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Through its enforcement of consumer protection and competition laws, the Federal Trade Commission seeks to insure that markets operate freely and efficiently for the benefit of consumers. In addition to its broad enforcement authority, the Commission also has unique jurisdiction to identify, analyze, and report on a wide range of competition and consumer protection issues of major importance. The agency's mission is to prevent business practices that are anticompetitive, deceptive, or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish these goals without unduly burdening legitimate business activity.

Our activities of the past year illustrate how the agency's broad mandate promotes competition and protects consumers. This report highlights the FTC's goals and achievements:

- \$ retaining and building on the agency's recent history of aggressive law enforcement;
- \$ identifying and implementing new initiatives to address emerging concerns of consumers;
- \$ focusing on industries significant to consumers, such as health care and energy; and
- \$ continuing to use the FTC's historical role of researching and reporting on significant developments in the marketplace to advance the state of knowledge about important economic issues.

The FTC continues an aggressive law enforcement program. In our competition mission, we have challenged a substantial number of merger transactions as likely to violate § 7 of the Clayton Act. We also have opened a large number of investigations into unilateral or coordinated conduct that may violate the antitrust laws. Our non-merger initiatives will further develop the law in areas such as standard-setting and the reach and breadth of antitrust exemptions.

In our consumer protection mission, we continue to pursue fraud and deception cases, the mainstays of this program. We are implementing new methods to identify illegal conduct, and are considering ways in which we can cooperate with other government agencies to put the most egregious recidivists in jail. In keeping with the growing importance of both online and offline privacy issues, we have implemented a three-pronged privacy agenda, consisting of law enforcement, rulemaking, and business and consumer education. This fiscal year, we are increasing by 50 percent the resources dedicated to privacy protection.

Recognizing the growing importance to American consumers of activity occurring outside the United States, we have increased our cooperation with other antitrust and consumer protection enforcement agencies throughout the world.

The actions and initiatives discussed in the following pages are the product of, and a testament to, the FTC's professional, highly-qualified, and dedicated staff. Their work has made the FTC the well-respected agency it is today.

"Continuity" characterizes the Commission's antitrust enforcement initiatives. The agency has followed a consistent course over the past 20 years, reflecting a broad consensus that the purpose of antitrust is to protect consumers, that economic analysis should guide enforcement policy decisions, and that antitrust concerns – whether involving mergers or non-merger conduct – most likely involve direct competitors.

"Continuity" does not mean "unchanging," of course. Knowledge continues to expand, new markets emerge, existing markets develop, and the Commission's priorities, strategies, and agenda have evolved to remain current with these dynamic forces. We have embarked on new initiatives; these ventures build on the solid and uncontroversial foundation of current antitrust enforcement policy.

other means to identify non-reportable transactions that may harm competition. The agency is fully prepared to challenge consummated mergers or mergers that are too small to require an HSR filing.

Two such non-reportable mergers that the Commission has challenged recently involve **MSC Software**. The Commission's administrative complaint alleges that in 1999 MSC acquired, in separate non-reportable transactions, its only two competitors, Universal Analytics, Inc. (UAI) and Computerized Structural Analysis & Research Corp. (CSAR), in the market for advanced computer-aided

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- \$ ***Comment to the Virginia Legislature on Proposed Predatory Pricing Legislation*** The Commission's expertise on energy issues was the genesis for the staff's February 2002 letter analyzing Virginia legislation that would have outlawed "below cost" pricing of gasoline. The staff explained that genuine "predatory" pricing is already illegal under the antitrust laws, and that the legislation would likely prevent gas "price wars" and other procompetitive price-cutting. A legislator opposing the bill read excerpts from the staff letter during the hearing at which the bill was debated, and the bill failed by a vote of 12 to 9.
- \$ ***Boutique Fuel Comment*** Earlier this year, the staff commented on the Environmental Protection Agency's "*Study of Unique Gasoline Fuel Blends (Boutique Fuels), Effects on Fuel Supply and Distribution and Potential Improvements.*" The comment suggested that the EPA, in fulfilling the mandate of the President's National Energy Report, would find it useful to perform a "competitive analysis" based on the principles in the Merger Guidelines to identify how changes in regulations could affect the price and availability of gasoline. We are making suggestions to the EPA regarding how to perform such an analysis.
- \$ ***Electricity*** As discussed in Box 1, the Commission has participated extensively in the debate concerning electricity restructuring efforts.

