to enhance the FTC's understanding of various practices and developments relevant to competition in the marketplace. For example, the Commission will work to digest the abundant information collected through its 21st Century Hearings initiative to inform its short- and long-term competition enforcement and policy priorities.
- Continue to make related materials, including transcripts, written submissions, reports, and policy papers accessible to the public.
- Seek advocacy opportunities at local, state, and federal government levels to encourage adoption of policies that maximize competition, consumer welfare, and economic liberty consistent with Constitutional principles of federalism.
- Review and pursue amicus opportunities in the federal courts in cases that may affect competition and, ultimately, consumer welfare.
- Generate reports, policy papers, working papers, and other public documents that synthesize the results of FTC research and enforcement efforts and, where appropriate, make recommendations regarding actions or policies to promote competition.

**Performance Measures**

**Performance Goal 2.2.1:** Number of workshops, seminars, conferences, and hearings convened or co-sponsored that involve significant competition-related issues.

This measure demonstrates the Commission’s commitment to ensuring that consumers obtain the benefits of competition through its policy related activities such as workshops, seminars, conferences, and hearings convened or cosponsored that involve significant competition-related issues.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
4	3	3	7	3	11	Exceeded	3	

**Performance Goal 2.2.2:** Number of reports and studies the FTC issued on key competition related topics.

This measure reports competition policy-related activities such as Commission or staff research, reports, economic or policy papers, studies, or other substantive antitrust guidance produced after substantive investigation, study, or analysis. These activities enhance the public’s knowledge of competition issues and promote the adoption of policies based on sound competitive principles to the extent possible. Also included as part of this measure are reports to other federal agencies that report on the activities of the FTC.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
9	9	11	9	8	4	Not Met	8	

**FY 2019 Highlights:** The FTC concluded its 21st Century Hearings initiative in FY 2019, a significant undertaking involving a substantial commitment of staff time. During the latter half of FY 2019, the Commission has been working to synthesize all of the knowledge gained and comments received in response to the hearings. Digesting this volume and breadth of information is a time-consuming process, and thus staff was not able to devote as much time in FY 2019 to issuing reports. In FY 2020, staff expect to begin issuing reports and other guidance for antitrust practitioners based on the hearings.

**Performance Goal 2.2.3:** Percentage of competition advocacy comments and amicus briefs filed with entities including federal and state legislatures, agencies, or courts that were successful, in whole or in part.

The FTC’s competition advocacy takes many forms—including advocacy comments, amicus briefs, workshops, reports, and testimony. This measure evaluates the success rate for resolved competition advocacy comments and amicus briefs. While the FTC is primarily a law enforcement agency, advocacy work is a cost-effective way to further the FTC’s competition mission, and allows the FTC to address situations where competition may be affected by the actions of public entities, including regulators and legislators.

To determine whether an advocacy comment or amicus brief is successful, staff waits for the relevant case, legislative process, or agency rulemaking to be fully resolved. Once resolved, the outcome is compared to the policy recommendations within the advocacy comment or the legal arguments set forth in the amicus brief. Advocacies are classified as successful, partially successful, moot, or unsuccessful based on the outcome achieved. We do not attempt to quantify or measure how much effect our advocacy had on the decision. While most advocacies contain either consumer protection recommendations or competition recommendations, a few advocacy comments may have both, and are thus counted in this performance goal as well as Performance Goal 1.3.4.

\*Results for this measure are reported a year behind. FY 2019 data will be available in FY 2020.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
80.0%	64.7%	58.6%	*	60.0%	*	N/A	60.0%	

**Other Indicator**

**Indicator 2.2.IND.1:** Number of advocacy comments and amicus briefs on competition issues filed with entities, including federal and state legislatures, agencies, and courts.

Whereas Performance Goal 2.2.3 measures the success of our competition advocacy comments and amicus briefs, this indicator reports the quantity of competition advocacy comments and amicus briefs filed each year. While the FTC is primarily a law enforcement agency, advocacy work is a cost-effective way to further the FTC’s competition mission, and allows the FTC to address situations where competition may be affected by the actions of public entities, including regulators and legislators. While most advocacies contain either consumer protection recommendations or competition recommendations, a few advocacy comments may have both, and are thus counted in this indicator as well as Indicator 1.3.IND.1.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
16	16	6

**Objective 2.3 Collaborate with domestic and international partners to preserve and promote competition.**

**Goal Leaders: Director, Office of International Affairs (OIA); Director, BC; Director, BE Strategies and External Factors**

Strategy	Related Performance Measures	Related External Factors
Work within the U.S. government inter-agency process and with other domestic government entities to support efforts to promote market-based competition and policy convergence.	Indicator 2.3.IND.1	
Improve the effectiveness of investigations and promote consistent outcomes through cooperation with foreign competition agencies.	Measure 2.3.1	<ul style="list-style-type: none"> <li>• Foreign Political and Economic Factors</li> <li>• External Support</li> </ul>
Work with foreign competition agencies to promote international policy convergence toward sound and effective antitrust enforcement.	Measure 2.3.2	<ul style="list-style-type: none"> <li>• Foreign Political and Economic Factors</li> <li>• External Support</li> </ul>
Provide technical assistance to countries with emerging competition regimes; provide foreign officials an opportunity to work alongside the FTC.	Measure 2.3.2	<ul style="list-style-type: none"> <li>• Foreign Political and Economic Factors</li> <li>• External Support</li> </ul>
<p>External Factors (extended descriptions):</p> <ul style="list-style-type: none"> <li>• <b>Foreign Political and Economic Factors:</b> The development of competition policy involves numerous stakeholders, political considerations, and economic factors. Enforcement of the more than 130 competition laws often overlaps and intersects, and can potentially conflict. Foreign policy and political considerations that are outside the scope of competition policy may also play a role. All of these factors can affect enforcement, cooperation, policy, and the ability to accomplish the objectives of the U.S. antitrust agencies.</li> <li>• <b>External Support:</b> The ability to conduct international technical assistance depends in part on the availability of external resources, support of U.S. embassies abroad, and the willingness of foreign governments to accept U.S. assistance and advice.</li> </ul>		

## Progress Update

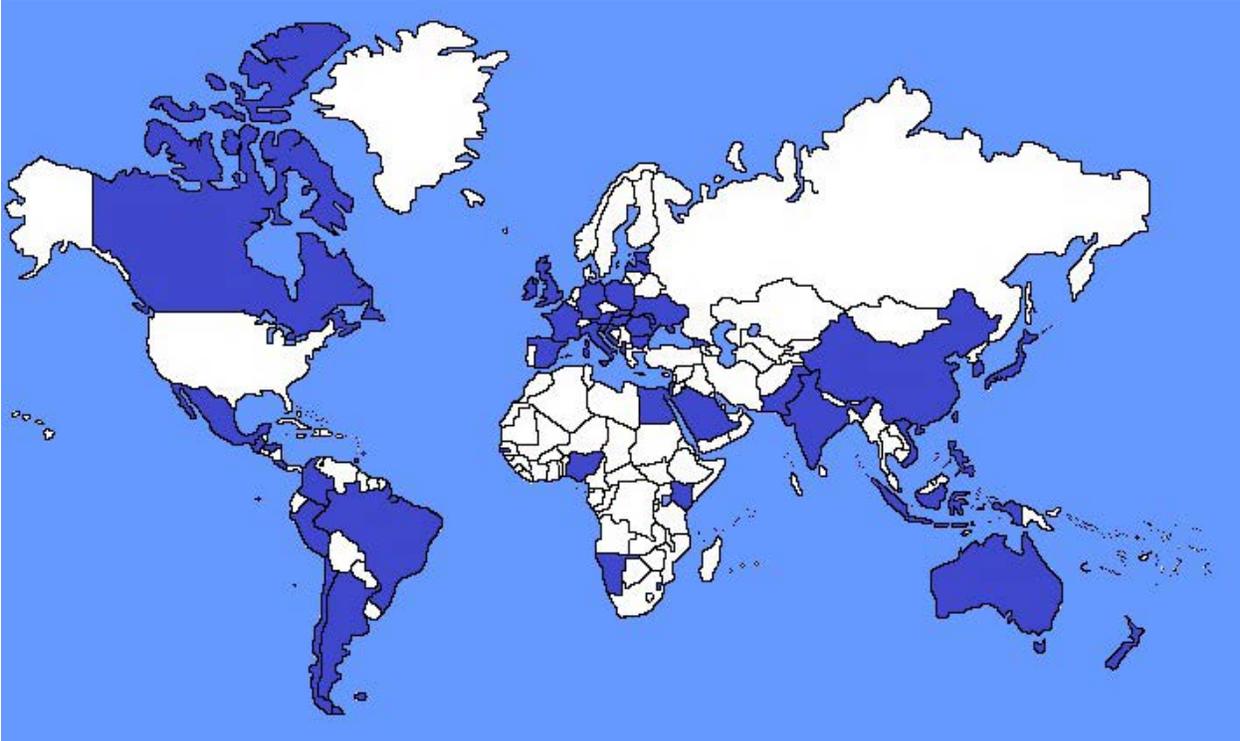
To promote and maintain free and vigorous competition, the FTC continues to build and strengthen relationships with competition agencies internationally and to work through multilateral fora and with domestic partners to promote convergence toward sound competition enforcement and policy. Progress in FY 2019 included:

