

**PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION**

**The FTC in FY2013:
Protecting Consumers and Competition**

Before the

**HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT
U.S. HOUSE OF REPRESENTATIVES**

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I. Introduction

Chairman Emerson, Ranking Member Serrano, and Members of the Subcommittee: the Federal Trade Commission is pleased to testify on our work and our FY2013 appropriations request.¹ As you know, the FTC has broad jurisdiction over major sectors of the economy. Primarily a law enforcement agency, the FTC investigates and prosecutes those engaging in unfair or deceptive acts or practices or unfair methods of competition, and, when possible, collects money to return to consumers. The FTC also educates consumers and businesses, advances policy through research and public conferences, and works with foreign counterparts to harmonize competition and consumer protection law across the globe.

The FTC remains mindful of executing its mission to protect consumers and competition in ways that are efficient and do not impose undue burdens on businesses. We have continued to do this by working cooperatively with public and private groups;² streamlining our adjudicative process;³ and regularly reviewing and updating regulations.⁴

This testimony provides a short overview of the FTC's continued work in areas of critical importance to American consumers: protecting those made vulnerable by the economic downturn, privacy, health care, high technology, and energy. It then summarizes the FTC's FY2013 appropriations request of \$300,000,000 and 1,186 FTE.⁵ This is an overall decrease of \$11,563,000 below the FTC's FY 2012 enacted appropriation.

II. Continued Priorities for the Commission

A. Protecting Financially Vulnerable Consumers

The Commission has continued its focus on consumers hardest hit by the economic downturn. Since 2009, the FTC has brought more than 90 cases against con artists who make false promises relating to services such as mortgage modifications or debt relief. In coordination

with state Attorneys General and our federal partners, we have participated in law enforcement sweeps resulting in more than 400 additional actions.⁶

The FTC continues to target operations that falsely claim that, for an upfront fee, they will stop foreclosures or obtain mortgage modifications.⁷ Inflated mortgage servicing fees has been another active issue for the Commission. Last year, through a settlement with Countrywide (now Bank of America), we mailed out checks worth nearly \$108 million to 450,000 homeowners, or more than one percent of all United States mortgage holders.⁸

Since 2010, the FTC has filed seven actions and obtained more than \$8.1 million in civil penalties as part of its program to combat illegal debt collection practices. The FTC has challenged the most egregious tactics, and brought an immediate halt to an operation charged with making threats that consumers would be arrested or harmed – or that their pets would be killed and the bodies of their dead relatives desecrated – if they didn't pay up.⁹ In another example of cases the FTC has brought to protect vulnerable consumers, the FTC sued the marketers of prepaid phone cards targeted at immigrants. The FTC alleged that the cards deceptively touted large amounts of talk time, when hidden fees could exhaust the cards in one short call.¹⁰

B. Privacy

Consumer privacy remains at the top of the FTC's agenda. The agency has brought more than 100 spam and spyware cases and over 30 data security cases, and has exceeded 200 million phone number registrations on the Do Not Call Registry.

The FTC recently proposed a settlement with Facebook to resolve charges that the company deceived its users about the privacy of their information.¹¹ The proposed settlement would require Facebook to take specific steps to protect privacy, including abiding by its privacy

promises, and giving consumers clear and prominent notice and obtaining their express consent before sharing their information beyond existing privacy settings. Under the proposed settlement, Facebook would submit to independent privacy audits every other year.

The relief in the proposed Facebook settlement is similar to that in an earlier settlement with Google.¹² The FTC alleged that Google used deceptive tactics and violated its own privacy promises when it launched its Google Buzz social network by using information users provided for Gmail for another purpose – social networking – without obtaining advance permission. The FTC also resolved charges against Twitter that lax data security allowed hackers to obtain administrative control of the system, giving them access to non-public user information and tweets that consumers had designated private, and enabling them to send out phony tweets from any account.¹³

On the privacy policy front, the FTC released a preliminary staff report to inform Congress and other policymakers as they consider proposals governing privacy, as well as to guide and motivate industry as it develops best practices and self-regulatory guidelines. A final report should be completed shortly.¹⁴ Also, we recently proposed amendments to the FTC's Children's Online Privacy Protection Rule that are intended to ensure that the Rule continues to protect children's privacy, even as online technology evolves.¹⁵

C. Health Care

Protecting consumers of health care products and services is a high priority for the FTC. Health care expenditures are already nearly 18 percent of GDP and rising faster than the rate of inflation, imposing an increasing burden on families, employers, and governments.¹⁶ The FTC is pushing back against this trend and addressing undue costs that can result from anticompetitive behavior or conduct that is deceptive or unfair.

