



Consumer Protection Programs

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Consumer Protection Programs

This paper describes the consumer protection activities carried out by the Department of Agriculture, Trade and Consumer Protection (DATCP) and the Department of Justice (DOJ). The two agencies provide services that relate to individual consumer complaints and consumer education. Other state regulatory programs also assist consumers. However, this paper focuses primarily on consumer protection programs that relate to consumer complaints of unfair or unlawful treatment or provide information and education to assist consumers in future transactions.

The paper is divided into four sections: (1) the statutory authority governing consumer protection activities of DATCP and DOJ; (2) the consumer protection program and operations of DATCP; (3) the consumer protection program and operations of DOJ; and (4) appendices which briefly describe the consumer protection activities of other state agencies (Appendix I), the trade and consumer protection administrative rules of DATCP (Appendix II) and select consumer protection cases prosecuted by DOJ (Appendix III).

Consumer Protection Statutory Authority

Prior to the 1995 biennial budget act, both DATCP and DOJ were provided broad authority under state trade practice statutes to regulate and prosecute fraudulent advertising and representations and unfair trade practices. DATCP was also provided authority to regulate product safety. On July 1, 1996, most of the state's consumer protection authority was consolidated in DATCP.

Prior to 1996, the statutes authorized either or

both of the Departments to enforce violations of consumer protection laws, including those related to: (1) fraudulent drug and food advertising; (2) the substantiation of energy savings or safety claims; (3) fitness center and weight reduction contracts; (4) unfair mail order sales practices; (5) motor vehicle rustproofing warranties; (6) time share and campground ownership; (7) prepaid maintenance liens; (8) unsolicited prize notices; (9) "900" telephone number abuses; (10) ticket refunds; (11) cable television subscriber rights; (12) charitable solicitation; (13) dating services contracts; (14) telecommunications services; (15) the sale of cleaning agents and water conditioners containing phosphorous; and (16) products containing ozone-depleting substances.

The Department of Justice retains much of its concurrent authority to determine violations of, and initiate prosecutorial proceedings on, cases relating to fraudulent representation, unfair trade practices and telecommunications trade practices. However, DOJ can only commence an action in circuit court under this authority after consulting with DATCP. As the state's attorney, DOJ can also represent the state in court on consumer protection cases referred for adjudication by DATCP or other state agencies.

Fraudulent Advertising and Representations

DATCP, and DOJ after consulting with DATCP, may commence an action in circuit court under s. 100.18 of the statutes, (originally adopted in 1913) to prohibit advertising and other representations that are "untrue, deceptive or misleading." This statute, often referred to as the Fraudulent Representations Law, prohibits fraudulent advertising or representations made by businesses. Specific actions which are prohibited under this statute in-

clude: (1) inadequate price or condition of sale disclosures related to the sale of products or services which are conditioned upon the purchase of any other product or service, referred to as combination sales; (2) false representation by a business to be a private party; (3) deceptive close-out sales; (4) failure of business owners to properly identify their business; (5) inadequate gasoline price disclosures; (6) bait and switch advertising; (7) misrepresentation of local energy resource systems (such as wind or solar power); and (8) deception in the use of terms such as wholesaler or manufacturer for price advertising.

DATCP, district attorneys and DOJ, after consulting with DATCP, may commence actions in circuit court to bring an action on behalf of the state and receive a temporary or permanent injunction. An injunction is an order issued by a circuit court to restrain a business' untrue, deceptive or misleading practices. (Although DATCP is authorized to bring actions, DATCP requests that court actions be taken by district attorneys or the Department of Justice due to DOJ's general role in representing the state in court.) Through such a court order, in addition to putting a halt to the fraudulent actions for most infringements, the court can order a civil forfeiture of not less than \$50 nor more than \$200 for each violation and require restitution be paid to the victim of the business' fraudulent activities.

DATCP, any district attorney and DOJ, after consulting with DATCP, have authority to commence an action to recover a civil forfeiture to the state for each violation of a court ordered injunction issued under the state's fraudulent advertising statutes. In lieu of an injunction, DATCP or any district attorney may attempt to obtain a voluntary assurance of discontinuance of fraudulent or deceptive consumer practices from the businesses involved in such activities. Such assurances are not filed in court and may take the simple form of a letter or the more official form of a contract. In any case, the assurance is made in writing and specifies that, from that point forward, the conduct in question will be stopped.

A voluntary assurance differs from an injunction in that such agreements are not admissible as evidence of a previous violation should the business later be brought to court on the same charges of fraudulent representation. However, a violation of the assurance is treated as a violation of state fraudulent representation statutes and subject to the remedies and penalties associated with such violations.

In comparison, if the conditions of an injunction are violated, there are additional civil penalties that may be sought. For each violation of an injunction, the prosecutor (DOJ or a district attorney) may bring an action to recover additional civil forfeitures of not less than \$100 nor more than \$10,000 for each violation.

Unfair Trade Practices

Under s. 100.20 of the statutes, adopted in 1921, DATCP requires business methods of competition and trade practices to be "fair." DATCP is provided broad authority to define fair methods and practices, including the authority to: (1) specify, by administrative rule, unfair business methods and practices; and (2) issue special orders enjoining unfair business practices.

The statutory requirement for businesses to use fair methods and practices is intended to promote free and open competition. Under the unfair trade statute, the Department also regulates many forms of advertising and sales claims. This law is often termed the "Little FTC Act" by DATCP, in reference to its similarity to the Federal Trade Commission Act, on which it was based.

Administrative Rules

Generally, DATCP exercises its rulemaking authority to govern unfair business practices that have become common. The consumer issues regulated by DATCP rules (the general unfair trade practices statute) and administered by its Consumer Protection Bureau are listed in Appendix II.

The 1995-97 budget act eliminated DOJ's rulemaking authority in the area of consumer protection. However, in areas related to unfair business practices where no DATCP rule exists, DOJ may: (a) file a written complaint with DATCP relating to allegations of unfair methods of competition in business or unfair trade practices in business or both; (b) require DATCP to proceed, after proper notice, to the hearing and adjudication of the allegations; (c) permit a representative of DOJ, designated by the Attorney General, to appear before DATCP in such proceedings; and (d) entitle DOJ to judicial review of the decisions and orders of DATCP.

Special Orders

The unfair trade practices statute also authorizes DATCP to issue special orders enjoining unfair practices and requiring a business to adopt business practices specified by the Department. The special order authority represents significant administrative power to prohibit business practices not otherwise regulated by specific statutes or rules. A special order applies to a single party named in the order. However, the Department may follow special orders with the adoption of administrative rules affecting the entire industry if the unfair practice is found to be common. In 2003-04, the Department issued five special orders.

Penalties

DATCP or any district attorney has authority to commence an action in the name of the state to recover civil forfeitures for each violation of a DATCP rule or order issued under the state unfair trade practices statutes. DOJ, after consulting DATCP or at the request of DATCP, has authority to commence an action to recover a civil forfeiture for each violation of a court ordered injunction issued under the state's unfair trade practices statutes. However, DOJ does not have the authority to recover a civil forfeiture for violation of an injunction issued under a DATCP rule or order.

Violators of the unfair trade practices statute are subject to: (1) criminal penalties for each violation of not less than \$25 nor more than \$5,000 and imprisonment in a county jail for not more than one year, or both; or (2) civil penalties of not less than \$100 nor more than \$10,000 per violation, in addition to the potential for an order to be issued requiring restitution to be paid to the consumer. Criminal prosecutions are brought by district attorneys; civil prosecutions have generally been brought by DOJ for cases having statewide impact.

In addition, the statutes provide authority to private parties to take legal actions in any court with jurisdiction to recover losses due to violations of administrative rules or special orders. Private parties may recover twice the amount of damages plus costs, including attorney fees.

Telecommunications Services

DATCP, DOJ and district attorneys regulate the advertising, sales representations and practices related to telecommunication services. Telecommunication service, as defined by section 196.01 of the Wisconsin Statutes, includes the sale of services related to the conveyance of voice, data or other information at any frequency over any electromagnetic spectrum including sale of service for the collection, storage, forwarding and switching of the regulated service as well as any needed equipment. A telecommunications service does not include cable television or broadcast services.

The statutes specifically prohibit advertising and sales representations that in any manner make false, misleading or deceptive statements or representations in regard to the provision of telecommunication services, including the rates, terms or conditions for service. In addition, persons may not engage in "negative option billing" or negative enrollment for telecommunication services. That is, a person may not bill anyone for any telecommunication service that person did not affirmatively or-

der, unless the service is required to be provided by law, the Federal Communication Commission or the state Public Service Commission. Further, a person's failure to refuse another person's proposal to provide a telecommunication service is not considered an affirmative request for that telecommunication service. Lastly, a person must provide written confirmation of any services ordered through oral solicitation and a person may not charge a customer for any services that customer has canceled.

DATCP, in consultation with DOJ, has the authority to promulgate rules related to the provision of telecommunication services in the state. ATCP 123 regulates subscription and billing practices related to cable and telecommunication services provided to consumers primarily for personal, household or family use. DOJ is required to consult with DATCP prior to commencing a court action to restrain, by temporary or permanent injunction, any violation of consumer protection statutes related to telecommunication services. A district attorney, upon informing DATCP, may also commence such actions.

Any person who violates the consumer protection statutes related to telecommunication services shall be required to forfeit not less than \$25 nor more than \$5,000 for each offense. Such forfeitures are enforced by DOJ, after consulting DATCP, or by any district attorney, after informing DATCP. DOJ may only commence such an action in court after consulting with DATCP. Also, persons adversely affected by such violations have a claim for appropriate relief and to recover any costs and disbursements that occur related to such violations.

Telemarketing No-call List

The 2001-03 biennial budget act (2001 Act 16) created a program to register telemarketers and prohibit them from calling consumers who had their residential phone number listed on a no-call directory. The Department, under administrative

rule ATCP 127, administers the program. Telemarketers pay initial fees of \$700 per year and annual renewal fees of \$500 plus \$75 per phone line over three (capped at \$20,000) thereafter. Other possible fees include \$25 for each additional e-mail or compact disc copy of the no-call list, and \$1,000 for each additional hard copy of the no-call list. Consumers must renew their listing every two years, but are charged no fee.

The first no-call list was published on December 1, 2002, and took effect on January 1, 2003. This list contained over one million residential telephone numbers. The list is updated and published quarterly by DATCP. Most telemarketers are prohibited from calling numbers on the list. Violations are punishable by forfeitures of up to \$100 per violation. On October 1, 2004, there were about 1.6 million numbers on the no-call list. Department officials expect this number to drop to around 1.2 million numbers with the publication of the January 1, 2005 no-call list, due to the removal of old numbers from the list that were not renewed (due to various reasons, including residents moving, changing phone numbers or failing to register).

Product Safety

DATCP is also responsible for the identification and regulation of consumer products that may present an unreasonable risk of injury to the public. In addition, the Department establishes packaging standards for household products to prevent hazards such as poisoning. Under s. 100.42, DATCP has general authority to ban the sale or distribution of any consumer product determined to present an unreasonable risk or imminent hazard to the public health, welfare or safety. In addition, specific statutory responsibilities relate to the following issues.

- Hazardous household substances
- Flammable fabrics
- Poison prevention packaging

DATCP Consumer Protection Program

Consumer Protection Bureau activities rely significantly on the administrative rules adopted under the authority of the unfair trade practices statute. The administrative rules provide detailed, industry-wide standards of conduct related to specific consumer protection issues. In addition the Department practices progressive enforcement of the state's consumer protection laws through the use of warning letters, assurances of compliance, special orders and formal prosecutions, when necessary.

The Department uses a program of prevention, education, mediation and enforcement to maintain compliance with DATCP rules. In addition, administrative rules are intended to reduce the possibility of arbitrary or inconsistent state regulation of businesses. Generally, rules have been adopted for those consumer issues for which unfair business activities had, at one time, become common. The Department adopts new rules and modifies current rules in response to new practices.