- **Promoting Convergence and Furthering Case Cooperation:** The U.S. antitrust agencies engaged on policy issues of common interest and shared enforcement techniques and experience with staff from 42 competition agencies. We held high-level bilateral meetings with colleagues from several competition authorities, including Canada, the European Union, India, Japan, South Korea, and Mexico. The FTC continued to facilitate and engage more deeply in cooperation and coordination on individual matters with foreign counterparts. The FTC cooperated on 36 merger and anticompetitive conduct investigations of mutual concern with counterpart agencies from 21 jurisdictions. Many of these matters involved cooperation with several agencies to achieve effective, sound, and consistent outcomes. For example, during its review of the Praxair/Linde merger, Commission staff and staff of antitrust agencies of Argentina, Brazil, Canada, Chile, China, Colombia, the European Union, India, South Korea, and Mexico worked cooperatively to analyze the proposed transaction and potential remedies. The FTC also hosts “International Fellows” from foreign competition agencies who work directly with FTC staff to gain first-hand understanding of and experience with the practices and approaches that the FTC uses in its enforcement, which they then bring back to their agencies. The FTC has hosted 87 competition officials from 31 jurisdictions since the program’s inception in 2007 through the end of FY 2019.
- **International Competition Network (ICN):** The FTC is a leader in the ICN, a pre-eminent venue for developing international convergence on sound antitrust principles and practices. In FY 2019, the FTC continued to serve on the Steering Group, as well as co-chair the Merger Working Group and the ICN’s implementation team to promote use by member agencies of ICN recommendations and work products. The FTC led a project that culminated in issuing recommended practices for procedural fairness in competition investigations. In addition, the FTC was a key contributor to the ICN Framework on Competition Agency Procedures, which sets minimum standards for procedural fairness and provides a mechanism for agency-to-agency dialogue on procedural concerns. The FTC also leads a project that produces online training materials on antitrust enforcement and policy. The FTC will have further opportunities to showcase U.S. best practices as co-host of the ICN’s 2020 annual conference.
- **Other Multilateral Fora:** The agency continued its active participation and leadership in the OECD, APEC, UNCTAD, and the Inter-American Competition Alliance to promote cooperation and convergence. For example, the FTC played a key role in developing the OECD Competition Committee’s long-term work programs on procedural fairness and the treatment of intellectual property rights under

competition laws, and participated in cross-cutting OECD work focusing on the digital economy.

- **Relations with Newer Agencies:** In 2019, the FTC and DOJ continued engagement through meetings with counterparts from China’s antitrust agencies to discuss procedural fairness, enforcement of monopolization laws, and the antitrust treatment of the exercise of intellectual property rights. The FTC’s technical assistance program placed resident advisors in the competition agencies of the Philippines and Ukraine, and provided hands-on workshops on investigational skills. The advisors’ work focused on the application of economic analysis in investigations and legal and evidentiary issues raised in competition matters. The FTC also assisted the Philippine and Vietnamese authorities in drafting implementing regulations for their new antitrust laws and assessing policies that unnecessarily limit competition, and provided judicial training in the Philippines. Overall, the FTC conducted 29 technical assistance missions in 19 jurisdictions, including regional programs for Africa and Eastern Europe. The programs were funded by the FTC, the United States Agency for International Development, the Commerce Department’s Commercial Law Development Program, and host agencies.
- **Working Within the U.S. Government:** The FTC worked with U.S. government agencies to address, in a coordinated and effective manner, competition issues that implicate broader U.S. policy interests. For example, the FTC has been part of the interagency group that addressed investigative procedure issues under the South Korea-U.S. free trade agreement, and worked with the Departments of Treasury, Justice, and State, among others, on the development of G7 and G20 statements concerning competition and the digital economy.
- **State Government Partners:** BC routinely works with state attorneys general (AGs) in its enforcement efforts. State AGs also routinely join as co-plaintiffs in the FTC’s federal court litigations.

## International Competition Agency Cooperation



The FTC cooperated with and/or provided competition policy advice, technical assistance training, and/or FTC fellowships to government staff from highlighted countries in FY 2019, as well as to CARICOM, COMESA, and the European Union (not highlighted).

### Challenges or Barriers

Promoting international cooperation is a long-term endeavor that can be affected by events beyond the agency's control, such as foreign court proceedings, as well as political changes that result in changes in foreign counterpart agencies' policies and staff and restrict best practices and information exchanges. Political turmoil in certain regions can also make cooperation on particular issues more difficult.

### FY 2020-2021 Next Steps and Future Actions to Meet Strategic Objective

- Support BC's enforcement by assisting with the international aspects of its investigations and litigation.
- Work with state AGs on joint enforcement efforts where the harm may occur in local or regional markets.
- Continue the FTC's leadership role in the ICN by participating in the Steering Group and guiding the ICN's strategic direction; leading the ICN's implementation work and online training project; helping develop work on unilateral conduct, agency effectiveness, digital markets, cooperation, mergers, and competition advocacy; promoting implementation of the ICN's new framework on competition agency procedures; leading a new project on the intersection of competition law and policy

with consumer protection and data privacy law and policy; and setting the ICN's long-term agenda by developing its strategic review and co-hosting the 2020 annual conference.

- Enhance the FTC's participation in other multilateral and regional fora, including the OECD, UNCTAD, and APEC by, for example, helping to develop the OECD's work on procedural fairness in competition investigations and enforcement, and the application of competition laws to intellectual property rights, and by contributing to policy dialogue on competition and the digital economy.
- Advance cooperation with foreign competition agencies and international policy convergence by improving cooperation in merger and anticompetitive conduct enforcement and policy, concluding the Multilateral Mutual Assistance and Cooperation Framework, and developing new tools for cooperation and leadership on multilateral initiatives.
- Strengthen relations with competition agencies, including in Australia, Brazil, Canada, China, the European Union, India, South Korea, Mexico, Taiwan, and the United Kingdom, through dialogue on policy initiatives, case cooperation, and, as appropriate, the provision of technical assistance.
- Work with other U.S. agencies, including bilaterally and in interagency and intergovernmental fora, to address appropriate competition-related issues.
- Continue the FTC's international competition technical assistance program, deepen the FTC's competition agency capacity building, including to agencies in India, Kenya, Nigeria, Peru, and Ukraine, and assist governments that are promoting an expanded scope for competition in new sectors of their economies.

## Performance Measures

**Key Performance Goal 2.3.1:** Percentage of FTC cases involving at least one substantive contact with a foreign antitrust authority in which the agencies followed consistent analytical approaches and reached compatible outcomes.

The Office of International Affairs (OIA) strives to ensure appropriate cooperation on and coordination of investigations under parallel review by the FTC and foreign competition agencies. This measure gauges the effectiveness of the FTC's enforcement cooperation with foreign antitrust authorities pursuing parallel enforcement activities.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
100%	100%	96%	98%	95%	100%	Exceeded	95%	

**FY 2019 Highlights:** In FY 2019, the FTC cooperated on 36 enforcement matters. FTC staff engaged in substantive cooperation with 21 agencies, including Argentina, Australia, Austria, Brazil, Canada, Chile, China, Colombia, the European Union, Germany, India, Israel, Italy, Japan, South Korea, Mexico, New Zealand, Saudi Arabia, Singapore, Spain, and the United Kingdom. The FTC and its counterpart agencies reached compatible outcomes in all cases completed during the fiscal year. While the FTC will continue to strive for 100% success, the target reflects the possibility of inconsistent outcomes, particularly as additional antitrust agencies begin to assert their jurisdiction and cooperation on unilateral conduct matters expands.

**Performance Goal 2.3.2:** Number of instances in which the FTC provided policy advice or technical assistance to foreign competition agencies or governments, directly and through international organizations.

This measure quantifies the FTC's efforts to assist newer foreign competition authorities to enhance their enforcement capacity, build sound regulatory frameworks, improve agency effectiveness, and promote competition policies in their economy. These efforts include providing policy advice and direct technical assistance, as well as professional development opportunities for international partners through the International Fellows program.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
144	171	160	151	120	165	Exceeded	120	

**FY 2019 Highlights:** In FY 2019, the FTC provided policy advice through consultations, written submissions, and comments on proposed laws and guidelines to foreign competition agencies in 131 instances. The FTC's policy advice remains highly regarded and sought after by new and experienced competition agencies and by participants in international organizations and conferences. The agency also conducted 29 technical assistance missions in 19 jurisdictions and hosted five officials from foreign agencies as part of our International Fellows Program, in support of the competition mission.

**Other Indicator**

**Indicator 2.3.IND.1:** Percentage of full investigations in which the FTC and other U.S. federal, state, and local government agencies shared evidence or information that contributed to FTC law enforcement.

Due to the wide geographic impact of merger and nonmerger actions, it is important that the FTC share information and resources with other domestic federal, state, and local government agencies in the investigation and enforcement of competition cases. This indicator reports the number of full merger and nonmerger investigations concluded in a given fiscal year that involved information sharing with domestic federal, state, or local government agencies.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
N/A	52.6%	32.0%

**Strategic Goal 3: Advance the FTC’s Performance Through Excellence in Managing Resources, Human Capital, and Information Technology.**

The FTC believes that advancing organizational performance at all levels creates a strong foundation for overall mission success. The agency’s work in furtherance of Strategic Goal 3 highlights ongoing efforts to provide quality and timely services to the agency and enhances the agency’s ability to focus on protecting consumers and maintaining competition.

Goal 3 is inherently collaborative and encompasses all of the agency’s key management areas: human capital; infrastructure and security; information technology resources; and financial management. Work in Goal 3 fosters leadership, transparency, and accountability across the agency and establishes a culture of customer service and effective planning, administration, and management. Employees at all levels are expected to show leadership in their areas of responsibility by exhibiting a willingness to develop and coach others, a commitment to teamwork, and a drive to find innovative and efficient solutions.

The FTC has established three objectives to guide work in this area:

- **Objective 3.1:** Optimize resource management and infrastructure.
- **Objective 3.2:** Cultivate a high-performing, diverse, and engaged workforce.
- **Objective 3.3:** Optimize technology and information management that supports the FTC mission.