A number of recent merger enforcement actions have involved companies in health care markets: hospitals, dialysis centers, pharmaceutical manufacturers, and pharmacies. In particular, while allowing procompetitive mergers to proceed, the FTC has redoubled its efforts to prevent hospital mergers that may leave insufficient local options for in-patient hospital services.¹⁷

With prescription drug prices rising faster than other healthcare costs, the FTC continues to review mergers between pharmaceutical manufacturers. In the past year, the Commission required divestitures to remedy competitive concerns in six proposed mergers between drug makers.¹⁸

A top FTC competition priority is to restrict anticompetitive “pay-for-delay” settlement agreements. These are settlements of patent litigation in which a branded pharmaceutical manufacturer pays the generic to keep its competing product off the market for a certain period of time. For more than a decade, the FTC has challenged anticompetitive pay-for-delay deals in court. Despite our efforts, beginning in 2005 some courts, we believe incorrectly, have upheld these agreements, and they now have become commonplace – a troubling development. The FTC will continue its efforts in court, but supports a legislative solution as a quicker way to stop the practice and provide savings on prescription drugs to consumers, employers, and governments.¹⁹

The Patient Protection and Affordable Care Act encourages physicians, hospitals, and other providers to become accountable for a patient population through integrated health care delivery systems, such as Accountable Care Organizations (ACOs). But as these integrated groups begin to act in the commercial market, they could potentially gain market power and reduce competition. The FTC has worked with the Department of Justice and other agencies –

most notably the Centers for Medicare and Medicaid Services – to provide guidance to healthcare providers interested in forming collaborations such as ACOs without running afoul of the antitrust laws.²⁰

The FTC also focuses on a wide range of deceptive health care- and health-related claims. We have cracked down on scammers who take advantage of consumers by deceptively marketing “medical discount plans” as insurance, participating in a coordinated sweep with Attorneys General and Insurance Commissioners in 24 states to bring a total of 54 enforcement actions.²¹ The FTC also has sued national advertisers that allegedly made unsubstantiated health-related claims. For example, Reebok paid \$25 million to resolve FTC charges that it deceptively claimed its “toning shoes” would tone and strengthen leg and buttock muscles.²² In addition, NBTY, Inc. paid \$2.1 million to settle FTC allegations that it made false and unsupported claims that its Disney and Marvel Heroes line of children’s multivitamins contained a significant amount of DHA (an Omega-3 fatty acid) and promoted healthy brain and eye development in children.²³

D. Technology

Evolving technology brings tremendous benefits to consumers, but it also poses challenges on both the competition and consumer protection fronts.

In recent years, the FTC has investigated potentially anticompetitive conduct by dominant firms in certain high-profile, high-tech industries. The Commission has taken a balanced approach in these fast-paced markets. For instance, the FTC reached a consent agreement with Intel Corporation that prohibited certain types of “exclusive dealing” agreements that effectively punished customers wanting to use or distribute competing products.²⁴ Yet in an equally important high-tech matter, the Commission decided to close its investigation of the

Google/AdMob merger.²⁵ There, near the conclusion of a thorough investigation, the Commission evaluated “late breaking news” that Apple was poised to challenge Google in the future in the mobile advertising space. Taking account of the dynamic competition in the market, the Commission determined that future competition in mobile advertising was not likely to be harmed by the merger.

The FTC continues to root out deception and fraud on the Internet. For example, the FTC has halted the operations of two far-reaching Internet enterprises that allegedly caused more than \$767 million in consumer injury. These defendants lured consumers to sign up for “free” offers of “trial” memberships, and then repeatedly charged them unauthorized monthly fees.²⁶

The FTC’s National Do Not Call Registry now includes over 209 million active phone numbers. To ensure the Registry’s effectiveness, the FTC has filed 82 lawsuits against 226 companies and 182 individuals since its inception. These cases have resulted in payment of more than \$41 million in civil penalties and more than \$23 million in equitable monetary relief. Technological advances, however, have made it more difficult for consumers and law enforcement to identify the source of illegal calls, reduced the cost of making them, and made it easier for wrongdoers to call from overseas. The FTC is tackling these new challenges and has aggressively enforced its Do Not Call rules. For example, in December 2011, the FTC charged a telemarketing operation with illegally making prerecorded calls to phone numbers on the National Do Not Call Registry and using generic Caller ID names, such as “CARD SERVICES,” “CREDIT SERVICES,” and “PRIVATE OFFICE.”²⁷ The FTC also halted a major robo-calling operation using spoofed Caller ID names that allegedly made more than 2.6 billion illegal and deceptive prerecorded calls, pitching such things as worthless extended auto warranties and credit card interest-rate reduction programs.²⁸