Program Funding and Staffing

DATCP implements its consumer protection duties through the Bureau of Consumer Protection within the Division of Trade and Consumer Protection. Funding is provided from general purpose revenues (GPR), program revenues (PR) and segregated (SEG) revenues. In 2003 Act 33 (the 2003-05 biennial budget act), 13.35 GPR positions and associated funding was deleted from the consumer protection program. As a result, staff was reduced from 75.8 positions in 2002-03 to 62.45 positions in 2004-05 and the Bureau is provided \$4,389,100 (\$1,939,900 GPR and 33.5 GPR positions, \$1,962,400 PR, after a required lapse of \$100,000, and 22.95 PR positions, \$486,800 SEG and 6.0 SEG positions). The Bureau consists of a director and central administrative staff that includes a consumer information

center made up of consumer hotline and consumer information staff. The Bureau also operates regional offices in Green Bay, Madison and Milwaukee, and a satellite office in Eau Claire. Table 1 categorizes DATCP's consumer protection staff.

Table 1: DATCP Consumer Protection Staff (2004-05)

Central Office:	
Director, Administrative and Legal	3.25
Consumer Information Center	13.15
Regulation and Safety Section	22.25
Regional Offices	<u>23.80</u>
Total	62.45

Bureau of Consumer Protection program revenue is derived from various fees collected from: (a) weights and measures inspections; (b) automobile repair shops conducting mobile air conditioner installation, removal or repair work; and (c) a consumer protection 25% surcharge on fines and forfeitures for consumer protection violations. Segregated funding is provided from the petroleum inspection fund for enforcement of the unfair sales act and weights and measures activities related to fuel dispensing facilities.

DATCP also has a Trade Practices Bureau that handles some of the workload related to the Unfair Sales Act and unfair trade practices. The Trade Practices Bureau is primarily concerned with complaints related to unfair industry competition or practices (that is, "business on business" complaints) as opposed to "consumer on business" complaints). Examples of Trade Practice Bureau programs include regulation of product pricing practices (minimum mark-up laws) and the dairy producer security program, which attempts to ensure that dairy, grain, and fruit and vegetable plants and producers have enough financial security, in the event of default or other financial pressure, to meet their contractual obligations with individual producers. Administrative rules related to trade practices are found in Appendix II.

Central Office Staff

Central office staff total 38.65, which includes a director and 2.25 budget and policy staff. The remaining 35.4 central office staff are located within the Bureau's consumer information center, regulation and safety section, and telemarketing no-call list administration.

Consumer Information Center (CIC)

The CIC consists of a supervisor and 12.15 staff. Included among these staff are two units, the hotline unit and the special projects unit. Hotline staff are primarily responsible for responding to consumer complaints via the toll-free hotlines, and working with the Department's automated telephone response system, known as an interactive voice response (IVR) system, and complaint tracking database to retrieve information on complaints. In addition, 5.5 remaining staff are no-call list administrators for the telemarketing no-call list program.

One of the primary functions of the CIC is to respond to potential violations of the state's consumer protection laws by out-of-state businesses (those that do not have a physical presence in the state). Prior to 1996, DATCP referred most out-of-state complaints to DOJ. Now, the special projects unit staff is responsible for providing advice, mediating complaints, making recommendations for warnings letters, compliance assurances, or more in-depth investigations and making referrals for DATCP special orders or formal litigation to DOJ on out-of-state business activities.

The CIC is also responsible for:

- Education and compliance activities
- Market research and trend analysis
- Enhancement and maintenance of the automated complaint tracking system

Consumer Protection also provides information through an Internet web page. This page contains

consumer information, services, fact sheets and publications as well as extensive lists of resource and referral information used by DATCP hotline staff when responding to inquiries and complaints. It also provides links to other web sites and electronic complaint forms. In 2003, DATCP's consumer protection web site had 127,820 visitors.

Regulation and Safety Section

The Bureau's regulation and safety section enforces a number of laws and Department rules related to environmental regulation of consumer products and product safety as well as providing rulemaking, educational, training and technical support to the Department's weights and measures staff. In 1998, the former environmental and product safety section was combined with the weights and measures technical section to form the regulation and safety section. As part of Bureau restructuring initiated in response to 2003 Act 33 consumer protection reductions, DATCP transferred supervision of weights and measures investigation field staff, who are regionally located throughout the state and work out of their homes, from the regional offices to the regulation and safety section in Madison. This restructuring included the creation of a field supervisor position in the regulation and safety section to oversee these staff. The new combined section consists of a supervisor and 21.25 staff who carry out Department responsibilities related to the following statutes:

- Labeling of Bedding (s. 100.2095)
- Dry Cell Batteries Containing Mercury (s. 100.27)
- Sale of Detergents Containing Phosphorus (s. 100.28)
- Reductions of Toxics in Packaging (s. 100.285)
- Sale of Nonrecyclable Materials (s. 100.29)
- Labeling of Recycled, Recyclable or Degradable Consumer Products (s. 100.295)
- Plastic Container Recycled Content and Labeling (s. 100.297 and s. 100.33)
- Hazardous Substances (s. 100.37)
- Antifreeze Content (s. 100.38)

Table 2: Regional Consumer Protection Staff

Madison*	Green Bay	Wauwatosa	Eau Claire**
1.0 Supervisor	1.0 Supervisor	1.0 Supervisor	2.0 Investigators
<u>5.8</u> Investigators	3.0 Investigators	3.0 Investigators	<u>0.5</u> Cons. Specialists
	2.0 Cons. Specialist	3.0 Cons. Specialists	
	<u>0.5</u> Program Asst.	<u>1.0</u> Program Asst.	
6.8	6.5	8.0	2.5

*Madison staff are located in the same building as DATCP's central office.

**Eau Claire satellite staff are supervised by the Madison regional office.

- Flammable Fabrics (s. 100.41)
- Product Safety (s. 100.42)
- Poison Prevention Packaging (s. 100.43)
- Recycling of Mobile Air Conditioner refrigerants (s. 100.45)
- Energy Efficiency Standards (100.46)
- Products Containing or Made with Ozone Depleting Substances (s. 100.50)

In addition, the Department is responsible for assisting municipalities and other governmental agencies and private sector service organizations in conducting weights and measures regulatory work under Chapter 98 of the statutes. Further, this section maintains and staffs the state's metrology lab (a lab that deals with the calibration of scales and other measuring devices) and motor vehicle testing equipment. The Department estimates testing and certifying the accuracy of about 8,000 standard weights and measures annually.

Regional Offices

DATCP's regional office staff respond to consumer complaints and conduct investigations or other inspection-related work within their geographic areas that may have been received through local consumer complaint lines or referred from the Department's centrally located toll-free hotline. In addition, regional staff are assigned to certain statewide and national complaint areas.

Investigations of complaints that may require further action are initiated by regional staff and then referred to central office staff for formal action. In response to consumer protection reductions in 2003 Act 33, DATCP restructured its regional consumer protection offices. As discussed earlier, this restructuring included the transfer of oversight of all weights and measures investigators from the regional offices to the regulation and safety section in the central office. In addition, 4.0 consumer protection positions were removed from the Eau Claire regional office, and the office was made a satellite office overseen by a supervisor in the Madison regional office. In 2005, the three regional offices, along with the satellite office in Eau Claire, have 23.8 staff (38% of total bureau staff), as outlined in Table 2.

Telemarketer No-Call List

2001 Act 16 provided DATCP with 5.5 staff and \$230,900 in program revenues in a continuing appropriation to administer the telemarketer no-call program. Expenditure authority for the program was increased to \$582,600 in 2004-05 in response to increased costs of administering the program. The Department has contracted out the maintenance of the residential no-call phone listing and the development of the licensing software at a cost of about \$230,000 annually. DATCP registers telemarketers, handles consumer complaints

relating to telemarketing and enforces the provisions of the no-call law.

Revenues under administrative rule ATCP 127 were initially estimated at approximately \$470,000 in 2002-03 and \$550,000 annually thereafter. However, actual revenues were \$1.7 million in 2002-03 and \$1.5 million in 2003-04. Due to a large balance in the telephone solicitation appropriation account that resulted from higher than expected fees, 2003 Act 33 transferred \$600,000 from the account to the state's general fund in 2003-04.

ATCP 127 requires DATCP to reduce or waive one or more of the quarterly payments made by telemarketers that fund the program if the Department projects a year-end balance in the telephone solicitation appropriation account that exceeds projected fiscal year expenditures by at least 15%. Due to the existence of a large balance in the account, DATCP has waived the quarterly payments that were due September 1, 2003, September 1, 2004, and December 1, 2004. This has reduced revenues deposited to DATCP's telephone solicitation appropriation account by approximately \$1,326,000.

In June, 2004, in response to a lawsuit filed by a group of businesses, a Dane County Circuit Court upheld the legality of ATCP 127, except for the provision that allowed DATCP to choose to reduce or eliminate quarterly payments based on the program's fiscal outlook. The court ruled that DATCP did not have discretion on whether to reduce or eliminate quarterly fees when program revenues exceeded projected expenditures, but rather must do so when this is the case. In addition, the court ruled that the statutes set the maximum fine for a violation under the telephone solicitation program at \$100, and that DATCP may not administratively set a higher maximum fine (although DATCP officials indicate they had no intent to attempt to increase the maximum fine from the \$100 set in the statutes; ATCP 127 contained a reference to the state's "Little FTC Act", violations of which have a maximum fine of

\$10,000).

Complaint Intake and Response

The primary function of the consumer protection staff is to review and respond to consumer inquiries and complaints received through the DATCP toll-free hotline, telephone calls to regional offices, written complaints or referrals from other state agencies. In 2003, the Department received 88,065 initial inquiries and complaints, including 60,220 consumer telephone inquiries, 18,472 written complaints and 1,867 "walk-in" complaints. In addition, in 7,506 instances the Bureau responded to inquiries from the media or legislators, or made public appearances.

In 2003, over 50% of the complaints received by DATCP were related to either no-call list violations, telecommunications or telemarketing, which were the top three sources of complaints. The Department also receives a large number of telephone inquiries, the largest source of these being landlord/tenant issues (which amount to over a third of all verbal contacts with the Department).

Consumer Information Center

DATCP uses an automated telephone response system known as an interactive voice response (IVR) system, which was transferred from DOJ in 1996. The Department also has a complaint tracking system to track consumer inquiries and requests for assistance, as well as written and verbal complaints, investigations, DATCP administrative authorities invoked and DOJ, District Attorney or Federal court actions.

The database provides current data to assist the Department in making programmatic decisions and in compiling reports on types of complaints. DATCP staff use the information available on the complaint tracking database to identify trends and emerging issues in the marketplace and to establish program priorities and direction.

Generally, the contact with the consumer on the toll-free hotline involves a short telephone conversation in which the consumer receives a description of their rights in the matter of concern, or the complainant is referred to another state agency with jurisdiction on the subject of the complaint. DATCP estimates that in half of the calls received on the hotline and at regional offices, the consumer's question is answered with the initial telephone call.

If a violation is apparent, the consumer is encouraged to: (1) pursue the resolution of the complaint privately based on a better understanding of their rights and the responsibilities of the business, which is provided by Department; and (2) submit a written complaint form provided by DATCP which will initiate a written response by the Department to both the consumer and the affected business, and possible investigatory or enforcement actions, if warranted. If no violation of current rules is apparent, the consumer is provided information on private actions that he or she could pursue, such as small claims court. Department officials indicate, where appropriate, they attempt to complete their role in the consumer complaint at the stage of the initial telephone contact with the consumer, avoiding more time-consuming, subsequent written correspondence.