Goal 3 and its Strategic Objectives comprise the Stewardship-Focused component of the FTC’s 2019 Performance Report and FY 2020–2021 Performance Plan.

**Objective 3.1: Optimize resource management and infrastructure.**

**Goal Leaders: Executive Director, Office of the Executive Director (OED); General Counsel, Office of the General Counsel (OGC)**

**Strategies and External Factors**

Strategy	Related Performance Measures	Related External Factors
Update the agency’s COOP Plan, which defines necessary planning and actions to ensure the preservation and performance of FTC mission essential functions.	Measure 3.1.1a	<ul style="list-style-type: none"> <li>• New Assessment Tool</li> </ul>
Enhance training program for emergency preparedness that will include various training formats, including an online component.	Measure 3.1.1b	
Continue conducting Facility Security Assessments and engage GSA in risk mitigation.	Measure 3.1.1a	

Strategy	Related Performance Measures	Related External Factors
Update the Electronic Security System (ESS) at HQ	Measure 3.1.1a	
Improve the effectiveness and efficiency of FTC's financial management operations, including procurement-related work.	Measure 3.1.3	<ul style="list-style-type: none"> <li>• Changes in financial management requirements</li> </ul>
Improve Procurement Action Lead Time (PALT)	Measure 3.1.5	<ul style="list-style-type: none"> <li>• Changes in financial management requirements</li> </ul>
Ensure timely filing of senior officials' public financial disclosure reports through improved tracking and communication.	Measure 3.1.4	<ul style="list-style-type: none"> <li>• Changes in ethics requirements</li> </ul>
Work with GSA to move FTC regional office into federal work space as current leases expire.	Measure 3.1.1a & b	<ul style="list-style-type: none"> <li>• Federal Space Issues</li> </ul>
<p>External Factors (extended descriptions):</p> <ul style="list-style-type: none"> <li>• <b>New assessment tool:</b> The Federal Emergency Management Agency (FEMA) will be implementing a new assessment tool for government-wide COOP exercises.</li> <li>• <b>Changes in financial management requirements:</b> Changes in government requirements, especially for financial management, may cause a shift in priorities or change how the FTC approaches its work.</li> <li>• <b>Changes in ethics requirements:</b> Changes in requirements and whether the U.S. Office of Government Ethics continues to provide Integrity.gov as its disclosure report database may affect how the FTC's Ethics Team collects and reviews public financial disclosure reports.</li> <li>• <b>Federal space issues:</b> Real estate market and space suitability may impact the ability to move to federal space.</li> </ul>		

**Progress Update**

- The FTC completed a review of essential supporting activities as part of the required annual review of the Continuity of Operations (COOP) Plan. The agency's participation in FEMA's annual Eagle Horizon exercise in May 2019 verified the operability and effectiveness of the COOP Plan.
- As part of the ongoing OMB 11-11 and Federal Public Key Infrastructure (FPKI) for PIV Card certificate and modernization effort, the FTC reissued federally compliant badges to FTC's DC-based population to enable more efficient and effective logical and physical access.
- The FTC completed Facility Security Assessments for the Atlanta, San Francisco, and Los Angeles regional offices.

- The FTC implemented a new asset management system that improves audit trail functionality and the ability to determine what assets are assigned to a particular employee.
- The agency completed installation of video intercom systems in each regional office to ensure greater security by letting staff see/hear their visitors before granting them access to FTC space.
- The FTC relinquished its warehouse to GSA to reduce the FTC's overall footprint and the cost of furniture services.
- OED's Financial Management Office (FMO) continued to implement the Enterprise Risk Management program plan and strategy. Specifically, FMO identified, assessed, and monitored risks related to mission performance and updated the agency risk profile. The risk-management efforts helped agency leadership determine where to apply resources to address the FTC's highest priorities and risks. FMO will continue to support efforts to monitor and update risk registers to highlight and help the agency manage the most significant risks.
- The FTC completed all test conversion requirements in connection with the transfer of the agency's financial management, procurement, and travel systems from the Interior Business System to the Department of the Treasury's Shared Service Provider, Administrative Resource Center, in October 2019.
- The agency awarded four Blanket Purchase Agreements to industry partners to migrate agency IT services to the cloud.
- The agency worked to improve customer service for agency travelers by expanding its travel support helpdesk, implementing a new policy on booking personal travel jointly with official travel, and rolling out a new VIP support service for FTC Commissioners and Bureau Directors.
- The agency implemented revised travel procedures to more accurately align with current federal travel regulations.

### **Challenges or Barriers**

- Changes in the economy have a direct impact on the agency's ability to attract and retain its workforce. Strong job markets have led talented staff to seek more lucrative opportunities at other higher-paying agencies or in the private sector.

### **FY 2020-2021 Next Steps and Future Actions to Meet Strategic Objective**

- Review and update the FTC COOP Plan to ensure the plan supports the essential functions of the agency and reflects updated guidance and Eagle Horizon scoring changes expected in FY 2020.
- Expand capacity to respond to and recover from emergencies by developing and delivering in-person and web-based emergency preparedness training.
- Continue to promote and develop a strong working relationship with all staff that focuses on customer service while adhering to agency policy.

- Develop improved processes and policies for financial and acquisition management that promote integrity, transparency, efficiency, and effectiveness.
- Update the Electronic Security System at HQ by embedding all integrated components, such as the Physical Access Controls Systems, which are Federal Identity, Credential, and Access Management compliant. Replace the obsolete analog Closed Circuit Television systems with a modern digital system, and add an Intrusion Detection System. This will allow the FTC to monitor, manage, and secure resource access and usage, including electronic files, computer systems, and physical resources (e.g., server rooms and buildings).
- Continue with the implementation of ERM in accordance with agency policy.
- Implement new acquisition policies and expand training for agency Contract Officer Representatives.
- Coordinate with GSA to relocate two regional offices to federal space.

### Performance Measures

#### Performance Goal 3.1.1: The extent to which the FTC is prepared to protect people and property and to continue mission essential operations during emergencies.

(a) Achieve a favorable COOP rating

(b) The number of products and activities related to Physical Security that inform staff and provide opportunities to practice emergency procedures.

(a) The FTC Continuity of Operations Plan defines the necessary planning and actions that are required to ensure the preservation and performance of the FTC’s essential functions. Continuity planning facilitates the performance of FTC essential functions during all-hazards emergencies or other situations that may disrupt or potentially disrupt normal operations. The FTC COOP Plan is validated through annual tests, training, and exercises that confirm the agency’s ability to perform essential supporting functions during an emergency. The annual government-wide Eagle Horizon exercise helps agencies assess and validate components of their continuity plans, as well as the policies, procedures, systems and facilities agencies use to respond to and recover from an emergency. This assessment also serves to identify issues for subsequent improvement.

(b) The Occupational Health and Safety Office develops promotional and educational materials such as posters, publications, internet tools, classroom and web-based training courses, and exercises and drills designed to give employees the information they need to remain safe. This measure tracks the number of products (posters, publications, etc.) and activities (training opportunities, drills, etc.) focused on physical safety and security that are provided to FTC employees.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
(a) 90%	(a) 90%	(a) 95%	(a) 95%	(a) 80%	(a) 95%	(a) Exceeded	(a) 80%	(a) 80%
(b) N/A	(b) N/A	(b) N/A	(b) 39	(b) 42	(b) 70	(b) Exceeded	(b) 42	(b) 42

**Performance Goal 3.1.2:** Percentage of survey respondents who are satisfied or very satisfied with the timeliness of administrative operations.

The FTC Office of the Executive Director (OED) conducts an annual online Customer Satisfaction Survey. The survey is voluntary, anonymous, and offered to all FTC employees. Respondents are asked to indicate their level of satisfaction on a 5-point scale of Very Satisfied to Very Dissatisfied related to services provided by OED Offices. This measure tracks the level of satisfaction with the responsiveness of the Administrative Services Office to phone and email requests (Question #34).

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
N/A	N/A	81%	82%	75%	87%	Exceeded		75%

**Performance Goal 3.1.3:** Achieve a favorable (unmodified) audit opinion from the agency’s independent financial statement auditors.

FTC management is responsible for the preparation and fair presentation of annual financial statements in accordance with U.S. generally accepted accounting principles. As required by law, the FTC’s financial statements are audited annually by independent auditors. The auditors will determine whether the annual financial statements and related notes present fairly, in all material respects, the assets, liabilities, and net position in accordance with U.S. generally accepted accounting principles. The ideal outcome is an unmodified opinion. Potential negative outcomes include a qualified or adverse opinion or a disclaimer from opinion.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
Unmodified Opinion	Met		Unmodified Opinion					

**FY 2019 Highlights:** In FY 2019, the FTC received its 23rd consecutive unmodified (clean) audit opinion from its independent auditors.

**Performance Goal 3.1.4:** Percentage of new entrant, annual, and termination Public Financial Disclosure Reports that are filed within the required timeframe.

Ensuring public confidence in the integrity of FTC operations is paramount. The Ethics in Government Act of 1978, as amended, requires covered officials at the FTC to file public financial disclosure reports (OGE Forms 278e) addressing their finances as well as other interests outside the federal government. The reports allow for a systematic review of the financial interests of both current and prospective senior staff. The timely filing of the OGE Form 278e helps prevent actual conflicts of interest and ensures the FTC’s Ethics Team is able to identify and address potential conflicts. This measure will track the percentage of public disclosure reports filed within the required timeframe. Timeframes vary based on the type of required filing, and the FTC’s Ethics Team may grant limited extensions of the filing deadline for good cause.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
N/A	N/A	N/A	98.3%	95.0%	98.4%	Exceeded	95.0%	

**Performance Goal 3.1.5:** Percentage of contract actions awarded within FTC’s established Procurement Action Lead Time (PALT).

