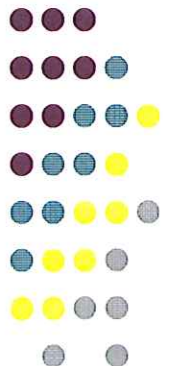


Consumer Protection Programs

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TABLE OF CONTENTS

Consumer Protection Statutory Authority.....	1
DATCP Consumer Protection Program	5
DOJ Consumer Protection Program	17
Appendix I Summary of State Agency Programs Providing Consumer Protection Services	21
Appendix II Summary of DATCP Trade and Consumer Protection Administrative Rules	26
Appendix III Unfair Sales Act/Minimum Markup Law.....	29
Appendix IV DATCP-Referred Consumer Protection Court Cases Closed in 2009.....	31
Appendix V DOJ Consumer Protection Cases Completed in 2008-10	36

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), a description of Wisconsin's minimum markup law (Appendix III), court cases closed in 2009 following DATCP investigations and referrals for prosecution (Appendix IV), and select consumer protection cases prosecuted by DOJ (Appendix V).

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 many 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 parts and vehicle rust-proofing warranties; (6) time share and campground ownership; (7) prepaid maintenance liens; (8) unsolicited prize notices or sales under pretense of a prize; (9) pay-per-call or "900" telephone number abuses; (10) ticket refunds; (11) cable television subscriber rights; (12) charitable solicitation; (13) dating services contracts; and (14) telecommunications services. Rule-making authority, enforcement authority or both now generally rests with DATCP for these sections, and the Department can bring actions in state courts with the assistance of local district attorneys. The sections under which DOJ and other agencies have enforcement authority include those pertaining to pay-per-call abuses, charitable solicitation and telecommunications services.

DATCP has rule-making authority, enforcement authority or both under other consumer protection provisions added since 1996, including: (1) the telemarketer no-call program; (2) prohibitions against using consumer loan information for solicitation; (3) allowing consumers via security freezes to restrict access to personal credit reports; (4) privacy of consumer information held by tax preparers; (5) requiring businesses with a statewide franchise for video services to provide sufficient consumer access; (6) prohibition of price gouging during emergencies; and (7) soliciting contracts using checks or money orders.

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, to prohibit advertising and other representations that are "untrue, deceptive or misleading." This statute, originally adopted in 1913 and often referred to as the Fraudulent Representations Law, prohibits fraudulent advertising or representations made by businesses. Specific actions which are prohibited under this statute include: (1) inadequate price or condition-of-sale disclosures related to combination sales, which are sales conditioned upon the purchase of another product or service; (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) advertising made without a good or service being offered to the consumer, known as bait-and-switch advertising; (7) misrepresentation of local energy resource systems such as wind or solar power; (8) deception in the use of terms such as wholesaler or manufacturer for price advertising; and (9) misrepresentation as a local business if a business operates outside a community or region.

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. In addition to halting the fraudulent actions for most infringements, the

court can include in an injunction 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. Businesses found to be misrepresenting themselves as local or regional may be ordered to forfeit not less than \$100 and not more than \$10,000. Bait-and-switch advertising is punishable by up to \$10,000 in fines and up to nine months in jail.

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. For each violation of an injunction, the DOJ or a district attorney may bring an action to recover additional civil forfeitures of not less than \$100 and not more than \$10,000.

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. Violations of voluntary assurances, however, do not carry possible additional civil penalties as injunction violations do.

Although DATCP has authority to bring actions, DATCP requests that court actions be taken by district attorneys or the Department of Justice due to the general role both offices have in representing the state in court.

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." The statutes give DATCP 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 halting 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. Appendix II lists DATCP rules promulgated under the general unfair trade practices statute. The DATCP Consumer Protection Bureau administers these rules.

The 1995-97 budget act eliminated DOJ's rule-making authority in the area of consumer protection. However, in areas related to unfair business practices where no DATCP rule exists, DOJ may: (1) file a written complaint with DATCP relating to allegations of unfair methods of competition in business or unfair trade practices in business or both; (2) require DATCP to proceed, after proper notice, to the hearing and adjudication of the allegations; (3) permit a representative of DOJ, designated by the Attorney General, to appear before DATCP in such proceedings; and (4) entitle DOJ to judicial review of the decisions and orders of DATCP.

Special Orders and Injunctions

The unfair trade practices statute also author-

izes 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.

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 of a special order or injunction, 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 s. 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 was not affirmatively ordered, unless the service is required to be provided by law, by the Federal Communication Commission or by the state Public Service Commission (PSC). Further, it is not considered an affirmative request if a person fails to refuse a proposal to provide a 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 a customer has canceled.

DATCP, in consultation with DOJ, has the authority to promulgate rules related to the provision of electronic communications services in the state. ATCP 123 regulates subscription and billing practices related to electronic communication 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 electronic communications services. A dis-

trict attorney, upon informing DATCP, may also commence such actions.

Any person who violates the consumer protection statutes related to electronic communications services shall be required to forfeit not less than \$25 nor more than \$5,000 for each offense. Such forfeitures are enforced by DOJ, only after consulting DATCP, or by any district attorney, after informing DATCP. Also, persons adversely affected by such violations have claims to appropriate relief and to the recovery of costs and disbursements related to such violations.

Telemarketing No-call List

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. 2007 Act 226 made mobile-phone numbers eligible for the no-call list beginning in June, 2008.

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. For the registry taking effect January 1, 2011, there were 2,284,800 numbers on the no-call list, which was a record high. DATCP attributes 50.8% of all participants to mobile phones.

Product Safety

DATCP is also responsible for the identification and regulation of both hazardous substances and 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. DATCP has general authority to ban the sale or distribution of hazardous substances (s. 100.37) or any consumer product determined to present an unreasonable risk or imminent hazard

to the public health, welfare or safety (s. 100.42). The Department also has specific statutory responsibilities related to several issues or product categories, which are listed later under the description of the Regulation and Safety Section in the Bureau of Consumer Protection.

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 bureau 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 Bureau 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 in which unfair business activities had at one time become common. The Department adopts new rules and modifies current rules in response to new practices.

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 of unfair industry competition and practices, which are "business-on-business" complaints as opposed to "consumer-on-business" complaints. Examples of Trade Practice Bureau programs include: (1) regulation of product pricing practices known as minimum markup laws; and (2) the agricultural producer security program, which attempts to ensure that commodity dealers, storage facilities, and processors have enough financial se-

curity to meet their contractual obligations with individual producers of dairy, grains, and fruits and vegetables from whom they purchase. Appendix II contains a list of administrative rules related to trade practices. Appendix III summarizes the state's minimum markup law.

Program Funding

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 2010-11, the Bureau is authorized \$5,529,600 and 63.0 positions, consisting of: (1) \$1,265,100 GPR with 19.0 positions; (2) \$3,530,300 PR with 38.0 positions; and (3) \$734,200 petroleum inspection SEG with 6.0 positions.. The Bureau also customarily receives revenues from purchase orders made by the United States Consumer Product Safety Commission (CPSC) for consumer protection staff to conduct investigations or monitor Wisconsin businesses' compliance with CPSC regulations. In 2009-10, the Bureau received \$7,000 FED for these purposes. Activities under the federal grant are described later in greater detail.

Included in the Bureau's funding and positions is \$1,269,600 PR with 13.05 positions associated with weights and measures inspection. Although DATCP has organized the Bureau of Consumer Protection to contain these positions, it should be noted that weights and measures inspections involve both consumer protection and trade regulation issues.

Bureau of Consumer Protection program revenue consists of various fees: (1) weights and measures inspections; (2) telemarketer licensing and other fees under the no-call program; (3) assessments on telecommunications utilities levied by the Public Service Commission and transferred to DATCP; (4) automobile repair shops conducting mobile air conditioner installation, removal or repair work; (5) a 25% surcharge on fines and forfeitures for consumer protection violations; (6) sale of

supplies and other materials; and (7) surcharges for violations of the state prohibition on bisphenol A use in children's products, although this appropriation has not received any deposits as of December, 2010. The Bureau uses segregated funding from the petroleum inspection fund for enforcement of the Unfair Sales Act and weights and measures activities related to fuel-dispensing facilities.

Funding and positions authorizations are reduced from 2008-09 levels by \$246,400 and 5.6 positions among all funding sources due to several provisions in 2009 Act 28. These changes are shown by fund source in Table 1. The most significant changes under Act 28 were: (1) deleting \$657,500 GPR in 2009-10 and \$833,500 GPR in 2010-11 with 10.0 positions; and (2) adding \$285,200 PR annually with 4.2 positions funded by licensing and fee revenues collected under the telemarketer no-call program. The Bureau was also subject to one-time, across-the-board reductions applied to most agencies and appropriations. Further, \$415,800 and 6.0 positions were converted from GPR to PR supported by assessments on telecommunications providers, and \$8,700 with 0.2 positions were added to no-call administration in other departmental realignments. As a result of the positions reductions, DATCP reorganized the Bureau of Consumer Protection in 2009. The sections below describe the reorganization and current operations.