Written Complaints

Consumer complaints received by mail are initially handled through mediation, with most complaints where no violation of the law exists being initially answered with standard letters informing the consumer and the affected business of their rights or responsibilities and proposing possible solutions to both parties. The Department also requests a consumer to file an official complaint form for complaints which: (1) do not involve violations of current rules or specific statutes, but involve recurring and serious complaints which DATCP wishes to review for potential further actions; or (2) upon review by an investigator, a

series of similar complaints is identified warranting further investigation.

Investigations

In some instances, further investigative work is performed on consumer complaints to determine whether a violation of DATCP rules has occurred and what the relative significance of the violation is. The Department is authorized significant investigative authority under general agency powers provided by Chapter 93 in addition to specific authority in the unfair trade practices (s. 100.20) and deceptive advertising (s. 100.18) laws. These include the authority to subpoena documents and testimony, conduct investigative hearings, collect and analyze samples, and inspect and copy business records.

Typically, the majority of complaints are handled through mediation. However, an estimated 20% of all complaints require investigation, including interviews, data collection, case evaluations and, at times, undercover investigation. DATCP officials have instituted a "tier" system where potential investigations are rated.

Tier 1: Issues of statewide/national importance that have a significant level of impact to Wisconsin consumers and/or businesses.

Tier 2: Issues of statewide/regional importance that are routine in nature and impact a large number of Wisconsin consumers and/or businesses.

Tier 3: Issues that are routine in nature and impact an individual complainant and/or business.

The use of staff for these investigations occurs for serious violations having a significant impact on affected consumers. Generally, in-depth investigations are made when numerous unresolved complaints about a single business or issue are received over a short period of time. Investigations and studies are also begun as a Department initiative based on consumer protection issues identified by staff.

Investigations generally result in a complete investigative report and supporting evidence that are used by the prosecuting attorney to draft the court complaint documents and file the court case.

Information and Education

The Bureau of Consumer Protection conducts a consumer and business information program to assist in achieving voluntary compliance with consumer protection laws by businesses and to reduce the likelihood that consumers will subject themselves to harmful situations. The Department's consumer protection educational and informational activities include: (1) press releases including information regarding new and current consumer fraud schemes and seasonal consumer issues; (2) presentations and speeches regularly made by staff to consumers and businesses; (3) educational and training programs for consumers, in cooperation with consumer groups, educational institutions, and state and local agencies; (4) informational brochures describing consumer rights and businesses' responsibilities (The most widely distributed brochure describes landlord and tenant rights and is available in Spanish and English.); and (5) requests that television stations provide the consumer protection hotline telephone number before broadcasting advertisements for business opportunity plans, such as work-at-home schemes. The Department provides information to local law enforcement agencies to increase their knowledge of consumer protection laws and rules, and lectures at technical school law enforcement classes on a regular basis.

Complaint Mediation

DATCP has stated that its primary statutory mission is to identify and prevent unfair business practices, not to represent individual consumers. However, as a result of its handling of consumer complaints, many complaints are resolved to the satisfaction of consumers. For example, the Depart-

ment believes that providing information on the rights and responsibilities of the parties in a dispute may facilitate the resolution of a complaint. In 2003, DATCP estimates that approximately 87% of written complaints were mediated by the Department.

Surveys

In addition to on-site inspections performed by the Department, DATCP also conducts "surveys," to measure compliance with administrative rules. Due to a change in tracking software, the most complete data currently available on the number of inspections and surveys performed by the Department is from 2002, when DATCP performed approximately 5,400 surveys. However, DATCP officials state that the number of surveys performed are fairly constant from year to year, and believe that these numbers are a fair approximation of 2003 and 2004 surveys performed by the Department. As part of this process, DATCP may inspect business premises, copy records, or sample and analyze consumer products. DATCP staff may perform the following types of surveys:

1. Inspections of auto repair businesses are completed on a regular basis to determine compliance with ATCP 132, the motor vehicle repair rule.
2. Surveys of retail stores to check for hazardous household substances or products.
3. Surveys of retail stores for scanner accuracy and price verification.
4. Review of advertisements, employment offers and residential leases on a random basis to identify possible law violations.
5. Mail surveys to monitor price comparison advertising, initiated due to consumer complaints and Department monitoring.

Enforcement Actions

The Department employs different methods to rectify identified violations of consumer protection rules or statutes, including: (1) warning letters; (2) assurances of compliance; (3) special orders; and (4) formal prosecutions.

Warning Letters

Warning letters are issued to businesses under the authority of s. 93.06(10) for minor violations of rules or statutes, or in cases involving more significant violations but for which there is no previous history of violations by the business. Each letter specifies the violation that has occurred and indicates an expectation that such violations will cease. Approximately 2,738 warning letters were issued to businesses in 2003, with an additional 1,681 issued in the first nine months of 2004. If further enforcement actions are not warranted, the warning letter is usually the final step in a consumer complaint by the Department; possible noncompliance is generally identified through subsequent complaints received or by Department surveys.

Assurance of Compliance

The Department requires an assurance of compliance by a business when the severity of the violation or the history of the violator indicates that a warning letter may not be adequate to achieve compliance, but for which formal prosecution is not considered to be warranted. The violating business is required to sign a statement assuring compliance, which can be subsequently used to facilitate compliance by other means, if necessary. The process of issuing an assurance of compliance typically involves an in-person meeting with the affected business. DATCP obtained approximately 326 assurances of compliance in 2003, and 130 in the first nine months of 2004.

Special Orders

Special orders are used to achieve compliance of fair business practices that are not specifically addressed by current law or rules. The special order is generally viewed by DATCP as a precursor to a new administrative rule. The Department exercised special order authority in four cases in 2003 and in five cases in the first nine months of 2004.

The process of issuing a special order generally occurs over a six- to eight-month period and usually involves the following process. First, a business practice that is not regulated by specific rules or statutes would be identified as a potentially unfair practice. If, upon review by DATCP, DOJ or both agencies, the practice appears to be unfair, the case would be brought before an independent hearing examiner in a quasi-judicial proceeding for a ruling on whether the practice is unfair. Finally, the DATCP Secretary would issue the special order enjoining the unfair business practice.

Formal Prosecutions

The Department prepares cases for formal prosecution by district attorneys or DOJ attorneys. Violations of consumer protection statutes and rules are prosecuted if they are considered to be serious, have a major adverse impact on consumers or are recurring by the business. The Department referred approximately 157 cases for prosecution in calendar year 2003, of which 71 were referred to district attorneys, 65 to DOJ and 21 to U.S. attorneys.

Telecommunications, automotive repair, home improvement and telemarketing cases represent the majority of investigations. Consumer protection related prosecutions initiated by DATCP may result in civil forfeitures, penalties and restitution to Wisconsin consumers. The Department assisted in obtaining 54 criminal convictions in calendar years 2003 and 2004. These cases primarily involved home improvement.

Fines or forfeitures obtained in state courts are required to include a 25% consumer protection assessment that is deposited to a DATCP program revenue appropriation for consumer education. Revenues totaled \$91,700 in 2002-03 and \$77,000 in 2003-04. If revenue exceeds \$185,000 in a fiscal year the excess is deposited to the state's general fund.

Product Safety Activity

Ensuring safe products for consumers is a key element of the Department's consumer protection mission. As the principal product safety agency in the state, the Department attempts to protect consumers from unreasonable risk of illness or injury from consumer products by:

- Identifying product hazards
- Eliminating unsafe products or reducing risks of exposure to them
- Providing the public with information they need to identify product hazards
- Providing the public with information they need to compare and use products safely

The Department has various compliance tools at its disposal. The Department may require special labels, order recalls or other corrective actions, restrict the method of sale for products or summarily ban particularly hazardous products. Administrative rule ATCP 139 regulates the labeling of hazardous household products, sets standards for toys and other articles intended for use by children and establishes standards to ban the sale of certain products.

DATCP officials indicate that their most powerful compliance tool is public information. The Department collects information from consumer complaints, news reports, and other public and professional contracts. The Department also disseminates product safety information through

the news media, information technology and presentations to other organizations that further spread the information. In keeping with the Department's regulatory philosophy of voluntary compliance and progressive enforcement, staff work with manufacturers and retailers to identify and correct problems without formal enforcement where possible or practical and often mediate between consumers and companies.

The Department works closely with the United States Consumer Product Safety Commission (CPSC). The agencies cooperate in hazard identification, marketplace monitoring, investigations, research, compliance actions and public information. DATCP has a memorandum of understanding with CPSC and performs a number of functions for CPSC on a cooperative contract basis as described below.

- *In-depth Investigations.* In-depth investigations provide basic information for CPSC to use in assessing product safety hazards. The investigations are simple and factual with no interpretation. CPSC analyzes these investigations from around the country in making their own determinations regarding product hazards. The Department carried out eight CPSC product safety investigations in federal fiscal year 2001-02, eight investigations in federal fiscal year 2002-03 and conducted 18 investigations in federal fiscal year 2003-04. In addition to product safety in-depth investigations performed for the CPSC, DATCP also performs in-depth investigations related to general consumer complaints such as telecommunications and telephone solicitation. When these investigations are counted, total in-depth investigations performed by DATCP in calendar year 2002 totaled 216 and totaled 264 in calendar year 2003. Recent in-depth investigations have been performed on cribs, microwave fires, paper shredders, computer components, riding mower rollovers and electric scooters.

- *Recall Effectiveness Checks.* DATCP staff inspect retail stores on assignment from CPSC to

gather information on the effectiveness of CPSC recalls. The Department performed 20 recall effectiveness checks in both federal fiscal year 2002-03 and 2003-04. Recent recall effectiveness checks have been conducted on products with drawstrings and sidewalk chalk containing lead. In addition, the Department has also performed recalls for such products as stuffed/plush toys, matches, books, riding lawnmowers and electric scooters.

- *ATV Dealer Monitoring/Undercover Inspections.* DATCP staff perform undercover surveillance of ATV dealers to ensure compliance with a consent decree regarding sales of ATVs for use by children. Department staff perform approximately seven to 10 undercover checks annually.

- *Consumer Product Safety Surveys.* In 1999, DATCP staff surveyed records at 30 fire departments located throughout the state. Information was collected about fires caused by consumer products, and then shared with CPSC. In 2002, under contract with CPSC, DATCP conducted a survey on cigarette lighters. This survey collected information on the presence of required child safety mechanisms on cigarette lighters. In 2003, Department performed a thrift store poster project survey where DATCP staff educated thrift and second hand stores on various items that have been recalled or are now illegal to sell in the state that have been found for sale at second hand stores.

In recent years, DATCP has initiated a significant cooperative planning effort aimed at strengthening its relationship with CPSC and other state and local agencies. For example, DATCP works with local fire departments on fire prevention and the Department of Health and Family Services on investigations and outreach concerning products such as siding, air purifiers and portable heaters. Department staff also participate in local safety organizations. In addition, staff work with trade associations to disseminate information about product safety regulations. For example, the national association representing resale shops recently agreed to publish an article in their

newsletter to inform their constituents about Wisconsin's ban on the sale of children's clothing with drawstrings.

The Department receives CPSC press releases, consumer alerts, research articles and other information via e-mail. Approximately 30 states actively share information on their state programs through a system coordinated by CPSC. The Department regularly uses e-mail to alert CPSC to serious product hazards or incidents so that state and federal agencies can respond quickly in a coordinated fashion. The product safety section also electronically distributes directly to 400 recipients a monthly newsletter that summarizes and highlights all of the recalls related to children called "Keep Your Kids Safe".

Department staff have been involved in the establishment of the International Consumer Product Health and Safety Organization (ICPHSO). ICPHSO was established in 1993 to provide an international forum for the exchange of information on consumer product health and safety programs, policies and issues. Its members include manufacturers and distributors of consumer products from around the world, product liability experts and government officials from the Americas, Asia and Europe. One DATCP representative serves on the Board of Directors and another serves as Chair of the Rapid Information Exchange Committee.