Awarding government contracts, task orders, and modifications takes a tremendous amount of staff time. To measure the efficiency of our acquisitions branch, this measure tracks the percentage of contract actions awarded within established lead times. The lead-time varies depending on the type of contract.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
N/A	78%	65%	57%	65%	67%	Exceeded	70%	75%

**FY 2019 Highlights:** In FY 2019 the FTC processed over 600 procurement actions, including 140 mission-critical “expert witness” contracts for pending litigation. These time-sensitive contracts were generally processed and awarded within two weeks of the Acquisitions Branch receiving a requisition request.

**Objective 3.2 Cultivate a high performing, diverse, and engaged workforce.**

**Goal Leaders: Executive Director, OED; Director, Bureau of Consumer Protection; Director, Bureau of Competition; Director, Bureau of Economics; General Counsel, OGC**

**Strategies and External Factors**

Strategy	Related Performance Measures	Related External Factors
Use integrated workforce planning to identify and fulfill current and future human capital needs, including Human Resources (HR) professionals.	Indicator 3.2.IND.3 Indicator 3.2.IND.4	<ul style="list-style-type: none"> <li>• Strong Job Markets</li> <li>• Private Sector Competition</li> </ul>
Enable the agency to recruit, develop, and retain a highly qualified and diverse workforce.	Measure 3.2.1 Measure 3.2.2 Measure 3.2.3 Indicator 3.2.IND.1 Indicator 3.2.IND.2 Indicator 3.2.IND.3 Indicator 3.2.IND.4	<ul style="list-style-type: none"> <li>• Strong Job Markets</li> <li>• Private Sector Competition</li> <li>• Changes in Human Capital Requirements</li> </ul>
Enhance Senior Executive Service (SES) and other leaders' performance plans and deploy training to support an agency-wide performance culture focused on individual development and organizational accountability.	Measure 3.2.4	<ul style="list-style-type: none"> <li>• Technology Challenges (USAP)</li> </ul>
<p>External Factors (extended descriptions):</p> <ul style="list-style-type: none"> <li>• <b>Strong Job Markets:</b> Strong job markets have led talented staff to seek more lucrative opportunities at other higher-paying agencies or in the private sector.</li> <li>• <b>Private Sector Competition:</b> The agency has to stay abreast of and try to compete with the benefits and incentives offered by higher-paying agencies and the private sector and sought by the 21st century workforce.</li> <li>• <b>Changes in Human Capital Requirements:</b> Changes to federal human capital regulations and legal authorities may affect the ability of the FTC to implement specific human capital strategies.</li> <li>• <b>Technology Challenges (USAP):</b> Staff in the Human Capital Management Office (HCMO) must maintain technical competency in order to use the USAPerformance (USAP) system, and the system design must be compatible with HCMO and user needs.</li> </ul>		

## Progress Update

### Leveraging Technology to create HR efficiencies:

In FY19, HCMO implemented three new human resources data systems to improve the efficiency and effectiveness of the FTC's human capital management processes: Electronic Official Personnel Folders (eOPF), an Electronic Performance Management System (USAP), and USA Staffing.

- **Electronic Official Personnel Folder (eOPF):** This virtual, web-based system replaced the FTC's paper-based personnel records management system, and will provide FTC staff and HCMO personnel with on-demand access to personnel records. eOPF is designed to improve data security, support the FTC COOP, and streamline the process and cost of reviewing and transferring personnel folders. Finally, eOPF also complies with Office of Personnel Management (OPM) and federally mandated Human Capital (HC) employee record management regulations.
- **Electronic Performance Management System (USA Performance):** The FTC completed the rollout of the USAP performance management system, which allowed the agency to securely automate its performance appraisal process for the entire performance rating cycle for all grade levels, including the Senior Executive Service. The system provides greater accountability and transparency for both employees and managers.
- **Recruitment and Hiring System:** This fiscal year, HC Operations successfully transitioned from Monster Government Solutions to USA Staffing. This automated recruitment and hiring solution is specifically designed to support federal hiring managers and HC professionals in acquiring, assessing, certifying, and selecting qualified candidates in alignment with Merit System Principles.
- **Strengthening Senior Executive's Performance Plans:** All SES FY 2019 performance plans were migrated into USAP. HCMO expects to migrate Senior Professional (SL/ST) performance plan templates to this system in FY20, after OPM upgrades USAP.

### Challenges or Barriers

The agency is modernizing its HR systems by, among other things, migrating from paper-based to electronic systems. The success of these projects requires the FTC to recruit and retain staff with the requisite project and database management skills to successfully implement and manage electronic databases and provide support to internal customers. The FTC's ability to recruit the HR workforce of the future is impacted by the strength of the labor market, the availability of opportunities at higher-paying agencies and in the private sector, and turnover in HCMO.

### FY 2020-2021 Next Steps and Future Actions to Meet Strategic Objective

- Continue to modernize HC systems
- Continue to improve hiring timelines through business process re-engineering
- Expand efforts to promote diversity and encourage inclusion.

- Partner with hiring managers to deploy recruitment and outreach strategies to attract a diverse workforce.
- Educate managers on the benefits of an inclusive work environment to promote employee engagement.
- Continue to support a culture of change management and adoption
- Promote and expand the use of human resources flexibilities such as telework, reasonable accommodation, and wellness programs that support employee retention.
- Assess agency training needs and programs annually and determine how these programs contribute to mission accomplishment and meet organizational performance goals.
- Continue to provide proactive support to managers, supervisors, and employees on human resources issues through direct consultation, classroom sessions, brown bag sessions, webinars, notices to employees, the agency’s newsletter (FTC Daily).
- Create an HCMO newsletter and craft an HCMO internet page that provides up-to-date content for FTC staff.

**Performance Measures**

**Performance Goal 3.2.1:** The extent to which FTC employees consider their agency to be a best place to work.

Employee satisfaction is measured by averaging the results from three questions on the Federal Employee Viewpoint Survey (FEVS). Measuring the overall job satisfaction of FTC employees provides managers with important information regarding employees’ general satisfaction with their organization and the work they do. Overall job satisfaction is closely correlated with employee retention.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
79%	81%	83%	85%	66% (government-wide average)	84%	Met	Exceed the government-wide average results by 10 points	

**Performance Goal 3.2.2:** The extent employees believe the FTC encourages an environment that is open, diverse, and inclusive.

This measure is based on the FEVS New IQ Index, which gauges the extent to which employees believe the agency has policies and programs that promote a work environment that is open, diverse, and inclusive. The New IQ Index identifies behaviors that help create and sustain an inclusive work environment. Workplace inclusion is a contributing factor to both employee engagement and organizational performance.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
70%	75%	78%	78%	62% (government-wide average)	78%	Met	Exceed the government-wide average by 10 points	

**FY 2019 Highlights:** In FY 2019 the FTC exceeded the government average New IQ score by 16%. In addition, the agency scored first among all medium-sized federal agencies (1,000-9,999 employees) and exceeded the medium-sized agency score of 65%.

**Key Performance Goal 3.2.3:** The extent to which employees believe the FTC cultivates engagement throughout the agency.

The Employee Engagement Index (EEI) of the FEVS determines this measure. The Index gauges the extent to which employees believe that management listens and provides meaningful support and feedback in various areas that assist staff in supporting the overall mission of the agency. The index is compiled from questions across three sub-factors: Leaders Lead, Supervisors, and Intrinsic Work Experience.

- Leaders Lead: Employees’ perceptions of leadership’s integrity as well as leadership behaviors such as communication and workforce motivation.
- Supervisors: Interpersonal relationship between worker and supervisor, including trust, respect, and support.
- Intrinsic Work Experience: Employees’ feelings of motivation and competency relating to their role in the workplace.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
79%	82%	83%	83%	68% (government-wide average)	84%	Met	Exceed the government-wide average by 10 points	

**FY 2019 Highlights:** In FY 2019, the FTC exceeded the government-wide Engagement Index score average for all federal agencies by 16%. In addition, the FTC scored first among all medium-sized federal agencies (1,000-9,999 employees) and exceeded the medium-sized agency score of 71%.

**Performance Goal 3.2.4:** The extent to which employees believe FTC management promotes a results-oriented performance culture.

The Results Oriented Performance score of the FEVS determines this measure. The score indicates the extent to which employees believe their organizational culture promotes improvement in processes, products and services, and organizational outcomes.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
65%	70%	73%	74%	61% (government-wide average)	75%	Met	Exceed the government-wide average by 10 points	

**Other Indicators**

**Indicator 3.2.IND.1:** Percentage of eligible FTC employees who have telework agreements.

This indicator will provide information on overall employee participation in the FTC telework program. Telework is a valuable tool that supports workplace flexibility by allowing an employee to perform work, during any part of regular, paid hours, at an approved alternative worksite (e.g., home, telework center). It is an important tool for achieving a resilient and results-oriented workforce.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
N/A	85%	88%

**Indicator 3.2.IND.2:** Number of requests for reasonable accommodations resolved through the FTC’s reasonable accommodations process.

