

FEDERAL TRADE COMMISSION

PERFORMANCE REPORT FISCAL YEAR 2000



March 31, 2001

EXECUTIVE SUMMARY

The Federal Trade Commission (FTC), an independent law enforcement agency, is the only federal agency with both consumer protection and competition jurisdiction over broad sectors of the economy. We strive to enhance the smooth operation of the marketplace by eliminating acts or practices that are unfair or deceptive.

The FTC protects American consumers in both domestic and world marketplaces. Our experience demonstrates that competition among producers and accurate information in the hands of consumers yields products at the lowest prices, spurs innovation, and strengthens the economy.

Our Strategic Plan defines the FTC's Vision and Mission in two goals:

GOAL 1 Prevent fraud, deception, and unfair business practices in the marketplace.

GOAL 2 Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.

These goals, with their corresponding objectives and performance measures, help us assess our performance.

FTC'S STRATEGIC PLAN

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

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

GOAL 1 Prevent fraud, deception, and unfair business practices in the marketplace.

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

OBJECTIVE 1.2 Stop fraud, deception, and unfair practices through law enforcement.

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FY 2000 Performance Measures and Targets

GOAL 1

OBJECTIVE 1.1

Measure 1.1.1: Cumulative number of consumer complaints and inquiries entered into database.

Target: 600,000

Actual: 833,659 T

GOAL 2

OBJECTIVE 2.1

Measure 2.1.1:

OBJECTIVE 1.2

Measure 1.2.1: Dollar savings for consumers from FTC actions which stop fraud.

Target: \$250 million

Actual: \$263 million T

Measure 1.2.2: Percentage of targeted industry brought into compliance through law enforcement and self-regulation.

Target: 50%-75%

Actual: 83% T

OBJECTIVE 1.3

Measure 1.3.1: Number of education publications distributed to or accessed electronically by consumers.

Target: 8.7 million

Actual: 11 million T

T met or exceeded target

number of transactions and transaction dollar values. The agency's enforcement actions protected consumer interests in a broad array of vital markets, from health care to food to transportation and energy.

- Bringing 49 Internet-related fraud enforcement actions in 2000, for a total of 149 since 1994. These actions have targeted corporate and individual defendants on behalf of millions of on-line consumers and small businesses. Further, these actions have stopped some of the newest, as well as the traditional, types of fraud used on the Internet to con consumers.
- Receiving and processing more than 833,500 consumer complaints and inquiries into our Consumer Information System database since 1997, and sharing fraud complaints with over 250 law enforcement agencies via Consumer Sentinel, a secure Web site. Many complaints are received through the Internet and our toll-free consumer helpline, 1-877-FTC-HELP. We expanded our efforts in 2000 by establishing a second toll-free number, 1-877-ID-THEFT, that consumers can call to report identity theft and receive guidance to resolve credit problems resulting from the theft.
- Educating consumers and businesses about their rights and responsibilities, and alerting them to potential frauds, by distributing 11 million educational publications in print and online and expanding our media outreach programs. Additionally, we issued a report on Marketing Violent Entertainment to Children, finding that such marketing undermines the credibility of industry parental advisory labels and ratings and frustrates parents' attempts to make informed decisions about their children's exposure to violent content.

Challenges

Two developments have greatly increased the demands on the FTC - the continuous growth of the Internet and the dramatic increase in the size and complexity of corporate mergers.

Use of the Internet has grown exponentially since commercial Web browsers first became available in 1994 - 163 million Americans now have access to the Internet. Internet purchasing also is booming and is forecasted to skyrocket from \$48 billion in 2000 to \$269 billion in 2005. The FTC is working to protect consumers and businesses against new high-tech frauds that use the Internet to defraud consumers. Halting cyberfraud and reviewing Internet-related issues to ensure continued growth of the new e-commerce medium during the early years of the Internet's existence already is challenging us and taxing our resources.

To meet the challenges of the Internet, we have pursued a comprehensive program consisting of systematic analysis of the marketplace, law enforcement - often in conjunction with federal, state, and local partners - and consumer and business education.

Similarly, the number of mergers has more than tripled in the past decade, and the dollar value of commerce affected by these mergers is rising at an even

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national, that require examination of possible antitrust consequences. Moreover, these deals continue to increase significantly in complexity, thus requiring much more exacting analysis of the competitive issues. As a result, merger investigation and litigation are substantially more resource-intensive than even a few years ago.

