FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

Annual Highlights 2012

April 2013



ftc.gov

A Message from Chairwoman Edith Ramirez



Welcome to the Federal Trade Commission's 2013 Annual Highlights. Continuing a tradition started last year by former Chairman Jon Leibowitz, I am pleased to showcase the FTC's recent accomplishments in this exciting electronic and interactive format.

The FTC is a bipartisan federal agency with a unique dual mission to protect consumers and promote competition. For nearly one hundred years, our collegial and consensus-driven agency has championed the interests of American consumers. As we head into our second century, the FTC is dedicated to advancing consumer interests while encouraging innovation and competition in our dynamic economy.

In the Annual Highlights, you will find an overview of our agency's major initiatives and achievements since April 2012. Our accomplishments include:

Protecting consumer privacy, both online and off, in an increasingly digital world;

Containing the rising costs of health care and prescription drugs;

Fostering competition and innovation in cutting-edge, high-tech industries;

Challenging deceptive advertising and marketing; and

Safeguarding the interests of the most vulnerable consumers, such as children and the financially fragile.

In addition to the efforts of our outstanding agency staff, the FTC collaborates with law enforcement partners across the country and around the world to advance our crucial consumer protection and competition missions. Through outreach to consumers and the business community, we also facilitate dialogue and offer meaningful education and guidance. And beyond our borders, the FTC cooperates with international agencies and organizations to protect consumers in the global marketplace.

Over the last three years, I have been privileged to work alongside the FTC's talented and dedicated staff to advance the interests of American consumers. My fellow Commissioners – Julie Brill, Maureen Ohlhausen, and Joshua Wright – join me in thanking our agency employees for their tireless efforts. As Chairwoman, I look forward to working with my colleagues to build on the FTC's proud history and usher in our next century of service to the American public.



Edith Ramirez, Chairwoman

Stats & Data 2012

Stats & Data 2012

click to enlarge (PDF)

JANUARY - DECEMBER 2012 | FEDERAL TRADE COMMISSION

COMPETITION

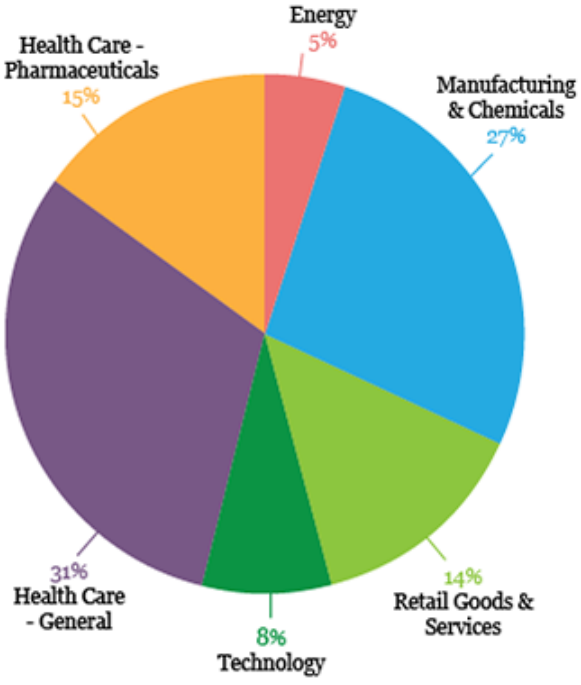
ANTITRUST ENFORCEMENT

Merger Consent Orders	16
Filed Merger Cases	3
Abandoned Transactions	5
Non-Merger Actions	4
Civil Penalty Actions	1

POLICY INITIATIVES

Workshops	5
Reports	5
Advocacy & Amicus Briefs	17

Enforcement Actions by Sector
Fiscal Years 2008-2012



CONSUMER PROTECTION

ACTIONS FILED

Administrative	30
Federal	62
Civil Penalty	17

ORDERS OBTAINED

Administrative	18
Redress, Disgorgement, & Permanent Injunction	94
Civil Penalty	19
Civil Contempt	4

POLICY INITIATIVES

Rulemakings Completed	2
Reports	13

TOTAL AMOUNT OF REDRESS & DISGORGEMENT ORDERED: $741.5 million

TOTAL AMOUNT OF CIVIL PENALTIES ORDERED: $63.6 million

Top 5 Redress Judgments*

John Beck $478.9 MIL

Skechers USA, Inc. $40.0 MIL

U.S. Mortgage Funding, Inc. $38.5 MIL

American Precious Metals, Inc. $24.4 MIL

Burnlounge, Inc. $17.0 MIL

*Does not include amounts suspended by the court based on inability to pay; any default judgments are included.