This indicator will track the resolution of requests for reasonable accommodation submitted to the HCMO Disability Program Manager by FTC employees or job applicants with permanent or temporary disabilities that affect the performance of their job duties. Tracking this data helps ensure the agency is in compliance with the policies and procedures outlined in the Administrative Manual, Chapter 3: Section 300 - Disability Anti-Discrimination Policy and Reasonable Accommodation Procedures.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
N/A	46	84

**Indicator 3.2.IND.3:** Average number of days to issue a certificate of eligible candidates to a hiring manager.

This indicator tracks the average number of days it takes for HCMO HC specialists to issue a certificate of eligible candidates to hiring managers after a job opportunity announcement has closed. Providing a list of eligible job candidates in a timely manner enables managers to continue to meet the FTC mission by filling vacant positions with qualified persons as quickly as possible.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
N/A	13.5 days	19.0 days

**Indicator 3.2.IND.4:** Average number of days to make a hiring decision.

This indicator tracks the average number of days between the date hiring managers receive a certificate of eligible candidates and the date managers return hiring certificates to HCMO for processing after they make a hiring decision. Making timely hiring decisions increases the likelihood that hiring managers will be able to recruit qualified, top candidates.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
N/A	29 days	32 days

**Objective 3.3 Optimize technology and information management that supports the FTC mission.**

**Goal Leader: Executive Director, OED**

**Strategies and External Factors**

Strategy	Related Performance Measures	Related External Factors
Modernize agency business applications and data by migrating to secure, cost-effective cloud-based environments with vendor-backed service level agreements (SLAs) for system availability.	Measure 3.3.2	<ul style="list-style-type: none"> <li>• Budget Constraints</li> </ul>
Focus on documentation, process improvements, continuous monitoring, and data collection and analysis to advance the maturity of the FTC’s information security program.	Measure 3.3.3	<ul style="list-style-type: none"> <li>• Evolving Information Security Threats</li> <li>• Changes in IT Requirements</li> </ul>
Maintain a resilient and highly available IT infrastructure by streamlining monitoring and management of IT systems and services, building redundancy and security into system architectures, and proactively replacing and optimizing system components.	Measure 3.3.1	<ul style="list-style-type: none"> <li>• Rapid Technology Change</li> </ul>
Continue the transition to electronic information resource management and electronic record keeping; comply with the Managing Government Records Directive M-19-21.	Measure 3.3.5	
Implement an Enterprise Content Management (ECM) system.	Measure 3.3.5	<ul style="list-style-type: none"> <li>• Restrictive Federal Rules</li> </ul>

Strategy	Related Performance Measures	Related External Factors
<p>External Factors (extended descriptions):</p> <ul style="list-style-type: none"> <li>• <b>Budget Constraints:</b> IT modernization initiatives require significant upfront investment as the agency transitions to new technologies while concurrently operating and maintaining existing technologies until legacy systems eligible for decommission.</li> <li>• <b>Evolving Information Security Threats:</b> These affect the security of individual IT systems and services and the FTC’s overall risk posture.</li> <li>• <b>Changes in IT Requirements:</b> New Federal mandates and guidance on information security and IT management create new and unexpected challenges.</li> <li>• <b>Rapid Technology Change:</b> The ever-changing nature of the information technology hardware and software industry creates challenges in maintaining an up-to-date infrastructure as technology components quickly become obsolete or lose manufacturer support in favor of newer products that may not be fully tested or reliable.</li> <li>• <b>Restrictive Federal Rules:</b> Federal mandates and guidance may limit available information management solutions and delay cloud-based modernization efforts.</li> </ul>		

**Progress Update**

- The FTC migrated its existing IT service management processes to ServiceNow Enterprise Service Management (ESM), a cloud-based solution that has increased the simplicity, availability, and reliability of FTC’s help desk ticketing, configuration management, and asset management processes. The implementation of ESM allows the FTC to reduce its infrastructure footprint by decommissioning the on-premises legacy Remedy ITSM software.
- The FTC improved the security of its network and data by implementing network access control (NAC), a technology that provides better monitoring of the devices connecting to the FTC network, and ensures that all endpoints meet appropriate configurations before accessing FTC data and systems. The FTC also deployed mandatory PIV lock-out on all FTC laptops and desktops to prevent unauthorized individuals from accessing an FTC computer.
- The FTC continues to upgrade, reengineer, and replace aging, end-of-support infrastructure components and applications to increase user functionality and decrease the risk of downtime, system failures, and security vulnerabilities. In FY 2019, the FTC completed projects to upgrade operating systems and storage platforms hosting the majority of the FTC’s applications and data and build a new backup storage solution for the FTC’s regional offices.
- The FTC destroyed over 2,700 boxes of temporary records stored at National Records Archives Administration (NARA) Washington National Records Center (WNRC).
- The FTC completed an update to its Records Policy and developed a comprehensive program management plan.

- The FTC successfully transitioned its public comment processing program to a government shared service (regulations.gov), retiring its custom application and thus meeting a goal of the FTC's Information Resources Management Strategic Plan.
- The FTC completed a comprehensive review of the Library's print collection to identify damaged, redundant or obsolete materials to maximize the usefulness of the print materials and support the agency's Library modernization efforts.

### **Challenges and Barriers**

- As the FTC modernizes IT systems and increases the use of shared and cloud-based services, agency policies and procedures regarding records management, privacy, information security, and risk management may not align with technology and best practices for modernized digital services, causing delays in deployment, increased level of effort, and customer dissatisfaction if expected functionality is not available.
- Any constraint on resources, including funding and personnel, needed for IT investments could hinder modernization efforts and the FTC's ability to refresh and replace aging infrastructure components.
- Traditional methods of contracting for IT services may hinder the FTC's ability to leverage agile development methods and promote creativity and innovation amongst contractors.
- NARA has informed the FTC that it is unable to accept additional request to destroy the agency's paper records as a result of the loss of one of its vendors.

### **FY 2020-2021 Next Steps and Future Actions to Meet Strategic Objective**

- Identify and implement business process improvements through effective use of technology to facilitate the agency's decision-making processes and management of its cases.
- Provide records and information management training and outreach to staff, with special emphasis on managing information electronically throughout its lifecycle.
- Continue to develop an agency-wide information governance policy to support efficient management of electronic information with appropriate access restrictions.
- Implement the final rule, recently issued by NARA that establishes uniform executive-branch wide standards for designating, handling and decontrolling Controlled Unclassified Information (CUI).
- Implement new integrated library system.
- Award a new contract for modernization of the FTC's external communications infrastructure, allowing the FTC to leverage a secure, scalable, and cost-effective communications solution that can accommodate increases in internet bandwidth requirements that come with migration to cloud services.
- Rebuild agency custom business applications in low-code cloud application platforms, increasing availability of applications and decreasing time-to-market for enhancements and workflow changes.

- Replace aging network infrastructure components to improve the security and availability of FTC’s local-area network.
- Continue to mature information security and risk management processes and documentation to monitor and mitigate risks associated with IT modernization efforts.

**Performance Measures**

**Performance Goal 3.3.1:** Availability of information technology systems.

Information technology systems must be available and accessible to support the FTC mission. Lack of availability and accessibility severely constrains employees’ and managers’ ability to serve the public and stakeholders. This measure tracks service outages and monitors the uptime of 11 critical information technology services, as well as the agency’s infrastructure backbone, including:

- Email
- FTC-specific applications and systems
- Wireless services
- Internet
- Intranet
- Phone and Voicemail
- Wide Area Network
- The agency’s primary public website (www.ftc.gov)
- Litigation support applications and systems
- Economic support systems
- Remote employee access

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
99.82%	99.75%	99.70%	99.71%	99.50%	99.98%	Exceeded	99.60%	99.70%

**FY 2019 Highlights:** During fiscal year 2019, the FTC exceeded its overall availability target, reaching a result of 99.98% uptime. The increase in availability over the FY 2018 result was achieved through a number of IT modernization initiatives. Specific projects include operating system upgrades for the agency’s application hosting infrastructure and file storage, continued stabilization of the mobile device platform, replacement of server and storage hardware in the Regional Offices and Headquarters, and migration to a cloud-based remote access portal for employee telework.

**Performance Goal 3.3.2:** Percentage of IT spend on Provisioned IT Services.

This measure tracks the agency’s progress in moving IT services to the cloud. Transitioning to cloud-based services is a key component of FTC’s Information Resource Management (IRM) Strategic Plan and will benefit the FTC through increased flexibility, dependability, and, ultimately, cost savings.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
N/A	N/A	N/A	36.6%	37.0%	37.4%	Exceeded	40.0%	45.0%

**FY 2019 Highlights:** The FTC exceeded its FY 2019 target, reaching 37.4% of the total IT budget spent on provisioned IT services. During FY 2019, the FTC awarded contracts and executed projects to migrate multiple applications and systems to cloud-based environments. This includes the migration of FTC’s Enterprise Service Management system to ServiceNow and the deployment of FDOonline (a cloud-based financial disclosure form). The FTC also awarded a task order for the first phase of the agency’s application modernization initiative, which will re-platform agency business processes in cloud-based, low-code application development platforms.

**Performance Goal 3.3.3:** Achieve a favorable rating in the FTC Cybersecurity Index.

This measure monitors the agency’s progress in achieving multiple critical cybersecurity metrics, each of which measures the agency’s cybersecurity posture and strength in protecting the confidentiality, integrity, and availability of information systems. The cybersecurity metrics that go into this Index are:

- % of major systems with a valid Authority To Operate (ATO). Measures the number of major IT systems with a valid ATO, documenting review of system security controls and review and acceptance of system risks.
- % of GFE workstations with below the “acceptable” vulnerabilities threshold. Measures the number of GFE workstations with critical and potentially exploitable vulnerabilities, indicating the agency’s risk level for cyberattacks. This is a measurement of the most frequently compromised assets.
- % of GFE workstations scanned monthly. Measures the number of GFE workstations scanned to ensure vulnerabilities are addressed in a timely manner based on risk and impact. Leading indicator on the repeatability and effectiveness of the vulnerability assessment and remediation processes.
- % of GFE workstations patched within 30 days. Workstations are scanned monthly to make sure they have the most recent patches. GFE workstations that have been patched within the 30 days prior to the monthly scans have a reduced opportunity to exploit vulnerabilities.
- % of assets with valid baseline configuration. Measures the number of assets with a documented and validated baseline configuration. This is an indication of how well

the IT environment is known and secured. Undocumented assets cannot be effectively secured.

