

FEDERAL TRADE COMMISSION (FTC)**Statement of Regulatory Priorities****I. REGULATORY PRIORITIES***Background*

The Federal Trade Commission (FTC or Commission) is an independent agency charged with protecting American consumers from “unfair methods of competition” and “unfair or deceptive acts or practices” in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace. The Commission’s work is rooted in a belief that free markets work — that competition among producers and information in the hands of consumers bring the best products at the lowest prices for consumers, spur efficiency and innovation, and strengthen the economy.

The Commission pursues its goal of promoting competition in the marketplace through two different, but complementary, approaches. Fraud and deception injure both consumers and honest competitors alike and undermine competitive markets. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, truthful, and non-misleading information in the marketplace. At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. Thus, the second part of the Commission’s basic mission—antitrust enforcement—is to prohibit anticompetitive mergers or other anticompetitive business practices without unduly interfering with the legitimate activities of businesses. These two complementary missions make the Commission unique insofar as it is the Nation’s only Federal agency to be given this combination of statutory authority to protect consumers.

The Commission is, first and foremost, a law enforcement agency. It pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes. The Commission, however, is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. Pursuant to the FTC Act, for example, the Commission currently has in place thirteen trade regulation rules. The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters and are generally

intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

Industry Self-Regulation and Compliance Partnerships With Industry

The Commission continues to be committed to protecting consumers through a variety of tools including both regulatory and non-regulatory approaches. To that end, it has encouraged industry self-regulation, developed a corporate leniency policy for certain rule violations, and established compliance partnerships where appropriate.

The Commission has held workshops and issued reports that encourage industry self-regulation in several areas. Privacy, information security, and information sharing continue to be at the forefront of the Commission’s consumer protection program:

1. During November 2004, the Commission convened an E-mail Authentication Summit, co-sponsored by the National Institute of Standards and Technology at the Commerce Department. Since then, the Commission has been encouraging the development of a compatible authentication standard that would provide accountability for email communication.
2. The Commission also explored the consumer protection and privacy implications of Radio Frequency Identification (RFID) at a public forum and subsequently published a staff report recommending that industry initiatives that are transparent could play an important role in addressing privacy concerns raised by certain RFID applications. See *RFID: Radio Frequency Identification: Applications and Implications for Consumers: A Workshop Report From the Staff of the Federal Trade Commission* (March 2005), available at <http://www.ftc.gov/os/2005/03/050308rfidrpt.pdf>. The report also recommended that industry self-regulatory programs should include meaningful accountability provisions to help ensure compliance.
3. The Commission held a 2004 public workshop on spyware—which can surreptitiously install itself on a personal computer and wreak havoc—and released a staff workshop report concluding in part that industry should develop standards for defining spyware and disclosing information about it to consumers, expand efforts to educate consumers about spyware

risks and help law enforcement efforts. See *Spyware Workshop: Monitoring Software On Your Personal Computer: Spyware, Adware, and Other Software Staff Report Federal Trade Commission* (March 2005), available at <http://www.ftc.gov/os/2005/03/050307spywarerpt.pdf>.

4. The Commission has also undertaken efforts to educate consumers about the risks associated with downloading and using peer-to-peer file-sharing software programs. A March 2005 “Cyber Security Tip” warns consumers that use of such technology presents a number of risks, including the installation of malicious code, exposure of sensitive or personal information, susceptibility of the consumer’s computer to attack, and exposure to legal liability. In a June 2005 report, the FTC staff encouraged implementation of industry proposals regarding risk disclosures and will continue to monitor this area. See *Peer-to-Peer File-Sharing Technology: Consumer Protection and Competition Issues Staff Report Federal Trade Commission* (June 2005), available at <http://www.ftc.gov/reports/p2p05/050623p2prpt.pdf>.
5. With respect to the Children’s Online Privacy Protection Act (COPPA), the Commission has approved the safe harbor programs of four organizations whose self-regulatory guidelines and programs protect children’s privacy to the same or greater extent as COPPA. The organizations with these programs include the Children’s Advertising Review Unit of the Council of Better Business Bureaus (CARU), an arm of the advertising industry’s self-regulatory program; the Entertainment Software Rating Board (ESRB); TRUSTe, an Internet privacy seal program; and Privo, Inc.