Department of Justice Consumer Protection Program

Following the 1996 transfer of most consumer protection functions to DATCP, DOJ retained a small consumer protection unit in its Division of Legal Services. In 2004-05 this function consisted of 7.5 positions, including: (1) 4.0 attorneys; (2) 2.0 consumer investigators; (3) 1.0 legal secretary; and (4) a 0.5 paralegal. In 2004-05, the consumer protection unit is budgeted \$589,200 GPR.

Agency Consumer Protection Enforcement Authority. Under the marketing and trade practices statutes (Chapter 100), DOJ has concurrent authority with DATCP to determine violations and to initiate prosecutorial proceedings relating to: (1) fraudulent representations prohibited under s. 100.18; and (2) telecommunication trade practices violations under s. 100.207. For each type of prohibited practice, DOJ may seek to restrain the activity by a temporary or permanent injunction and may enforce forfeitures. If DOJ brings an enforcement action under either of these statutory provisions, a court may take any necessary action to make whole any person who has suffered a financial loss because of the prohibited practice, provided that satisfactory proof has been submitted by the agency to the court.

Under the marketing and trade practices statutes, DOJ also has concurrent authority with DATCP to determine violations and to initiate prosecutorial proceedings to recover civil forfeitures for violations relating to fraudulent representation, fraudulent drug advertising, unfair methods of competition, or noncompliance with an unfair trade practices injunction.

However, before DOJ may commence any of these actions in circuit court, the agency must consult with DATCP. Under current practice, DOJ informs DATCP prior to filing these types of cases; however, DATCP does not have statutory authority to preclude DOJ from initiating these types of actions. Once the agency has consulted with DATCP, DOJ is permitted to exercise its independent discretion in pursuing the matter.

For allegations of unfair methods of competition or unfair trade practices in business in violation of s. 100.20 of the statutes and associated administrative rules, DOJ has the following authority. The agency may: (1) initiate administrative proceedings with DATCP relating to such allegations; (2) appear before DATCP in such proceedings; and (3) appeal any resulting DATCP decisions and orders to a court of law.

Under the federal telecommunications act and federal marketing laws, a "state officer responsible for enforcement" has authority to bring actions under those acts. DOJ has traditionally exercised this authority. While these federal acts do not require DOJ to consult with DATCP, as a practical matter there are enforcement situations under the federal provisions where consultation occurs both formally and informally between the two agencies.

Representing the State in Court. In addition to its authority to bring cases independently, DOJ may represent the state on other types of consumer protection cases referred for adjudication by DATCP or by other state agencies. DATCP typically refers most consumer protection cases either to a district attorney or to DOJ for court enforcement. DATCP indicates that it follows this course of action not because it lacks court enforcement authority under the consumer protection laws that it administers, but rather because it lacks the necessary legal staff to bring prosecution itself. District attorneys generally prosecute criminal cases at the trial level but may also bring civil actions under the state's consumer protection laws. DATCP generally refers to DOJ those types of civil actions with multi-county implications.

Enforcement Actions. During 2002-03 and 2003-04, a total of 174 consumer protection cases were either referred to or developed by DOJ's consumer protection unit. Of this total, 115 cases were referrals from other state agencies, as follows: (1) DATCP referred 87 cases; (2) the Public Service Commission referred 26 cases; and (3) the Department of Financial Institutions referred two cases. The remaining 59 cases were developed internally by DOJ. Of these latter cases, 34 were multi-state in nature and 25 were Wisconsin-specific.

Appendix III identifies the 54 most significant consumer protection cases completed by DOJ's consumer protection unit during the 2002-03 and 2003-04 fiscal years. These cases included investigations, litigation, and negotiated settlements. DOJ deems these cases significant based on the seriousness of

the violation or the amount of restitution or other remedy provided. For each listed case, the following information is provided: (1) case name; (2) case type; (3) source of the case; (4) case description; (5) action taken by DOJ; and (6) resolution of the case, including the amounts recovered as restitution, costs and attorney fees, fines and forfeitures, court fees, and award amounts that could be utilized for multiple purposes.

In addition to the cases identified in Appendix III, at least 90 other matters were closed by the consumer protection unit during this two-year period. Among these were investigations or cases referred from other agencies that were resolved through: (1) coordination with federal or local law enforcement authorities; (2) mediation; or (3) deferral to actions brought by other states. In addition, some matters were determined to be inappropriate for enforcement or were returned to the referring agency for further investigation.

Restitutionary Payments, Investigation Costs, and Related Recoveries. Funds awarded in consumer protection cases are distributed under several different procedures, in accordance with the statutes or the court orders involved. Restitutionary funds are typically collected and distributed either through DOJ, directly by the defendant(s), or through a third party administrator.

In most cases, it is possible to identify specific consumers to whom refunds or restitution can be made. In such cases, payments are made, whenever possible, to those directly injured. Frequently, a court order or a settlement agreement outlines the specific method by which restitution is made.

However, in some cases, victims are not as easily identified, or the magnitude of the dollar amount or the type of violations involved makes it impractical to attempt to identify and return a specific sum to individual consumers. In these instances, a court judgment or settlement agreement may authorize the Attorney General to

distribute the restitutionary funds at his or her discretion for designated purposes consistent with the underlying nature of the violation. Further, a court judgment or settlement agreement may authorize the Attorney General to apply such funds to court costs, attorney fees, consumer protection and education efforts, or other lawful purposes at his or her discretion. The distribution of the funds in these cases is subject to the terms of the judgment or settlement itself and usually to the direct supervision of the court or a third party appointed by the court to oversee the distribution.

A program revenue, continuing appropriation has been created under DOJ to receive and expend court-ordered restitutionary funds for victims of medical assistance fraud and violations relating to marketing and trade practices, environmental law, and federal antitrust law. Under a continuing appropriation, funds are expendable until fully depleted or until the appropriation is modified or repealed. Where DOJ receives a restitution award pursuant to a court order or settlement for any other type of consumer protection violation that is not enumerated under the restitution appropriation, the agency credits the funds to a holding account. Funds are then distributed from this holding account to consumers or others, as provided in the court judgment or settlement agreement. DOJ disbursements from the holding account are subject to the approval of DOA.

If funds remain in the DOJ restitution appropriation after all reasonable attempts have been exhausted to identify eligible recipients, the residual funds are used for any of the other designated purposes provided by the terms of the settlement agreement or court order.

In multi-state cases, court-ordered restitution may be allocated by a third party administrator rather than by DOJ. Where a third party administrator is used, each Attorney General's Office is typically responsible for notifying the administrator of the names of recipients of the restitution

amounts. The administrator is then responsible for disbursing the funds and reporting to the court and the parties on that process. In cases involving the allocation of restitution awards directly from defendants or through third party administrators, the restitution funds do not pass through DOJ's restitution appropriation or its holding account.

In addition to providing refunds and restitution payments, consumer protection court judgments and settlements secured by DOJ often include amounts for: (1) attorney fees and case costs; (2) criminal fines and civil forfeitures; (3) court fees, assessments and surcharges (including a 25% consumer protection surcharge on most state fines and forfeitures); and (4) award amounts for multiple purposes. The Wisconsin Constitution requires any state fines and forfeitures secured by DOJ to be deposited to the common school fund.

A state court may award reasonable and necessary costs of investigation to DATCP and reasonable and necessary expenses of prosecution, including attorney fees, to DOJ. When a person who violates the marketing and trade practices statutes is ordered to make these types of payments, these amounts are not deposited to the common school fund. Under s. 100.263 of the statutes, both agencies must credit these types of payments (and any such general payments to the state) to the state's general

fund. However, DOJ is specifically authorized to credit 10 percent of the monies received for such costs, including attorney fees, to a program revenue, continuing investigation and prosecution appropriation. The funds credited to this appropriation may be utilized by DOJ to provide funding for the expenses of investigations and prosecutions of alleged consumer protection and other violations pursued by the agency. In 2003-04, \$30,900 was credited to the appropriation account.

Report on Restitution Payments. Under s. 165.25(10) of the statutes, DOJ is required to submit a semiannual report to DOA and to the Joint Committee on Finance on the amounts received pursuant to a court order or settlement agreement to provide restitution to victims. The reporting requirement encompasses award amounts credited to DOJ's restitution appropriation and amounts held in the agency's holding account for restitution payments. Awards distributed directly by defendants or by third party administrators are not subject to the reporting requirement. DOJ's report is required to specify: (1) the amount of restitution received by the agency during the reporting period; (2) the persons to whom the agency paid restitution; (3) the amount paid by the agency to each recipient during the reporting period; and (4) the agency's methodology for selecting recipients and determining the amount paid to each recipient.

APPENDIX I

Summary of State Agency Programs Providing Consumer Protection Services

A number of state agencies perform functions that may be viewed as ensuring that products and services are provided to consumers in a safe, fair and lawful manner. Consumer protection, for the purposes of this informational paper, has generally focused on the response of the state to consumer complaints relating to dissatisfaction with products or services. In addition to the DATCP and DOJ consumer protection programs, a variety of state agencies respond to consumer complaints and provide information to consumers. The following is a listing of these agencies and a brief description of each agency's consumer protection activities.

Department of Administration--Energy Issues. The Department of Administration's Energy Bureau provides general consumer education on energy matters, through its Focus on Energy program. Focus on Energy distributes a quarterly business reports on energy issues to approximately 1,300 contractors and partnering businesses and maintains a website and toll-free number to provide information on energy saving rebates, home energy programs, commercial and industrial energy improvements, environmental research and development and renewable energy activities. The Department also publishes fact sheets, brochures and case studies on energy programs. About 11,500 copies of these publications were distributed in 2003-04.

Board on Aging and Long-Term Care. The Board on Aging and Long-Term Care monitors federal, state, and local long-term care policy, offers recommendations to the Governor, the Legislature, and the Wisconsin congressional delegation, advocates for the interests of individuals who need long-term care, and provides information to the

general public.

In federal fiscal year 2003, regional ombudsmen responded to 4,454 complaints, provided information and counseling to 12,187 individuals, and made 197 public presentations. The Board's ombudsman staff and trained volunteers made 2,808 unannounced visits to nursing homes and community care facilities. The Board provides consumers with information and assistance on insurance policies through printed materials, a website, and the toll-free Medigap helpline. In calendar year 2003, the helpline received 7,086 calls.

Educational Approval Board. The Educational Approval Board (EAB) licenses and oversees all for-profit postsecondary schools (other than schools of cosmetology), all out-of-state nonprofit colleges and universities and in-state nonprofit postsecondary institutions incorporated after December 31, 1991. The EAB also approves and oversees all programs under federal Veterans Administration regulations for the education and training of veterans and war orphans at any Wisconsin institution. The EAB monitors and periodically reviews approved institutions and programs and investigates consumer complaints regarding facilities, quality of instruction, course content, financial practices and misrepresentations by a school. The Board attempts to resolve complaints through mediation and may also hold hearings, suspend or revoke a school's license, make a demand upon a school's surety bond or bring action in any court in Wisconsin. The Board manages student and financial records in the event of a school closing.

Department of Financial Institutions. The

Department of Financial Institutions (DFI) was created as part of the 1995-97 biennial budget to consolidate regulatory functions related to financial institutions. DFI consists of four divisions: the Division of Corporate and Consumer Services, the Division of Banking, the Division of Securities, and the Division of Administrative Services and Technology. The Office of Consumer Affairs administers the Wisconsin Consumer Act and the Office of Financial Literacy provides information to the public on matters of personal finance. The Office of Credit Unions is attached to the Department for administrative purposes and is responsible for regulating the 288 credit unions chartered by the state.

DFI serves as the public custodian of charter documents creating Wisconsin corporations and other business entities, annual reports, and other documents submitted by those entities. There are over 278,000 businesses on file with the Department. DFI also examines and files documents under the Uniform Commercial Code, filing 179,400 documents in 2003.