Top 5 Civil Penalty Cases*

Google Inc. $22.5 MIL

Paul Navestad (Cash Grant Institute) $20.0 MIL

Christine Maspakorn (Cash Grant Institute) $10.0 MIL

Jason Pharmaceuticals, Inc. $3.7 MIL

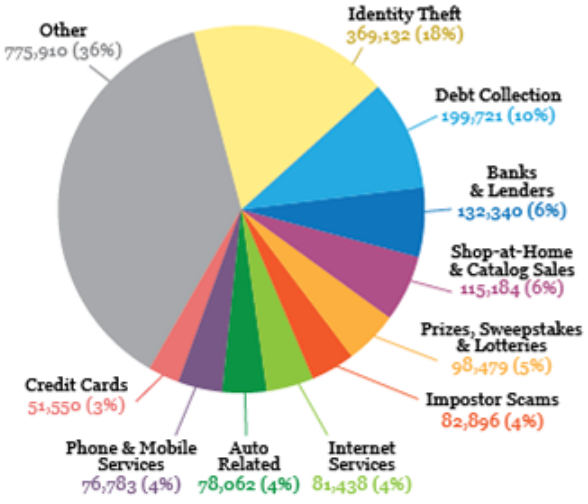
HireRight Solutions $2.6 MIL

477,622 consumers received redress totaling over **$26.8 MILLION**

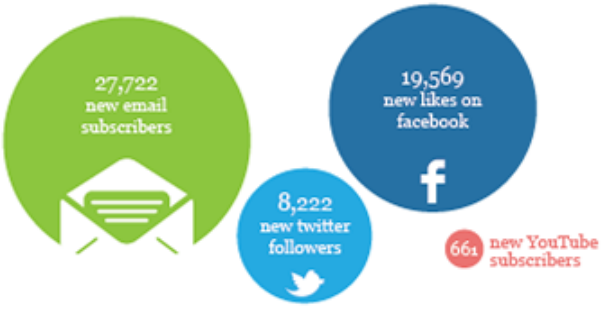
COMPLAINTS

Top Consumer Complaint Categories

(does not include Do Not Call Registry complaints)



OUTREACH



Most Popular Twitter Link:

FTC charges biz exposed sensitive info on P2P file-sharing networks, putting 1000s of consumers at risk: go.usa.gov/ddU #privacy

798 eligible submissions to the FTC Robocall Challenge

Most Popular YouTube Video:



Federal Trade Commission
ftc.gov/highlights

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Protecting Consumer Privacy



Ensuring strong privacy protections is key at the FTC. As the nation's top cop on the consumer privacy beat, the FTC's goals are to protect consumer privacy in an evolving market for consumer information, make sure companies keep their privacy promises to consumers, and ensure that consumers have confidence to take advantage of the benefits that a dynamic and ever-changing marketplace offer. The FTC achieves those goals through law enforcement, consumer education, and policy initiatives.

For example, the FTC filed a lawsuit against *Wyndham Worldwide Corp.*, charging that data security failures caused millions of dollars in fraud losses and led to the export of payment card information to an Internet domain in Russia. A settlement with *Cbr, Inc.*, resolved charges that its data security failures compromised credit card and other sensitive consumer health information. Settlements with *DesignerWare, LLC*, and seven rent-to-own companies resolved charges that they spied on people who rented computers and allegedly tricked them into revealing personal information, without their knowledge or consent. *Google* agreed to pay $22.5 million for allegedly misrepresenting that it would not place "tracking cookies" or serve targeted ads to users of Apple's Safari browser, a record penalty for a violation of a prior FTC consent order. Settlements with *Equifax*, *HireRight Solutions*, and *Spokeo, Inc.*, resolved allegations that they violated the Fair Credit Reporting Act, which provides protections against inaccuracies in – or impermissible use of – consumer credit reports.

An FTC study of the U.S. credit reporting industry investigated the accuracy and completeness of consumer credit reports, and found that about one in four consumers identified errors on their credit reports that might affect their credit scores. Five percent of consumers identified errors that could lead them to pay more for loans. The FTC also hosted a workshop exploring the practices and privacy implications of comprehensive data collectionabout consumers' online activities.