- % of GFE workstations deviating from baseline configuration. Measures the number of GFE workstations that deviate from that baseline without a documented risk acceptance. This is an indicator of the effectiveness of the configuration management process.
- % of unprivileged users using multi-factor authentication. Measures the number of unprivileged (i.e. general FTC staff) using multi factor authentication to access the FTC network, decreasing the risk of unauthorized access to agency systems
- % of privileged users using multi-factor authentication. Measures the number of privileged FTC staff (i.e., system administrators with elevated system rights) using multi-factor authentication to access the FTC network, decreasing the risk of insider threat and unauthorized access to highly sensitive data.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
N/A	N/A	N/A	3 of 8	6 of 8	6 of 8	Met		6 of 8

**FY 2019 Highlights:** The FTC met its cybersecurity index target for FY 2019, representing a substantial increase from FY 2018. Three individual metrics met or exceeded their target, contributing to the overall increase in the index score.

- Percentage of privileged users using multi-factor authentication. This improvement is a direct result of the maturation and improvement of FTC’s continuous monitoring processes and measurement. Specific process improvement include regular reviews of privileged user accounts to ensure compliance and legitimate business need for elevated privileges.
- Percentage of GFE workstations scanned monthly. During FY 2019, FTC worked to resolve issues with virtual desktop infrastructure that allowed for more accurate scanning of workstations and improved our ability to obtain an accurate count.
- Percentage of GFE workstations patched within 30 days. This metric also benefitted from maturation of FTC’s continuous monitoring practices. FTC implemented a monthly review of workstation data to ensure visibility of patching needs and gaps, improved data collection to improve accuracy, and gained a better understanding of the current tools and configurations.

**Performance Goal 3.3.4:** Percentage of the FTC’s paper records held at the Washington National Records Center that are processed and appropriately either (a) destroyed or (b) transferred to the National Archives and Records Administration.

This measure tracks the agency’s progress in dispositioning its paper records, in compliance with federal records management regulations and requirements. The agency maintains approximately 18,000 boxes of temporary and permanent records at WNRC that are eligible for disposition. The agency will destroy temporary records and transfer permanent records to the NARA in accordance with our records disposition schedule. Disposing of the agency’s WNRC holdings will ensure the agency is compliant with NARA and OMB directives and will reduce spending for offsite storage. Timely transfer of permanent records helps the FTC to avoid incurring digitization costs before NARA’s stated deadline to stop accepting transfers of paper records after 2022.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
N/A	N/A	N/A	N/A	≥ 25.0% of WNRC holdings processed	16.8%	Not Met	≥ 25.0% of WNRC holdings processed	

**FY 2019 Highlights:** During the fiscal year, the agency identified over 6,700 boxes (or 41% of the agency’s WNRC holdings) for disposition. NARA was able to process 2,779 boxes, before losing the vendor it uses to dispose of boxes held at WNRC. As a result, the agency was unable to dispose of its WNRC holdings that had been designated for destruction. For FY 2020, NARA has identified a new disposition vendor and the FTC anticipates resuming scheduled destruction.

**Performance Goal 3.3.5:** Successfully transfer permanent electronic records dated between 2004 and 2016 to NARA in a timely manner.

This measure will track the agency’s progress in processing and transferring its electronic records in order to comply with federal records management regulations and requirements. The agency began maintaining its permanent records in an electronic format in 2004. Pursuant to the agency’s records schedule and the “Managing Government Records Directive,” OMB M-12-18, the FTC is obligated to identify and transfer Permanent Electronic Records to the custody of NARA.

FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual	FY 2019 Status	FY 2020 Target	FY 2021 Target
N/A	N/A	N/A	N/A	Transfer permanent electronic records dated 2004-2006	2004-2006 records transferred	Met	Transfer permanent electronic records dated 2007-2009	Transfer permanent electronic records dated 2010-2012

**FY 2019 Highlights:** FTC submitted over 5.0 GB of electronic records of 2004-2006 Commission actions to NARA. These submissions ensured the agency’s compliance with OMB’s Managing Government Records Directive, and NARA’s December 2022 deadline past which they will no longer accept permanent records in paper format.

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# Descriptions



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# 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 seven 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.

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

	Fiscal Year 2020		Fiscal Year 2021	
	FTE	Dollars	FTE	Dollars
Privacy and Identity Protection	61	\$12,624	61	\$12,800
Financial Practices	71	14,719	71	14,925
Marketing Practices	122	25,526	122	25,887
Advertising Practices	59	12,245	59	12,415
Enforcement	54	11,126	54	11,281
Consumer Response and Operations	25	18,764	25	18,835
Litigation Technology and Analysis	37	7,642	37	7,747
Consumer and Business Education	21	7,224	21	7,284
Economic and Consumer Policy Analysis	8	1,589	8	1,613
Management	12	2,471	12	2,506
<b>Subtotal Direct</b>	<b>470</b>	<b>\$113,930</b>	<b>470</b>	<b>\$115,293</b>
Support	142	\$72,268	142	\$70,490
<b>Total</b>	<b>612</b>	<b>\$186,198</b>	<b>612</b>	<b>\$185,783</b>

## Privacy and Identity Protection

The goal of Privacy and Identity Protection is to protect consumers' privacy, while balancing the benefits from the flow of information in our marketplace economy, 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 have misrepresented how they use and share personal information they collect from consumers or failed to take reasonable steps to secure consumers' 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 (including mobile) sites and services that collect personal information from children to provide parents with notice and get their consent prior to collection. In the area of financial privacy, the FTC enforces its rule implementing the privacy provisions of the Gramm-Leach-Bliley Act. The FTC also enforces its Safeguards Rule, which requires financial institutions to implement reasonable administrative, technical, and physical safeguards to protect customer records and information. The FTC is currently reviewing public comments on its proposed amendments to the "Safeguards Rule," proposed as part of its systematic review of all FTC rules and guides. Finally, as part of the EU-U.S. Privacy Shield Framework, the FTC has committed to take action against entities that misrepresent their participation in, or compliance with, the Framework. In addition to its enforcement efforts, the FTC issues reports and hosts workshops on general privacy, mobile privacy, Big Data, the Internet of Things, data brokers, and new technologies such as drones, smart TVs, and ransomware.
- **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. The FTC launched an improved version of IdentityTheft.gov (robodeidentidad.gov in Spanish), a free, one-stop resource people can use to report and recover from identity theft.

## 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.

- **Financial Technology:** 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.
- **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.
- **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.

### Marketing Practices

Marketing Practices fights frauds that target consumers. Its enforcement priorities include scams with high-dollar losses and scams that target or disproportionately impact particular segments of the population. Marketing Practices spearheads the FTC's efforts to address violations of 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 older consumers, lower-income communities, ethnic or racial minorities, veterans and 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, and invention-promotion or similar 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 halt 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. Staff focuses on initiatives to keep pace with the latest high-tech internet schemes, as well as undercover surveillance and rapid law enforcement response when fraudulent schemes are detected. 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 blasters” and lead generators that assist illegal robocallers and also 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 efforts.
- **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 and the FTC’s interpretations of the Magnuson-Moss Warranty Act. And, it coordinates the agency’s enforcement of the Funeral Rule.

### 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, providing guidance to industries, advocating effective self-regulation by the advertising industry and better ad screening by the media, 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, and Medical Devices, including Mobile Apps:** Advertising Practices devotes substantial resources to ensuring the accuracy of health claims in advertising and takes action against companies making deceptive representations. In addition to traditional law enforcement actions, the FTC creates educational materials to help companies understand claims substantiation requirements and to help consumers, including the elderly and other vulnerable populations, spot deceptive claims.

- **Health Care and Weight Loss:** Each year consumers spend billions of dollars purchasing pills, potions, devices, and therapies to treat and prevent serious diseases and conditions such as cancer, dementia, arthritis, diabetes, and opiate addiction, and to achieve other health-related goals such as weight loss. Advertising Practices works with other federal agencies and partners to combat misleading claims by providers of these products and services by sending warning letters targeting not only perennial scams, but also scams “du jour,” and by bringing law enforcement actions. Other activities include conducting consumer education campaigns to assist consumers in recognizing fraudulent or deceptive health care and weight loss claims.
- **Endorsements, Search Results, and Native Advertising:** Advertising Practices enforces the basic principles, incorporated in the FTC’s Endorsement Guides, that endorsements must be truthful and cannot be 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 practice of blending advertisements with news, entertainment, and other editorial content in digital media). 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 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](mailto:Endorsements@FTC.gov)).
- **Online Ticket Sales:** Advertising Practices has addressed deceptive practices in the online event ticket marketplace. Advertising Practices held a workshop in June 2019 to garner public input on consumer protection issues in this area, such as practices that limit ticket availability on the primary market, mislead consumers about ticket prices or availability, or confuse consumers about the entity from which they are purchasing.
- **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 warning letters 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, encourages improved standards and compliance, and periodically reports to Congress and the public on this issue.

- **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 warning letters to numerous prescribers and sellers regarding possible Contact Lens Rule or Eyeglass Rule violations, and engages in ongoing business education. The FTC has initiated regulatory reviews of both rules to determine whether they should be modified, and is seeking public comment on proposed changes to the Contact Lens Rule intended to better achieve Congress's intent to enable consumers to comparison shop for contact lenses.