The Department regulates state-chartered banks (233), savings and loan associations (4), and savings banks (14). The Department also licenses approximately 15,900 adjustment service companies, collection agencies, community currency exchanges, insurance premium finance companies, loan companies, sales finance companies, sellers of checks, and mortgage banking professionals. In carrying out its regulatory duties, DFI conducts safety and soundness and compliance examinations, informs the public and regulated industries of their rights and obligations under the law, and responds to complaints filed against firms and individuals regulated by DFI.

The Department is also responsible for regulating the offer and sale of securities, franchise investment offerings, and corporate takeovers. It does this by requiring registration of securities and

franchise offerings (or by allowing certain exemptions from registration), and by licensing and monitoring broker-dealers, securities agents and investment advisers. In 2003, the Division of Securities responded to 218 complaints, associated with both licensed and unlicensed entities. As a result of those investigations, 17 warning letters and 213 administrative orders were issued, 15 matters were referred for criminal prosecution, and over \$5 million was offered or returned to investors.

DFI administers the Wisconsin Consumer Act, which governs consumer credit transactions. During 2003, the Office of Consumer Affairs received approximately 8,700 consumer complaints or inquiries. Subsequent investigations revealed 140 compliance problems under the Wisconsin Consumer Act, resulting in orders requiring merchants to correct their violations. A total of \$547,000 was returned to consumers as refunds, credits, or adjustments.

Department of Health and Family Services. The Department of Health and Family Services (DHFS) licenses and regulates certain types of health care facilities and providers (such as nursing homes, hospitals, community-based residential facilities, adult family homes, home health agencies and hospices), and child care facilities. As part of its regulatory function, DHFS conducts surveys of certain types of facilities to ensure that they meet health and safety standards. In addition, DHFS investigates complaints it receives regarding the operation of these types of facilities. Violations can result in DHFS assessing forfeitures, issuing correction orders, and other disciplinary actions.

DHFS develops and distributes health-related information that is used primarily by consumers. For example, DHFS has created a variety of consumer guides that can be used by individuals who are considering long-term care options. The DHFS Division of Public Health produces consumer information on topics ranging from

communicable diseases, injury prevention and environmental health resources. This type of information is available on the DHFS web site. [For example, under the DHFS sport fish consumption program, DHFS staff examine the health effects of consuming chemical contaminants in sport fish and, together with the Department of Natural Resources, issues fish consumption advisories.]

The DHFS Bureau of Health Information and Policy collects and makes available health statistics, demographic and vital records information for public and private users. The Bureau produces data files that may be purchased by the public. For example, the Bureau collects information on physician visits, including information on the types of services physicians provide, physicians' charges, and patient demographics.

Office of the Commissioner of Insurance. The Office of the Commissioner of Insurance (OCI) regulates insurance companies and agents. OCI protects the public by ensuring that insurance companies are solvent and by enforcing insurance consumer protection laws. Each year, OCI's Bureau of Market Regulation receives over 7,900 formal written communications that indicate dissatisfaction with an insurance company or agent. Most complaints involve claim handling, although the Bureau also receives other types of complaints, such as complaints about service to policyholders, marketing and sales practices and underwriting. Following its investigation of a complaint, OCI may order license disciplines, demand restoration of benefits or rights to policyholders and levy forfeitures.

As part of its public information activities, OCI develops and distributes separate brochures on selected insurance topics, buyer's guides and other materials in response to requests from citizens, agents and insurers. These publications are also available through OCI's Internet web site. In addition to viewings of this information on OCI's web site, in calendar year 2003, OCI distributed

over 48,000 copies of brochures, pamphlets and booklets that addressed various insurance topics.

Office of Lawyer Regulation. The Office of Lawyer Regulation (OLR) investigates alleged violations of the rules of professional conduct for attorneys licensed to practice law in Wisconsin. The Supreme Court, after a comprehensive review of the lawyer regulation system, revised the rules for lawyer regulations and discipline, effective October 1, 2000. As part of the revisions, the OLR was created to replace the staff of the Board of Attorneys Professional Responsibility. In addition, the responsibilities of the now-defunct Board were divided between the Board of Administrative Oversight, and the Preliminary Review Committee. The Board of Administrative Oversight, a 12-person board composed of eight lawyers and four non-lawyers, is responsible for monitoring the fairness, effectiveness, and efficiency of the attorney regulation system, while the Preliminary Review Committee, a 14-person committee composed of nine lawyers and five non-lawyers, determines whether there is cause to file a complaint with the Supreme Court concerning lawyer misconduct, following the procedures outlined below.

The inquiry and grievance process concerning attorney conduct is designed to: (a) make the lawyer regulation process more accessible to the general public; (b) quickly address grievant concerns and, where possible, resolve them; (c) offer lawyers who have minor practice problems alternatives designed to enhance the quality of their services; and (d) promptly refer for full investigation those matters that may involve serious misconduct. The OLR is responsible for receiving, screening, investigation and prosecuting grievances that include allegations of such things as neglect, lack of communication, dishonesty and conflicts of interest. The OLR has established a central intake unit, which receives inquiries and grievances concerning the conduct of an attorney in writing or by telephone. Intake staff take

information about the alleged conduct, check for other grievances against the attorney, and inform the grievant that the matter will be assigned to an intake investigator who will contact the grievant within a few days to discuss the matter further.

After screening, a grievance may be closed if: (a) the allegations are not within the OLR's jurisdiction; (b) the grievance can be reconciled between the grievant and attorney if it is a minor dispute; or (c) the grievance is diverted to an alternatives to discipline program.

Grievances that cannot be resolved are referred for investigation, conducted by the OLR staff or with the assistance of 16 regionally-based Court-appointed committees. After an investigation is completed, the grievance may be: (a) dismissed for lack of sufficient evidence to proceed; (b) diverted to an alternatives to discipline program; (c) disposed through a consensual reprimand; or (d) presented to the Preliminary Review Committee for a determination of whether there is a cause to file a complaint with the Supreme Court, which makes the final disposition.

On July 1, 2003, 1,037 matters were pending disposition in the OLR. The OLR received 2,225 new grievances in the 2003-04 fiscal year. In 2003-04, 66 attorneys were publicly disciplined. In addition, 33 attorneys received private reprimands. Private reprimands are generally imposed for an isolated act of misconduct, which causes relatively minor harm. These reprimands may be used as aggravating factors in future disciplinary matters. Further, 99 attorneys entered the alternatives to discipline program. Finally, 47 cases were dismissed with an advisory letter. On June 30, 2004, 738 matters were pending disposition in the OLR.

The OLR office is in Madison with a total staff of 26.5 positions: 1.0 director, 2.0 deputy directors, 13.0 investigators, 8.5 administrative and support staff, 1.0 litigation counsel, and 1.0 assistant

litigation counsel. Total expenditures for the OLR were \$2,412,700 PR in 2003-04 and are budgeted at \$2,398,000 PR in 2004-05. Funding for the OLR is generated from assessments on attorney members of the State Bar of Wisconsin, costs recovered from attorneys disciplined under formal proceedings, and fees on attorney petitions for reinstatement.

Public Service Commission. The Commission regulates public utilities to ensure the reasonable and adequate delivery of service to the public. The Commission's consumer protection activities are the responsibility of the Division of Water, Compliance and Consumer Affairs. The Division's complaints concern adequacy of service, installation, disconnection and billing issues. The Division's Consumer Services section reported 8,102 complaints during calendar year 2003 and projects that 7,800 complaints will be received during calendar year 2004. Most complaints concern adequacy of service, installation, disconnection, and billing issues.

Currently, approximately 47% of all complaints involve combined electric and gas service, 38% involve telecommunications service, 10% involve electric service, 3% involve natural gas service, and 2% involve either water, combined water and sewerage service, or combined water and electric service matters. Actions taken by the Division to resolve complaints include investigation, mediation, and the issuance of binding decisions by investigators. Decisions by investigators may be appealed to the Commission, which may issue cease and desist orders or refer a matter to the Department of Justice for civil prosecution. This Division monitors large gas and electric utilities' early identification programs for customers facing energy hardships and seeks to resolve such hardships before they become heating crises in winter. All consumer matters are handled through the Commission's offices in Madison.

Department of Regulation and Licensing. The Department's Division of Enforcement provides cen-

tralized investigative and prosecutorial services relating to the licensed professions under the jurisdiction of 25 regulatory boards or the Department's direct licensing authority. The Department and its boards license and regulate an estimated 317,900 credential holders in 100 different professions, occupations and businesses. The Department receives approximately 2,400 complaints annually involving regulated persons or entities. Outcomes of a complaint investigation may include dismissal of the complaint, informal resolution or formal disciplinary action. The Department and its regulatory boards have the authority to limit, suspend or revoke any credential. The Department has one state office, located in Madison.

Department of Transportation. The Division of Motor Vehicles of the Department is responsible for the licensing of new and used motor vehicle dealers, recreational vehicle dealers, motor vehicle manufacturers and distributors, and salvage dealers. The Department investigates an average of about 1,500 complaints annually related to sales and lease practices, warranties, product quality and the lemon law; most involve insufficient disclosure of used vehicle condition. The Department's investigations may result in informal mediation, formal warnings requiring a written assurance that the business will discontinue a practice, license suspension or revocation, or the administrator of the Division of Hearings and Appeals may issue a special order against specific licensee practices. The Department conducts public appearances, publishes brochures and provides information on its website regarding vehicle purchasing and consumer protection. The agency employs regional investigators and operates a consumer assistance hotline.

Department of Workforce Development. The Equal Rights Division of the Department enforces both civil rights and labor standards law. Under civil rights the division enforces anti-discrimination laws affecting housing, employment and public accommodations. The Department receives approximately 4,900 discrimination complaints annually, most of which involved allegations of discrimination in employment (approximately 90% of the discrimination cases are employment related). Cases are investigated and may be conciliated or brought before an administrative law judge for a formal hearing. Although the family and medical law (FMLA) is not technically a discrimination statute FMLA is enforced by the Civil Rights Bureau.

Under labor standards the division enforces the labor standards laws, including laws governing minimum wage, overtime and child labor. The Department receives approximately 4,800 cases annually most of which involved unpaid wage claims from employees (about 4,000 cases). Labor standards also annually determines the prevailing wage rates and hours of labor for local and state building construction projects, and requires the department to investigate any alleged violations of such wage rates and hours of labor.

The Department conducts a public awareness program regarding anti-discrimination and labor standards laws that includes publishing brochures and conducting public information presentations. The Equal Rights Division also has a website that can be access that provides information related to both civil rights and labor standards programs and laws. The Equal Rights Division has five offices located throughout the state.

APPENDIX II

Summary of DATCP Trade and Consumer Protection Administrative Rules

Consumer Protection Administrative Rules

Academic Material Unfair Trade Practices (ATCP 128). Prohibits the sale of academic material (such as term papers) purchased to be submitted as original work for the purpose of fulfilling requirements of any learning institution in the state.

Art Prints and Multiple Art; Sales Practices (ATCP 117). Prohibits the misrepresentation of multiple artwork (artwork produced from a master in multiple copies), including: its status as an original reproduction; bearing of the artist's signature; status as a limited edition; the methods of reproduction; other elements of the artwork affecting the buyer's evaluation; the market value of the artwork; disclosure and warranty statements; and required records. The rule requires a disclosure and warranty statement for multiple artwork sold at a price exceeding \$800.

Basement Waterproofing Practices (ATCP 111). Prohibits contractors from using the pressure pumping method to waterproof basements without a seller's and engineer's analysis, and regulates the guarantee of basement waterproofing services.

Car Rentals; Notice of Renter Liability (ATCP 118). Specifies the form and content of a notice which car rental companies that offer and sell damage waivers are required to provide to customers.