Mobile technology is another area in which the FTC is actively engaged. The Commission brought its first case involving a mobile application (app) last summer, alleging that the developer of apps directed to children unlawfully collected and maintained thousands of email addresses from users without notifying parents of their information collection practices and without obtaining verifiable parental consent.²⁹ The FTC also sent letters to the marketers of six apps advising them of the laws protecting the privacy and accuracy of consumer information used for purposes of employment, credit, and insurance.³⁰

In addition to enforcement work on mobile technology, the FTC will convene a workshop in April 2012 to examine the consumer protection issues raised by the use and impact of mobile payments. The FTC also issued a staff report that examined, and found wanting, the information available to parents prior to downloading mobile apps for their children in Google's Android Market and Apple's iTunes App Store.³¹ The report calls on all members of the kids apps ecosystem to provide greater transparency about their data practices, and we will work collaboratively with industry to ensure that parents have the information they need to protect their children's privacy.

E. Energy

Given the impact of energy prices on consumer budgets, the energy sector continues to be a major focus of FTC rulemaking,³² law enforcement³³, and study. In November 2009, the FTC's Petroleum Market Manipulation Rule became final.³⁴ Our staff continues to examine all communications from the public about potential violations of this Rule, which prohibits manipulation in wholesale markets for crude oil, gasoline, and petroleum distillates. Recently, the FTC announced that it is using compulsory process to determine, among other things, whether firms at various stages of the oil industry are engaging in anticompetitive or

manipulative conduct. Other activities complement these efforts, including merger enforcement and an agreement with the Commodity Futures Trading Commission to share investigative information.

III. Resources

The FTC's mission to protect consumers and promote competitive markets is critical to the health and vibrancy of the recovering national economy. Through its law enforcement work, the agency collects money that either goes back into the pockets of wronged consumers or into the U.S. Treasury. In FY 2011 – excluding the future savings to consumers realized by preventing anticompetitive conduct and deceptive practices – the FTC distributed more than \$116 million in redress to consumers, and returned nearly \$142 million to the U.S. Treasury in fee collections, redress, disgorgement, and fines. In sum, the FTC either disbursed to consumers or credited to the U.S. Treasury \$258 million – nearly 90 percent of the FY 2011 appropriation, a tremendous return on the taxpayers' investment.

The FTC's budget request for FY 2013 is \$300 million and 1,186 FTE and represents an overall decrease of close to \$12 million below the FTC's FY 2012 enacted appropriation.³⁵ This submission assumes that total offsetting collections from HSR filing fees and Do Not Call fees will provide the FTC with a total of \$136.5 million in FY 2013.

The FTC's Fiscal Year 2013 Congressional Budget Justification provides detailed information on the agency's budget request. Highlights include a decrease of \$25.5 million related to the replacement of satellite space at 601 New Jersey Avenue (lease expiring in August 2012), and increases: of \$7 million for mandatory pay adjustments and higher expenses due to inflation; \$5 million to initiate technology improvements to mission-critical data and electronic document systems; \$0.5 million to support increased consumer demand for the National Do Not

Call Registry, the FTC's Consumer Response Center, and consumer complaint databases; and \$1.5 million to support 10 FTE, primarily to protect consumers who are the targets of fraud and in connection with emerging technologies, and to investigate and litigate merger cases raising competitive concerns in the health care, pharmaceutical, and high technology sectors.

IV. Conclusion

The FTC appreciates the opportunity to appear before this Committee, and we would be happy to answer any questions the Members have about our mission, our activities, and the use of our resources.

¹ The views expressed in this statement represent the views of the Commission. Our oral statements and responses to questions you may have are our own and are not necessarily those of the Commission or any other Commissioner.

² To the greatest extent possible, the agency works cooperatively with other enforcers to leverage our resources and eliminate duplication. Of particular importance, we share our database of consumer complaints with over 2,000 other federal, state, and international law enforcement agencies. We also work with other government agencies to collectively deploy resources and to eliminate duplication. Recently, we entered into a Memorandum of Understanding with the Consumer Financial Protection Bureau to ensure that the agencies' work is complementary and that businesses receive consistent guidance and are not "double teamed" by two agencies. We also meet regularly with business groups, consumer advocates, and academics to stay abreast of developments, and frequently hold public workshops on topics ranging from the privacy implications of facial recognition software, to preventing patent "hold-ups" in standards setting, to children's identity theft.