Outreach Highlights

Consumer Education

- Privacy Choices for Your Personal Financial Information
- Employment Background Checks
- Video: Sharing Information: A Day in Your Life
- Audio: Protecting Your Child's Personal Information

Business Education

- Consumer Privacy
- Blog: Milking cookies: The FTC's $22.5 million settlement with Google

Twitter Chats

- Data Privacy Day #ChatSTC
- Protect Your Identity Week #PYIW
- Google Settlement #FTCpriv

Facebook Chat

Google Settlement

Containing Health Care & Drug Costs



The cost of health care is a real problem for most Americans and our national economy. Accordingly, the Commission devotes significant resources to ensure that competition will enable market participants to deliver cost-containment, excellence, and innovation. Using enforcement as its primary tool, the Commission works to prevent anticompetitive mergers and conduct that might diminish competition in health care markets. The Commission has a particular focus on preventing hospital mergers that may leave insufficient local options for in-patient services. This year it blocked an anticompetitive hospital merger in Rockford, Illinois. This Federal district court victory is one in a series of court victories dating back to an effort that began in 2002 with the Hospital Merger Retrospective. This year, the FTC also challenged mergers between acute care psychiatric facilities as well as hospital and cardiologist practice groups. Preserving competition among all types of health care providers is critical to safeguarding local options and keeping prices down for in-patient health care services. The FTC also works to preserve competition for important drugsand medical devices as another means of containing health care costs.

The agency also combats anticompetitive unilateral conduct by health care providers that may raise costs or reduce options for patients. This year, the Commission stopped a co-op of 300 pharmacies in Puerto Rico from fixing fees with payers, which had led to higher pharmacy prices for consumers, and thwartedefforts by eight nephrologists to refuse treatment to kidney patients in order to force higher fees from insurers.

One of the Commission's competition priorities continues to be policing and challenging anticompetitive pay-for-delay patent settlements. After more than a decade of challenges to these agreements in the courts, the Third Circuit in *K-Dur* found that pay-for-delay payments are presumptively unlawful, adoptingthe FTC's *amicus* position that, when compensation flows from the brand to the generic and the generic delays entry, the burden shifts to the parties to show that the compensation was not paid in exchange for that delay. In so finding, the court cited three separate FTC reports on pharmaceutical competition, demonstrating the value of the FTC's research and expertise in health care markets.

The *K-Dur* decision changed the landscape for evaluating these costly agreements, and set the stage for the Supreme Court's review of the Commission's Androgel case (*FTC v. Actavis, Inc.*). At issue is the validity of the Eleventh Circuit's approach to reverse payment settlements, that "absent sham litigation or fraud in obtaining the patent, a reverse payment settlement is immune from antitrust attack so long as its anticompetitive effects falls within the scope of the exclusionary potential of the patent." The Commission strongly disagrees with the Eleventh Circuit's view. A decision from the Supreme Court resolving these conflicting approaches is expected by June.

Enforcement Highlights

St Luke's Health System: FTC and Idaho Attorney General Challenge St. Luke's Health System's Acquisition of Saltzer Medical Group as Anticompetitive

Novartis/Fougera: Settlement Protects Competition in the Markets for Skin Care Gels and Cream

Policy Highlights

FTC Study: In FY 2012, Branded Drug Firms Significantly Increased the Use of Potential Pay-for-Delay Settlements to Keep Generic Competitors off the Market

Workshop: Most-Favored-Nations Clauses and Antitrust Enforcement and Policy

Amicus Brief: Drug Companies Use “No-Authorized Generic” Agreements to Delay Generic Competition

Amicus Brief: Pharmaceutical "Product Hopping" Can Be the Basis for an Antitrust Lawsuit

Amicus Brief: Improper Use of Restricted Drug Distribution Programs May Impede Generic Competition

Advisory Opinion: FTC Staff Advises Oklahoma Physician Hospital Organization That it Will Not Recommend Antitrust Challenge to Proposed Formation of Clinically Integrated Multi-provider Network

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Protecting Consumers in a Recovering Economy



Even as the economy recovers, some consumers continue to face financial challenges. The FTC takes effective actions to ensure that consumers are protected from abusive credit practices and get the information they need to make informed financial choices.

Home ownership is the American dream, but it can become a nightmare for consumers who don't have the information they need to understand the terms of their mortgage. After reviewing hundreds of mortgage ads, the FTC alerted real estate agents, home builders, and lead generators through warning letters that their mortgage ads may be deceptive and that they needed to review them to ensure compliance with "truth in advertising" laws.