### 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.
- **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, and allocates resources.

- **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](http://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 2,400 law enforcement agencies worldwide with access to more than 18 million consumer fraud and identity theft complaints largely collected during the past five years, in addition to over 28 million Do Not Call Registry complaints. 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 238 million active telephone number registrations.
- **Data Analysis Team:** The Data Analysis Team performs analytical research and reports on data consumers report to the FTC. 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 July 2017 through June 2018, the FTC's law enforcement actions yielded more than \$2.3 billion in refunds to defrauded consumers, including \$122 million mailed directly by the FTC to 2.2 million people.
- **Operations:** Operations oversees and supports 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 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 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 free email alerts to more than 500,000 subscribers. Consumer and Business Education manages the FTC's bulk publication ordering website ([ftc.gov/bulkorder](http://ftc.gov/bulkorder)), through which about 13,000 organizations a year, including police, libraries, schools, banks and congressional offices, order material to distribute in their communities. In FY 2018, the FTC distributed 13.2 million pieces of consumer education through the bulkorder site.
- **IdentityTheft.gov:** The Divisions of Consumer and Business Education and Consumer Response and Operations continue to operate IdentityTheft.gov ([robodeidentidad.gov](http://robodeidentidad.gov)), an innovative website where identity theft victims can report identity theft and get personal recovery plans. The mobile- and tablet-accessible site also produces Identity Theft Reports that victims can use in place of police reports in most cases to help restore their credit to its pre-crime status. Starting in 2018, the site also lets consumers report tax-related identity theft report the crime 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. More than 1.4 million victims have used the site to report identity theft since its inception in January 2016. In FY 2018, Consumer and Business Education distributed over 3.75 million print publications relating to consumer education on identity theft.

- **Outreach to Military Service Members:** Consumer and Business Education developed and manages the Military Consumer campaign with the U.S. Department of Defense, the Consumer Financial Protection Bureau, and Military Saves. The campaign addresses unique challenges of military life that often make military families targets for scammers. Service members and their families can use the campaign website ([MilitaryConsumer.gov](http://MilitaryConsumer.gov)) as a tool for financial readiness.
- **Kids' Online Safety & Cyberbullying:** Consumer and Business Education developed the "Net Cetera" ([ftc.gov/netcetera](http://ftc.gov/netcetera)) campaign to teach kids and parents how to stay safe online. The campaign is informed by ideas from internet safety, child development, cyberbullying, and public health experts. Consumer and Business Education has distributed more than 13.6 million free copies of the campaign's flagship guide for parents, "Net Cetera: Chatting with Kids About Being Online," to schools, school districts, law enforcement, libraries and other community organizations nationwide.
- **Pass It On:** The "Pass It On" campaign ([ftc.gov/PassItOn](http://ftc.gov/PassItOn) and [ftc.gov/Pasalo](http://ftc.gov/Pasalo) in Spanish), tailored to people age 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 current frauds, including identity theft and imposter scams. Material builds on and refreshes readers' knowledge by briefly summarizing how certain scams work and what people can do in response. Over 11 million pieces of Pass It On educational material have been distributed.
- **Data Security:** In 2018, the FTC continued its successful efforts to educate businesses and consumers about privacy and data security, distributing over two million copies of educational materials to help them address ongoing threats. The popular "Start with Security" business outreach campaign continues with its suite of 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](http://business.ftc.gov)), and publishes hundreds of blog posts annually for business people, attorneys, and other professionals. Consumer and Business Education issued new or significantly revised business guidance on the Consumer Review Fairness Act, data security and cybersecurity, and the Fair Credit Reporting Act.
- **Small Business:** In 2018, Consumer and Business Education launched a new, interactive "Cybersecurity for Small Business" campaign. This effort follows up on findings from the FTC's set of roundtable discussions in 2017 in which business owners expressed desire for uniform guidance from the federal government on cybersecurity. Found at [FTC.gov/Cybersecurity](http://FTC.gov/Cybersecurity), the campaign includes fact sheets on 12 cybersecurity topics as well as videos and interactive quizzes. The FTC collaborated with the Small Business Administration (SBA), the Department of

Homeland Security, and the National Institute of Standards and Technology to create and promote the materials.

- **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 action, 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, and class-action notification practices. 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 rotating savings and credit associations (ROSCAs), cryptocurrencies, and collection of judgments. 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.

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# 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.

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

	Fiscal Year 2020		Fiscal Year 2021	
	FTE	Dollars	FTE	Dollars
Premerger Notification	18	\$3,694	18	\$3,743
Merger and Joint Venture Enforcement	202	41,212	202	41,781
Merger and Joint Venture Compliance	11	2,245	11	2,275
Nonmerger Enforcement	127	26,029	127	26,386
Nonmerger Compliance	1	205	1	208
Antitrust Policy Analysis	26	5,736	26	5,817
Other Direct	20	4,061	20	4,117
<b>Subtotal</b>	<b>405</b>	<b>\$83,182</b>	<b>405</b>	<b>\$84,327</b>
Support	123	\$61,620	123	\$60,089
<b>Total</b>	<b>528</b>	<b>\$144,802</b>	<b>528</b>	<b>\$144,416</b>

## PREMERGER NOTIFICATION

While many mergers and acquisitions are either procompetitive or competitively neutral, those that substantially reduce competition can raise costs to consumers, 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. In addition to written materials, the PNO answers questions from individuals and organizations to improve the level, completeness, and accuracy of HSR filings.
- **Providing Rapid 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 about whether a merger is potentially anticompetitive within a few days based on information 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. For transactions that are unlikely to harm competition, the PNO, in conjunction with DOJ, may grant early termination of the HSR waiting period, if requested by the filing parties.
- **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.

- **Minimizing the Burden on Business:** The Premerger Notification Program strives to minimize the burden on 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 1) creates or enhances the ability of the remaining firms to raise prices, reduce output, diminish innovation, or otherwise harm customers, or 2) increases 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 anticompetitive 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 anticompetitive 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 conduct that would injure long-term consumer welfare. A principal challenge with this enforcement activity is to distinguish improper conduct from vigorous and innovative competition. To that end, The FTC's Bureau of Competition recently [announced](#) the creation of the Technology Enforcement Division dedicated to monitoring competition in U.S. technology markets, investigating any potential anticompetitive conduct in those markets, and taking enforcement actions when warranted.

- **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. Unlike orders in merger enforcement cases, orders in anticompetitive conduct cases seldom involve divestiture relief. Instead, nonmerger order provisions are generally proscriptive, requiring a party to “cease and desist” from specified conduct. Compliance staff work to ensure that parties quickly implement these behavioral remedies once an order is entered to enjoin the anticompetitive conduct before it can cause significant and potentially irreparable harm. 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 policy makers 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. The Antitrust Policy Analysis program also aims to ensure that consumer interests are represented before various governmental and self-regulatory bodies addressing market and competition issues. 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. The Bureau of Economics staff provides input in the development of these advocacy comments.

## 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.

Related to this activity, the agency is exploring options to implement an effective electronic filing system for premerger filings received under the HSR program. Such a system would allow merging parties to submit required HSR Notification and Report Forms electronically, which would be accessible by the reviewing agencies via a shared database. Electronic filing would provide faster processing time, improved data entry, and reduced costs for both the enforcement agencies and filing parties.

- **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.

Support: Budget by Activity  
(\$ in thousands)

	Fiscal Year 2020		Fiscal Year 2021	
	FTE	Dollars	FTE	Dollars
Commissioners	37	\$7,048	37	\$7,150
Office of the General Counsel	50	9,963	50	10,112
Office of the Secretary	10	1,825	10	1,846
Office of Administrative Law Judges	5	936	5	949
Office of the Executive Director	133	107,311	133	103,634
Office of Congressional Relations	6	1,077	6	1,093
Office of the Chief Privacy Officer	3	555	3	563
Office of Public Affairs	11	2,773	11	2,802
Office of Inspector General	7	1,772	7	1,794
Office of Equal Employment Opportunity	3	628	3	636
<b>Total Support</b>	<b>265</b>	<b>\$133,888</b>	<b>265</b>	<b>\$130,579</b>
<b>Allocation of Support</b>				
Protecting Consumers	142	\$72,268	142	\$70,490
Promoting Competition	123	61,620	123	60,089
<b>Total Support</b>	<b>265</b>	<b>\$133,888</b>	<b>265</b>	<b>\$130,579</b>

## 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 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.

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 the Department of Justice (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, prepares amicus curiae briefs authorized by the Commission.

- **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, 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 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.

- **Ethics and Professional Responsibility:** 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.
- **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. It promotes implementation of the ICN's new framework on competition agency procedures 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 which the agency shares U.S. experience in order to build consensus on sound antitrust policy. For example, in the OECD, the FTC is playing a key role in developing the recommendations on procedural fairness in competition investigations and on cooperation in cross-border investigations.
  - » **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 address competition issues in the

G7 and G20 and issues that arise in antitrust enforcement by China, Korea, and 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 dimensions, 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 reauthorized the Act in 2012, and the FTC has continued to expand its use of the Act's tools. The FTC is seeking Congressional support to preserve this important authority before the Act sunsets in 2020.