Table 1: Consumer Protection Funding and Positions Changes, 2007-09 to 2009-11

Source	2008-09		2010-11		Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$2,353,500	35.0	\$1,265,100	19.0	-\$1,088,400	-16.0
PR	2,777,600	27.6	3,530,300	38.0	752,700	10.4
SEG	<u>644,900</u>	<u>6.0</u>	<u>734,200</u>	<u>6.0</u>	<u>89,300</u>	<u>0.0</u>
Total	\$5,776,000	68.6	\$5,529,600	63.0	-\$246,400	-5.6

Consumer Protection Bureau Organization

Prior to December, 2009, the Bureau of Consumer Protection operated with a central office in Madison and regional offices in Eau Claire, Green Bay and Wauwatosa. A fourth regional office was located in DATCP headquarters in Madison; despite its central location, this office had staffing and functions similar to the other three regional offices. The central office staff consisted of 38.3 positions, organized as follows: (1) 4.4 positions, including 1.0 director and 3.4 other administrative staff; (2) 9.65 positions for consumer information and complaint receipt; (3) 0.5 position each for a Spanish-language and Hmong-language outreach specialist; and (4) 23.25 positions for regulation and safety, which includes staff for the weights and measures program and environmental and product safety regulation. Regional office staffing was that shown in Table 2.

In December, 2009, the Department the closed

Table 2: Regional Consumer Protection Staff, 2009

Madison*	Green Bay	Wauwatosa	Eau Claire
1.0 Supervisor	1.0 Supervisor	1.0 Supervisor	1.0 Supervisor
5.8 Investigators	3.0 Investigators	3.0 Investigators	3.5 Investigators
1.0 Consumer Specialist	2.0 Consumer Specialists	3.0 Consumer Specialists	<u>2.5</u> Consumer Specialists
<u>1.0</u> Regulatory Specialist	<u>0.5</u> Program Assistant	<u>1.0</u> Program Assistant	
8.8	6.5	8.0	7.0

*The Madison regional office was located in DATCP's central office. Madison staff included the Office of Privacy Protection, which consisted of 1.0 position each of investigator, consumer specialist and regulatory specialist.

regional offices. Of the 21.5 positions in the regional offices outside Madison, DATCP eliminated 5.8 positions in accordance with Act 28, and transferred the remaining 15.7 positions to the central offices in Madison. The centralized office reorganized into the administrative units detailed below and shown in Table 3.

Table 3: DATCP Consumer Protection Staff (2010-11)

Administration	5.2
Consumer Information/Education	6.5
Complaint Administration	11.0
Investigation	10.0
Privacy Protection	7.0
Regulation and Safety Section	<u>23.3</u>
Total	63.0

Administration

The Bureau of Consumer Protection supports 5.2 administrative positions, including a director and other positions related to: (1) program, policy and budget analysis; (2) communications, which is discussed in greater detail below; (3) clerical assistance; and (4) a portion of the administrator for the Division of Trade and Consumer Protection, of which the Bureau is a part.

Consumer Information and Education

The consumer information and education unit is often the first point of contact between the Bureau and consumers. The section includes the following components, with authorized positions noted in parentheses: (1) the consumer protection hotline (4.5 FTE); (2) outreach specialists for speakers of Spanish and Hmong (0.5 FTE for each language specialty); and (3) a manager for operations of the work unit (1.0 FTE).

The primary responsibility of the hotline staff is receiving phone calls from individuals reporting potential violations of consumer protection laws. (The process for handling complaints is discussed

in a later section.) In addition to live assistance offered through the hotline, the Bureau also responds to inquiries through an automated answering service known as interactive voice response (IVR), which has been operated by DATCP since being transferred from DOJ in 1996. All contacts are cataloged in a database kept by the Bureau to identify trends and emerging issues in the marketplace and to establish program priorities and direction. The database also helps the hotline staff answer consumer inquiries as to whether complaints have been filed against particular businesses.

Whereas the above positions are partly or primarily intended to respond to consumer inquiries, the Spanish- and Hmong-language outreach specialists, as well as the communications specialist identified above under administration, are intended mostly to generate public awareness of issues pertinent to consumer well-being. The language specialists work within the Bureau on translating consumer complaints and factsheets, and they also work with the respective communities to publicize consumer issues that are most pertinent to the Spanish- and Hmong-speaking communities. Similarly, the communications specialist creates public announcements and media alerts relating to questionable business practices of which the Bureau is aware. The Bureau further intends for this position to be responsible for creating audio and video messages to be distributed on the Bureau Web page or in other social media. The communications specialist will also have responsibilities of updating and producing the Bureau's factsheets.

Complaint Administration

The Bureau has allocated 11.0 positions, consisting of 1.0 unit manager, 9.0 consumer specialists and 1.0 licensing program associate, under its complaint administration unit for receiving, processing and initiating responses to formal, written complaints. This unit also administers the telemarketer no-call program, which is discussed later in greater detail. Whereas the consumer information unit receives and responds to consumers' initial

inquiries, complaint administration is responsible for resolving disputes for which consumers have submitted a formal complaint. As opposed to the more general questions received on the hotline or IVR, formal complaints describe an alleged improper business action, and include detailed information on the alleged violation. Complaints may result in further investigation, mediation or one or more types of enforcement, which are discussed later in greater detail. Duties of the complaint administration unit include responding to complaints made against businesses headquartered outside Wisconsin but whose operations within the state are alleged to have violated state laws.

Under the Bureau's previous organizational structure, complaint administration was partly decentralized, as some complaints were handled in regional offices outside Madison. The persons handling complaints are now all located in Madison. However, DATCP officials anticipate dividing this unit into teams, with each team responsible for handling complaints in a designated region of the state. The Bureau intends for this structure to better detect emerging fraudulent or unfair business practices, as such practices frequently can begin with one or more businesses operating in a particular area. As complaint administrators learn of potential regional consumer-law violations, the Bureau expects teams to be able to handle subsequent related complaints more efficiently and publicize the suspect practices to prevent further abuses. A centralized complaint staff is also intended to operate and communicate quicker among itself and with investigative staff. DATCP established regions for mediation purposes in September, 2010. Investigators are expected to be assigned to regions in 2011.

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. The Legislature has increased expenditure authority and associated positions in subsequent years in response to greater costs of program administration. For 2010-11, DATCP is allocated \$790,700 and 7.2 positions

from its telephone solicitation regulation appropriation. DATCP allocates 5.7 positions for administration of the no-call program. Another 1.0 position is for a program and policy analyst funded from no-call list revenues but counted among central office staff. A one-half position (0.5 FTE) is allocated to an outreach specialist.

DATCP licenses telemarketers, handles consumer complaints relating to telemarketing, and enforces the provisions of the no-call law, but DATCP contracts for maintenance of the residential no-call phone listing. The contractor is responsible for receiving resident registrations by phone and Internet, as well as distributing the full no-call list quarterly to licensed telemarketers and DATCP. Contract payments by DATCP totaled \$182,600 in 2008-09 and \$183,800 in 2009-10. Payments are budgeted at \$225,000 for 2010-11, which reflects additional administrative costs that may result from increases in registrations by mobile phones. DATCP has also budgeted an additional \$110,000 in 2010-11 under the no-call contract for a redesign and update of the no-call Web site. These changes include: (1) updated registration forms; (2) updates to reflect the expansion of the no-call list to mobile phones; (3) additional information for Spanish- and Hmong-speaking users; and (4) new Web-based access for licensed telemarketers, as opposed to electronic or hard copies currently available.

The Department administers the program under administrative rule ATCP 127. Telemarketers pay initial fees of \$700 per year and annual fees of \$500 for renewal, and the Department collects annual fees of \$75 per phone line over three. The annual sum of fees is capped at \$20,000, and fees may be paid on a quarterly basis. 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 not charged for registering.

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 after three quarters in 2003-04. Due to a large balance in the telephone solicitation appropriation account that resulted from higher than expected revenues, 2003 Act 33 transferred \$600,000 from the account to the state's general fund in 2003-04.

ATCP 127 allows DATCP to reduce or waive one or more of the quarterly fee payments by telemarketers if the Department projects a year-end balance in the telephone solicitation appropriation account that exceeds projected fiscal year expenditures by at least 15%. This provision would allow DATCP to maintain a year-end balance of approximately \$118,600 based on 2010-11 expenditure authority. DATCP has waived quarterly payments due to large balances in the account, beginning with the quarterly payment due September 1, 2003. The Department collected one quarterly payment in each of fiscal years 2004-05 and 2005-06. The Department waived one quarterly payment in 2006-07, but has collected all quarterly payments beginning with 2007-08. Through December 2010, the cumulative amount of waived quarterly payments is estimated at approximately \$4.76 million. DATCP also transferred \$1.4 million to the general fund as part of statewide lapse requirements under 2009 Act 28. On June 30, 2010, the telephone solicitation appropriation had a balance of \$1,152,700. Revenues for 2009-10 were \$1.5 million.

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 contention that the rule allowed DATCP discretion on whether to reduce or eliminate quarterly payments based on the program's fiscal outlook. The court ruled that DATCP did not have discretion when program revenues exceeded projected expenditures by the specified amount, but rather must reduce or eliminate fee payments when this is the case. However, DATCP has continued to maintain balances in excess of the amounts specified under the ruling.

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. This clarified language in ATCP 127, which contains a reference to the state's "Little FTC Act" that imposes a \$10,000 maximum forfeiture for unfair trade practices.

Securities. The complaint administration unit also holds statutorily required securities for fitness clubs and firms providing weight-loss and dating services. Generally, these businesses must provide a security of \$25,000 before being allowed to collect certain fees from clients prior to providing services. This is partly intended to prevent clients from losing money from operators that may accept payments without delivering services promised under a contract. The Department also holds surety bonds for time shares, which may be filed by time-share developers to protect purchaser deposits in such projects. As of December 31, 2009, the Bureau held securities of \$17.5 million, including \$8.3 million for fitness centers and \$8.65 million in time-share sureties.