Chain Distributor Schemes (ATCP 122). Prohibits chain distributor schemes, in which a person, upon a condition that he or she makes an investment, is granted a license to recruit, for profit, additional investors who in turn further perpetuate the chain of investors.

Consumer Product Safety (ATCP 139). Establishes labeling requirements for hazardous substances and bans the use of extremely hazardous products, including unsafe toys and children's clothing.

Coupon Sales Promotions (ATCP 131). Prohibits misrepresentation in the sale of coupon books, requires written agreements between coupon book promoters and participating merchants and requires full disclosure of restrictions on coupon redemption.

Direct Marketing and No-Call List (Chapter ATCP 127). Establishes disclosure requirements, including the initial identification of the soliciting business firm and its products or services offered for sale. Prohibits unfair practices, such as false claims to be part of a survey or research project, false special offers or deceptive free gifts and unauthorized payments. Requires direct marketers to maintain sales records. Also, effective January 1, 2003, ATCP 127 establishes a program requiring most telephone solicitors to register and purchase a list of residential telephone customers that do not wish to be solicited by telephone. Residential customers may sign up for two years at no charge.

Environmental Labeling of Products (ATCP 137). Establishes standards for advertising and labeling that makes environmental claims for consumer products (for example, products that are advertised as recycled, recyclable or degradable). Further establishes labeling requirements for plastic containers and provides information to operators of materials recovery programs needed to facilitate recycling or reuse of the containers.

Fair Packaging and Labeling (ATCP 90). Regulates the packaging and labeling of products, including the accuracy and location of package or label descriptors that identify the product and list

product origin, content, quantity and nutritional qualities.

Freezer Meat and Food Service Plans (ATCP 109). Prohibits misrepresentation in the advertising and sale of freezer meats and food service plans including bait-and-switch selling, false representations of savings from advertised food service plans and misrepresentation of special offers or price concessions, guarantees, identity of the seller, price or financing. Establishes contract requirements, and creates a three day right-to-cancel.

Gasoline Advertising (ATCP 113). Prohibits misrepresentation relating to octane rating or octane value of gasoline and prohibits misrepresenting gasoline as aviation fuel when the product is not suitable for aviation use.

Home Improvement Practices (ATCP 110). Prohibits deceptive practices, including model home misrepresentations, product misrepresentations bait and switch selling, deceptive gift offers, price and financing misrepresentation, and misleading guarantees. Establishes written guarantee and contract requirements and requires timely performance, except where delay is unavoidable and timely notice is given.

Mobile Air Conditioners; Reclaiming or Recycling Refrigerant (ATCP 136). Regulates motor vehicle repair shops that install or repair mobile air conditioners that contain ozone-depleting substances.

Mobile Home Parks (ATCP 125). Prohibits tie-in sales, which require the purchase of a mobile home or any other payment to qualify or receive preferential status for a mobile home park site. Establishes rental agreement and disclosure requirements, including utility charge limitations. Regulates termination of tenancy, mobile home resale practices, mobile home relocations and changes in rental terms or park rules.

Motor Vehicle Repairs (ATCP 132). Establishes the regulation of motor vehicle repair transactions

and practices for the repair of autos, motorcycles and small trucks. Prohibits unauthorized repairs, and generally requires shops to give customers a written repair order and written estimate of cost prior to commencing repairs and requires the return of used parts to customers upon request.

Price Comparison Advertising (ATCP 124). Prohibits misleading price comparisons and establishes standards for fair price comparisons, including standards establishing the seller's actual or offered price, the seller's future price for the product and the competitor's price.

Real Estate Advertising, Advance Fees (ATCP 114). Prohibits misrepresentation in the solicitation of real estate advance fees collected for listing or advertising the sale or lease of property, and requires that copies of all contracts be given to contracting property owners.

Referral Selling Plans (ATCP 121). Prohibits referral-selling plans, which induce a consumer sale based on an offer of compensation to a prospective buyer, unless the compensation is paid prior to the sale.

Residential Rental Practices (ATCP 134). Requires disclosure of known housing code violations and other conditions affecting habitability prior to rental. Establishes standards and procedures for the return of security deposits and earnest monies, and requires landlords to comply with repair promises. Prohibits certain unfair rental practices, including the advertising and rental of condemned premises, unauthorized entry during tenancy, confiscation of personal property and unfair retaliatory eviction. Prohibits certain practices from inclusion in rental agreements, such as eviction other than by judicial procedures, the acceleration of rent payments, the imposition of liabilities on tenants or the removal of landlord liabilities.

Telecommunications and Cable Television Services (ATCP 123). Regulates subscription and billing practices related to cable and telecommunication

services provided to consumers primarily for personal, household or family use.

Work Recruitment Schemes (ATCP 116). Prohibits misrepresentations and other misleading practices by employment recruiters that require employment recruits to make an investment or purchase. Requires the disclosure of purchases or investments required to be made by potential recruits as a condition of employment and the basis, source and form of potential earnings to be made by such recruits.

Trade Practice Administrative Rules

Dairy Plant Payments to Milk Producers; Security (ATCP 100). Provides reasonable assurance that producers will be paid for their milk and prohibits price discrimination between individual producers.

Dairy Trade Practices (ATCP 103). Establishes a uniform system of accounting to determine whether selected dairy products are being sold below cost, which is prohibited.

Fruit and Vegetable Contractors; Security Requirements (ATCP 98). Regulates and licenses fruit and vegetable contractors and establishes guidelines for payment to producers.

Leaf Tobacco, Buying and Selling (ATCP 104). Prohibits a tobacco buyer or agent from engaging in any unfair trade practices in the business of buying leaf tobacco.

Price Discrimination and Related Practices (ATCP 102). Prohibits price discrimination by sellers of fermented malt beverages, soft drinks or motor fuels to prevent unfair trade practices.

Sales Below Cost (ATCP 105). Prohibits selling

tobacco products, alcoholic beverages or motor vehicle fuel without required markups between wholesalers and retailers.

Vegetable Procurement Practices (ATCP 101). Regulates vegetable procurement contracts to ensure producers receive compensation for their labors.

Other Administrative Rules

Grain Warehouse Keepers and Grain Dealers (ATCP 99). Requires warehouse contents be insured and that grain inventories of sufficient quantity and quality be maintained to meet all outstanding obligations to grain depositors and to be returned to individual depositors on demand. Grain dealers are also required to truthfully measure type, weight, grade and quality of grain when determining purchase price.

Selling Commodities by Weight, Measure or Count (ATCP 91). Prescribes standards for measuring product volume (by weight, measure or count) to achieve greater uniformity in methods of sale used in the state, increase the accuracy of quantity information, prevent consumer deception and promote fair competition.

Public Warehouse Keepers (ATCP 97). Ensures public warehouse facilities are suited to reasonably protect the products in storage. Requires warehouse contents be insured and storage contents be disclosed by warehouse keepers.

Weighing and Measuring Devices (ATCP 92). Sets regulatory standards and permit requirements for commercial weighing and measuring devices including vehicle and livestock scales, gas pump volume/price indicators and liquefied petroleum gas specifications.

APPENDIX III

Select DOJ Consumer Protection Cases Completed in
2002-03 and 2003-04

Case Name	Case Type	Source of Case	Case Description	Action	Resolution	Restitution*	Other Monetary Recovery	Total
Wisconsin v. Ford Motor Co. *	Advertising	Multistate	The state challenged the acts and practices of Ford concerning: (1) the marketing, advertising and sale of Ford Explorers, Mercury Mountaineers and other sport utility vehicles manufactured during model years 1990 through 2001; and (2) the advertising and marketing of certain specified tires that were sold through Ford dealers.	Dane County Circuit Court	Consent judgment. The judgment included \$300,000 for consumer fraud education, investigation, enforcement operations, litigation, public protection or local consumer aid funds at the sole discretion of the Attorney General. The judgment also included funding for a multistate working group for public service announcements relating to sport utility vehicle safety awareness topics.		\$300,000	\$300,000
Pfizer, Inc.	Advertising	Multistate	Pfizer, Inc., was accused of making misrepresentations regarding the efficacy of the drug Zithromax.	Investigation	Assurance of Voluntary Compliance (AVC), an out-of-court settlement. The AVC included \$300,000 for attorneys fees, investigative costs, consumer education, litigation, public protection or local consumer aid funds at the sole discretion of the Attorney General. The AVC also included \$2 million in funding for public service announcements regarding Zithromax.		300,000	300,000
Wisconsin v. Access Resource Services, Inc., Psychic Readers Network, Inc., Stephen L. Feder and Peter Stolz*	Advertising	Multistate	The defendants were accused of making unlawful charges for psychic services provided by "Miss Cleo".	Milwaukee County Circuit Court	Consent judgment. Under the judgment, the defendants were enjoined from: (1) billing for pay-per call services not affirmatively ordered; (2) misrepresenting that a portion of pay-per-call services are free; (3) failing to maintain reasonable access to customer service representatives through a toll free number which affords a caller the opportunity to speak in person with a customer service representative with a reasonable time period; and (4) failing to include clear and conspicuous disclosure of costs in all advertisements. The judgment further provided \$14,366.90 in civil forfeitures, \$3,304.39 penalty assessment surcharge, \$2,155.03 consumer protection assessment, \$143,681 jail assessment, \$25 to the Milwaukee County Clerk of Court and a \$5 crime laboratory and drug law enforcement assessment. Finally, the judgment prohibited the company and its officers from making further efforts to collect \$11.4 million in unpaid bills for "psychic services" that the defendants claimed were provided to Wisconsin residents.		20,000	20,000

*Due to third party administration of some settlement recoveries, DOJ cannot always determine the full amount of restitution received by Wisconsin consumers.

Case Name	Case Type	Source of Case	Case Description	Action	Resolution	Restitution*	Other Monetary Recovery	Total
Shock Electronics and Brian Fontaine*	Advertising	Agriculture, Trade & Consumer Protection (DATCP)	It was alleged that the company sold primarily refurbished and remanufactured small electronic equipment as new to various retailers that sold this equipment to the public as new equipment.	Investigation	Consent judgment. The judgment included \$1,103.52 in civil forfeitures, a \$253.38 consumer protection assessment, and a \$233.10 penalty assessment surcharge. The judgment further required the company to cancel contracts and make full refunds to Wisconsin customers who filed complaints with the state alleging that they were subject to deceptive or illegal practices.		\$1,590	\$1,590
Wisconsin v. Trek Alliance, Inc., et al	Advertising	DATCP	Trek Alliance, Inc., was charged with unlawful sales practices for employing misrepresentations and other unlawful practices to sell distributorships for the resale of household products and water treatment devices.	Dane County Circuit Court	Consent judgment. No restitution was provided under the consent judgment.			0
Vulcan Basement Waterproofing Co. of Milwaukee, Inc., In the Matter of	Advertising	DATCP	The defendant, a basement renovation company, was accused of making misrepresentations that its renovation method would alleviate basement leakage or cracking. It was also accused of making basement repair renovations without first obtaining municipal job permits and without informing a customer that a municipal permit was required.	Investigation	Assurance of Voluntary Compliance. The company has ceased business operations in Wisconsin.			0
Sumberland, Inc.	Advertising	DATCP	The company's comparative pricing marketing practices were reviewed.	Investigation	Assurance of Voluntary Compliance. The company agreed to discontinue some of its comparative pricing marketing practices.			0
Wisconsin v. Rent-A-Center, Inc., and Col-orTyme, Inc.	Credit	DOJ	The state challenged the rent-to-own practices of the defendants.	Milwaukee County Circuit Court	Consent judgment. The judgment included \$7,000,000 in restitution, \$1,325,000 in civil forfeitures, \$50,000 to DOJ to oversee restitution payments, and \$25,000 to the Department of Financial Institutions for consumer education.	7,000,000	1,400,000	8,400,000
Wisconsin v. Household International, Inc.	Credit	Multistate	Household International, Inc., was accused of predatory lending practices.	Dane County Circuit Court	Consent judgment. The judgment included \$5,126,720 in restitution and \$252,000 for consumer fraud education, investigation, enforcement operations, litigation, public protection or local consumer aid funds at the sole discretion of the Attorney General.	5,126,720	252,000	5,378,720
Wisconsin v. Valerie Schuler d/b/a Schuler Financial Services*	Credit	DFI	Schuler Financial Services was accused of misleading consumers into believing that by paying Schuler a fee the consumer would receive a credit card. The defendant was also accused of not having registered as a credit service organization.	Outagamie County Circuit Court	Consent judgment. The judgment included \$950 in civil forfeitures, a \$300 penalty assessment surcharge, and \$214 in costs. The judgment also required Schuler to make full refunds to any consumer who filed a complaint with the state within 60 days of the consent judgment.		1,464	1,464