Additionally, in the entertainment industry, the Commission has encouraged industry groups to improve their self-regulatory programs to discourage the marketing to children of violent R-rated movies, Mature-rated electronic games, and music labeled with a parental advisory. The motion picture, electronic game and music industries have each set in place a self-regulatory system that rates or labels products in an effort to help parents seeking to limit their children’s exposure to violent materials. Since 1999, the Commission has issued five reports on these three industries, examining compliance with their own voluntary marketing guidelines. In 2004,

the Commission issued the latest of a series of reports on industry practices. The Commission's review reveals that the movie and game industries continue to comply, for the most part, with their self-regulatory limits on ad placement, although the Commission found that violent R-rated movies and M-rated games were still being advertised in media with large teen audiences. The recording industry is an example of a less successful self-regulatory attempt. The Commission recommended in its latest report that all three industries continue to improve compliance with existing ad placement guidelines and rating information practices and consider developing 'best practices' to avoid advertising in venues popular with teen audiences. The Commission also noted that there remained room for improvement in retailers' practices because the Commission found that teens could still purchase rated or labeled entertainment products at a significant number of stores and theaters, even though the movie theater industry has made real progress in this area, and to a lesser extent so have game retailers. See Federal Trade Commission, *Marketing Violent Entertainment to Children: A Fourth Follow-Up Review of Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries A Report to Congress* (July 2004), <http://www.ftc.gov/os/2004/07/040708kidsviolencrpt.pdf>. Most recently, the Commission has issued consumer education materials to assist parents in understanding video game ratings.

The Commission also supports the actions of three alcohol industry trade associations, the Distilled Spirits Council of the United States, the Beer Institute, and the Wine Institute, to develop and implement voluntary advertising codes governing the placement and content of alcohol advertising. In particular, the Commission also continues to encourage companies in the alcohol industry to engage in self-regulation to ensure that advertising for products containing alcohol is not directed at underage youths. The Commission has worked and will continue to work with industry to facilitate compliance with the improved self-regulatory standards announced in the FTC's report, Federal Trade Commission, *Alcohol Marketing and Advertising A Report to Congress* (Sept. 2003), available at <http://ftc.gov/os/2003/09/alcohol08report.pdf>.

In addition, in the weight loss product advertising area, the Commission has consistently proposed a strengthened self-regulatory response from the industry and more media responsibility to address the widespread problem of blatantly false efficacy claims. Specifically, the Commission authorized the release of a media reference guide to assist media in identifying facially false weight-loss claims. Federal Trade Commission Staff, *Red Flag: A Reference Guide for Media on Bogus Weight Loss Claim Detection* (2003), available at: <http://www.ftc.gov/bcp/online/pubs/buspubs/redflag.pdf>. The Commission asked the media to refuse to run advertisements that make "Red Flag" claims. The media appears to be responding to this challenge, as shown by a follow-up report that analyzed data gathered during 2004. See *2004 Weight Loss Advertising Survey Staff Report Federal Trade Commission* (April 2005), available at <http://www.ftc.gov/os/2005/04/050411weightlosssurvey04.pdf>. The FTC's survey of weight loss advertisements found that the number of ads with red flag claims had fallen from almost 50% to 15%. In addition, the FTC has supported a joint effort by the Electronic Retailing Association and the Better Business Bureau's National Advertising Review Council to develop a self-regulatory, rapid review process, the Electronic Retailing Self-Regulation Program, that could promptly address deceptive infomercial claims.

In a related area, the Commission and the Department of Health and Human Services (HHS) jointly sponsored a workshop during June 2005 that examined marketing, self-regulation, and childhood obesity (materials are available at <http://www.ftc.gov/bcp/workshops/foodmarketingtokids/>). The workshop brought together a wide range of speakers to examine ways, including self-regulation, to best promote competition among marketers of healthy foods and the dissemination of good information so that consumers can make healthy food choices.

Finally, the Commission continues to apply the Textile Corporate Leniency Policy Statement for minor and inadvertent violations of the Textile or Wool Rules that are self-reported by the company. 67 FR 71566 (Dec. 2, 2002). Generally, the purpose of the Textile Corporate Leniency Policy is to help increase overall compliance with the rules while also minimizing the burden on business of correcting (through

relabeling) inadvertent labeling errors that are not likely to cause injury to consumers. Since the Textile Corporate Leniency Program was announced, 50 companies have been granted "leniency" for self-reported minor violations of FTC textile regulations.