³ For example, revisions to our internal rules hold respondents, complaint counsel, the administrative law judge, and the Commission to aggressive timelines for discovery, motions practice, trial, and adjudication.

⁴ The FTC has long had a practice of systematically reviewing all of our rules and guides on a 10-year cycle to ensure that they are up to date, effective, and not overly burdensome. Last year, to promote public engagement in our regulatory review program, the Commission created a webpage that serves as a one-stop shop for the public to obtain information and provide comments on individual rules and guides under review, as well as the FTC's regulatory review program more generally. *See* <http://www.ftc.gov/ftc/regreview/index.shtml>.

⁵ Commissioner Rosch has dissented from the appropriations requested for the FTC. His dissent does not mean that he is less committed than his colleagues to the agency's consumer protection or competition missions. However, his dissent does mean that in these austere times we should do more to perform those missions with fewer resources. This is not a new view for him. He publicly fought against the creation of the CFPB as unnecessary bureaucracy layered on top of the Commission's already considerable law enforcement efforts. He also opposed House Transportation and Infrastructure Committee Chairman

Mica's determination to give the agency's headquarters building to the National Gallery of Art on the ground that that would be contrary to the public interest. Similarly, during these hard times, Commissioner Rosch opposes using any appropriated funds to establish a new Miami office for the Commission (however worthwhile that project may be), especially since the Department of Justice's Antitrust Division is moving in the opposite direction and has proposed to close some of its Regional Offices. For the same reason, Commissioner Rosch also opposes requesting any other additional appropriated funds over and above those essential to moving the staff out of 601 New Jersey Avenue when the lease on that building expires.

⁶ Commissioner Rosch either has abstained from, or has voted against the issuance of complaints in some cases. His votes do not reflect a lack of prosecutorial zeal. To the contrary, his view is that "con artists" should be criminally prosecuted. His votes instead reflect the fact that the agency lacks criminal authority and that under Section 5 of the FTC Act (the agency's basic statute), the Commission is only authorized to issue a complaint when such a challenge would be "in the interest of the public." He does not believe, absent exceptional circumstances, that complaints and consent decrees unlikely to yield any money for consumer redress are "in the interest of the public."

⁷ See, e.g., *FTC v. First Universal Lending, LLC*, No. 09-82322 (S.D. Fla. May 25, 2011) (stipulated judgment and order). In this typical case, the FTC alleged that the defendants encouraged homeowners to stop making mortgage payments, telling them lenders would not negotiate unless they were at least a few months behind in their payments. After charging consumers up to \$7,000 in up-front fees, the company often did little or nothing to help them. A federal court issued a stipulated order banning the defendants from the mortgage modification business and ordering them to pay nearly \$19 million for redress. In another case, the FTC obtained a \$5 million judgment against two entities that targeted Spanish-speaking consumers by charging up-front fees but failing to live up to their promises of a loan modification, which led many consumers to lose their homes. *FTC v. Dinamica Financiera LLC*, No. CV 09-03554 MMM PJWx (C.D. Cal Aug. 19, 2010) (final judgment and order).

⁸ *FTC v. Countrywide Home Loans, Inc.*, No. CV-10-4193-JFW-SS (C.D. Cal. June 15, 2010) (stipulated judgment and order). In addition, last month, Bank of America agreed to reverse or refund an additional \$36 million in fees to consumers to settle allegations that it continued to illegally assess fees for default-related services in violation of the FTC's order.

⁹ *FTC v. Forensic Case Mgmt. Servs.*, No. LACV-11-7484 RGK Ssx (C.D. Cal. Sept. 27, 2011) (preliminary injunction and order). We also focus on more mainstream debt collectors that violate the law. West Asset Management Inc., for example, agreed to pay a civil penalty of \$2.8 million – the largest civil penalty obtained by the FTC in a debt collection case – to settle charges that it engaged in a host of unlawful debt collection practices. *United States v. West Asset Mgmt., Inc.*, No. 1:11-cv-0746-ODE (N.D. Ga. Mar. 14, 2011) (stipulated judgment and order).