Likewise, protecting consumers burdened by debt despite the economic recovery is a priority. In *AMG Services*, the FTC filed a lawsuit alleging that the defendants piled on undisclosed and inflated fees and collected on payday loans illegally using threats of arrest and lawsuits. The FTC has also taken vigorous steps to stop abusive debt collection practices, obtaining settlements with the remaining defendants in the *Forensic Case Management Services, Inc. (Rumson Bolling)* litigation and the defendants in the *Luebke Baker* case, and filing a lawsuit in the*Goldman Schwartz* matter. The FTC also continued its prosecution of predatory operations to collect "phantom" debts, settling charges in the *American Debt Crunchers* matter. Litigation continues in the *Broadway Global Master* case, and following the FTC's referral, a federal grand jury indicted one of the defendants on criminal fraud charges.

In addition to law enforcement, the FTC issued its Debt Buyer Study – the first empirical examination of companies in the business of buying consumer debts and trying to collect on them. The study found that while debt buying plays an important role in consumer credit, the buyers often lack important information that can result in problems, such as approaching the wrong consumers or trying to collect wrong amounts. The study recommended further research.

Outreach Highlights

Consumer Education

- Deceptive Mortgage Ads
- Stop Calls and Letters from Debt Collectors
- Fake Debt Collectors
- Blog: FTC to Debt Collectors: Play by the Rules!
- Audio: Payday Loans
- Video: Payday Lending

Business Education

- Debt Collection
- Blog: Cracking Down on Contrepreneurs

Twitter Chats

- National Consumer Protection Week #NCPW

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Trending in Technology



The Do Not Call Registry remains one of the government's most popular programs. Increasingly, however, the protection ensured by the Registry is being challenged through the use of robocalls by scam artists. The FTC's aggressive strategic plan for dealing with illegal robocalls involves working with technological experts and law enforcement partners to find innovative and effective ways to trace illegal calls, combat caller ID spoofing, and ultimately stop the calls. The FTC announced the winners of its first public challenge, which offered a $50,000 prize for the most workable and innovative solutions; hosted a Robocall Summit that brought stakeholders together to discuss creative remedies; and led joint federal-state law enforcement efforts, including prosecuting operations allegedly responsible formillions of robocalls pitching phony credit card interest rate reductions, among other bogus services.

With the explosion in the use of mobile devices such as smartphones and tablets, the FTC has focused law enforcement and business education efforts on the mobile marketplace. For example, the FTC reached a settlement with mobile device maker *HTC America*, resolving charges that it failed to reasonably safeguard the security of its smartphones and tablets. In addition, the FTC issued the Mobile Privacy Disclosure report recommending how key players in the mobile marketplace can better inform consumers about their data practices, and updated .com Disclosures, guidance that explains how the attributes of clear and conspicuous disclosures apply to advertising and marketing in new formats to avoid deception. The FTC also issued a staff report recommending best practices for companies using facial recognition technologies.

Outreach Highlights

Consumer Education

Robocalls

Blog: Patching Things Up, timely security tips for HTC phones and mobile devices after the HTC Settlement

Video: What To Do If You Get a Robocall

Video: Public Wi-Fi Networks

Audio: Sign Up for the Do Not Call Registry

Business Education

Mobile App Developers: Start with Security

Blog: Are You Up to The Challenge?

Blog: FTC Reboots .com Disclosures: Four Key Points and One Possible Way to Bypass the Issue Altogether

Video: Mobile Apps

Twitter Chats

HTC Settlement #FTCpriv

Path Settlement & Mobile Disclosures Report #FTCpriv

Robocalls #FTCrobo

FTC Robocalls Challenge #FTCrobo

Mobile Payments Workshop #FTCmobile

Comprehensive Data Collection Workshop #FTCpriv

Robocall Summit Live #FTCrobo

Facebook Chat

Robocalls

FTC Robocall Challenge

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Fostering Innovation & Competition



For more than two decades, the Commission has examined difficult issues at the intersection of antitrust and intellectual property law – issues related to innovation, standard-setting, and patents. The Commission's work in this area is grounded in the recognition that intellectual property and competition laws share the fundamental goals of promoting innovation and consumer welfare. The Commission has authored several seminal reports on competition and patent law, and conducted workshops to learn more about emerging practices and trends. This year, for instance, the FTC and DOJ held a joint workshop to explore the impact of patent assertion entity (PAE) activities and encouraged efforts of the Patent Trade Office to provide the public with more complete information regarding patent ownership.