The Commission has also engaged industry in compliance partnerships in at least two areas involving the funeral and franchise industries. Specifically, the Commission's Funeral Rule Offender Program, conducted in partnership with the National Funeral Directors Association, is designed to educate funeral home operators found in violation of the requirements of the Funeral Rule, 16 CFR part 453, so that they can meet the rule's disclosure requirements. Approximately 226 funeral homes have participated in the program since its inception in 1996. In addition, the Commission established the Franchise Rule Alternative Law Enforcement Program in partnership with the International Franchise Association (IFA), a nonprofit organization that represents both franchisors and franchisees. This program is designed to assist franchisors found to have a minor or technical violation of the Franchise Rule, 16 CFR part 436, in complying with the rule. Violations involving fraud or other section 5 violations are not candidates for referral to the program. The IFA teaches the franchisor how to comply with the rule and monitors its business for a period of years. Where appropriate, the program will offer franchisees the opportunity to mediate claims arising from the law violations. Since December 1998, seventeen companies have agreed to participate in the program.

Rulemakings Required by Statute

In 2003, the Congress enacted several laws requiring the Commission to undertake rulemakings and studies. These include at least 25 new rulemakings and eight studies required by the Fair and Accurate Credit Transactions Act of 2003, Pub. L. No. 108-159 (FACTA or the FACT Act); the rulemakings and reports required by the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, Pub. L. No. 108-187 (CAN-Spam Act); and the rulemaking pursuant to the Federal Deposit Insurance Corporation Improvements Act of 1991, Pub. L. 102-242. These rulemakings are proceeding according to schedule and are detailed more extensively in the Unified Agenda. The Final Actions section below describes any final actions taken on these rulemakings.

On August 8, 2005, the President signed the Energy Policy Act of 2005, which requires the Commission to complete two rulemakings while authorizing other discretionary rulemaking actions. Pursuant to this statute the Commission is required to initiate a rulemaking within 90 days of enactment examining the effectiveness of the energy efficiency related consumer product labeling program. Further, the Commission is required to complete this rulemaking within two years of enactment. The statute also requires the Commission to issue labeling requirements for ceiling fans concerning the electricity used by the fans to circulate air in a room. The statute also amends the statutory definitions of some covered lighting products that may require the Commission to make conforming amendments to the current rule. The statute also authorizes the Commission or the Secretary of the Department of Energy (DOE), as appropriate, to require labels for a number of products. The Commission and DOE are consulting about how to proceed in this area. Another section of the Act gives the Commission discretionary authority to issue retail electricity rules related to slamming (unauthorized account switches), cramming (unauthorized charges), and privacy.

Other New Regulatory Activities

After issuing a staff advisory opinion indicating that the Commission's current Guides for Jewelry, Precious Metals and Pewter Industries, 16 CFR part 23, did not address descriptions of new platinum alloy products, the Commission issued a Request for Public Comments on whether the platinum section of the Guides for Jewelry, Precious Metals and Pewter Industries should be amended to provide guidance on how to non-deceptively mark or describe products containing between 500 and 850 parts per thousand pure platinum and no other platinum group metals. 70 FR 38834 (July 6, 2005). The comment period closed on October 12, 2005.

Ten-Year Review Program

In 1992, the Commission implemented a program to review its rules and guides regularly. The Commission's review program is patterned after provisions in the Regulatory Flexibility Act, 5 USC 601-612. Under the Commission's program, however, rules have been reviewed on a ten-year schedule as resources permit. For many rules this has resulted in more frequent reviews than is generally required by section 610 of the

Regulatory Flexibility Act. This program is also broader than the review contemplated under the Regulatory Flexibility Act, in that it provides the Commission with an ongoing systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize any adverse economic effects, not just a "significant economic impact upon a substantial number of small entities." 5 USC 610. The program's goal is to ensure that all of the Commission's rules and guides remain beneficial and in the public interest. It complies with the Small Business Regulatory Enforcement Act of 1996, Pub. L. 104-121. This program is consistent with the Administration's "smart" regulation agenda to streamline regulations and reporting requirements and Section 5(a) of Executive Order 12866, 58 FR 51735 (Sept. 30, 1993).