To meet the merger challenge, we worked closely during 2000 with business groups, members of the bar, and key legislators to develop ways to improve merger investigations to enhance the efficiency of the process while preserving our ability to obtain the information needed to identify and prevent anti-competitive mergers. These cooperative discussions have identified approaches that will enable us to reduce the burden on business, to expedite merger investigations, and to provide parties with more complete information on the issues that give rise to an investigation.

Strategic Planning - Continuing the Process

A major part of our Strategic Planning is to continually reevaluate our objectives, performance measures, and performance targets. In 2000, we reviewed and updated our Strategic Plan through 2005. Our focus throughout this process was to ensure that we measure the most appropriate indicators of our performance in enhancing the smooth operation of the marketplace. As a result of this review, we revised and replaced several performance measures beginning in 2001.

Under Objective 1.1 (Identify practices that cause consumer injury), we are changing the measure that captures the number of consumer complaints and inquiries in our database from a cumulative count to an annual one. Our rationale for

this change is that an annual count represents current entries. The data gleaned from current entries helps identify the most recent trends in fraudulent and other harmful practices so we can target our law enforcement and education efforts in the areas affecting the greatest number of consumers.

Under Objective 1.2 (Stop practices that cause consumer injury), we have set a goal to save consumers \$400 million a year or \$2 billion over five years. We based this on savings achieved in 1999 and 2000 and the types of fraud we are seeing in the marketplace. In the nonfraud area, we have changed our performance measure (Measure 1.2.2) from the percentage of targeted industries brought into compliance to the size of the deceptive or unfair advertising campaigns (measured in dollars) that we are able to shut down. Our annual goal is to stop deceptive or unfair major national advertising campaigns that have combined media expenditures totaling \$300 million. By 2005, our goal is to have reduced the number of major national advertising campaigns that

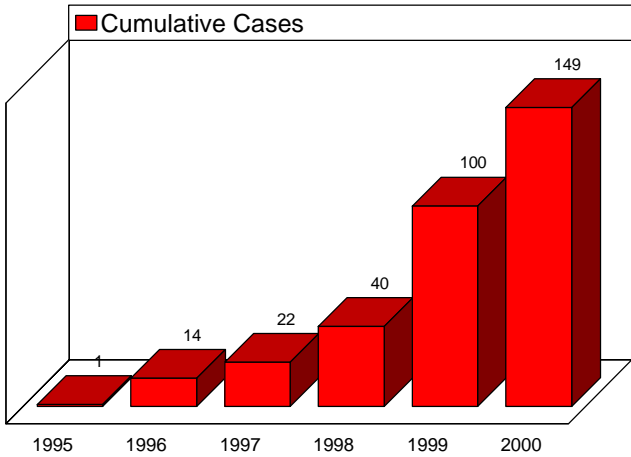
Under Objective 2.2 (Stop anticompetitive mergers and practices through law enforcement), we will increase our target for dollar savings to consumers resulting from FTC merger actions from \$500 million to \$800 million. In addition, we are adding a new performance measure relating to consumer savings resulting from FTC nonmerger enforcement actions. We expect to achieve \$200 million in nonmerger consumer savings in 2001. This new measure will replace Measure 2.2.3, relating to average

THE RESULTS

GOAL 1 PREVENT FRAUD, DECEPTION, AND UNFAIR BUSINESS PRACTICES IN THE MARKETPLACE

The FTC is the federal government's

Cumulative Number of Internet Cases Brought by the FTC



OBJECTIVE 1.1

IDENTIFY PRACTICES THAT CAUSE CONSUMER INJURY

To prevent fraud, deception, and unfair business practices in the marketplace, we must first identify such practices, especially those that cause the greatest consumer injury, where we can make the greatest impact.