Investigation

The investigation unit consists of 1.0 unit supervisor and 9.0 investigators and is responsible for gathering further information on complaints and assessing whether violations of law have occurred and require further enforcement action. Investigators previously were located in each regional office, but, as with the complaint administration unit, the Bureau anticipates a centralized staff being able to better collaborate on cases and better determine which consumer laws may have been violated in each case. Investigators also work with DATCP's attorneys in developing investigative methods for a case and determining the appropriateness of potential enforcement actions, and the Bureau expects the new organizational structure to facilitate timelier communication between these areas.

Office of Privacy Protection

The Office of Privacy Protection (OPP) was created by executive order of the Governor in April, 2006. The Office's duties include: (1) providing education on identity theft to individuals, government agencies, law enforcement agencies and businesses, both through the DATCP Web site and in-person training sessions; (2) receiving complaints related to identity theft; (3) investigating instances of identity theft, individually and in conjunction with local law enforcement agencies and prosecutors if a case results in such an action; and (4) providing identity-theft victim assistance. Victim-assistance activities may involve both individuals and businesses that possess personally identifiable information of customers. If a business has experienced a data breach in its customers' personally identifiable information, and the incident created a "material risk of identity theft or fraud," OPP assistance would include supervision of statutorily required notices to potential victims.

The Office was authorized three positions upon its creation: 1.0 regulatory specialist, 1.0 investigator and 1.0 victim assistance specialist. The positions were administratively created by DATCP and the Department of Administration under a federal appropriation. 2007 Act 20 changed OPP funding from \$170,500 FED annually to \$102,300 annually from each of general purpose revenue (GPR) and program revenue (PR) transferred from the Office of Commissioner of Insurance (OCI). Each funding source supported 1.5 positions. Due to across-the-board reductions under 2009 Act 28, OCI reduced its funding of OPP to \$96,300.

Under the Bureau's 2009 reorganization, 4.0 PR positions were added to OPP. Total funding for 2010-11 is \$483,900 with 7.0 positions, consisting of: (1) \$123,700 GPR with 1.5 positions; (2) \$327,800 departmental PR with 5.0 positions; and (3) \$32,400 OCI PR with 0.5 position. (A 1.0 position from OCI PR has since been moved to the investigation unit described earlier.)

The current 7.0 positions and their responsibilities are as follows: (1) 1.0 unit supervisor; (2) 1.0 regulatory specialist, primarily responsible for outreach and education, handling data breaches at businesses, and providing various forms of victim assistance; (3) 3.0 consumer specialists, who serve as the first point of contact for consumers contacting the OPP, and who provide guidance on the most immediate steps a victim must take to stop further unauthorized identity use; and (4) 2.0 investigators, who function much as the Bureau's other investigative staff and work most often with police departments and district attorneys.

The Bureau intends for the increased staff to be more commensurate with current needs for handling identity theft complaints. Investigating identity thefts is generally more time-consuming than other consumer protection complaints; whereas other complaints arise from fraudulent or unfair practices by known entities, identity theft is often computer-based and the mechanism of the theft may not be apparent. Further, the Bureau intends for additional OPP staff to better respond to requests for assistance from local law enforcement, which often may not have sufficient resources to conduct identity theft investigations.

In 2009, the OPP received 11,189 Web site visits, 1,921 telephone contacts, 36 walk-in visits and 660 inquiries by other means such as e-mail for a total of 13,806 inquiries. The OPP filed 325 complaints with 13 prosecutions resulting, as shown in Appendix IV. OPP also provided support on 21 data breaches in 2009.

Regulation and Safety

The 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 meas-

ures 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 Section chief, a supervisor and 21.3 staff, including 15 field inspectors, who carry out Department responsibilities related to the following statutes:

- 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)
- 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, which deals with the calibration of scales and other measuring devices, and motor vehicle testing equipment. In 2009, the Department tested 8,400 weights and measures. Although weights and measures inspection is considered part of the Bureau of Consumer Protection, these inspection activities also affect activities between businesses. Business-to-business transactions are customarily considered as trade regulation by the Department.

Complaint Intake and Response Procedures

Initial Contact

A primary function of the Bureau of Consumer Protection is to review and respond to consumer inquiries and complaints. The majority of contacts to the Bureau come electronically via the Bureau's Web site or by telephone. In calendar year 2009, the Department received 190,611 initial inquiries and contacts, including: (1) 35,191 telephone inquiries; (2) 73,820 calls to the IVR service; (3) 80,931 e-mail or Web-based contacts; and (4) 669 other contacts, such as in-person "walk-ins", speeches to groups, and contacts by legislators, media outlets or other state agencies.

Persons contacting the Bureau to report unfair or fraudulent business practices may receive several types of information. Based on a brief description of the person's circumstances, staff members generally discuss the consumer's legal rights and options for further actions. Consumers may attempt to resolve a dispute privately after gaining a fuller understanding of the responsibilities of involved parties, and DATCP in the past estimated that up to two thirds of consumer inquiries are resolved upon initial communication. Such resolution, in addition to being timely for consumers, allows Bureau staff to avoid more time-consuming written responses to consumers and affected businesses, which is the first step following receipt of a formal complaint.

Hotline personnel often send factsheets to callers describing applicable laws and consumers' rights under them. The Bureau sent 11,996 fact sheets in 2009. Hotline responders also refer callers to factsheets and other information available on the DATCP Web site. The staff may also refer callers to other agencies that have jurisdiction over the area of concern or that can provide further assistance. The Bureau made 1,673 such referrals in 2009.

Written Complaints

In 2009, DATCP opened 13,648 written com-

plaints in response to contacts, and initiated another 474 complaints on its own, for a total of 14,122 formal complaints. Approximately 25% of written complaints opened by DATCP in 2009 were related to either telemarketer violations of the no-call list or telecommunications, which were the top two sources of written complaints. The Department in 2009 also received a large number of inquiries on landlord/tenant issues, satellite dish providers, and home improvement contracts and projects.

In some instances, the Department may request that a consumer file an official complaint form. These instances include: (1) complaints that do not involve violations of current rules or specific statutes, but involve recurring and serious occurrences that DATCP wishes to review for potential further actions; or (2) a series of similar complaints warranting further investigation after an initial review by an investigator.

Complaint Mediation

After receiving a complaint, DATCP sends a written response to both the consumer and the affected business. However, for many complaints, reviewers may find that no violation of the law exists. In such a case, the Bureau generally attempts to mediate disputes by sending letters informing the consumer and the affected business of their rights or responsibilities and proposing possible solutions to both parties. Although DATCP has stated that its primary statutory mission is to identify and prevent unfair business practices and not to represent individual consumers, many complaints are resolved to the satisfaction of consumers through mediation procedures. DATCP estimates that approximately 90% of written complaints are mediated by the Department each year.

Investigations

In some instances, the Department further investigates complaints to determine whether a violation has occurred and how significant the violation is. The Department possesses substantial investigative authority under general agency powers provided by

Chapter 93, as well as specific investigative authority in the unfair trade practices (s. 100.20) and deceptive advertising (s. 100.18) laws. DATCP authority includes the ability to subpoena documents and testimony, conduct investigative hearings, collect and analyze samples, and inspect and copy business records. DATCP attorneys and legal staff assists consumer protection staff with investigative activities.

Although most complaints are handled through mediation, an estimated 20% of all complaints require some level of investigation, including interviews, data collection, case evaluations and, at times, undercover investigation. It should be noted that many cases that end in mediation may involve some level of investigation prior to resolution. Additionally, DATCP may mediate certain individual cases prior to conducting investigations. These circumstances generally arise from violations that affect multiple complainants or that indicate other possible wrongdoing by an accused party. Telecommunications, automotive repair, home improvement and telemarketing cases for several years have represented the majority of investigations.

DATCP officials have instituted a "tier" system that rates potential investigations.

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

Tier 2: Routine issues of statewide/regional importance that impact a large number of Wisconsin consumers and/or businesses.

Tier 3: Routine issues that impact an individual complainant and/or business.

Serious violations with a significant impact on affected consumers merit the use of staff for these investigations. Generally, investigations occur when the Department receives numerous unresolved complaints about a single business or issue over a short period of time. The Department also begins investigations and studies of consumer protection issues

identified by staff.

In 2009, DATCP performed 175 formal investigations related to general consumer complaints. Investigations generally result in formal reports of the case's facts and any violations DATCP believes to have occurred, along with supporting evidence to be used by prosecuting attorneys to draft complaints and file court cases. Prior to forwarding the case to DOJ or a local district attorney's office, DATCP customarily confers with the prosecuting agency to discuss the evidence available, as well as any additional case development that may be needed, and possible means of enforcement.

Enforcement Actions

The Department enforces consumer protection rules or statutes in several ways, 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 of 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. DATCP issued 1,869 warning letters to businesses in 2009. 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 or through Department surveys.

Assurances of Compliance

The Department requires an assurance of compliance (written assurance) when the severity of the violation or the history of the violator indicates that a warning letter may not achieve compliance, but the Department considers formal prosecution unwarranted. The violating business must sign a statement assuring compliance, which the Depart-

ment can use to facilitate compliance by other means, if necessary. Issuing an assurance of compliance typically involves an in-person meeting with the affected business. DATCP obtained 96 assurances of compliance in 2009.