On the enforcement front, the Commission takes the same balanced approach when applying antitrust principles to fast-paced technology markets as it takes in all other circumstances, focusing on the facts as they develop in real time to assess what competition is likely to look like in the future. Sometimes, this approach will lead the Commission to conclude that a proposed merger involving a technology market is likely to harm competition now and in the future, as it did in the recentproposed merger of Integrated Device Technology, Inc. and PLX Technology, Inc. Both companies make high-tech switches, complex integrated circuits used to transmit data between processor chips and various endpoints in computer systems such a memory or graphics cards. Based upon evidence of intense head-to-head competition between the parties on both price and innovation and a combined market share of over 80 percent, the Commission challenged the merger to preserve competition for these critical components.

The Commission also used this balanced, fact-based approach to resolve its investigation of certain Google conduct. After an extensive review of the evidence, the Commission determined that the evidence did not provide a reason to believe that Google's changes to the design of its search results page harmed competition or consumers and thus closed the investigation.

In a separate decision, the Commission charged Google with violating Section 5 by seeking injunctions on standard essential patents. This conduct is problematic because it can lead toanticompetitive patent "hold-up," whereby a patent holder demands higher royalties or more costly or burdensome licensing terms after its technology has been included in an industry standard – when it is too late for device makers to avoid using the patent. Hold-up can subvert the competitive process, lead to higher prices for consumers, and discourage technology firms from working on interoperability solutions through standard setting organizations. In this instance, Google had previously agreed to license its standard essential patents (SEPs) on Fair, Reasonable and Non-Discriminatory (FRAND) Terms, and was violating this commitment by seeking an injunction against willing licensees. To settle the FTC charges, Google agreed that it will not seek injunctions against willing licensees on its SEPs unless it has followed the process outlined in the Commission's proposed order and that process has not led to a resolution of the dispute over terms. The order encourages negotiation with potential licensees over disputed terms, and resolution by a court or arbitrator if negotiations fail. The Commission has proposed similar relief in a merger case involving makers of equipment used to recharge vehicle air conditioning systems; Robert Bosch GmbH agreed to abide by commitments to license its SEP technology on FRAND terms and stop seeking injunctions against willing licensees.

Enforcement Highlights

Costar/Loopnet: Commercial Real Estate Data Provider Required to Sell LoopNet's Interest in Xceligent and to Refrain from Conduct Hindering Other Providers

Corning / Becton Dickinson: Corning Agrees to Supply Cell Culture Labware Assets and Technology to Preserve Competition

Policy Highlights

Staff Comment: FTC/DOJ Comments before USPTO on Recordation of Real-Party-in-Interest Information

Staff Comment: Comment to the ITC Concerning Certain Gaming and Entertaining Consoles, Related Software, and Components

Amicus Brief: How Injunctions Related to Standard-Essential Patents Can Harm Competition, Innovation, and Consumers

Amicus Brief: Joint Amicus Brief with DOJ on Direct Purchaser Antitrust Issues

Testimony: Oversight of the Impact on Competition of Exclusion Orders To Enforce Standard-Essential Patents, Senate Judiciary Committee

Proposed Revisions to HSR Rules for acquisitions involving transfers of pharmaceutical patent rights

Advancing Competitive Principles



Competition policy took center stage before the Supreme Court this term, after the Court agreed to review an appellate court decision rejecting an FTC challenge to a hospital merger-to-monopoly. At issue was whether the Georgia legislature had shielded the local hospital authority from federal antitrust review by granting it general powers to acquire hospitals. Under the state action doctrine, actions of the state or its subdivisions are not subject to the federal antitrust laws if the legislature clearly articulates and affirmatively expresses a policy to displace competition with regulation. The Court, in a unanimous decision, found that there was no evidence that the legislature contemplated that the hospital authorities would displace competition by consolidating hospital ownership.

"[G]iven the fundamental national values of free enterprise and economic competition that are embodied in the federal antitrust laws, state-action immunity is disfavored. . ."

– Supreme Court, *FTC v. Phoebe Putney Health System, Inc*

This case is the latest FTC effort to clarify when state regulation prevents application of the federal rules favoring competition. The Commission respects the values underlying the state action doctrine, but overbroad interpretations impose significant costs on consumers and can have long-lasting impact on market participants. For these reasons, the FTC recently rejected efforts by the North Carolina State Board of Dentistry to inappropriately use the doctrine as a shield to protect its anticompetitive efforts to discourage and prevent non-dentists from providing teeth whitening services to consumers. This case is pending review by an appellate court.