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Case Name	Case Type	Source of Case	Case Description	Action	Resolution	Restitution*	Other Monetary Recovery	Total
Wisconsin v. National Consumer Resource Center, Inc., and Advance Marketing Services, Inc.	Debt Collection	DFI	The companies provide debt financing and payment services to consumers.	Dane County Circuit Court	Consent judgment. The judgment provided \$3,000 for attorney fees and costs. The defendants were further ordered to make refunds to all Wisconsin complainants who did business with the defendants before they were properly licensed.		\$3,000	\$3,000
Oxmoor House, Inc., In the Matter of	Direct Marketing - Mail Order	Multistate	Oxmoor House, Inc. was accused of delivering unordered merchandise, making unauthorized charges and failing to honor consumer notices to cancel.	Investigation	Assurance of Voluntary Compliance. The AVC included \$42,350 for attorney fees, consumer education, litigation, public protection or local consumer aid funds, or other purposes at the sole discretion of the Attorney General.		42,350	42,350
Wisconsin v. Sylmark, Inc., et al*	Direct Marketing - Mail Order	DATCP	Complaints were received regarding products purchased from Sylmark, Inc., through infomercials.	Racine County Circuit Court	Consent judgment. The judgment included \$7,500 in civil forfeitures, \$5,000 in awarded attorney fees and costs, \$1,725 penalty assessment and \$1,125 consumer protection assessment.		15,350	15,350
Q Marketing Group Ltd. d/b/a North Shore Direct, In the Matter of*	Direct Marketing - Mail Order	DATCP	The defendant mail order company sold items such as magnetic bracelets, knee braces and slippers. The defendant was accused of breach of contract in failing to deliver its products in a timely manner or not at all, and of failing to provide refunds.	Investigation	Assurance of Voluntary Compliance. The defendant has ceased operation of its mail order business.			0
Natural High Sports Supplements, Vitamins, & Herbs, Inc., a/k/a Natural High's Supplement Warehouse*	Direct Marketing - Mail Order	DATCP	The defendant sells a variety of health food and nutritional supplement products through the Internet. It was accused of failing to deliver ordered products and failing to make refunds to a significant number of customers.	Investigation	Assurance of Voluntary Compliance.			0
Trilegant Corporation, In the Matter of (Buyers Advantage et al.)	Direct Marketing - Mail Order	DATCP	The corporation provides a variety of membership programs to credit card customers. The programs were offered on a 90-day free trial basis, and it was alleged that the corporation would automatically renew the memberships and charge customers if the customers did not cancel their initial memberships.	Investigation	Assurance of Voluntary Compliance.			0
Federal Trade Commission et al v. Tungsten Group, Inc., et al	Direct Marketing - Telemarketing	Multistate & Federal Trade Commission	The Tungsten Group was alleged to have offered advance fee guaranteed loans to consumers through unsolicited telemarketing contacts. The payment of the advance fee was alleged not to result in a consumer loan but was alleged to be a membership fee for a buyer's club.	Federal District Court	Consent judgment. Recovery involved \$50,000 in restitution and \$30,000 in attorney fees and costs.	50,000	30,000	80,000

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Case Name	Case Type	Source of Case	Case Description	Action	Resolution	Restitution*	Other Monetary Recovery	Total
First USA Bank, NA*	Direct Marketing - Telemarketing	Multistate	First USA Bank was accused of violating customer privacy by inappropriately selling customer information to third parties.	Investigation	Assurance of Voluntary Compliance. The AVC included \$26,041 for attorney fees, investigative costs and consumer education at the sole discretion of the Attorney General.		\$26,041	\$26,041
Scott Fetzer Company, d/b/a The Kirby Company	Direct Marketing- Home Sales	DATCP	Company salesperson was alleged to have made false, deceptive and misleading representations during an in-home sales presentation.	Investigation	Assurance of Voluntary Compliance.			0
Blitz Media, Inc. and Brian MacGregor**	Direct Marketing- Mail Order	DATCP	The company operates various discount buying clubs. The company allegedly misrepresented the nature or terms of telephone and mail transactions and the terms of refunds or cancellations. It was further alleged that consumers who refused the company's offer still found charges from the company on their credit card statements.	Investigation	Assurance of Voluntary Compliance.			0
Premier Health/MemberWorks, Inc.	Direct Marketing- Mail Order	DATCP	The company was alleged to have assessed unauthorized charges against consumers' credit card statements and to have made unauthorized withdrawals from consumers' checking accounts.	Investigation	Assurance of Voluntary Compliance.			0
Trilegant Corporation (Netmarket)	Direct Marketing- Mail Order	DATCP	The corporation provides a variety of membership programs to credit card customers. The programs were offered on a 90-day free trial basis, and it was alleged that the corporation would automatically renew the memberships and charge customers if the customers did not cancel their initial memberships.	Investigation	Assurance of Voluntary Compliance.			0
Warner-Lambert Company LLC (Neurontin/Pfizer), In the Matter of	Drugs	Multistate	The manufacturer was alleged to have advertised for uses of Neurontin, an epilepsy medicine, other than what it was approved for.	Sign-on to multistate settlement	Settlement. The settlement provided \$285,006 to Wisconsin for attorney fees, costs, a consumer protection enforcement fund, consumer education, litigation, or local consumer aid fund or revolving fund at the sole discretion of the Attorney General.		285,006	285,006
H&R Block Services, Inc., In the Matter of	Fraud	Multistate	The company was accused of deceptive practices relating to its "Peace of Mind" guarantee plan.	Investigation	Assurance of Voluntary Compliance. The AVC included \$50,000 for attorney fees, costs, consumer education, litigation, or local consumer aid funds at the sole discretion of the Attorney General. The AVC also included \$30,000 in restitution.	30,000	50,000	80,000

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Case Name	Case Type	Source of Case	Case Description	Action	Resolution	Restitution*	Other Monetary Recovery	Total
State v. Wendell Swenson (J.D.S. Sys-tems)	Internet	DOJ	The defendant was accused of failing to deliver diesel cars ordered by consumers over Internet auction sites.	Wood County Circuit Court	Consent judgment. The judgment ordered the defendant to make \$3,659 in restitution to 45 Wisconsin consumers. The judgment further barred the defendant from soliciting or selling any product or service over the Internet for five years.	\$3,659		\$3,659
Wisconsin v. Soho Marketing LLC d/b/a The Award Center, Debt Services International and Direct Reservations Center	No Call	DATCP	The company allegedly solicited state residents on the no-call list with prerecorded telephone solicitations offering vacation packages.	Kenosha County Circuit Court	Default judgment. The judgment provided \$55,875 in civil forfeitures and court fees for 375 violations of the no-call laws and \$30,169 to reimburse the state for its costs of investigation and prosecution.		86,044	86,044
Wisconsin v. Platinum Marketing Group, Inc., d/b/a The Awards Center and Mirror Lake Resort	No Call	DATCP	The company allegedly made numerous illegal solicitations to persons on the state's no-call list using prerecorded messages.	Dane County Circuit Court	Default judgment. The judgment included \$6,556 in court fees and forfeitures for 44 violations of the no-call law and \$5,038 in costs and attorneys fees.		11,594	11,594
Wisconsin v. TruGreen Limited Partnership, d/b/a TruGreen Chemical	No Call	DATCP	The company allegedly failed to honor consumer requests not to be solicited and called persons whose numbers appeared on the state's no-call list.	Waukesha County Circuit Court	Consent judgment. The judgment included \$7,200 in civil forfeitures, an \$1,800 penalty assessment surcharge, and a \$1,728 consumer protection assessment.		10,728	10,728
Wisconsin v. Environmental Safety/Inema-tional, Inc., d/b/a Environmental Products, Inc.	No Call	DATCP	A company calling itself "Septic Safety" allegedly made telephone solicitations to Wisconsin residents whose telephone numbers appeared on the state's no-call list.	Oneida County Circuit Court	Consent judgment. The judgment included \$3,900 in civil forfeitures, \$975 in consumer protection assessments, and \$936 in penalty assessment surcharges for 39 violations of Wisconsin's no-call law.		5,811	5,811
Wisconsin v. P & M Consulting, Inc. and Marktel II, Inc. d/b/a Bluegreen Vacations and Christmas Mountain Village	No Call	DATCP	The defendants were alleged to have made calls involving pre-recorded messages asking consumers to answer several survey questions. Based on consumers' answers to the questions, follow-up contacts were allegedly made to encourage customers to buy "discounted" vacations. During the vacations, consumers were allegedly required to attend a timeshare sales presentation for property belonging to Blue-green Vacations.	Outagamie County Circuit Court.	Consent judgment. The judgment included \$3,300 in civil forfeitures, \$825 in consumer protection assessments, and \$792 in penalty assessment surcharges for 33 alleged violations of the no-call laws. The companies were further enjoined from making prerecorded calls to Wisconsin consumers or calling consumers on the no-call list.		4,917	4,917
Wisconsin v. Next Level Marketing, Inc., d/b/a UCC Total Home of Gurnee	No Call	DATCP	The company allegedly called telephone numbers on Wisconsin's no call list and allegedly made misrepresentations in its solicitations.	Kenosha County Circuit Court	Consent judgment. The judgment included \$1,000 in forfeitures, a \$250 consumer protection assessment, and a \$240 penalty assessment surcharge for 10 violations of Wisconsin's no-call law.		1,490	1,490

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Case Name	Case Type	Source of Case	Case Description	Action	Resolution	Restitution*	Other Monetary Recovery	Total
Wisconsin v. Kuhn & Associates, Inc.; d/b/a Madison Kirby Co.	No Call	DATCP	The defendants allegedly called individuals whose numbers are registered on Wisconsin's no call list. The defendants also allegedly failed to properly identify themselves, made misrepresentations of fact, and engaged in other prohibited trade practices.	Dane County Circuit Court	Consent judgment. The judgment included \$800 in civil forfeitures, \$245 in costs, a \$200 consumer protection assessment, and a \$192 penalty assessment surcharge for 8 violations of Wisconsin's no-call law.		\$1,437	\$1,437
Wisconsin v. MCI Worldcom Communications, Inc.	No Call	DATCP	The defendant was accused of illegally calling individuals registered on Wisconsin's no-call list within the first few weeks after the list became effective on January 1, 2003.	Dane County Circuit Court	Consent judgment. The defendant was enjoined from making telephone solicitations to residential consumers whose telephone numbers appear on the no-call list and from calling non-residential telephone customers who have notified MCI that they do not wish to receive telephone solicitations.			0
Time Inc.	No Call	DATCP	The defendant was alleged to have made numerous illegal solicitations to persons on the no-call list.	Investigation	Assurance of Voluntary Compliance. The defendant company committed itself to full compliance with the requirements of Wisconsin's no-call law.			0
EchoStar Satellite Corporation, In the Matter of	Sales	Multistate	The company is a provider of direct broadcast satellite TV services which was accused of imposing unfair provisions in its contracts with consumers. The state received 97 complaints against EchoStar from Wisconsin consumers complaining that EchoStar assessed them a \$2490 termination fee when they canceled their services during their one-year contract. Customers claimed that EchoStar never revealed this termination fee when they were signing up for Dish Network. EchoStar allegedly also refused to refund any amounts that a customer prepaid for a year's worth of service.	Investigation	Assurance of Voluntary Compliance. Under the AVC, Wisconsin received \$330,936.54 for costs and attorney fees, consumer education, consumer protection, restitution, and donations to charitable organizations and schools at the sole discretion of the Attorney General. The AVC also requires EchoStar to disclose: (1) clearly and conspicuously all of the fees that customers will be held liable for if they cancel during the term of a one-year contract; and (2) certain unique aspects of satellite television that consumers normally do not encounter with cable or regular broadcast television, such as the availability of and monthly fees that are required for local channels.		330,937	330,937
Ford Motor Credit Company and Ford Dealers	Sales	Multistate	The defendants allegedly engaged in the practice of inflating the amount consumers were required to pay if they sought to terminate their leases early and purchase their leased vehicles.	Dane County Circuit Court	Consent judgment. Under the judgment the state received \$132,821 for attorney fees, costs, consumer education, public protection, or local consumer aid funds at the sole discretion of the Attorney General.		132,821	132,821