Strategies

To keep abreast of consumer protection

Performance Measure and Results

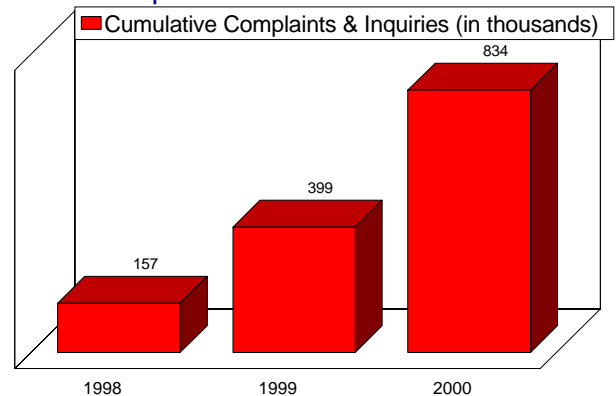
We assessed our 2000 impact by the total number of consumer complaints and inquiries in the Consumer Information System database. At the end of 2000, these entries totaled more than 833,500 – approximately 39% over our target of 600,000, which had been increased in 1999. This growth was due to the ever-increasing number of complaints received via the Internet and our toll-free telephone number, the addition of our identity theft toll-free number, and the growing number of partners contributing complaints. The data have proved invaluable in targeting our enforcement and education efforts on the most serious problems, among them: online auction fraud, Internet service provider scams, Web and credit card “cramming” (unauthorized billing), pyramid schemes, investment schemes, travel and vacation fraud, pay-per-call solicitation frauds, and health care fraud. Using the data, the FTC led its first global law enforcement effort, and the largest coordinated effort in its history, targeting these Internet scams – over 250 law enforcement actions were brought by five U.S. agencies and consumer protection organizations from nine countries and 23 states.

Performance Assessment and Future Trends

Not only does our database enable us to tackle the most serious problems, it informs us quickly of emerging problems so that we can move rapidly to stop consumer injury. In addition, by collecting data from, and sharing it with, our partners, we are able to coordinate and enhance the effectiveness of law enforcement agencies across the country and in Canada and Australia. To make the database even more valuable, we are pursuing

ways to increase our collection of information from consumer agencies in other countries. We are continuing our work with the International Marketing Supervision Network and the European Commission to develop a public Web site where consumers can file complaints to be shared with international law enforcers through Consumer Sentinel. Building on our experience with the Canadian and Australian members of Consumer Sentinel, we are also working toward data-sharing agreements with other countries.

Cumulative Number of Consumer Complaints and Inquiries Entered Into Database



In 2000, the FTC created a Data Clearinghouse to track the complaints it receives from victims of identity theft. Data Clearinghouse information is shared electronically with other law enforcement agencies nationwide via the FTC’s secure law enforcement Web site, Consumer Sentinel. The Clearinghouse contained over 50,000 records as of the end of January 2001. The Clearinghouse information helps law enforcement and policy makers assess the extent of identity theft and the forms it is taking (for example, credit card versus phone fraud, the latest scams, etc). Access to the Clearinghouse information also supports law enforcement agencies’ efforts to combat identity theft by providing a broader range of complaints from which to spot patterns of illegal activity. These patterns might not be apparent from the more limited number of complaints the agencies receive directly from victims.

Assessing our performance using the number of entries in our consumer complaint database has proven to be a reasonable

OBJECTIVE 1.2

district court and obtain a court order, the defendants stop their fraudulent practices; if they fail to comply, they are subject to contempt actions. Thus, in stopping these frauds, we stop further consumer losses to these defendants. By publicizing these law enforcement actions and distributing consumer education materials, we seek to increase consumer confidence in the marketplace.

In the nonfraud area, our goal was to increase compliance with the laws against deceptive and unfair practices, and thereby

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of publications accessed online. Our reach nationwide was extended by more aggressive outreach and promotion of FTC materials and our toll-free numbers, including an extensive multimedia campaign on identity theft. We used information from our database to target our education programs to problem areas, such as Internet fraud, children's online privacy, online auctions, day trading, dietary supplements for children, credit reports, and office supply scams. The growing number of telephone calls and the increased use of our Web site demonstrate that our efforts have created a greater awareness of consumer issues. In turn, consumers will, to some extent, be able to protect themselves against fraud and deception in the marketplace.

Performance Assessment and Future Trends

The FTC seeks to alert as many consumers as possible to the telltale signs of fraud, deception, and unfair business practices, and other critical consumer protection issues. Use of the Internet to disseminate information about fraud and technology-related matters is integral to the FTC's education, deterrence, and enforcement efforts and has allowed the agency to reach vast numbers of consumers and businesses quickly, simply, and at low cost. The FTC has been at the forefront of using the Internet to educate and empower consumers. This trend will accelerate in the future.