As part of its continuing ten-year plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews often lead to the revision or rescission of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary nor in the public interest. As a result of the review program, the Commission has repealed 48 percent of its trade regulation rules and 57 percent of its guides since 1992.

Calendar Year 2005 Reviews

All of the matters currently under review pertain to consumer protection and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions. During early 2005, the Commission announced its ten-year schedule of review and that it would initiate the review of two rules during 2005: (1) the Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets Rule (the Picture Tube Rule), 16 CFR part 410, and (2) the Children's Online Privacy Protection Rule (COPPA Rule), 16 CFR part 312. 70 FR 2074 (Jan. 12, 2005). On April 7, 2005, the Commission requested comments on the applicability and use of the Picture Tube Rule, particularly in light of an array of new types of televisions now available to consumers. 70 FR 17623. The notice asked nine specific questions about the rule that the public may wish

to address. The comment period ended on June 6, 2005, and staff plans to forward its recommendation to the Commission in late 2005. A regulatory review of the COPPA rule was also required by the COPPA statute within five years after the rule became effective. On Apr. 22, 2005, the Commission requested comments about the implementation of the COPPA Rule. 70 FR 21107. The comment period ended on June 27, 2005, and staff plans to forward recommendations to the Commission by the end of 2005.

Ongoing Reviews

It is expected that during 2006, the Commission will issue separate notices requesting comments both on the Statement of General Policy or Interpretations under the Fair Credit Reporting Act (also known as FCRA Commentary) and for the Guides Concerning the Use of Endorsements and Testimonials in Advertising. Other reviews are continuing.

First, for the Telemarketing Sales Rule (TSR), 16 CFR part 310, the Commission published an NPRM on November 17, 2004, proposing to permit prerecorded message telemarketing when there is an established business relationship between the caller and a consumer as long as a consumer has the opportunity to make a do not call request at the outset of the message. At the same time, and in response to a request for reconsideration on the FTC's calculation of call abandonment rates on a daily basis, the NPRM also requested comments and factual information supporting a requested switch from the current policy of measuring the 3% abandoned call ratio from a per day calculation to an average of calls abandoned over a 30-day period. The NPRM also stated that, pending completion of the rulemaking, the FTC would not enforce the TSR's current call abandonment provisions against callers who engage in prerecorded message telemarketing when there is an established business relationship provided they comply with the proposed requirements. The comment period closed on January 10, 2005, and staff anticipates forwarding its recommendation to the Commission by October 2005.

Second, in the review of the Franchise Rule, 16 CFR part 436, the Commission announced on August 25, 2004, the issuance of a staff report, *Disclosure Requirements and Prohibitions Concerning Franchising*, which summarizes the rulemaking record to date, analyzes the various alternatives, and sets forth the staff's

recommendations to the Commission on the various proposed amendments to the Franchise Rule, 69 FR 53661 (Sept. 2, 2004). The Commission did not review or approve the staff report. Among other things, staff proposes that the Commission retain the Franchise Rule while updating it to account for new technologies and to provide prospective franchisees with more disclosure about the nature of the franchise relationship, while minimizing the discrepancies between Federal and State law. Public comments were accepted until November 12, 2004. Staff is reviewing the comments and anticipates sending its recommendation to the Commission by the end of 2005.

Third, for the Hart-Scott-Rodino Premerger Notification Rules (HSR Rules), Bureau of Competition staff anticipates forwarding a recommendation to the Commission by the end of 2005 to update the base year used in Item 5 of the Premerger Notification Form Response from 1997 to 2002. In addition, the Commission published an NPRM proposing to amend 16 CFR part 803 of the HSR Rules to address the issue of stale filings and to permit filing parties to provide Internet links to certain documents in lieu of paper copies. 70 FR 47733 (Aug. 15, 2005).

Fourth, for the rulemaking on Privacy of Consumer Financial Information, 16 CFR part 313, the Commission and banking agencies published an ANPRM and requested public comments on a variety of subjects including the goals, language, and mandatory or permissible aspects of privacy notices. 68 FR 75164 (Dec. 30, 2003). Since the issuance of rules in 2000 in accordance with the Gramm-Leach-Bliley Act, 15 USC 6801 et seq., which requires that financial institutions provide notice of their privacy policies to their customers, the agencies have been trying to develop more useful privacy notices to consumers. The comment period for the ANPRM ended on March 26, 2004. Staff for the agencies are reviewing comments and continuing to work together to determine the next steps.