In addition to enforcement actions, the Commission offers its policy expertise in a number of other forums. In fact, for years, the FTC's advocacy program has offered policymakers analysis and insights based on FTC experience and expertise. When asked, the Commission comments on state or local proposals that may enhance competition or, alternatively, impose burdens on market participants without generating offsetting benefits to consumers. As examples, FTC staff recently supported a proposal to eliminate existing restrictions preventing veterinarians from working at non-profit spay and neuter clinics in Alabama, and raised concerns about separate proposals to limit competition from new vehicle transportation services that utilize mobile app technology to serve passengers.

As part of its mission to promote competition for the benefit of consumers, the Commission urges policymakers to adopt a flexible regulatory framework that promotes innovation and informed consumer choice. As a general rule, the Commission strongly believes that competition should only be restricted when clearly necessary to achieve some countervailing benefit, such as protecting the public from significant harm.

Policy Highlights

Staff Comment: Tennessee Supreme Court Should Decline to Adopt Proposals that Unnecessarily Restrict Truthful Attorney Advertising

Staff Comment: West Virginia Should Consider Expanding Advanced Practice Registered Nurses' Role in Patient Care

Staff Comment: Proposed North Carolina Dental Services Law Would Likely Reduce the Benefits of Competition for Consumers

Staff Comment: Proposed Louisiana Law Would Expand Patient Care by Advance Practice Registered Nurses

Staff Comment: Proposed Missouri Legislation May Reduce Patient Access to Pain Management Services and Increase Prices

Staff Comment: Proposed Kentucky Legislation Could Benefit Consumers; Would Expand Patient Care by Advance Practice Registered Nurses

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Challenging Deceptive Advertising and Marketing



Consumers should get what they pay for. The FTC works to ensure that national advertisers can back up the claims they make for their products, especially health and safety claims.

The FTC recently upheld charges that *POM Wonderful* made false and unsupported health claims for its pomegranate juice and supplements. The Commission also filed false advertising charges against the marketers of *Your Baby Can Read!*, a program that promised to teach infants and babies to read. The agency settled with the company making the claims and its former CEO, and is litigating its case against the creator of the program. The FTC also obtained settlements with the marketers of the *Ab Circle Pro* exercise device and *Skechers* toning shoes, negotiating at least $55 million for consumer refunds.

The FTC led joint federal-state efforts in "Operation False Promises," filing lawsuits against scams that allegedly lured consumers with offers to help them start businesses. In addition, at the FTC's request, a federal court ordered the marketers of the *John Beck* "get-rich-quick" scam to pay $478 million, and banned these defendants from the telemarketing and informercial businesses. The FTC also led a major international crackdown against tech support scams involving telemarketers who allegedly tricked consumers into paying for the removal of bogus computer viruses and non-existent spyware. At the FTC's request, a federal court imposed a judgment of more than $163 million on the final defendant in the "Winfixer" scarewarecase where the defendants tricked consumers into thinking their computers were infected with malicious software in order to sell them software to "fix" their non-existent problem.

Outreach Highlights

Consumer Education

- Tech Support Scams
- Video: Protect Your Computer from Malware
- Audio: Diet Ads and Weight-loss Products
- Audio: Work-at-Home Scams

Business Education

- Advertising & Marketing
- Blog: What your ads say and what the science supports: If the shoe doesn't fit...

Twitter Chats & Live Tweeting

- .com Disclosures #AskFTC
- Skechers Settlement #FTCbcp
- Advertising and Privacy Disclosures Workshop #FTCdisclose

Facebook Chats

- Skechers Settlement
- Business Opportunity Scams

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Safeguarding Children



It's no secret that today's children increasingly use the Internet for entertainment, information and schoolwork. The Children's Online Privacy Protection Act (COPPA) and the FTC's COPPA Rule protect children's privacy when they're online by putting their parents in charge of who gets to collect personal information about their preteen kids. The FTC enforces COPPA by ensuring that parents have the tools they need to protect their childrens' privacy.

The Commission amended its COPPA Rule to broaden and clarify the Rule's notice and consent requirements in light of fast-paced technological changes since the rule was issued. In addition, *Artists Arena*, the operator of fan websites for Justin Bieber, Rihanna, Demi Lovato, and Selena Gomez, agreed to pay $1 million and delete collected information to resolve charges that it violated COPPA and the FTC's COPPA Rule. The operator of the *Path* social networking app also settled charges that it violated privacy requirements, including violations of COPPA and the FTC's COPPA Rule.

The FTC issued its second staff report examining the privacy disclosures and practices of apps offered for children in the Google Play and Apple App stores. The Report found little progress toward giving parents the information they need to determine what data is being collected from their children, how it is being shared, or who will have access to it. The Report also found that many of the apps sent information to ad networks or other third parties without disclosing these practices to parents.