Our measure of the number of publications distributed is an accurate indicator of our impact in educating consumers, although it does not fully capture the millions of FTC publications distributed by our customers, partners, and the public. As we forecasted, the number of print publications we distribute has declined and the number of publications accessed

through the Internet has increased, as more consumers and businesses go online. The difference in the number of publications accessed online in 1996 and 2000 (140,000 versus 5.6 million) tells the story of the Internet's coming of age as a mainstream medium and certainly its importance to any large-scale dissemination effort. Capitalizing on this trend, we will increase our use of the FTC's Web site, www.ftc.gov, and the multi-agency Web site, www.consumer.gov, to efficiently and effectively reach consumers, businesses, law enforcement officials, and the media.

Additionally, the Commission delivered testimony on consumer protection issues to the United States Senate and the United States House of Representatives 16 times during 2000:

- *Solving the Problem of Scholarship Scams: S1465, The College Scholarship Fraud Prevention Act of 1999* Scams:

- *Online Profiling: Benefits and Concerns*. Presented by Jodie Bernstein, Bureau Director.
- *Proposed Legislation: The Telemarketing Victims Protection Act (HR 3180) and The Know Your Caller Act (HR 3100)*, Presented by Eileen Harrington, Associate Director of Marketing Practices.
- *Living Trust Scams*, Presented by Elaine Kolish, Associate Director of Enforcement.
- *Identity Theft*, Presented by Jodie Bernstein, Bureau Director.
- *Fraud Against Seniors*, Presented by Rolando Berrelez, Assistant Regional Director, Midwest Regional Office.
- *Identity Theft*, Presented by Jeffrey Klurfeld, Regional Director, Western Regional Office.
- *Identity Theft*, Presented by Betsy Broder, Assistant Director, Division of Planning and Information.

Increasing the visibility of the FTC as the nation's consumer protection champion not only helps consumers better protect themselves, but also encourages consumers to provide the FTC with more and better complaint data. That, in turn, will make our law enforcement and education efforts more effective.

GOAL 2 PREVENT ANTICOMPETITIVE MERGERS AND OTHER ANTICOMPETITIVE BUSINESS PRACTICES IN THE MARKETPLACE

Competition among sellers in an open marketplace results in lower prices for consumers, leads to high quality products and

OBJECTIVE 2.1

IDENTIFY ANTICOMPETITIVE MERGERS AND PRACTICES THAT CAUSE CONSUMER INJURY

To prevent anticompetitive mergers and anticompetitive business conduct, we must first determine which mergers and business practices are anticompetitive.

Strategies

To achieve this objective, the FTC (1) identifies the mergers and business practices that should be examined for antitrust consequences, and (2) conducts an inquiry appropriate to the circumstances of each matter to determine whether to pursue enforcement action. As a collateral, but important, aspect of this objective, we try to conduct our inquiry in a way that minimizes any cost or inconvenience to businesses.

The premerger notification requirements of the Hart-Scott-Rodino (HSR) Act provide us the primary means for identifying potentially anticompetitive mergers. The FTC's Premerger Notification Office reviews all filings made for proposed mergers, acquisitions, and joint ventures and performs preliminary antitrust review for every transaction that is filed with the FTC. We work to complete these reviews as quickly and as efficiently as possible, both to conserve our available resources to devote to other work, and to minimize the delay imposed on businesses as a result of the HSR requirements.

We also use trade press and other news articles, consumer and competitor

complaints, hearings, economic studies, and other means to identify potentially anticompetitive conduct that may harm consumers. In particular, we focus on emerging trends in the economy, technology, and the marketplace.

Performance Measures and Results

We measure our success in identifying anticompetitive mergers by the average number of days we devote to reviewing actions reported to us under the HSR premerger notification program. This measure is important because it reflects the efficiency with which we conduct these reviews. When the review of reported actions is completed quickly and efficiently, we conserve available resources that can be devoted to other important activities. In addition, a prompt review better serves economic growth, because it allows businesses to proceed with mergers and acquisitions that pose no antitrust issues with minimal delay.

Despite a high volume of reported transactions, we continued our emphasis on expediting our preliminary reviews. We established as a goal an average review time of 20 days for transactions reported under HSR, even though the statute generally permits 30 days for our review. We were able to exceed that goal in 2000, completing our review of HSR-reported actions in an average of 18 days, an improvement of one day over 1999.