Special Orders

Special orders address unfair business practices that are not specifically addressed by current law or rules. Issuance of a special order generally takes six to eight months, and DATCP generally views a special order as a precursor to a new administrative rule. The Department first identifies a potentially unfair business practice that is not directly regulated by specific rules or statutes. DATCP, DOJ or both agencies review the practice. If it appears to be unfair, an independent examiner hears the case in a quasi-judicial proceeding and rules whether the practice is unfair. Finally, the DATCP Secretary issues a 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. In 2009, 108 cases were referred for enforcement, including: (1) 61 to district attorneys; (2) 30 to DOJ; (3) seven to federal agencies or a U.S. attorney; (4) two by DATCP itself; and (5) eight to other jurisdictions. One case reportedly resulted in an arrest. Further, 48 court actions were filed pursuant to DATCP developing cases. These cases consisted of: (1) 35 by district attorneys; (2) eight by DOJ; (3) two by DATCP; and (4) three by other authorities. Appendix IV provides a summary of the 40 court cases developed by DATCP that were completed in 2009.

DATCP generally remain involved in the prosecution of referred cases. DATCP's role in this stage typically includes: (1) giving sworn testimony; (2) reviewing materials submitted by a defendant; (3)

attending enforcement conferences with DOJ and the defendant; and (4) consulting on settlement terms.

Consumer protection-related court actions may result in trials or other settlements, both of which may include court orders or injunctions that prohibit future conduct by a defendant. In addition, defendants may be made liable for civil forfeitures, penalties and restitution to Wisconsin consumers. Fines or forfeitures obtained in state courts by law include a 25% consumer protection surcharge that is deposited to a DATCP program revenue continuing appropriation for consumer education. Although DATCP has expenditure authority of \$175,000 from this appropriation, revenues totaled \$28,500 in 2008-09 and \$52,500 in 2009-10. Any revenues exceeding \$185,000 in a fiscal year would be deposited to the state's general fund.

Information and Education

In addition to the procedures used in resolving complaints and enforcing consumer-protection laws, the bureau also attempts to engage in several early-stage measures to promote voluntary compliance by businesses and to increase consumer awareness of potentially harmful situations. The bureau's educational and informational activities include: (1) press releases warning of new or existing consumer fraud schemes and seasonal consumer issues; (2) regular presentations and speeches 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; and (4) requests that television stations provide the consumer protection hotline telephone number before broadcasting advertisements for business opportunity plans, such as work-at-home schemes.

DATCP also distributes factsheets. The most widely distributed factsheet describes landlord and tenant rights and is available in Spanish and English. DATCP publishes 298 total factsheets and booklets, including 51 in Spanish, 15 in Hmong, and four in large print. In addition, the Department

maintains a Web-based reference known as "Law at Your Fingertips," which appears on the Department's consumer protection Web site but is maintained by the DATCP legal staff. The Department also provides information to local law enforcement agencies to increase their knowledge of consumer protection laws and rules. Staff members also regularly lecture at technical school law enforcement classes.

Surveys

DATCP complements on-site inspections by staff of the Regulatory and Safety Section with surveys to measure compliance with consumer-protection laws. In 2009, the Department performed approximately 5,197 surveys, checking approximately 178,844 devices and packages. 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. Regular inspections of auto repair businesses to determine compliance with ATCP 136 (mobile air conditioning).
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 oversight.

Product Safety Activity

Ensuring safe products for consumers is a key element of the Department's consumer protection mission. Specific statutory directives enforced by DATCP product safety staff include: (1) labeling of

bedding [s. 100.2095]; (2) bisphenol A prohibitions [s. 100.335]; (3) flammable fabrics [s. 100.41]; (4) product safety [s. 100.42]; and (5) poison prevention in packaging [s. 100.43]. 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 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 contend that their most powerful compliance tool is public information. The Department collects information from consumer complaints, news reports, and other public and professional contacts. The Department also disseminates product safety information through the news media, electronic media 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 members work with manufacturers and retailers to identify and correct problems without formal enforcement where possible or practical. Staff members also may mediate between consumers and companies.

The Department works closely with the 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 do not provide any interpretation, but rather are intended to present facts to CPSC that, in conjunction with parallel investigations from around the country, the agency will analyze to make determinations on product hazards. The Department last carried out CPSC product safety investigations in federal fiscal year 2006-07, when nine were conducted. Those investigations were prompted by all-terrain vehicle (ATV) deaths, carbon monoxide deaths and pool drownings.

In addition to product-safety investigations for the CPSC, DATCP may perform its own product-safety investigations, either in response to consumer complaints or on the Department's own inquiry. DATCP has not initiated any of these investigations since 2007, which is due in part to the administrative rule ATCP 139 (consumer product safety) being under revision in 2008 and 2009 as corresponding federal laws were also undergoing changes.

Recalls and Compliance Checks. The Department has performed recalls under its own statutory authority for such products as stuffed/plush toys, matches, books, riding lawnmowers and electric scooters. The Department initiated recalls in 2006 and 2007 on children's clothing made with drawstrings, which led to issuance of federal recalls. DATCP has not issued any recalls since that time.

DATCP staff members also inspect retail stores on assignment from CPSC to gather information on the effectiveness of CPSC-issued recalls. The Department performed 35 recall effectiveness checks in federal fiscal year 2008-09 and 20 in federal fiscal year 2009-10. The subjects of the recent effectiveness

checks included window blinds, various types of clothes, bicycles, snowmobiles, cribs and certain electronics and appliances.

Further, DATCP has investigated or inspected sellers of various products at the request of the CPSC to ensure compliance with federal regulations or other enforcement actions. Specifically, the Department has investigated ATV sellers to determine compliance with a now-expired federal consent decree regarding sales of ATVs for use by children that began in the 1980s. In 2009 and 2010, DATCP conducted inspections at retail sellers of portable generators to verify that generators marketed for sale met federal labeling requirements.

Consumer Product Safety Surveys. DATCP has performed several consumer product safety surveys in past years, either under contract from the CPSC or sharing departmental findings with the CPSC. In 1999, consumer protection staff surveyed records at 30 fire departments throughout the state. Investigators collected information about fires caused by consumer products and shared findings with CPSC. In 2002, under contract with CPSC, DATCP surveyed cigarette lighters to collect information on the presence of required child safety mechanisms. In 2003, the Department surveyed second-hand stores to educate store employees about items that have been recalled or that are illegal to sell in the state but that had been found for sale at second-hand stores. This effort was supported by CPSC funds. DATCP has not performed any surveys for the CPSC since 2003 due to federal reorganization and budget decisions. However, the bureau in 2008-09 conducted 15 visits to resale stores to promote the CPSC "Make Safety Your Business" campaign. Like the Department's self-initiated 2003 effort, Make Safety Your Business is intended to broaden awareness among second-hand stores and persons holding yard sales that reselling recalled products is illegal.

In recent years, DATCP has initiated a cooperative planning effort to strengthen its relationship

with CPSC and other state and local agencies. For example, DATCP works with local fire departments on fire prevention and with the Department of Health Services on investigations and outreach concerning products such as siding, air purifiers and portable heaters. Department staff members also participate in local safety organizations. In addition, staff members work with trade associations to disseminate information about product safety regulations.

The Department receives press releases, consumer alerts, research articles and other information from the CPSC. 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 publishes and electronically distributes a monthly newsletter entitled "Keep Your Kids Safe" that summarizes and highlights all recalls related to children.

The Department was 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.

DATCP also works with the standards organization ASTM International, and holds a seat on the ASTM Committee on Consumer Products. ASTM International is a voluntary organization for standards development in a variety of products. It was formerly known as the American Society for Testing and Materials, and was founded in 1898.

**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 2010-11, this function consists of 7.3 positions, including: (1) 3.6 attorneys; (2) 2.0 consumer investigators; (3) 1.0 legal secretary; and (4) a 0.7 paralegal. In 2010-11, DOJ estimates the consumer protection unit budget at \$741,300 GPR and 6.3 GPR positions, and \$50,900 PR and 1.0 PR position. The Department of Justice indicates that units within its Division of Legal Services are not separately budgeted.

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 of an injunction relating to fraudulent representation, fraudulent drug advertising, unfair methods of competition or unfair trade practices.

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. 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 2008-10, a total of 141 consumer protection cases and investigations were either referred to or developed by DOJ's consumer protection unit. Of this total, 95 cases were referrals from other state agencies, as follows: (1) DATCP referred 84 cases; and (2) the Department of Financial Institutions (DFI) referred 11 cases. The remaining 46 cases were developed internally by

DOJ. Of these latter cases, 18 were multi-state in nature and 28 were Wisconsin-specific.

Appendix V identifies the consumer protection cases completed by DOJ's consumer protection unit during 2008-10. These cases included investigations, litigation, and negotiated settlements. For each listed case, the following information is provided: (1) case name; (2) case type; (3) source of the case; (4) case description; (5) resolution of the case; and (6) restitution or other monetary recovery, if any.

In addition to the cases identified in Appendix V, the consumer protection unit addresses other matters. Among these may be investigations or cases referred from other agencies that are 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 are determined to be inappropriate for enforcement or are returned to the referring agency for further investigation.

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

In many 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 other 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 restitution funds at his or her discretion for designated purposes consistent with the underlying

nature of the violation.

In other instances, a court judgment or settlement agreement may simply provide that all or a portion of the restitution funds are to be distributed at the discretion of the Attorney General. In these cases, funds from multiple judgments or settlements may be pooled together for subsequent allocation at the discretion of the Attorney General.