\$ ***Napa Valley OB/GYN Group*** The Commission

- 1 Identity Theft (42%)
- 2 Internet Auctions (10%)

To identify the most serious forms of fraud and deception, the FTC relies on its complaint databases, which are accessible to increasing numbers of law enforcement partners. In the past year, FTC databases have grown dramatically, and the FTC staff has recruited many new law enforcement partners at home and abroad. Some examples:

\$ **Consumer Response Center** The CRC is now responding to over 55,000 inquiries and complaints a week. Consumers use the FTC's toll-free number (1-877-FTC-HELP), file complaints online, and send letters. Last fiscal year, the CRC added 350,000 complaints to the FTC's database.

\$ **Consumer Sentinel** Established by the FTC in 1997, *Consumer Sentinel* is available online to law enforcement agencies across the U.S. and Canada. It receives fraud complaints from the FTC's CRC and from a growing number of other organizations in the U.S. and Canada. *Sentinel* now contains over 500,000 complaints, and is the richest source of consumer fraud data available to law enforcement agencies. In the last year, the FTC recruited 240 new law enforcement partners, bringing the total number of *Sentinel* users to more than 400 law enforcement agencies. Consumers also can access publicly available sections of this Web site and find a

wealth of statistics about fraud, including the scams that garner the most consumer complaints (see Box 3); the scams that cost consumers most; the location of companies complained about, by state and by province; the number of identity theft complaints, by state; the types of identity theft most frequently reported; and how to spot and avoid fraud and deception online and off.

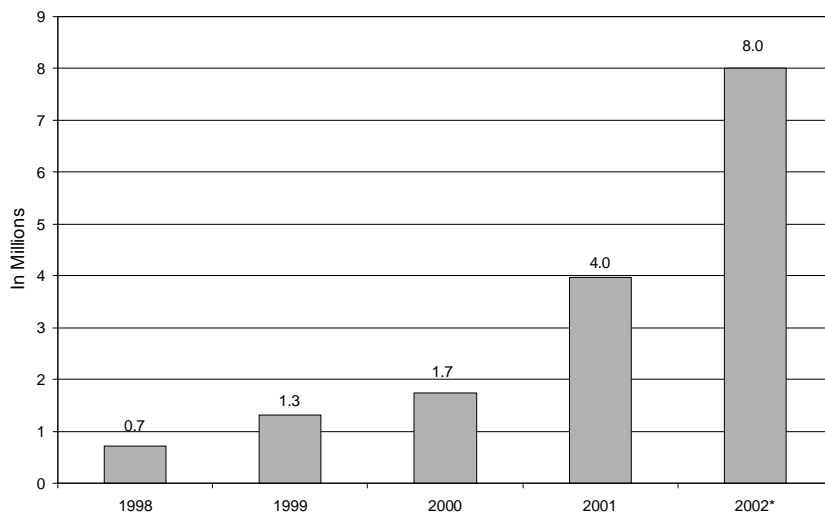
\$ **Identity Theft** The FTC's toll-free number, 1-877-ID-THEFT, a central clearinghouse for ID theft complaints, is also a rich source of consumer complaint data. Calls to the FTC's toll-free number continue to increase, from 2,200 calls a week one year ago, to over 3,000 today. Building on its experience with *Consumer Sentinel*, the FTC began making the data available to law enforcement partners through an online database, and now more than 300 law enforcement agencies access the data. In addition, FTC investigators, working with the Secret Service, have begun developing preliminary investigative reports that are referred to regional Financial Crimes Task Forces for possible prosecution.

\$ **Spam Database** Since 1998, the FTC has maintained an electronic mailbox to which Internet customers are encouraged to forward spam, uce@ftc.gov. This database currently receives, on average, 26,000 new pieces of spam every day. The total number of spam has grown from 700,000 in the first year to over 10 million today. See Figure 4. The database is searchable, allowing the Commission staff to track trends and identify law enforcement targets.