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Case Name	Case Type	Source of Case	Case Description	Action	Resolution	Restitution*	Other Monetary Recovery	Total
Reader's Digest Association, Inc.	Sweepstakes	Multistate	The case involved an investigation of the company's sweepstakes marketing.	Investigation	Assurance of Voluntary Compliance. The AVC included \$185,894 in restitution for high activity customers from 1998 through 2000, and \$75,000 for attorney fees, costs or consumer refunds at the sole discretion of the Attorney General. The AVC further requires that all future sweepstakes mailing provide a clear and conspicuous "Sweepstakes Facts" disclosure to consumers explaining: (1) that buying a product from Reader's Digest will not help the consumer win the sweepstakes; (2) that the consumer has not already won; (3) that the consumer does not have to buy anything to enter the sweepstakes; and (4) the odds of winning a prize. Finally, Reader's Digest will further be required to stop sending new sweepstakes solicitations to certain high activity customers who persist in the belief that buying magazines will help them win or who make excessive orders in relation to their means.	\$185,894	\$75,000	\$260,894
Wisconsin v. NOS Communications, Inc., Affinity Network, Inc., d/b/a QuantumLink Communications, d/b/a HorizonOne Communications and NOSVA Limited Partnership	Telecommunications	DATCP	The companies were alleged to have failed to comply with state law regarding the sale of telecommunication services. The action was based on customer complaints claiming that misleading representations were made to obtain the customers' agreements to provide long distance service.	Dane County Circuit Court	Consent judgment. The judgment included \$80,645.16 in civil forfeitures, \$19,354.84 in penalty assessment surcharges, and \$11,400 in restitution. The companies are also expressly prohibited from misrepresenting the rate or price of services, and failing to disclose, clearly and conspicuously, accurate and complete information about the terms and conditions of their charges, prices, rates, discounts and fees.	11,400	100,000	111,400
New Access Communications LLC, In the Matter of*	Telecommunications	Multistate	The company was alleged to have engaged in deceptive telecommunications practices.	Investigation	Assurance of Voluntary Compliance. Under the AVC, the state received \$100,000 for civil penalties, attorneys fees, investigation costs, consumer education, litigation, public protection or local consumer aid funds at the sole discretion of the Attorney General. In addition, consumers who filed complaints with the state within 90 days of entry of the settlement would also be eligible for refunds.		100,000	100,000
Chibardun Telephone Cooperative, Inc. *	Telecommunications	DATCP	The case involved an alleged improper subsidization.	Dane County Circuit Court	Court judgment. The judgment included \$8,160 in civil forfeitures, a \$4,000 consumer protection assessment, and a \$3,840 penalty assessment surcharge.		16,000	16,000

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Case Name	Case Type	Source of Case	Case Description	Action	Resolution	Restitution*	Other Monetary Recovery	Total
Wisconsin v. VoiceNet, Inc.	Telecom-munications	DATCP	The company provides consumers with their own personalized email address and permits consumers to send and receive email from any computer using VoiceNet. The company allegedly billed consumers on their telephone bills for services which had not been authorized.	Winneshago County Circuit Court	Consent judgment. The judgment included \$10,068 in civil forfeitures, a \$2,517 consumer protection assessment, and a \$2,416.32 penalty assessment surcharge. The judgment enjoined VoiceNet from: (1) misrepresenting that a Wisconsin resident has ordered or accepted VoiceNet's services; (2) billing a Wisconsin resident for any telecommunication service that the person did not affirmatively order; and (3) making any other false, misleading or deceptive representation. Finally, several thousand Wisconsin consumers who paid for VoiceNet services received a credit on their telephone bills.		\$15,001	\$15,001
Wisconsin v. Best Web USA, Inc. *	Telecom-munications	DATCP	The defendant sells internet web sites to customers through the use of telemarketers and was accused of engaging in cramming. The Federal Communications Commission defines cramming as the practice of placing unauthorized, misleading or deceptive charges on a customer's telephone bill.	Dane County Circuit Court	Consent judgment. The consent judgment included \$10,710.71 in civil forfeitures, a \$2,570.57 penalty assessment surcharge, a \$1,606.61 consumer protection assessment, a \$107.11 jail assessment, and a \$5 crime laboratory and drug law enforcement assessment. The company was further required to provide restitution to persons who contacted state consumer protection authorities within 60 days of the consent judgment.		15,000	15,000
Wisconsin v. Consolidated Billing Provider, LLC and Daniel W. Allen*	Telecom-munications	PSC	The defendant sells telecommunications services. The company allegedly billed consumers for services that the customer did not order.	Dane County Circuit Court	Consent judgment. The judgment included \$10,135.14 in civil forfeitures, \$2,533.79 in consumer protection assessments, and \$2,331.08 in penalty assessment surcharges. The judgment further enjoined the company from billing customers for services that the customer did not affirmatively order and required the company to make refunds to consumers who filed complaints with the state within 60 days of the judgment.		15,000	15,000
Wisconsin v. U.S. Connect, LLC*	Telecom-munications	DATCP	U.S. Connect was alleged to have billed customers for access to directory assistance services that the customers did not order. Customers allegedly complained of having been acquired as customers of U.S. Connect without their authorization.	Portage County Circuit Court.	Consent judgment. The judgment included \$5,067.57 in civil forfeitures, \$1,266.89 in consumer protection assessments, and \$1,165.54 in penalty assessment surcharges. The judgment further enjoined the company from billing customers for services that the customer did not affirmatively order and required the company to make refunds to consumers who filed complaints with the state within 60 days of the judgment.		7,500	7,500

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Case Name	Case Type	Source of Case	Case Description	Action	Resolution	Restitution*	Other Monetary Recovery	Total
Wisconsin v. Liberty Online Services, Inc., and National Online Services, Inc. *	Telecom- munications	DATCP	National Online was accused of making untrue, deceptive or misleading telemarketing campaigns to solicit web page and Internet services subscriptions from Wisconsin small businesses.	Kenosha County Circuit Court	Consent judgment. The judgment included \$4,000 in civil forfeitures, \$1,580 in costs and attorney fees, a \$1,000 consumer protection assessment, and a \$920 penalty assessment surcharge. The judgment further enjoined the company from billing customers for services that the customer did not affirmatively order and required the company to make refunds to consumers who filed complaints with the state within 60 days of the judgment.		\$7,500	\$7,500
Wisconsin v. LCR Telecommunications, LLC*	Telecom- munications	PSC	The defendant's telemarketers were accused of making misrepresentations during their initial solicitation of customers.	Dane County Circuit Court	Consent judgment. The consent judgment included \$3,567.86 in civil forfeitures, a \$656.29 penalty assessment surcharge, a \$535.18 consumer protection assessment, a \$35.67 jail assessment, and a \$5 crime laboratory and drug law enforcement assessment. The company was further required to make restitution to persons who filed complaints within 60 days of the consent judgment.		5,000	5,000
Wisconsin v. Talk Too Me, LLC d/b/a 00 Operator Services and d/b/a American Directory Services	Telecom- munications	DATCP	The company allegedly billed consumers for collect calls that they did not accept.	Portage County Circuit Court	Consent judgment. The judgment provided \$4,835 in restitution, including refunds of \$29,44 to each of 170 Wisconsin residents for collect calls that they paid for but did not accept. The judgment further enjoined Talk Too Me from billing Wisconsin consumers and businesses for any telecommunications service that the customer did not affirmatively order.	4,835		4,835
Wisconsin v. Midwest Readers Service, Inc. *	Telemarketing	DATCP	The company was accused of selling magazines through untrue, deceptive or misleading telephone solicitations and of failing to deliver ordered magazines.	Brown County Circuit Court	Consent judgment. The judgment included \$6,711.41 in civil forfeitures, \$2,500 in costs, a \$1,677.85 consumer protection assessment, and a \$1,610.74 penalty assessment surcharge. The judgment further required the company to make refunds to any Wisconsin consumer of Midwest who filed a written complaint within 60 days of the judgment.		12,500	12,500
Wisconsin v. MedPlan Inc. *	Telemarketing	DATCP	MedPlan, Inc. engaged in telemarketing to sell its represented service, a medical benefit plan.	Marathon County Circuit Court	Consent judgment. The judgment included \$5,000 in legal costs, court assessed forfeitures and penalty assessment surcharges.		5,000	5,000
Wisconsin v. Z-Tel Communications, Inc. *	Telemarketing	DATCP	The defendant allegedly used a third party marketing service to "slam" consumers. The Federal Communications Commission defines slamming as the illegal practice of changing a consumer's telephone service without authorization.	Milwaukee County Circuit Court	Consent judgment. The judgment included \$3,000 in forfeitures, a \$750 consumer protection assessment, and a \$720 penalty assessment surcharge. The judgment further required Z-Tel to make refunds to any consumer who filed a written complaint with the Attorney General's Office by April 18, 2004.		4,470	4,470

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Case Name	Case Type	Source of Case	Case Description	Action	Resolution	Restitution*	Other Monetary Recovery	Total
Wisconsin v. Vacation Showroom, Inc.	Time Shares; Telemarketing	DATCP	This promotional travel company allegedly sent advertising in the form of unsolicited faxes and also allegedly engaged in telemarketing.	Dane County Circuit Court	Default judgment. The judgment ordered \$50,000 in civil forfeitures, a \$12,000 penalty assessment surcharge, and \$100 in attorney fees.		\$62,100	\$62,100
Exxon Mobil Corp. *	Tobacco	Multistate	DOJ signed on to a negotiated settlement between the Tobacco Retailing Group and Exxon.	Sign-on to multistate Assurance of Voluntary Compliance	Assurance of Voluntary Compliance. The AVC compelled the settling retailers to institute procedures to prevent underage purchase of tobacco products.			0
BP Products North America Inc. a/k/a NAAG; BP Amroco & Tobacco Retailing, Multistate Sign-on Opportunity	Tobacco	Multistate	DOJ signed on to a negotiated settlement between the Tobacco Retailing Group and BP.	Sign-on to multistate Assurance of Voluntary Compliance	Assurance of Voluntary Compliance. The AVC compelled the settling retailers to institute procedures to prevent underage purchase of tobacco products.			0
Plaza Resorts, Inc. dba Ramada Plaza Resorts	Travel scams	Multistate	Ramada Plaza Resorts was involved in selling vacation packages by mail and telephone solicitations to Wisconsin consumers.	Investigation	Assurance of Voluntary Compliance. The AVC recovered \$1,983 in restitution for affected Wisconsin consumers.	1,983		1,983
Total						\$12,414,500	\$3,752,600	\$16,167,100

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