Further, a court judgment or settlement agreement may authorize the Attorney General to apply judgment or settlement funds to court costs, attorney fees, consumer protection and education efforts, or other lawful purposes at his or her discretion.

A program revenue, continuing appropriation has been created under DOJ to receive and expend court-ordered restitution funds for victims of medical assistance fraud and violations relating to marketing and trade practices, environmental law, and federal antitrust law. In addition, DOJ utilizes this appropriation to receive and allocate restitution funding in cases where there are specific parties identified to receive restitution awards. Under a continuing appropriation, funds are expendable until fully depleted or until the appropriation is modified or repealed.

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.

The Department utilizes its Division of Administrative Services gifts, grants and proceeds continuing appropriation to receive and allocate restitution funds that are distributed at the discretion of the Attorney General. In an April, 2010, letter report from the Legislative Audit Bureau (LAB), the LAB found that DOJ expended \$5,076,500 in discretionary consumer protection and antitrust receipts through this appropriation from 2004-05 through 2008-09. Of this amount, DOJ expended approxi-

mately \$3.4 million as follows: (1) \$1,708,500 for information technology projects for which DOJ cited insufficient funding from other sources; (2) \$756,900 to meet state budget lapse requirements; (3) \$717,900 to supplement DOJ operating costs; and (4) \$210,400 to establish and operate a satellite office in Milwaukee for use by the Attorney General and to increase the Milwaukee presence of the Office of Crime Victim Services. In addition, \$1,086,000 in discretionary funding during this time period was utilized to make awards to various organizations, and lesser amounts were utilized for: (1) public service announcements, \$197,000; (2) conferences, \$132,100; (3) an officer safety fund, \$111,300; and (4) other expenditures, \$156,400.

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 or gifts, grants and proceeds appropriations.

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 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 (under s. 100.263 and other statutory provisions) 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 2009-10, \$324,300 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. 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 Office of Energy Independence and its Division of Energy Services provides general consumer education on energy matters.

The Office of Energy Independence publishes a limited supply of the complete book of Wisconsin Energy Statistics as well as a book of energy statistics highlights. The complete book and the highlights can also be found on the Office's website. The books are annually updated to present data from the prior year.

The Division of Energy Services also provides heating assistance and weatherization benefits to low-income residents under the Home Energy Plus program. The Home Energy Plus website offers a toll-free number to provide program information.

In 2009-10, Home Energy Plus distributed approximately 122,500 copies of its program brochure in English, Spanish, and Hmong, to local agencies and low-income heating and weatherization service providers. Local providers may download and duplicate these brochures. Local providers must conduct their own outreach activities, which may

include radio, television and newspaper advertisements and providing information to local community-based agencies.

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 calendar year 2009, regional ombudsmen opened 1,076 cases and closed 982, provided information and counseling to 22,555 individuals, and presented 743 educational programs. The Board's ombudsman staff and trained volunteers also made numerous unannounced visits to nursing homes and community care facilities and provided consulting and education services to these facilities as well as to resident and family councils. Finally, 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 2009, the helpline received 7,175 calls.

Department of Children and Families. The child care regulatory program in the Department of Children and Families (DCF) licenses and regulates child care programs, children's residential programs, and child placing agencies in order to promote the health, safety, and welfare of children in regulated community care arrangements. Child care and out-of-home care providers and facilities are required to meet health and safety standards before receiving a license to operate. Once a license is issued, DCF may regularly inspect the facilities for compliance with these standards. In addition, DCF investigates complaints it receives regarding

these providers and facilities. Violations can result in DCF assessing forfeitures, issuing correction orders, and other disciplinary actions.

DCF also provides consumers with licensed child care provider information. Through the DCF Web site, an individual can access a licensed child care search, which contains information on the location and regulatory history of the child care facilities licensed by DCF. Facilities can be searched by county, city, zip code, or facility name, and the result of the search shows the licensing information, including compliance history and enforcement actions.

Educational Approval Board. The Educational Approval Board (EAB) approves all for-profit post-secondary 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 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 approval, 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 Bureau 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 225 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 approximately 370,000 businesses on file with the Department. DFI also examines and files documents under the Uniform Commercial Code, filing 148,200 documents in 2009.

The Department regulates state-chartered banks (212), savings and loan associations (three), and savings banks (13). The Department also licenses approximately 20,300 solicitors/collectors, adjustment service companies, collection agencies, community currency exchanges, insurance premium finance companies, loan companies, sales finance companies, sellers of checks, and mortgage banking professionals. Beginning on January 1, 2011, DFI will license and regulate payday lenders pursuant to 2009 Act 405. As of December 2010, the Department had received 455 applications for payday lender licenses. 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 2009, the Division of Securities responded to 102 complaints, associated with both licensed and unlicensed entities. As a result of those investigations, 15 warning letters and 26 administrative orders were issued, five matters were referred for criminal prosecution, and \$9,208,700 was offered or returned to investors.

DFI administers the Wisconsin Consumer Act, which governs consumer credit transactions. Dur-

ing 2009, the Bureau of Consumer Affairs received 1,984 consumer complaints and 4,620 inquiries. Subsequent investigations revealed 170 compliance problems under the Wisconsin Consumer Act, resulting in orders requiring merchants to correct their violations. A total of \$4,882,000 was returned to consumers as refunds, credits, or adjustments.

Department of Health Services. The Department of Health Services (DHS) 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, DHS conducts surveys of certain types of facilities to ensure that they meet health and safety standards. In addition, DHS investigates complaints it receives regarding the operation of these types of facilities. Violations can result in DHS assessing forfeitures, issuing correction orders, and other disciplinary actions.

DHS develops and distributes health-related information that is used primarily by consumers. For example, DHS has created a variety of consumer guides that can be used by individuals who are considering long-term care options. The DHS 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 department Web site. For example, the DHS sport fish consumption program examines the health effects of consuming chemical contaminants in sport fish and, with the Department of Natural Resources, issues fish consumption advisories.

The DHS Office of Health Informatics collects and makes available health statistics, demographic and vital records information for public and private users. The Office produces a range of data files, such as information on physician visits, 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. In 2009, OCI's Bureau of Market Regulation received approximately 8,400 formal written consumer complaints, and answered 35,000 telephone, written, and "walk-in" inquiries or requests for information. 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 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 the OCI Web site.

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 and includes 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: (1) make the lawyer regulation process more accessible to the general public; (2) quickly address grievant concerns and, where possible, resolve them; (3) offer lawyers

who have minor practice problems alternatives designed to enhance the quality of their services; and (4) 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: (1) the allegations are not within the OLR's jurisdiction; (2) the grievance can be reconciled between the grievant and attorney if it is a minor dispute; or (3) 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: (1) dismissed for lack of sufficient evidence to proceed; (2) diverted to an alternatives to discipline program; (3) disposed through a consensual reprimand; or (4) 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, 2009, 746 matters were pending disposition in the OLR. The OLR received 2,307 new grievances in the 2009-10 fiscal year. In 2009-10, 46 attorneys were publicly disciplined and 17 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, 125 at-

torneys entered the alternatives to discipline program. Finally, 33 cases were dismissed with an advisory letter. On June 30, 2010, 981 matters were pending disposition in the OLR.

The OLR office is in Madison with a total staff of 27.5 positions: 1.0 director, 2.0 deputy directors, 13.3 investigators, 8.2 administrative and support staff, 1.0 litigation counsel, and 2.0 assistant litigation counsels. Total expenditures for the OLR were \$2,949,600 PR in 2009-10 and are budgeted at \$2,776,400 PR in 2010-11. 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 6,545 complaints during calendar year 2009, and an estimated 5,800 complaints were received during calendar year 2010. Most complaints concern adequacy of service, installation, disconnection, and billing issues.

Currently, approximately 56% of all complaints involve combined electric and gas service, 14% involve telecommunications service, 16% involve electric service, 4% involve natural gas service, 6% involve either water, combined water and sewerage service, or combined water and electric service matters, and 4% involve miscellaneous issues. 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 cus-

tomers 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 centralized investigative and prosecutorial services relating to the licensed professions under the jurisdiction of 28 regulatory boards or the Department's direct licensing authority. As of September, 2010, the Department and its boards license and regulate 356,161 credential holders in 143 different professions, occupations and businesses. The Department receives approximately 2,300 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 1,200 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 Web site regarding vehicle purchasing and consumer protection. The agency employs re-

gional 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 received approximately 4,300 discrimination complaints in 2009, most of which involved allegations of discrimination in employment (approximately 90% of the discrimination cases were 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. In 2009, the Department received approximately 3,600 cases, most of which involved unpaid wage claims from employees (about 3,100 cases). Labor standards also annually determines the prevailing wage rates and hours of labor for local and state building construction projects, as well as certain publicly funded private construction projects as provided under 2009 Act 28, 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 provides information related to both civil rights and labor standards programs and laws. The Equal Rights Division maintains offices in Madison, Milwaukee, and Menasha.

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.

Credit Report Security Freezes (ATCP 112). Defines the identification requirements for placing and removing a freeze on a credit report.

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, ATCP 127 establishes a program requiring most telephone solicitors to register and purchase a list of residential and mobile (cellular) telephone customers that do not wish to be solicited. Residential and cellular 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 per-

sonal, household or family use. Also establishes requirements for provision of video services for providers such as cable operators receiving a statewide franchise.

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.

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.

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.