Performance Measure 2.1.1 Average number of days for review of HSR-reported transactions.

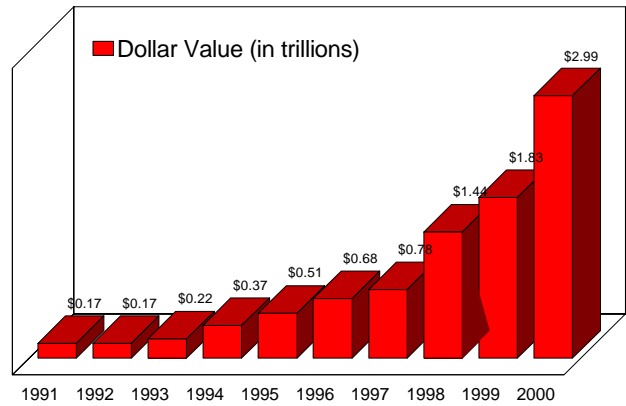
FY 2000 Target:	20 days
FY 2000 Actual:	18 days
Met or Exceeded:	T

Performance Measure 2.1.2 Number of nonmerger investigations opened per year.

FY 2000 Target:	45 - 70
FY 2000 Actual:	25

In 2000, we received notification of 4,926 proposed transactions in accordance with the HSR notification and filing requirements, an increase of approximately 6% over 1999. This volume of transactions reflects the increasing merger activity that has been taking place over the past decade. The number of reported trans-

Dollar Value of Merger Transactions



Performance Assessment and Future Trends

We were able to exceed our goal on the average review time for HSR-reported transactions, improving on our performance from 1999. While our performance in this area remains important, we are replacing this performance measure beginning in 2001 with a measure that more directly relates to the core objective. Prompt review of HSR filings is important in that it helps to reduce the burden on businesses that are required to delay merger transactions pending antitrust review. We believe that the structured review process we have put in place to assess transactions will enable us to continue to do so as quickly and efficiently as possible, and this will remain among our highest priorities. However, because a primary focus of Objective 2.1 is to determine which of the many merger transactions we encounter is likely to cause consumer injury – and therefore warrants investigation – we have developed a more targeted performance measure.

Beginning in 2001, we will measure the percentage of matters involving a second request that result in enforcement action, with a goal of approximately 50%. A percentage significantly below that level may suggest that we are targeting enforcement resources ineffectively by investigating too many competitively benign transactions (and unduly burdening businesses as a result), while a percentage significantly above that level may suggest that we are focusing too narrowly and thus potentially allowing problematic transactions

antitrust activity could lead to a more
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OBJECTIVE 2.2 STOP A

orders, down from an average of 15 months in 1996 to nine months in 2000, from approval of a proposed consent order to completion of the divestiture. This measure is important because delay in the divestiture of assets that are the subject of a consent decree often results in a decline in the competitive viability of the assets. To avoid delay, we seek either “up-front” purchase and sales agreements or divestiture orders that limit the time in which divestiture relief is accomplished to the minimum necessary. As a result, we exceeded our goal, ensuring the completion of needed divestitures in an average of four months in 2000.

Performance Assessment and Future Trends

In 2000, we achieved a positive out-come in approximately 95% of the challenges initiated by the agency (e.g., court orders in litigated cases and negotiated settlements), exceeding by a significant margin our goal of an 80% success rate. This level of success was due,

occur in a timely fashion. This will continue as a priority. To assist in focusing our attention on nonmerger enforcement, we will begin in 2001 to measure consumer savings resulting from nonmerger enforcement activities. We will base the savings estimates on industry and company data obtained in our investigations. In cases where it is not possible to measure directly the amount of consumer savings resulting from enforcement action, we will conservatively use a "default" estimate of 1% of the amount of sales in the affected market(s) for one year. Most often, the cost to consumers from anti-

competitive activity exceeds 1% of the amount of sales, and the anticompetitive effect may continue well beyond one year in the absence of enforcement action. Based on recent years' activity, we believe it is appropriate to set a nonmerger goal at an average of \$200 million in consumer savings per year for the years beginning in 2001. Again, we caution that differences in available opportunities presented, particularly those relating to the size of the affected markets, may result in different outcomes on this performance measure, notwithstanding continued strong agency performance.

