

**Prepared Statement of
The Federal Trade Commission**

**Before the
Subcommittee on
Science, the Departments of State, Justice, and Commerce, and Related
Agencies**

**of the Committee on Appropriations
United States House of Representatives**

**Washington, D.C.
March 30, 2006**

I. Introduction

Chairman Wolf, Ranking Member Mollohan, I am Deborah Platt Majoras, Chairman of the Federal Trade Commission (“Commission” or “FTC”). I am pleased to appear before the Subcommittee today to testify in support of the FTC’s FY 2007 Appropriation request.¹ The Commission would like to thank Chairman Wolf, Ranking Member Mollohan, and members of the Subcommittee for their continued support of the agency’s mission.

The FTC is the only federal agency with both consumer protection and competition jurisdiction in broad sectors of the economy.² The agency enforces laws that prohibit business practices that are anticompetitive, deceptive, or unfair to consumers, and it promotes informed consumer choice and public understanding of the competitive process. The work of the FTC is critical in protecting and strengthening free and open markets in the United States.

The FTC consistently has pursued a vigorous and effective law enforcement program in a swiftly changing marketplace, with rapid growth in technology, and in an increasingly globalized economy. Through the efforts of a dedicated, professional staff, the FTC continues to handle an increasing workload. Our testimony today summarizes some of the major activities of the past year and describes some of the planned initiatives for FY 2007.

¹ The written statement represents the views of the Federal Trade Commission. My oral presentation and responses to questions are my own and do not necessarily reflect the views of the Commission or any other Commissioner.

² The FTC has broad law enforcement responsibilities under the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.* With certain exceptions, the statute provides the agency with jurisdiction over nearly every economic sector. Certain entities, such as depository institutions and common carriers, as well as the business of insurance, are wholly or partly exempt from FTC jurisdiction. In addition to the FTC Act, the agency has enforcement responsibilities under more than 40 additional statutes and more than 30 rules governing specific industries and practices.

To accomplish our mission in FY 2007, the FTC requests \$223,000,000 and 1,074 FTE. The FY 2007 request represents an increase of \$13,000,000 over the agency's FY 2006 enacted level.

During FY 2007, the FTC will address significant law enforcement and policy issues throughout the economy, devoting major portions of its resources to those areas in which the agency can provide the greatest benefits to consumers. This testimony in support of our FY 2007 appropriation highlights program priorities in the FTC's two missions. The focus of the consumer protection mission will be on broad efforts to fight fraud and deception, as well as on initiatives supporting consumer privacy and combating technology-driven threats such as spam and spyware. The focus of the competition mission will be on merger and nonmerger enforcement, particularly in health care, energy, high technology, and international competition. The testimony concludes with a summary of the agency's FY 2007 appropriation request.

The FTC's broad mission addresses a wide range of topical issues that affect consumers every day. In recognition of that fact, in 2005, *Washingtonian* magazine recognized the FTC as one of seven federal agencies on its annual list of "Great Places to Work." The *Washingtonian* observed that the FTC advises consumers "on the big issues of the day: identity theft, spam, the 'do not call' registry, the marketing of unhealthy foods to children," and touted the agency as one of the best places to work "if you like being part of the news."³

³ Lisa Daniel, "Great Places to Work," *Washingtonian* (Nov. 2005), at 36.

2. Education and Cooperation

The Commission also provides business education to promote better data security practices, consumer education and victim assistance, and coordination with other law enforcement through the Identity Theft Data Clearinghouse, a centralized database of victim complaints.

Our Consumer Response Center⁹ responds to roughly 15 to 20 thousand contacts per week from the toll-free identity theft hotline, 1-877-ID THEFT, or through our website or mail, from victims and from consumers who want to avoid becoming victims.

Our business outreach efforts include providing guidance on issues related to data security. For example, the agency disseminates guidance for businesses on reducing risks to their computer systems,¹⁰ as well as guidance for financial firms on complying with the Gramm-Leach-Bliley Act (“GLBA”) Safeguards Rule.¹¹ The FTC also operates the Identity Theft Data Clearinghouse, the nation’s central database of victim complaints designed to support law enforcement investigations nationwide. The database includes over one million complaints received directly from consumers as well as various state and federal agencies. It enables us to

⁹ In a consumer satisfaction survey of all government call centers – the American Customer Satisfaction Index – the FTC’s Call Center was ranked number one in the nation among all federal call centers providing similar services. ACSI Scores for the Federal Government, Dec. 15, 2004. These poll results are available at <http://www.theacsi.org/government/govt-04.html>.

¹⁰ The full text of the guidance for businesses can be found at <http://www.ftc.gov/bcp/online/pubs/buspubs/security.pdf>.

¹¹ See http://www.ftc.gov/privacy/privacyinitiatives/safeguards_educ.html.

G. Alcohol

Alcohol consumption by minors is a matter of significant national concern because of the substantial risks it poses. In the past year, the FTC has contributed to the overall government effort to reduce teen drinking and injury through promoting self-regulation and consumer education. Our efforts focus on concerns about advertising and youth. The Commission will continue to monitor alcohol industry self-regulation. Over the past year, we worked with companies to help them enforce compliance with voluntary codes limiting where alcohol ads appear. In response to earlier recommendations made by the Commission, the Beer Institute and Wine Institute established independent boards to review complaints about code compliance, and the Beer Institute modified its code to prohibit promotions for “drinking games.” This coming year, we will issue compulsory process to alcohol companies as part of a formal study of alcohol self-regulatory efforts.

H. Project Scofflaw and Criminal Referrals

As part of its law enforcement tools, the FTC secures orders against companies that allegedly have violated various consumer protection laws to protect consumers from any further fraud and deception. If these orders are violated, the FTC deploys the full range of powers available to stop repeat offenders and to deter other defendants from ignoring order provisions. For example, this past year, a federal district court awarded the government \$5.45 million in civil penalties and \$1.68 million in disgorgement against Richard Prochnow for his violations of a 1996 FTC order and the Telemarketing Sales Rule in connection with deceptive marketing of magazine subscriptions and buying club memberships.³² In another case, *NBTY, Inc.*, a leading

³² *United States v. Prochnow*, CV No. 1:02-CV-0917-JOS, (N.D. Ga. June 6, 2003).

durable restraints on competition. Recent FTC advocacy efforts have contributed to several positive consumer outcomes. In the past year, the Agencies have provided several state legislatures with advocacy comments urging the states not to adopt proposed legislation that would require real estate brokers to provide certain services to consumers, regardless of whether they actually want such services. We have argued in our advocacies that such minimum-service regulations – while presented as necessary to protect consumers – actually restrict consumer choice and reduce competition between limited-service brokers and traditional, full-service full-price brokers, resulting in home buyers and sellers likely paying higher prices for real estate brokerage services. Although we failed to sway all the state legislatures we contacted, we have had several successes in opposing these restrictions, with a number of states ultimately deciding not to adopt them.

The FTC also has significant experience in analyzing the impact of state laws on the distribution of alcohol, and in particular, the competitive effects of bans on direct-to-consumer wine shipping. An FTC staff report addressing such effects was cited a dozen times in last year’s Supreme Court decision in *Granholm v. Heald*,⁷⁰ which held that the laws of Michigan and New York that discriminated against out-of-state wine manufacturers and in favor of in-state wine manufacturers in the sale and shipping of wine within those states violated the Commerce Clause

⁷⁰ 544 U.S. 460 (2005).