Price Gouging During an Emergency (ATCP 106). Prohibits sellers from charging excessive prices during emergencies, including natural disasters, civil disorder or hostile actions, as declared by the governor. Unless otherwise shown to be justified, prices are unlawful during emergencies if they are more than 10% above the highest price at which the seller sold like consumer goods or services during the 60 days preceding the declared emergency.

Sales Below Cost (ATCP 105). Prohibits selling tobacco products, alcoholic beverages or motor vehicle fuel without required markups between wholesalers and retailers. See Appendix III for further details.

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

Other Administrative Rules

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

Unfair Sales Act/Minimum Markup Law

The Unfair Sales Act under s. 100.30 of the statutes generally prohibits selling products below cost. Although the law intends to ensure fair competition among business, the section also contains a policy statement identifying below-cost sales as a form of deceptive advertising that "misleads the consumer." The provision is also known as the minimum markup law, as it requires certain products, namely motor vehicle fuel, tobacco products and alcoholic beverages, to be sold at certain levels or percentages above invoice cost. All other products may not be sold below cost. DATCP, in conjunction with district attorneys, has responsibility for enforcing the act. The Unfair Sales Act took effect in the 1930s with the intent of preventing predatory pricing by large firms. It was feared that large firms could reduce prices below cost to levels smaller firms could not match. Larger firms would incur short-term losses but drive smaller firms out of business. After most smaller firms left the market, it was thought the remaining large firms would use near-monopoly power to charge exorbitant prices.

Alcoholic beverages and tobacco products are sold at a markup of 3% to wholesalers and 6% to retailers. Due to compounding, these markups yield a 9.18% increase over the price set by manufacturers. Motor vehicle fuel sales similarly require a minimum markup of 3% to wholesalers and 6% to retailers. This also yields a total minimum markup of 9.18% of the statutorily defined cost of the fuel. In the case of a refiner or wholesaler of

motor vehicle fuel selling directly at retail, the minimum markup is 9.18%. The statutes include applicable taxes and fees as well as transportation costs prior to imposing the minimum markup.

The table below shows how the minimum markup requirement for motor vehicle fuel sales is calculated, given average posted terminal prices, under current law. Transportation costs may vary based on factors including distance between a retail station and fuel terminal, but DATCP staff generally assumes a cost of about 2¢ per gallon in calculating the minimum required markup. The table below uses 51.3¢ for total taxes and fees, which includes the following: (1) a state tax of 30.9¢ per gallon of fuel; (2) a federal tax of 18.4¢ per gallon of gasoline (24.4¢ per gallon of diesel); and (3) a state petroleum inspection fee of 2¢ per gallon.

Below-cost sales are allowed under certain circumstances, including: (1) bona fide clearance sales; (2) sales of perishable merchandise; (3) sales of damaged or discontinued merchandise; (4) liquidation sales; (5) sales for charitable purposes; (6) contract sales to government bodies; (7) prices set to meet a competitor's documented price; and (8) court-ordered sales. For adjustments of motor vehicle fuel prices to match those of a competitor, the person making the adjustment must notify DATCP the day on which an action is taken. This exempts the person from enforcement actions otherwise taken in response to below-cost sales.

Table 1: Current Minimum Markup Law Calculations

Average Terminal Price	Transportation Cost	Taxes and Fees	Subtotal	Minimum Markup (9.18%)	Minimum Pump Price
\$1.00	\$0.02	\$0.513	\$1.53	\$0.14	\$1.67
2.00	0.02	0.513	2.53	0.23	2.76
3.00	0.02	0.513	3.53	0.32	3.85
4.00	0.02	0.513	4.53	0.42	4.95

DATCP or a district attorney may seek forfeitures of not less than \$50 nor more than \$500 for the first below-cost sale and not less than \$200 nor more than \$2,500 for each subsequent violation. DATCP has authority to issue special orders under this section, any violation of which may incur a forfeiture of not less than \$200 nor more than \$5,000.

In addition, any parties harmed or threatened with harm by sales of motor vehicle fuel or tobacco products that violate minimum markup requirements may also seek injunctions and damages against sellers. These parties may bring claims of \$2,000 or three times the amount of any monetary loss, whichever is greater, for each day of a continued violation. Claims may include accounting and attorney costs. They must also be made within 180 days of a violation.

In February, 2009, the United States District Court for the Eastern District of Wisconsin ruled that the minimum markup law as it applies to motor vehicle fuel restrains trade in violation of the federal Sherman Act and does not meet criteria for state immunity. DATCP stopped enforcing the law for motor vehicle fuel after this decision. Provisions

regarding tobacco, alcohol and other below-cost sales were not affected by the ruling, and DATCP continued enforcing these non-fuel provisions.

In September, 2010, the U.S. 7th Circuit Court of Appeals overturned the District Court, ruling the minimum markup as applied to motor vehicle fuel did not lead to retailer collusion or price-fixing. DATCP has since resumed enforcement of the minimum markup as it applies to motor vehicle fuel.

In addition to protections against below-cost sales, s. 100.305 attempts to protect consumers against excessive pricing. The statute prohibits sales of consumer goods at "unreasonably excessive prices" during "abnormal economic disruptions." Periods of disruption must be declared by the governor, and they include natural disasters, hostile actions, energy supply disruptions, or labor or civil unrest. DATCP promulgated administrative rule ATCP 106 in 2008 to specify unreasonably excessive prices. DATCP or DOJ, after consulting with DATCP, may issue warnings to violating sellers or prosecute excessive pricing. Violations are subject to forfeitures up to \$10,000.

APPENDIX IV

DATCP-Referred Consumer Protection Court Cases Closed in 2009

Case Name	Case Type	Where Referred	Case Description	Resolution	Restitution and Payments	Other Sentencing
Anderson, Al; Stubbs, Tim; d/b/a National Energy Rebate Fund	Direct Marketing	DOJ	Fraudulent rebate; business said consumer would get 100% of their money back through a rebate.	Injunction prohibiting Stubbs from doing business in Wisconsin.	\$5,508,121 in total payments, including: \$3,868,650 in restitution; \$1,520,179 in penalties and surcharges; and \$119,292 in DOJ's costs of prosecution.	
Antes, John	Untrue, deceptive, fraudulent representations & unfair billing	DA Dane Co.	Forced a martial arts business to close via embezzlement of funds. Continued to bill consumers for services not being provided after business closed, and tried to force consumers to buy out remainder of contracts.	Pleaded no contest to theft > \$10,000. Also, assistance of law enforcement resulted in a pleading of no contest to forgery. (DA office combined prosecution efforts.)	\$120,000 restitution initially ordered on both cases combined.	Seven years probation on theft; 15 years probation and two years prison on forgery.
Gullo, Anthony J d/b/a Gullo Subcontracting	Home Improvement / Theft by Fraud	DA Juneau Co.	Failure to provide: lien waivers; work beginning and ending dates; warranty documentation; and notice of delay.	Pleaded no contest to two counts, with three counts dismissed and read in.	\$2,200 in restitution and \$256 in fines.	Two years probation on each count.
Barnes & Noble, Inc.	Weights & Measures	DA Outagamie Co.	Scanner price misrepresentations.	Civil forfeiture settlement.	\$9,273 in civil forfeitures.	
Borkowski, Diane	Privacy	DA Rock Co.	Identity theft; defendant obtained telephone services in victim's name.	Pleaded no contest to theft.	\$3,438 in forfeitures.	
Correa, Shaunna	Privacy	DA Dane Co.	Identity theft; defendant used victim's credit card without knowledge or permission.	Deferred-prosecution agreement.		

Case Name	Case Type	Where Referred	Case Description	Resolution	Restitution and Payments	Other Sentencing
Dell, Inc.	Untrue advertising, deceptive sales; misrepresentation	DOJ	During sales process, employees misrepresented terms of financing to consumers. Company also failed to honor warranties.	Multi-state settlement.	33 states received a total of \$1.5 million, plus \$46,666 in legal costs.	
Dick's Sporting Goods	Weights & Measures	DA Brown Co.	Scanner price misrepresentations.	Civil forfeiture settlement.	\$23,665 in civil forfeitures.	
DISH Network	Telecommunications	DOJ	Satellite provider and third-party retailers engaged in deceptive and unfair sales practices. Case included 46 states.	Settlement reached via multi-state investigation.	Total settlement of \$5,991,000; Wisconsin received \$20,000.	
Foss, Amanda	Privacy	DA Dane Co.	Identity theft.	Pleaded no contest to two counts of identity theft.	\$1,022 in restitution and \$1,520 in court costs.	One year prison and two years extended supervision.
Going Places Travel	No Call	DA Waukesha Co.	Called parties on the do-not-call list.	Consent Order.	\$2,187 forfeiture.	
Great Lakes Wholesale Foods Inc.	Direct Marketing - Violate injunction; misrepresentations	DOJ	Door-to-door sales and violating an injunction.	Court prohibited Great Lakes from any future door-to-door sales activities in Wisconsin.	\$10,000 in forfeitures and state's expenses.	
Gruszynski, William	Home Improvement	DA Marinette Co.	Defendant failed to furnish: lien waivers; notice of contract delay; or contract changes in writing.	Plead no contest to one misdemeanor count, with one count dismissed and one count dismissed but read in.	\$628 in court costs.	25 days jail if payments not made in full within 60 days.
Heritage Operating LP	Weights & Measures	DA Brown Co.	False representations of quantity; no declaration of responsibility; failed to display net quantity.	Civil forfeiture.	\$36,921 in civil forfeitures.	
Jasengnou, Michelle	Privacy	DA Dane Co.	Identity theft; defendant obtained credit cards, telephone, utility and other services in victim's name.	Pleaded guilty to one count each of theft and identity theft.	\$1,684 in restitution and \$1,699 in court costs.	Four months jail and three years probation.
Kossow, Jason	Home Improvement / Theft by Contractor	DA Racine Co.	Accepted payment for landscaping, but did not perform work.	Pleaded no contest to one misdemeanor theft, with two misdemeanor theft charges dismissed but read in.	\$16,492 in restitution.	60 days jail and one year probation.