The FTC also issued a follow-up study of food and beverage industry marketing expenditures and activities directed to children and teens to gauge progress since the launch of self-regulatory efforts to promote healthier food choices to kids. The study found that industry self-regulation resulted in modest nutritional improvements from 2006 to 2009 within specific food categories heavily marketed to kids. The study also found that overall spending on marketing to youth was down 19.5 percent from 2006, while spending on marketing in new media (such as online, mobile, and viral marketing) increased by 50 percent.

Outreach Highlights

Consumer Education

- Child Identity Theft
- Infographic: Keeping Up with Kids' Apps
- Blog: 6 Timely Tips for Using Apps with Kids
- Audio: Protecting Your Child's Personal Information

Business Education

- Marketing Your Mobile App: Get It Right from the Start
- Blog: FTC's revised COPPA Rule: Five need-to-know changes for your business

Twitter Chats

- Child ID Theft #chatSTC
- Updated COPPA Rule Twitter Chat #COPPA

Monitoring Environmental Claims & Energy Markets



Consumers continue to seek out energy-efficient and environmentally-friendly products when shopping for new items. The FTC works to ensure that environmental marketing claims are truthful and based on solid evidence.

To help marketers avoid making misleading claims, the FTC revised its Green Guides to modify and clarify previous guidelines and provide new guidance in a few areas. The Commission also sent warnings to 14 window manufacturersand one window glass manufacturer that may be making unsupported energy savings claims for *replacement windows*, and issued final orders with five marketers of replacement windows. The Commission issued final orders against *Sherwin Williams* and *PPG Architectural Finishes* to resolve charges that they misled consumers that some of their paints had no potentially harmful chemicals known as volatile organic compounds (VOCs). Based on the two VOC cases, the FTC also issued an Enforcement Policy Statement about VOC-free paint claims.

On the competition front, the FTC challenged a combination of two of the country's largest natural gas pipeline companies,Kinder Morgan, Inc. and El Paso Corporation, charging that the combination would illegally diminish competition in several natural gas pipeline transportation and gas processing markets in the Rocky Mountains region. In settlement, Kinder Morgan agreed to sell three natural gas pipelines and two gas-processing plants and associated storage capacity in the area. In another case, the Commission also required divestitures topreserve competition among makers of equipment used to recharge vehicle air conditioning systems and prevent refrigerant gas from leaking into the atmosphere during the repair process.

To facilitate the sharing of information during investigations in petroleum and other markets, the FTC signed an MOU with the Commodity Futures Trading Commission and co-chairs an interagency Oil and Gas Price Fraud Working Group, established by the Attorney General in the midst of the spring 2011 oil and gasoline price increases to increase cooperative information-sharing among member agencies.

Enforcement Highlights

Robert Bosch/SPX: FTC Order Restores Competition in U.S. Market for Equipment Used to Recharge Vehicle Air Conditioning Systems

Policy Highlights

Staff Report: U.S. Ethanol Market Remains Unconcentrated

FTC Staff Makes Recommendations to New York Public Service Commission on Competition and Consumer Protection Measures in Retail Electricity Markets

FTC Staff Makes Recommendations to FERC on Measures to Reduce Cost of Providing Electricity, Improve Power System Reliability

Staff Comment: FTC Staff Submits Comment to FERC on Allocation of Capacity on Merchant Electricity Transmission Projects

Outreach Highlights

Consumer Education

Environmental Claims – Summary of the Green Guides

Shopping for New Windows

Blog: Painting Over the Truth

Audio: Saving Money on Heating and Cooling Your Home

Business Education

Environmental Marketing

Blog: Green Day

Video: Green Guides

Twitter Chat

Green Guides #FTCgreen

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Guarding Consumers' Pocketbooks



The Commission works to preserve competition for goods and services that consumers buy every day. This year, for instance, the Commission required Hertz to sell its Advantage Rent-A-Car business, as well as the rights to operate 29 Dollar Thrifty on-airport locations, to resolve charges that Hertz's $2.3 billion acquisition of Dollar Thriftywould have forced consumers to pay higher prices for rental cars at 72 airports around the country. For similar reasons, the FTC required a supermarket chain to divest a store near Philadelphia to preserve competition for food shoppers in that area.