Fifth, the Commission's review of the Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986 (Smokeless Regulations), 16 CFR part 307, is ongoing. The Smokeless Regulations govern the format and display of statutorily-mandated health warnings on all packages and advertisements for smokeless tobacco. In fiscal year 2000, the Commission undertook its periodic review of the Smokeless Regulations to

determine whether the Regulations continue to effectively meet the goals of the Act and to seek information concerning the Regulations' economic impact in order to decide whether they should be amended. Staff is currently assessing the public comments and anticipates forwarding its recommendations to the Commission in 2006.

Sixth, the Commission began its regulatory review of certain aspects of the Funeral Industry Practices Rule (Funeral Rule), 16 CFR part 453, in 1999. The Funeral Rule, which became effective in 1984, and was amended in 1994, requires providers of funeral goods and services to give consumers itemized lists of funeral goods and services that state prices and descriptions and also contain specific disclosures. The rule enables consumers to select and purchase only the goods and services they want, except for those that may be required by law and a basic services fee. Also, funeral providers must seek authorization before performing some services, such as embalming. In addition to an assessment of the rule's overall costs and benefits and continuing need for the rule, the review will examine whether changes in the funeral industry warrant broadening the scope of the rule to include non-traditional providers of funeral goods or services and revising or clarifying certain prohibitions in the rule. See 64 FR 24250 (May 5, 1999). A public workshop conference was subsequently held to explore issues raised in the comments submitted. Staff expects to forward its recommendation to the Commission by the end of 2005.

Finally, the Commission's review of the Pay-Per-Call Rule, 16 CFR part 308, is continuing. The Commission has held workshops to discuss proposed amendments to this rule, including provisions to combat telephone bill "cramming"—inserting unauthorized charges on consumers' phone bills—and other abuses in the sale of products and services that are billed to the telephone including voicemail, 900-number services, and other telephone based information and entertainment services. The most recent workshop focused on discussions of the use of 800 and other toll-free numbers to offer pay-per-call services, the scope of the rule, the dispute resolution process, the requirements for a pre-subscription agreement, and the need for obtaining express authorization from consumers before placing charges on their telephone bills. Staff anticipates

forwarding its recommendation to the Commission by early 2006.

Final Actions

First, since publication of the 2004 Regulatory Plan, the Commission has taken final actions on several rulemakings. For the Children's Online Privacy Protection Rule (COPPA Rule), 16 CFR part 312, the Commission issued a final rule, 70 FR 21104, effective April 21, 2005, extending a previously published temporary e-mail verification provision until the conclusion of the Commission's rule review. That provision allows operators of websites and online services that collect personal information from children only for internal use to obtain verifiable parental consent via e-mail plus an additional step to verify that the person consenting is the child's parent.

Second, the Commission is actively issuing rules required to implement the Fair and Accurate Credit Transactions Act (FACTA or Fact Act). These rulemakings are sometimes conducted in conjunction with other federal financial regulatory agencies.

1. The Commission issued final model notices on November 30, 2004, 69 FR 69776, summarizing consumers' identity theft rights and mounting a public education campaign regarding consumers' new identity theft rights.
2. The Commission published a Final Fraud Alerts Rule on November 3, 2004. 69 FR 63922. This rule defines certain terms that are relevant to consumers' new identity theft rights including: "identity theft" and "identity theft report"; the duration of an "active duty alert"; and the "appropriate proof of identity" for purposes of sections 605A (fraud alerts and active duty alerts), 605B (consumer report information blocks), and 609(a)(1) (truncation of Social Security numbers) of the FCRA, as amended by the FACT Act.
3. The Commission, in consultation with the banking agencies and the NCUA, published a final rule on January 31, 2005, that enhances notices to consumers about their right to opt out of prescreened solicitations. 70 FR 5022.
4. The Commission, in coordination with the banking agencies, NCUA, and the SEC, also issued a rule concerning the proper disposal of credit report information and records. 69 FR 68690 (Nov. 24, 2004). The Disposal Rule was effective on June 1, 2005.