Case Name	Case Type	Where Referred	Case Description	Resolution	Restitution and Payments	Other Sentencing
Lanning, Michael A.	Privacy	DA Waukesha Co.	Identity theft and forgery; defendant altered victim's check by increasing the dollar amount payable.	Pleaded guilty to theft.		Eight months jail and two years of probation.
Linendoll, Robert A.	Home Improvement / Theft by Contractor	DA Dodge Co.	Defendant took money from consumers and never started work, and also converted consumer funds for personal use.	Pleaded no contest to 11 counts of theft in a business setting and one count of theft by contractor.	\$343,482 in restitution and \$4,631 in court costs.	Five years prison and five years extended supervision.
Mason, Jeremy M.	Home Improvement	DA Dane Co.	Defendant never started work and never refunded consumers' money.	Pleaded no contest to one misdemeanor count, with one count dismissed by the prosecution.	\$900 restitution and \$96 court costs.	30 days jail.
MC Sports, Inc.	Weights & Measures	DA Portage Co.	Scanner price misrepresentations.	Civil forfeiture.	\$10,686 in civil forfeitures.	
Menards, Inc.	Weights & Measures	DA Rock Co.	Scanner price misrepresentations and false price information.	Civil forfeiture.	\$39,833 in civil forfeitures.	
Mueller, Tim d/b/a Customer Creations and WINDESIGN	Home Improvement & Privacy	DA Eau Claire Co.	Mueller misrepresented terms of financing to consumer during sales pitch, and obtained credit card in consumer's name without permission and charged windows without purchase being approved.	Pleaded guilty to misdemeanor merchant fraud.	\$728 fine.	
NCR Corporation	Weights & Measures	DA Rock Co.	Failure to test and seal scales upon installation, and failure to install an indicator on a retail scale.	Civil forfeiture.	\$5,858 in civil forfeitures.	
Opperman-Vana, Rebecca	Privacy	DA Sauk Co.	Identity theft; defendant forged a co-signer agreement for a rental property.	Pleaded guilty to one count of misdemeanor theft; entered deferred-prosecution agreement for felony count of forgery.		12 months probation for theft; 24-month deferred-prosecution agreement for forgery.
Ozia, Steven R.	Privacy	DA Columbia Co.	Identity theft; defendant obtained credit card in victim's name and paid for variety of goods and services.	Counts dismissed due to absence of witness.		

Case Name	Case Type	Where Referred	Case Description	Resolution	Restitution and Payments	Other Sentencing
Pamida Stores Operating Co., LLC	Weights & Measures	DA Pierce Co.	Scanner price misrepresentation.	Civil forfeiture.	\$19,969 in civil forfeitures.	
Parnell, Hithanue Dantra	Privacy	DA Columbia Co.	Identity theft; defendant obtained victim's credit card and used without permission.	Pleaded no contest to one count each of fraudulent use of credit card and theft.	\$4,508 in court costs and \$1,627 in restitution.	Six months jail and three years of probation.
Piggly Wiggly Midwest LLC	Weights & Measures	DA Racine Co.	Short weighing of seafood.	Civil forfeiture.	\$2,931 in civil forfeitures.	
Reyheart, Roger	Privacy	DA Racine Co.	Identity theft; defendant obtained victim's credit card and used without permission.	Plead no contest to two counts of fraudulent use of credit card.	\$498 in restitution.	Three days jail.
Rock Materials LLC	Weights & Measures	DA Jefferson Co.	Representation of false quantity; operating an unlicensed vehicle scale; and failure to submit an annual private test report.	Civil forfeiture.	\$1,745 in civil forfeitures and \$8,485 in restitution.	
Sanchez, Yamaris	Privacy	DA Milwaukee Co.	Identity theft; defendant fraudulently used sister's information to obtain goods and services, including cell phone service and a driver's license.	Pleaded guilty to two counts of theft by false representation.	\$281 in restitution plus court costs.	Three days jail.
Schofield Avenue Shell, LLC	Weights & Measures	DA Marathon Co.	Short in measurements of diesel fuel, and improper maintenance of equipment.	Civil forfeiture.	\$878 in civil forfeitures and \$10,000 in restitution.	
Scotty's Firestone Car Care and Radiator Shop	Motor vehicle repair; unfair trade practices	DA Waukesha Co.	Defendant performed unauthorized work, charged above estimate, and failed to provide written authorizations and estimates.	Pleaded no contest to one misdemeanor count of unfair trade practice, with dismissal of seven misdemeanor counts and one felony count of misappropriation of identifying information.	\$6,880 in restitution and \$476 in court costs.	
Schier, Rodney d/b/a SNS Construction	Home Improvement	DA Jefferson Co.	Defendant accepted money from consumers for home improvement projects and never started.	Pleaded no contest.	\$1,250 in restitution plus court costs.	One year of probation.

Case Name	Case Type	Where Referred	Case Description	Resolution	Restitution and Payments	Other Sentencing
The Consumers Trust	Untrue, deceptive, fraudulent representations & unfair billing	DOJ	Defendant misrepresented terms of cash rebate vouchers given to consumers who purchased certain products. The case was a multistate action.	1.5% of voucher total payout refunded to Wisconsin consumers from bankruptcy court.	Assets seized by bankruptcy court, which made a 2 to 3% payout. Restitution provided from asset liquidation.	
Turner, Deshawn	Privacy	DA Columbia Co.	Identity theft; party to crime of Steven Ozia – obtained credit card in victim's name and paid for variety of goods and services.	Pleaded guilty to one count of theft of moveable property.	\$1,892 in restitution and court costs.	
Pressley, Chartavia	Privacy	Philadelphia District Court	Identity theft; stole credit card information and purchased goods.	Multiple identity theft and forgery-related criminal charges; amended via plea to bad checks		Five years probation
Walgreen's Company	Weights & Measures	DA Rock Co.	Scanner price misrepresentations and false price information.	Civil forfeiture.	\$80,227 in civil forfeitures.	
Williams, Brandon T.	Privacy	DA Winnebago Co.	Identity theft; stole credit account information and purchased goods and services.	Plead no contest to identity theft.	\$235 in restitution and \$109 in court costs.	Three years prison, three years extended supervision, and three years probation.
Wisconsin Scale Service	Weights & Measures	DATCP – Special Order	Defendant violated multiple industry standards and provisions of ATCP 92. Defendant used untraceable equipment, did not provide reports, sold inappropriate equipment to customers, and was not certified as a technician.	Special Order Company license revoked for 10 years. Sole technician (owner) license revoked for 10 years.		

APPENDIX V

Department of Justice Consumer Protection Cases Completed in 2008-10

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
Bernhardt v. Arrowhead Investments, Inc. (2009-10)	Amicus Curiae Brief	DFI (Department of Financial Institutions)	The case involved a class action lawsuit filed by the University of Wisconsin Law School's Consumer Law Clinic on behalf of approximately 1,300 people. The Department of Financial Institutions subsequently joined as a plaintiff and DOJ filed a friend of the court (amicus curiae) brief. Arrowhead Investments, Inc. (an internet payday loan company) was accused of numerous violations of Wisconsin consumer law regarding fee, interest, and other disclosure requirements. The company was also accused of charging triple-digit interest on two-week loans, and not registering with DFI.	On February 12, 2010, a final order and judgment was entered against Arrowhead Investments, Inc., for violations of the Wisconsin Consumer Act. Under the settlement, the borrowers were released from approximately \$432,000 in loans, costs, and fees. While the settlement primarily involved loan forgiveness, some consumers were eligible for cash payments if they paid more to Arrowhead Investments, Inc., than the amount of the original loan principal. In addition, Arrowhead Investments, Inc., agreed to not do business in Wisconsin for five years, and further agreed to rectify the credit histories of the borrowers.	\$532,000	\$45,000	\$577,000
Ebert, Timothy Michael d/b/a Cooper Ducs (2008-09)	Bankruptcy/No-Call	DOJ (Department of Justice)	A bankruptcy case related to prosecution of Timothy Michael Ebert and his company for alleged violations of Wisconsin law relating to solicitation calls.	A notice of case closed without discharge was entered on January 22, 2009, because the debtor had not filed a statement regarding completion of a course in personal financial management.			
Kaskin, Randy W.v. John Lynch Chevrolet-Pontiac Sales (2008-09)	Consumer Protection	DATCP (Department of Agriculture, Trade and Consumer Protection)	The case involved allegations of unauthorized motor vehicle repair. The Wisconsin Administrative Code specifies the information motor vehicle repair shops must provide to customers and the authorization that such shops must receive before beginning repair work. The issue in the case involved what a consumer may be legally entitled to as a "pecuniary loss" if an auto repair shop is found to have violated state law in this regard. Although DOJ was not a direct litigant in the case, DOJ (as an interested party) requested leave with the Court to file an amicus curiae brief.	The Court of Appeals found that, "when a motor vehicle repair shop receives money from a customer for repairs that the customer did not authorize, or at a price not authorized, the customer's pecuniary loss is the entire amount of the unauthorized charges that the customer paid to the motor vehicle repair shop."			
Global Economics Corporation (2008-09)	Consumer Protection	DFI	The case involved a referral from DFI seeking enforcement of an order requiring Global Economics Corporation to refund a consumer and pay a forfeiture.	The defendant could not be located and the case was closed. The Department of Financial Institutions agreed to close the case.			