The Commission also studies trends in marketing. For example, the Commission convened a group of economists and marketing academics to examine the use of drip pricing and its impact on consumers. Drip pricing is a technique in which firms advertise part of a product's price and reveal additional charges later as the customer goes through the buying process; it is used by many firms, including hotels, internet sellers, automobile dealers, financial institutions, and rental car companies. A common complaint at the conference involved "resort fees," and charges for amenities like newspapers or internet access that are mandatory, regardless of whether the hotel customer uses the services. Following a subsequent review, the FTC sent letters to 22 hotel operators warning that reservation price quotes that exclude resort fees and other mandatory surcharges may violate the law by misrepresenting the price consumers can expect to pay for their hotel rooms.

The Commission also hosted a workshop focusing on competition and consumer protection issues in the pet medications industry. American consumers spend an estimated $50 billion annually on their pets, including $7 billion for prescription and over-the-counter medications. Workshop participants gathered to consider how current industry distribution and other business practices affect consumer choice and price competition for pet medications, as well as the ability of consumers to obtain written prescriptions that they can fill where they choose. Participants also discussed how to inform and empower consumers to get the highest quality and most cost-effective healthcare products for their pets.

Enforcement Highlights

Oltrin: FTC Puts an End to Bleach Non-Compete Agreement That Whitewashed Competition in North Carolina, South Carolina, and Southern Virginia

Idexx: Settlement Restores Competition in the Market for Diagnostic Testing Products Used by Veterinarians; Major Distributor to Carry Competing Products

Policy Highlights

Rulemaking: FTC to Review Fred Meyer Guides Advising Businesses How to Avoid Illegal Discrimination in Promotional Allowances and Services

Amicus Brief: FTC/DOJ *Amicus* Brief Supports Right of Private Parties to Pursue Relief Under the Antitrust Laws

Economic Working Paper: Better Product at Same Cost, Lower Sales and Lower Welfare

Economic Working Paper: Do Retail Mergers Affect Competition? Evidence from Grocery Retailing

Staff Comment: Tennessee Supreme Court Should Decline to Adopt Proposals that Unnecessarily Restrict Truthful Attorney Advertising

Outreach Highlights

Live Tweeting

Pet Medications Workshop #FTCpets

Collaborating with International Partners



The FTC continues to lead efforts to promote convergence toward sound and effective antitrust enforcement internationally. The FTC co-leads the ICN's Agency Effectiveness Working Group and its Investigative Process Project, which has focused on transparency in competition investigations. The FTC also leads the Curriculum Project, which produced new video training modules on the analysis of competitive effects, leniency programs, merger analysis, and predatory pricing.

The Agency also deepened its bilateral relations over the course of the year. The FTC and DOJ entered into a MOU with the Indian competition authorities, providing for increased cooperation and mechanisms to further strengthen relations among the agencies. In September 2012, the FTC and DOJ met with the three Chinese anti-monopoly agencies under our MOU to discuss enforcement and policy issues. The FTC's network of formal and informal arrangements enables it to cooperate in merger and conduct cases such as *Vivendi/EMI* and *Google*.

Continuing its robust program of international competition and consumer protection technical assistance, the Commission conducted 38 missions in 19 countries, including China, India, South Africa, Morocco, Colombia, Costa Rica, and Russia. In addition, through its innovative International Fellows and Interns program, the FTC hosted consumer protection and competition officials from 12 countries.

Privacy is at the forefront of international consumer protection issues. As the European Union and its member countries and agencies in developing economies wrestle with designing and implementing privacy laws, the FTC continues to contribute to the dialogue. In July, the FTC became the first enforcement authority in the Asia-Pacific Economic Cooperation (APEC) Cross-Border Privacy Rules System, a self-regulatory initiative to enhance the protection of consumer data that moves between the U.S. and other APEC members through a voluntary but enforceable code of conduct adopted by participating businesses. In November, the FTC hosted a forum of domestic and international privacy experts to explore the use of similar enforceable industry codes of conduct to protect consumers in cross-border commerce.

Recognizing the continuing challenge of cross-border fraud and the FTC's ongoing efforts to combat it, Congress recently reauthorized the US SAFE WEB Act. The Act, which enables the agency both to share information with foreign law enforcement agencies and to obtain information on their behalf, is vital to strengthening the culture of mutual assistance that enables law enforcers to achieve greater results working together than they could alone. One example of this cooperation is the six cases the FTC filed this year against mostly foreign-based operators of a massive tech support scam. The FTC used its US SAFE WEB Act tools to work with law enforcers in Australia, Canada and the U.K., among other countries who provided invaluable assistance to the FTC. Australia and Canada also brought administrative actions for violations of their Do Not Call laws.