5. On April 27, 2005, the Commission, in consultation with the Federal banking agencies and NCUA, issued notice of its publication of guidance *Take Charge: Fighting Back Against Identity Theft*, which is available at www.consumer.gov/idtheft or by writing to FTC, Consumer Response Center, Room 130-B, 600 Pennsylvania Avenue, NW, Washington, DC 20580. This document contains model forms and describes procedures that identity theft victims may use for contacting and informing creditors and consumer reporting agencies of the fraud.

Third, for the rulemaking implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act (the CAN-SPAM Act), the Commission announced the final rule defining the relevant criteria to facilitate the determination of the primary purpose of an electronic message on December 16, 2004, which was published in the Federal Register on Jan. 19, 2005, 70 FR 3110. The rule became effective on March 28, 2005.

Fourth, for the HSR Rules, the Commission issued a Final Rule to reconcile, as far as practical, the current disparate treatment of corporations, partnerships, limited liability companies, and other types of non-corporate entities under the rules. See 70 FR 11502 (Mar. 8, 2005). Among other things, the amendments addressed acquisitions of interests in unincorporated entities; formations of unincorporated entities; and the application of certain exemptions, including the intraperson exemption.

Fifth, the Commission issued amendments to the R-Value Rule for home insulation, 16 CFR part 460, requiring disclosures that will make it easier to ensure that the correct amount of loose-fill insulation is installed in homes; update the required tests for some insulation products; delete disclosures for insulation products no longer sold; and eliminate duplicative disclosure requirements for sellers of do-it-yourself home insulation. 70 FR 31258 (May 31, 2005). The amendments will become effective on Nov. 28, 2005.

Finally, with respect to the TSR Rules, the Commission also published an NPRM concerning a revised fee structure for the National Do-Not-Call Registry on April 22, 2005. 70 FR 20848. The comment period ended on June 1, 2005. The Commission published final fee changes for the National Do-Not-Call Registry on July 27, 2005, with an effective date of September 1, 2005. 70 FR 43273.

Summary

In both content and process, the FTC's ongoing and proposed regulatory actions are consistent with the President's priorities. The actions under consideration inform and protect consumers and reduce the regulatory burdens on businesses. The Commission will continue working toward these goals. The Commission's ten-year review program is patterned after provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's ten-year program also is consistent with section 5(a) of Executive Order 12866, 58 FR 51735 (Sept. 30, 1993), which directs executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations. In addition, the final rules issued by the Commission continue to be consistent with the President's Statement of Regulatory Philosophy and Principles, Executive Order 12866, section 1(a), which directs agencies to promulgate only such regulations as are, *inter alia*, required by law or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public.

As set forth in Executive Order 12866, the Commission continues to identify and weigh the costs and benefits of proposed actions and possible alternative actions, and to receive the broadest practicable array of comment from affected consumers, businesses, and the public at large. As stated above, since 1992 the Commission has repealed 48 percent of its trade regulation rules and 57 percent of its industry guides

that existed in 1992 because they had ceased to serve a useful purpose. In sum, the Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of "private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people." Executive Order 12866, section 1.

Rulemakings that Respond to Public Regulatory Reform Nominations

During March 2002, OMB requested public nominations for regulatory reforms. The Office of Information and Regulatory Affairs (OIRA) conducted a preliminary review of the public comments received and found five FTC activities that one or more commenters had nominated for reform. In a March 7, 2003 letter, the FTC responded that the agency systematically reviews all regulations and guides on a ten-year basis and explained how the agency had already reviewed or was about to review the activity at issue or why some of the other activities were not good candidates for reform as contemplated by the Smarter Regulations Report. In 2004, OIRA requested recommendations for reform in the manufacturing sector. OIRA received two nominations for FTC action but determined not to include them in the Report to Congress on agency responses to reform nominations in the manufacturing sector.¹

II. REGULATORY ACTIONS

The Commission does not plan to propose any rules that would be a "significant regulatory action" under the definition in Executive Order 12866.

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¹ The two nominations were: 1) a comment concerning the DOE and FTC requirements for reporting water usage (the FTC's response indicated that the agencies have accepted the requested data based on third party reports since 1993); and 2) a comment that the DOE, FTC and EPA should work with industry to streamline duplicative energy labels (the FTC's response noted that since 2000, where appropriate, manufacturers have been allowed to place the Energy Star logo on EnergyGuide Labels and noted that the two labels provide different information to the consumer).