\$ **Surf Days** First used in 1996 to look for online pyramid schemes, the law enforcement "Surf Day" has become a popular method for the Commission and other agencies to identify online scams of all kinds. The FTC identifies a type of deceptive practice that warrants investigation and then recruits partners to search the Web for a specified period of time using a protocol tailored

Figure 4

Calendar Years 1998 – 2002



* Projected: Based on 2.1 million for Jan – Mar 2002

to the Surf Day's subject matter. An efficient tool, the law enforcement surf accomplishes two objectives: it provides a window to learn about online practices, and it provides an opportunity to alert new Web site providers – some of whom are new entrepreneurs unaware of existing laws – if their sites appear to violate the law. In the last year, the Commission conducted 5 surfs with over 70 partners, focusing on claims about unsubscribing from spam, bioterror protection devices, cures or preventative products for anthrax and other bioterror-related diseases, e-tailer holiday shipping, and ultrasonic pest-control devices.

Drawing on *Consumer Sentinel* data and Surf Days, the FTC staff targets the most pervasive types of fraud and deception. In four sweeps targeting Internet health fraud, cold-call telemarketing, and Internet scams, the Commission and 12 partners have brought over 60 law enforcement actions since May 2001. Since May, the Commission has obtained judgments ordering more than \$97 million in consumer redress.

Using the Internet, fraud promoters can mimic legitimate business and reach vast numbers of consumers. The Commission's cases reflect the broad range of illegal activity online, from traditional scams like pyramid schemes, health fraud, and bogus investments to high-tech frauds that take advantage of the technology itself to scam consumers. In the past year, the Commission has brought over 60 cases involving fraudulent or deceptive marketing practices related to the Internet, bringing the total number of Internet cases filed since 1994 to more than 225.

In addition to online fraud, the Commission continues to pursue other, more traditional deceptive schemes including telemarketing fraud, franchise fraud, business opportunity and work-at-home scams, advance fee loan and credit card loss protection schemes, and false and unsubstantiated claims for health and weight loss products.

Some of the case highlights from this year include:

\$ **Netforce Regional Sweeps** In 2000 and 2001, the FTC conducted a comprehensive Internet Fraud Investigations Training program for local, state, federal, and international law enforcement agencies. To follow up on this Training Program, the Commission created a series of regional "Netforces" comprised of those law enforcement agencies that have participated in our training. On April 2, 2002, the FTC announced the first of these efforts by joining eight state law enforcers in the northwest United States and four Canadian agencies in an initiative targeting deceptive spam and Internet fraud. Together, these agencies have brought 63 law enforcement actions against Web-based scams ranging from auction fraud to bogus cancer cure sites, and have sent more than 500 letters warning of the illegality of sending deceptive spam.



consumers who think they may have been improperly billed by the defendant companies.

oversee their finances pending trial, as appropriate.

§ ***FTC and State of New York v. The Crescent Publishing Group, Inc.*** The FTC and the New York Attorney General's office brought this joint action, alleging that defendants promoted scores of adult entertainment Web sites as "free" and purportedly required credit card numbers from consumers only to prove that they were adults. In fact, according to the complaint, thousands of consumers were charged recurring monthly membership fees ranging from \$20 to \$90, and consumers who tried to dispute the charges were met with a variety of barriers. Last November, the FTC announced that the defendants had agreed to pay \$30 million to settle the case. The settlement bars the illegal practices in the future, and requires the defendants to post bonds – \$2 million for the corporate defendants and \$500,000 each for the individual defendants – before they continue to market adult entertainment on the Internet.

§ ***Dialing for Deception*** This month, the Commission announced the filing of 11 federal district court complaints against defendants allegedly engaged in "in-bound" telemarketing fraud – in which consumers call companies based on classified ads, Internet banners, or other promotions. According to the complaint, among those charged were the purveyors of advance-fee loans and credit cards, at-home medical billing programs, work-at-home envelope stuffing schemes, and a "consumer protection" agency that was, in reality, no more than a front for a vending machine business opportunity. In each case, the Commission charged the defendants with violating the FTC Act, the Telemarketing Sales Rule, or both. In all 11 complaints, the FTC is either seeking – or has received – relief ranging from temporary restraining orders to preliminary or permanent injunctions, as well as a freeze of the defendants' assets and the appointment of a receiver to

Commission staff commented on an Alaska Senate Bill that would have authorized collective bargaining by physicians. The staff indicated that the proposed regime likely did not satisfy the “active supervision” requirement. On March 22, 2002, as a follow-up to the written comment, Ted Cruz, Director of the Commission’s Office of Policy Planning, testified before the Labor and Commerce Committee of the Alaska House on the Alaska Senate Bill. On February 8, 2002, the Commission staff commented on Washington House Bill 2360, a bill also concerning physician collective bargaining. Although House Bill 2360 provided for different procedural safeguards than the Alaska Senate Bill discussed above, the Commission staff once again concluded that the proposed regulatory regime likely did not satisfy the “active supervision” requirement of the state action doctrine.