OBJECTIVE 2.3 PREVENT CONSUMER INJURY THROUGH EDUCATION

In addition to its law enforcement activity, the FTC seeks to enhance understanding of the operation of the marketplace by educating the business community about the antitrust laws.

Strategies

We

that the consumer survey we have been working to develop would not likely be a powerful instrument to determine the effectiveness of our outreach efforts, particularly in the absence of baseline data.

Our new measures for this Objective will more directly reflect our impact on preventing consumer injury through education and outreach to the public. The Commission increases awareness of antitrust law through guidance to the business community; outreach efforts to Federal, state, and local agencies, business groups, and the public; and

Commission will continue to expand our enforcement efforts. The likely result of these efforts is more competitive behavior. In measuring these results, the Commission will more directly reflect our impact on educating our major constituents. In addition, the extent to which the public is aware of our mission and efforts is reflected by "hits" on relevant pages of the FTC's Web site - will be used to capture our success in preventing consumer injury through education. The Commission is currently evaluating the results of its 2000 to establish appropriate performance goals for the years beginning in 2001. For example, in 2000, the Commission educated the public in the following ways:

The FTC conducted a workshop on business to business (B2B) electronic marketplaces. The Internet and electronic business are reaching other parts of the country and

methods of pricing user access, (2) the pricing of goods and services sold via the Internet, (3) network effects and firm behavior, and (4) taxation of electronic commerce.

! Because the Commission and its staff have a great deal of expertise about competition and about the competitive effect of proposed laws, rules or regulations of other governmental bodies, they are often invited to comment on such proposals. For instance, the Bureau of Competition filed comments before the Food and Drug Administration in two instances in 2000:

- *180-Day Generic Drug Exclusivity for Abbreviated New Drug Applications*, November 4, 1999.
- *Citizen Petitions; Actions That Can Be Requested by Petition; Denials, Withdrawals, and Referrals for Other Administration Action*, March 2, 2000.

We strongly believe in the importance of these outreach activities and will continue to place emphasis in this area in future years.

Finally, because the Commission and its staff have a great deal of expertise about competition and about the competitive effect of proposed laws, rules or regulations of other governmental bodies, they are often invited to comment on such proposals. For instance, we provided advice to the Federal Energy Regulatory Commission, state utility commissions, and a committee of the House of Representatives about how best to promote competition and protect consumers in the context of the deregulation of electricity transmission and generation. In July 2000, the Commission issued a staff report, *Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform*, filed July 27, 2000.

Appendix FY 2000 Performance Measures

	FY 2000 Target	FY 2000 Actual	Met or Exceeded
Goal 1: Prevent fraud, deception, and unfair business practices in the marketplace.			
Objective 1.1—Identify fraud, deception, and unfair practices that cause the greatest consumer injury:			
Measure 1.1.1: Cumulative number of consumer complaints and inquiries entered into database.	600,000	833,659	T
Objective 1.2—Stop fraud, deception and unfair practices through law enforcement:			
Measure 1.2.1: Dollar savings for consumers from FTC actions which stop fraud.	\$250 million	\$263 million	T
Measure 1.2.2: Percentage of targeted industry brought into compliance through law enforcement and self regulation.	50% -75%	83%	T
Objective 1.3—Prevent consumer injury through education:			
Measure 1.3.1: Number of education publications distributed to or accessed electronically by consumers.	8.7 million	11 million	T
Goal 2: Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.			
Objective 2.1—Identify anticompetitive mergers and practices that cause the greatest consumer injury:			
Measure 2.1.1: Average number of days for review of HSR-reported transactions.	20	18	T
Measure 2.1.2: Number of nonmerger investigations opened per year.	45 to 70	25	see text
Objective 2.2—Stop anticompetitive mergers and practices through law enforcement:			
Measure 2.2.1: Positive outcome of cases brought by FTC due to alleged violations.	80%	95%	T
Measure 2.2.2: Dollar savings for consumers resulting from FTC actions.	\$500 million	\$2.98 billion	T
Measure 2.2.3: Average time, in months, from proposed consent orders to divestitures.	9	4	T
Objective 2.3—Prevent consumer injury through education:			
Measure 2.3.1: Identify and survey FTC "customers" in the marketplace.	incorporate stakeholder input	incorporated stakeholder input	T
Measure 2.3.2: Average number of days to issue advisory opinions in health care area.	90	84	T