¹⁰ *FTC v. Millennium Telecard, Inc.*, No. 11-02479-JLL (D.N.J. Jan. 26, 2012). The stipulated order resolving the case requires the defendants to pay \$2.3 million, provides detailed standards to ensure fee disclosures are clear and prominent, and requires the defendants to monitor how retailers market the cards

¹¹ *Facebook, Inc.*, FTC File No. 092-3184 (Nov. 29, 2011) (consent agreement accepted for public comment).

¹² *Google, Inc.*, Dkt. No. C-4336 (Oct. 13, 2011) (consent order).

¹³ *Twitter, Inc.*, Dkt. No. C-4316 (Mar. 2, 2011) (consent order).

¹⁴ Commissioner Rosch voted for the issuance of the staff's preliminary privacy report in order to solicit and review public comment on the proposed new framework for how companies should protect consumers' privacy, but explained separately, then and subsequently, his serious reservations about the proposals advanced in the preliminary report. Among other things, Commissioner Rosch is concerned that to the extent that the new framework is based upon an "unfairness" model as opposed to a "deception" model, it exceeds how the Commission had defined "unfairness" in its commitment to Congress on that subject. He also remains concerned that the various Do Not Track mechanisms are not yet reliable from a technological standpoint, and continues to question the supposed consumer demand for such mechanisms.

¹⁵ *FTC Seeks Comment on Proposed Revisions to Children's Online Privacy Protection Rule*, News Release (Sept. 15, 2011), available at <http://www.ftc.gov/opa/2011/09/coppa.shtm>.

¹⁶ Centers for Medicare and Medicaid Services, HHS, National Health Expenditure Fact Sheet, available at <http://www.cms.gov/NationalHealthExpendData/downloads/tables.pdf>; Bureau of Labor Statistics, Consumer Price Index Summary January 2012, available at <http://www.bls.gov/news.release/cpi.nr0.htm>.

¹⁷ In the late 1990s, the FTC lost several challenges to hospital mergers, after which FTC economists undertook a hospital merger retrospective to study consummated hospital mergers to determine whether particular ones resulted in higher prices or affected quality. This effort led to the FTC's administrative challenge to the consummated merger of two Chicago-area hospitals, in which a unanimous Commission found that the merger had resulted in dramatically higher prices for acute inpatient hospital services in the Evanston area. Since that decision, the FTC has successfully stopped an allegedly anticompetitive hospital merger in Northern Virginia, obtained a preliminary injunction in the Northern District of Ohio against another hospital merger, and now has three hospital merger cases pending in administrative litigation. For a complete list of FTC enforcement actions relating to health care, see FTC Antitrust Actions in Health Care Services and Products, available at <http://www.ftc.gov/bc/healthcare/antitrust/hcupdate.pdf>.

¹⁸ *Hikma Pharms. and Baxter Int'l*, Dkt. No. C-4320 (consent order), available at <http://www.ftc.gov/os/caselist/1110051/index.shtm>; *Grifols and Talecris Biotherapeutics Holdings Corp.*, Dkt. No. C-4322 (consent order), available at <http://www.ftc.gov/os/caselist/1010153/index.shtm>; *Perrigo Co. and Paddock Labs., Inc.*, Dkt. No. C-4329 (consent order), available at <http://www.ftc.gov/os/caselist/1110083/index.shtm>; *Teva Pharms., Inc. and Cephalon*, Dkt. No. C-4335 (consent order), available at <http://www.ftc.gov/os/caselist/1110166/index.shtm>; *Valeant Pharms. Int'l, Inc. and Sanofi*, Dkt. No. C-4342 (consent order), available at <http://www.ftc.gov/os/caselist/1110215/index.shtm>; *Valeant Pharms. Int'l, Inc. and Johnson & Johnson*, Dkt. No. C-4343 (consent order), available at <http://www.ftc.gov/os/caselist/1110216/index.shtm>. In addition to addressing mergers of drug makers, the FTC recently issued a complaint (by a vote of 3-1) to block Omnicare, Inc.'s hostile acquisition of rival long-term care pharmacy provider PharMerica Corporation, alleging that the combination of the two largest U.S. long-term care pharmacies would harm competition and enable Omnicare to raise the price of drugs for Medicare Part D consumers and others. The FTC charged that the deal would significantly increase Omnicare's already substantial bargaining leverage by dramatically increasing the number of skilled nursing facilities that receive long-term care pharmacy services from the company. Following the FTC challenge, OmniCare allowed its tender offer to expire.