The *Noerr-Pennington* Task Force is conducting a careful analysis of existing case law regarding petitioning immunity, as first articulated in *Eastern R.R. Presidents Conf. v. Noerr Motor Freight* and *United Mine Workers of America v. Pennington*. The Task Force is investigating the feasibility and desirability of working to clarify the *Noerr-Pennington*

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help the Commission better address, define, and identify instances of coordinated interaction. The staff is also evaluating how efficiencies are handled in merger investigations.



§ **Rule 23** In February 2002, the Commission filed comments on the proposed amendments to Rule 23 of the Federal Rules of Civil Procedure. The Commission generally supported the proposed amendments, which would affect the form and content of notice to class members, the review of class action settlements, the procedures for appointment of counsel, and the calculation of attorneys' fees. The Commission also encouraged greater competition in the selection of class counsel and recommended that the amendments include a requirement that the class notify the court of related government actions; that the court take into consideration the existence of these related actions when calculating attorneys' fees; and that the court make specific findings about the value of coupon settlements.

antitrust regimes. ICN provides a venue for antitrust officials worldwide to achieve consensus on proposals for procedural and substantive convergence on best practices in antitrust enforcement and policy.

Fifty-three jurisdictions already have joined the ICN, and we are working on the initial projects on mergers and competition advocacy. See Figure 7. The merger project includes notification and procedures, the substantive test, and investigative techniques. The advocacy project includes collection, analysis, and distribution of information on competition advocacy in order to develop recommendations for competition advocacy best practices. The ICN will hold its first conference this September, and the United States will host an ICN conference on merger investigation techniques in November.

Cooperation with competition agencies in the

On October 25, 2001, the FTC, the Department of Justice, and twelve other antitrust agencies from around the world launched the International Competition Network (ICN). The ICN is an outgrowth of a recommendation of the International Competition Policy Advisory Committee (ICPAC) that competition officials from developed and developing countries convene a forum to work together on competition issues raised by economic globalization and the proliferation of

Packard/Compaq, the FTC and European Commission staffs, aided by the parties' confidentiality waiver, cooperated in analyzing the likely effects of the transaction on personal computer and server markets. In **LaFarge/Blue Circle**, we worked closely with the Canadian Competition Bureau in designing compatible divestitures in the U.S. and Canada. Continuing our cooperation under our 1999 agreement, economists from the FTC,

Among our most significant activities over the last year:

Business Bureau, and FTC Northeast Regional Office participating.

\$ **National Consumer Protection Week** For the fourth consecutive year, the FTC took the lead in organizing National Consumer Protection Week, this year focusing on privacy. Other participants were the National Association of Consumer Agency Administrators, AARP, the National Consumers League, the Council of Better Business Bureaus, the Consumer Federation of America, the U.S. Postal Service, the U.S. Postal Inspection Service, the National Association of Attorneys General, and the Department of Justice.

\$ **Hispanic Outreach Program** To reach the expanding population of Hispanic consumers in the U.S., we instituted an Hispanic Outreach Program in January 2002. This effort includes the creation of a dedicated page on the FTC Web site, *Proteccion para el Consumidor*, that will mirror the English page, and translation of 14 consumer publications, printed or posted to the Web. We also translated the FTC Consumer Complaint Form. The Commission also is conducting media outreach and providing interviews in Spanish.

\$ **www.consumer.gov** The FTC continues to manage www.consumer.gov and to recruit new members to participate in the site, which offers one-stop access to federal consumer information. In the past year, the number of members has grown from 135 to 178 agencies.

\$ **Response to 9/11** In the wake of the September 11th terrorist attacks on the World Trade Center and the Pentagon, the FTC worked with other agencies and organizations to alert consumers to possible fund-raising fraud. The Commission issued a Consumer Alert, *Helping Victims of the Terrorist Attacks: Your Guide to Giving Wisely*. This publication was released on September 21st, at a New York City press conference with the New York Attorney General, New York Better