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 60 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. ICPEN also manages [econsumer.gov](http://econsumer.gov), its online cross-border complaint site, and co-leads the International Mass Marketing Fraud Working Group, which includes civil and criminal law enforcers from around the world who have developed new enforcement cooperation projects focused on sweepstakes fraud and India-based call center fraud. The FTC also co-chairs the Unsolicited Communications Enforcement Network (UCE-NET) and serves on the governing committee of the Global Privacy Enforcement Network (GPEN), a network of nearly 70 privacy enforcement authorities from 50 jurisdictions. 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 EU-U.S. Privacy Shield, the Swiss-U.S. Privacy Shield, and the Asia-Pacific Economic Cooperation (APEC) Cross Border Privacy Rules system.
- **International Training Assistance:**
  - » **Cross-Cutting Technical Assistance:** The FTC provides technical assistance to countries in transition to market economies and that are establishing new 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 benefit 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 twelve years, the FTC has hosted 121 International Fellows and SAFE WEB Interns from 40 jurisdictions, including Argentina, Australia, Austria, Barbados, Brazil, Canada, Chile, China, Colombia, Egypt, El Salvador, the European Union, France, the Gambia, Honduras, Hungary, India, Israel, Japan, Kazakhstan, Kenya, Lithuania, Mauritius, Mexico, Nigeria, Pakistan, 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, 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 2015, which have recently been placed on the Commission website at [www.ftc.gov](http://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 and related policies, 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 objectives and assessing the adequacy of financial and operational program 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 payroll, 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. The Office provides leadership, technical advice, and policy guidance to FTC leadership and to Bureaus and Offices on a broad range of talent management and workforce issues. These include workforce planning, position management and classification, staffing and placement, background investigations, performance management, workforce development, executive resources, compensation, labor and employee relations, and special emphasis programs, as well as employee benefits services and programs.  
 HCMO engages in effective consulting with the FTC workforce and its Bureaus and Offices, and collaborates with other federal agencies, including the Office of Personnel Management (OPM) and Office of Management and Budget (OMB) to develop progressive programs and solutions for emerging human capital issues in support of government-wide human capital initiatives. HCMO supports FTC's mission accomplishment 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 core curriculum and competencies for critical FTC occupations.
  - » Establishing and administering policies, programs and services related to labor and employee 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 Chairman, 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.

- **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. Some of these are enduring challenges requiring leadership's continued attention. Others are a priority at a particular time in the agency's development, but may become less pressing priorities in the future.
- **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 responds to periodic requests by Congressional committees, matters referred to the Department of Justice for possible prosecution, and any challenges encountered in obtaining timely information from management. The OIG has a standing annual meeting with staffers of the Senate Committee on Commerce, Science, and Transportation to discuss open OIG recommendations and the OIG's annual Management Challenges report, among other topics.

- **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.
- **Engagement with the OIG Community:** The OIG is an active participant in CIGIE, whose mission is to address integrity, economy, and effectiveness issues that transcend individual government agencies. Through active participation on the various CIGIE committees, subcommittees, and workgroups, OIG staff learn of emerging trends and best practices within the OIG community to share within the OIG and with FTC management. The OIG also pursues cross-community initiatives through CIGIE, such as an FY 2017 initiative to boost the value of OIG investigations of identity theft, impersonation scams, and theft of government benefits, in cooperation with the FTC Bureau of Consumer Protection and its Consumer Sentinel Network resources. This initiative directly addressed the Inspector General Empowerment Act of 2016 directive urging OIGs to collaborate on common issues and challenges.

## **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 to identify and eliminate discriminatory practices and policies. OEEOWI engages in proactive management strategies to identify and eliminate barriers to EEO, provides leadership and direction on EEOC regulations and directives, and implements comprehensive affirmative employment initiatives that conform to Federal laws and regulations governing EEO and human resources management. OEEOWI also manages, advises, and oversees the discrimination complaints processing system, 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 employment. Further, OEEOWI promotes an inclusive and diverse work environment by maintaining relationships with affinity bar associations, providing guidance to the Executive Committee of the FTC Diversity Council, and planning and organizing cultural events for special observances throughout the year.

# Appendix



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## 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, \$330,199,000, 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 \$136,000,000 in fiscal year 2021), 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 2021), 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 2021, so as to result in a final fiscal year 2021 appropriation from the general fund estimated at not more than \$181,199,000: 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 2019 Actual	FY 2020 Estimate	FY 2021 Estimate
<b>Obligations by Program Activity:</b>				
0001	Protecting Consumers	186	186	186
0002	Promoting Competition	144	145	144
0192	Subtotal, direct program	330	331	330
0799	Total direct obligations	330	331	330
0803	Reimbursable program	1	2	1
0900	Total new obligations, unexpired accounts	331	333	331
<b>Budgetary Resources:</b>				
Unobligated Balance:				
1000	Unobligated balance brought forward, Oct 1	23	15	22
1021	Recoveries of prior year unpaid obligations	12	...	...
1050	Unobligated balance (total)	35	15	22
Budget Authority:				
Appropriations, discretionary:				
1100	Appropriation	168	179	181
1130	Appropriations permanently reduced	...	...	...
1160	Appropriation, discretionary (total)	168	179	181
Spending authority from offsetting collections, discretionary:				
1700	Offsetting collections (HSR Fees)	130	141	136
1700	Offsetting collections (Do Not Call Fees)	12	18	13
1700	Offsetting collections (Reimb. Programs)	1	2	1
1701	Change in uncollected payments, Federal sources	...	...	...
1725	Spending authority from offsetting collections precluded from obligation (limitation on obligations)	...	...	...
1750	Spending authority from offsetting collections, discretionary (total)	143	161	150
1900	Budget authority (total)	311	340	331
1930	Total budgetary resources available	346	355	353
<b>Change in Obligated Balances:</b>				
Unpaid Obligations:				
3000	Unpaid obligations, brought forward, Oct 1	74	75	107
3010	New obligations, unexpired accounts	331	333	331
3020	Outlays (gross)	-318	-301	-340
3040	Recoveries of prior year unpaid obligations, unexpired	-12	...	...
3050	Unpaid obligations, end of year	75	107	98
Uncollected payments:				
3060	Uncollected paymtns, Fed sources, brought forward, Oct 1	...	...	...
3070	Change in uncollected paymtns, Federal sources, unexpired	...	...	...
3090	Uncollected paymtns, Fed sources, end of year	...	...	...
Memorandum (non-add) entries:				
3100	Obligated balance, start of year	74	75	107
3200	Obligated balance, end of year	75	107	98
<b>Budget Authority and Outlays (net):</b>				
Discretionary:				
4000	Budget authority, gross	311	340	331
Outlays, gross:				
4010	Outlays from new discretionary authority	263	211	211
4011	Outlays from discretionary balances	55	90	129
4020	Outlays, gross (total)	318	301	340
Offsets against gross budget authority and outlays:				
Offsetting collections (collected) from:				
4030	Federal sources	-1	-2	-1
4034	Offsetting governmental collections	-142	-159	-149
4040	Offsets against gross budget authority and outlays (total)	-143	-161	-150
Additional offsets against gross budget authority only:				
4050	Change in uncollected pymtns, Federal sources	...	...	...
4070	Budget authority, net (discretionary)	168	179	181
4080	Outlays, net (discretionary)	175	140	190
4180	Budget authority, net (total)	168	179	181
4190	Outlays, net (total)	175	140	190

Object Classification  
(\$ in millions)

Identification Code: 29-0100-0-1-376	FY 2019 Actual	FY 2020 Estimate	FY 2021 Estimate
<b>Direct Obligations</b>			
Personnel Compensation:			
11.1 Full-time permanent	142	163	165
11.3 Other than full-time permanent	10	...	...
11.5 Other personnel compensation	3	3	5
11.8 Special personal services payments	1	...	...
<b>11.9 Total, Personnel Compensation</b>	<b>156</b>	<b>166</b>	<b>170</b>
12.1 Civilian personnel benefits	49	53	55
21.0 Travel and transportation of persons	2	3	3
23.1 Rental payments to GSA	24	24	24
23.3 Communications, utilities, and miscellaneous charges	6	6	6
24.0 Printing and reproduction	1	2	2
25.1 Advisory and assistance services	67	62	56
25.2 Other services	4	4	4
25.3 Purchases of goods and services from government accounts	5	...	...
25.4 Operation and maint. of facilities	1	1	1
25.7 Operation and maint. of equipment	11	8	7
26.0 Supplies and materials	1	1	1
31.0 Equipment	3	1	1
<b>99.0 Subtotal, Direct Obligations</b>	<b>330</b>	<b>331</b>	<b>330</b>
<b>Reimbursable Obligations</b>			
Personnel Compensation:			
11.1 Full-time permanent	1	2	1
<b>99.0 Subtotal, Reimbursable Obligations</b>	<b>1</b>	<b>2</b>	<b>1</b>
<b>99.9 Total, New Obligations</b>	<b>331</b>	<b>333</b>	<b>331</b>

## Personnel Summary

Identification Code: 29-0100-0-1-376	FY 2019 Actual	FY 2020 Estimate	FY 2021 Estimate
<b>Direct</b>			
1001 Full-time equivalent employment	1,101	1,140	1,140
<b>Reimbursable</b>			
2001 Full-time equivalent employment <sup>1</sup>	4	1	1

<sup>1</sup>Includes 1 FTE reimbursed by other federal agencies

# Inspector General's Request



Office of the Inspector General

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

February 10, 2020

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 2021:

- OIG requests aggregate funding of \$1,794,100 for FY 2021.
- OIG requests \$27,700 for all training needs. The requested amount satisfies all training requirements for the OIG in FY 2021.
- OIG requests \$5,921 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 2021.

<u>FY 2020 Budget</u>		<u>FY 2021 Estimate</u>		<u>Change</u>	
\$ in thousands		\$ in thousands		\$ in thousands	
Full Time Equivalents	Amount	Full Time Equivalents	Amount	Full Time Equivalents	Amount
7	\$1,772.1	7	\$1,794.1	0	\$22.0

Andrew Katsaros  
Inspector General  
Federal Trade Commission