¹⁹ Commissioner Rosch has supported shifting the burden of production to the settling parties to justify their settlement.

²⁰ *Statement of Antitrust Enforcement Policy Regarding Accountable Care Organizations Participating in the Medicare Shared Savings Program*, Federal Trade Commission and Department of Justice (Oct. 20, 2011), available at <http://www.ftc.gov/os/fedreg/2011/10/111020aco.pdf>.

²¹ In one case, the FTC alleged that United States Benefits, LLC claimed it was offering comprehensive health insurance in exchange for monthly payments from \$300 to \$1,300. The FTC charged that consumers ended up not with health insurance, but with “benefits association” memberships that provided discounts worth little or nothing. A stipulated order bans the company from promoting any health care-related benefits or discount programs, and requires them to turn over assets worth approximately \$1 million. *FTC v. United Health Benefits, LLC*, No. 3:10-0733 (M.D. Tenn. Sept. 26, 2011) (stipulated final order). To help protect consumers looking for health insurance, the FTC also has developed resources to alert consumers about medical discount scams, including a website, video, and a flyer, available at www.ftc.gov/medicalldiscountscams.

²² *FTC v. Reebok Int’l, Ltd.*, No. 1:11-cv-02046-DCN (N.D. Ohio Sept. 29, 2011) (stipulated final order). The \$25 million paid by Reebok will be returned to consumers who purchased the toning shoes.

²³ *NBTY, Inc.*, Dkt. No. C-4318 (Mar. 22, 2011) (consent order).

²⁴ *FTC Settles Charges of Anticompetitive Conduct Against Intel*, News Release (Aug. 4, 2010), available at <http://www.ftc.gov/opa/2010/08/intel.shtm>.

²⁵ See *FTC Closes its Investigation of Google AdMob Deal*, News Release (May 21, 2010), available at <http://www.ftc.gov/opa/2010/05/ggladmob.shtm>.

²⁶ *FTC v. Willms*, No. C11-828 MJP (W.D. Wash. Sept. 12, 2011) (preliminary injunction order); *FTC v. Johnson*, No. 2:10-cv-02203 (D. Nev. Feb. 10, 2011) (preliminary injunction order).

²⁷ *United States v. Cox*, No. 8:11-cv-1910 (C.D. Cal. Dec. 12, 2011).

²⁸ *FTC v. Asia Pacific Telecom, Inc.*, No. 1:10-3168 (N.D. Ill. May 24, 2010).

²⁹ *United States v. W3 Innovations, LLC*, CV-11-03958 PSG (C.D. Cal. Sept. 8, 2011) (stipulated final order). The developer paid a \$50,000 civil penalty and agreed to delete all kids’ personal information collected in violation of the Children’s Online Privacy Protection Act Rule.

³⁰ *FTC Warns Marketers That Mobile Apps May Violate Fair Credit Reporting Act*, News Release (Feb. 7, 2012), available at <http://www.ftc.gov/opa/2012/02/mobileapps.shtm>.

³¹ *FTC Report Raises Privacy Questions About Mobile Applications for Children*, News Release (Feb. 16, 2012), available at http://www.ftc.gov/opa/2012/02/mobileapps_kids.shtm.

³² Under direction from Congress to consider whether EnergyGuide labels should be displayed on certain consumer electronics, including TVs, the FTC issued a rule requiring new TVs manufactured after May 2011 to display EnergyGuide labels stating the TV’s estimated yearly energy cost. 16 C.F.R. Part 305. These labels are models of how to communicate important information to consumers efficiently and effectively. Moreover, they are particularly useful to consumers because some large screen TVs use as much electricity as refrigerators. See *Starting in 2011, FTC Will Require EnergyGuide Labels for Televisions*, News Release (Oct. 27, 2010), available at <http://www.ftc.gov/opa/2010/10/tvlabeling.shtm>.

³³ In 2011, the Commission remedied competitive concerns raised by the acquisition of terminals and a pipeline used for the distribution of gasoline and other petroleum distillates in Maine. *See Irving Oil Ltd. and Irving Oil Terminals, Inc.*, Dkt. No. C-4328 (consent order), available at <http://www.ftc.gov/opa/2011/05/exxonirving.shtm>.

³⁴ 16 C.F.R. Part 317; *New FTC Rule Prohibits Petroleum Market Manipulation*, News Release (Aug. 6, 2009), available at <http://www.ftc.gov/opa/2009/08/mmr.shtm>.

³⁵ *See supra* note 5.