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
State v. Bowers Feed & Grain, Inc., and Vandenberg, Jim (2009-10)	Consumer Protection	DATCP	Under state law, grain dealers must either be licensed, or the dealer must pay cash for grain purchases. State law also provides that a grain warehouse keeper may not hold more than 50,000 bushels of grain for third parties without a DATCP license. The case involved allegations that Bowers Feed & Grain, Inc., was unlicensed as a grain dealer but failed to pay cash for grain purchases. The case also involved allegations that Bowers Feed & Grain should also have been licensed as a grain warehouse keeper. In 2008, DATCP issued a special summary order against the company but the company allegedly continued to violate state law. The case was subsequently referred to DOJ for further enforcement action.	On June 3, 2010, a consent judgment was entered against Bowers Feed & Grain, Inc. The judgment requires the company and its owner, Jim Vandenberg, to comply with state law within 10 days or face additional penalties. Under the judgment, the company may not purchase grain from producers for 15 months and may not acquire a grain warehouse or dealer license until September, 2011.	\$100,000		\$100,000
Schroeder's Enterprises (2009-10)	Contracts	DFI	The case involved a DFI request for legal action against Schroeder's Enterprises for violations of the Wisconsin Consumer Act, specifically its three-day right to cancel.	On February 16, 2010, an agreement, stipulation and voluntary assurance of compliance to resolve alleged violations of Chapter 423, Wis. Stats., concerning consumer approval transactions was reached with the company.	8,800		8,800
Check Processing Bureau, Enforcement Division (2008-09)	Debt Collection	DFI	A consumer received a debt collection letter from a private company allegedly in violation of the Wisconsin Consumer Act and the Fair Debt Collection Practices Act.	A subsequent investigation revealed that the company has no business activity in Wisconsin.			
Red Rock Lake Financial, LLC (2009-10)	Debt Collection	DFI	The case involved a DFI request to take legal action against Red Rock Lake Financial, LLC for failure to register under the Wisconsin Consumer Act. Under the Act, a person or company engaged in debt collection activities must register with DFI within 30 days of commencing such activities and then file annual reports. The individual or company must then pay assessments depending upon the amount of outstanding debt that is held attributable to Wisconsin consumers.	A stipulated dismissal was signed on May 1, 2009, on condition that the defendants continue to comply with the registration statute. The Department of Financial Institutions may reconsider its position on whether the statute applies to passive debt buyers.			
State v. Reoch, Chris J., d/b/a TV Marketplace, LLC (2009-10)	Direct Marketing-Mail Order	DATCP	The case involved allegations that Chris J. Reoch failed to deliver goods for which payment was made, misrepresented the time of delivery, and failed to provide refunds when requested.	By settlement dated April 9, 2009, Chris Reoch and TV Marketplace, LLC obligated themselves to make reasonable efforts to resolve all outstanding complaints.	71,800	\$60,000	131,800

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
State v. Locksmiths, Inc., and Gabriel Munteoreanu (2009-10)	False Advertising	Citizen	The case involved allegations that Locksmiths, Inc., a New York based business, utilized fraudulent yellow page listings to create the appearance that it was a local locksmith business. Upon receiving a call for service, the company would utilize a contract locksmith to provide the service. This practice was alleged to violate Wisconsin's fraudulent advertising law.	On March 29, 2010, a judgment of \$25,000 was entered against Locksmiths, Inc., and its owner, Gabriel Munteoreanu, including \$15,000 in civil forfeitures and surcharges, and \$10,000 to DOJ for attorneys fees. Under the settlement, the defendants are barred from conducting any further locksmith-related business in Wisconsin.		\$25,000	\$25,000
Fitness Connection, Inc. (2008-09)	Fitness Centers	DATCP	The company was alleged to be taking payments over \$100 from new members prior to members receiving fitness center services without first establishing, for each fitness center location, a valid proof of financial responsibility as required under state statute. This required proof of financial responsibility may include an escrow account, or a bond, certificate of deposit, or irrevocable letter of credit in an amount of not less than \$25,000.	A voluntary assurance of compliance with state statute was obtained.			
State v. Cigelske, Marie (Midwest Fitness) (2009-10)	Fitness Centers	DATCP	Under state law, no fitness center may collect or by contract require a customer to pay more than \$100 for center services, prior to the receipt of these services, unless the fitness center establishes, for each center location, proof of financial responsibility which may include an escrow account, or a bond, certificate of deposit, or irrevocable letter of credit in an amount of not less than \$25,000. The case involved a referral from DATCP alleging that the health club was operating without proof of required financial responsibility.	Under a consent judgment filed on June 3, 2010, Marie Cigelski, individually, and as sole proprietor of Midwest Fitness, agreed to pay both a civil forfeiture totaling \$968.54, and state surcharges totaling \$631.46. In addition, the consent judgment requires the defendant to provide the required proof of financial responsibility as specified under state law.		1,600	1,600
State v. Mario Chimel and Athletic Club of Madison, LLC (2009-10)	Fitness Centers	DATCP	The Athletic Club of Madison abruptly closed in July of 2009. The case involved an investigation into the business practices of the Athletic Club of Madison, LLC, for unfair billing, failure to bond, and other laws pertaining to fitness centers under Wisconsin statute. In particular, the case involved allegations that club members who had prepaid memberships or other fees did not receive refunds as required under state law.	On March 25, 2010, a judgment in the amount of \$74,000 was entered against the Athletic Club of Madison, LLC, and its owner, Mario Chimel. The judgment included restitution to members totaling \$32,915, and civil forfeitures and surcharges totaling \$38,127.50. In addition, the defendants were required to reimburse the state \$3,000 for its expenses in bringing the action.	\$32,900	41,100	74,000

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
State v. Priscilla A. Schneider and Priscilla A Schneider, Inc. d/b/a Curves-Lake Mills (2009-10)	Fitness Centers	DATCP	The case involved an investigation into the business practices of Curves-Lake Mills for allegedly collecting payments and not providing refunds after closing business.	On October 29, 2009, a consent judgment and stipulation was entered in the case in the amount of \$5,000, which included \$2,943 in restitution to consumers, \$940 in civil forfeitures, \$617 in surcharges, and \$500 to DOJ for attorneys fees and costs. If the court subsequently finds that the defendants failed to disclose any and all consumers entitled to restitution, or materially misrepresented the value of any restitution, or made any other material misrepresentation or omission of facts related to payment of restitution to consumers, the court may reopen the case.	\$2,900	\$2,100	\$5,000
Swanson, Brenda d/b/a Curves for Women Stoughton (2009-10)	Fitness Centers	DATCP	The case involved allegations that Brenda Swanson and Curves for Women Stoughton collected payments from consumers for services the business provides, but that the fitness center failed to provide proof of financial responsibility as required under state statute. This required proof of financial responsibility may include an escrow account, or a bond, certificate of deposit, or irrevocable letter of credit in an amount of not less than \$25,000.	The Department closed the case. All relevant businesses are in compliance with state law.			
Equine Transportation Acceptance Company (2009-10)	Fraud	Other	The case involved a potential fraudulent brokerage and allegations of failure to remit money.	The Department was unable to prosecute the case in Wisconsin as the crime against the Wisconsin corporation was committed in another state.			
Kaas, Jeff d/b/a Kids Literacy Inc. (KLI) (2008-09)	Fraud	Citizen	The case involved an investigation of Jeff Kaas and KLI to determine whether funds for fundraising events were being solicited, but merchandise not being delivered.	Jeff Kaas indicated that KLI closed in 2008 due to lack of funds. There are no corporate funds to provide restitution to any clients. The company is conducting no business activity.			

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
Mattel Inc., and Fisher Price, Inc. (2008-09)	Health Care Fraud	Multistate	From August through October, 2007, the United States Product Safety Commission recalled two million Mattel and Fisher-Price toys that were manufactured in China for excessive lead in violation of federal standards. The Attorneys General investigated both how these toys were permitted to be sold, and Mattel's contracting and quality assurance processes.	On December 15, 2008, Wisconsin along with 38 other states, reached a \$12 million settlement with toy makers Mattel Inc., and Fisher Price, Inc. Under the settlement, the defendants agreed to phase in stricter standards for accessible lead in its toy products ahead of federal timelines for these changes. Under the agreement, the defendants are also required to notify the Attorneys General in the future if they confirm excessive lead in any of their products in violation of state or federal law. Wisconsin may utilize its \$234,700 award under the settlement for reimbursement for reasonable attorneys' fees, investigation costs, expert witness fees, and other expenses related to the investigation and resolution of the case; for its consumer education, unfair competition, litigation or local consumer aid funds; for public protection or consumer protection purposes; and/or for use to educate the public about issues related to toy safety, as allowed by Wisconsin law at the sole discretion of the Attorney General.		\$234,700	\$234,700
Peoples Benefit Services (2008-09)	Health Care Fraud	DATCP	The case involved an investigation of a discount medical plan, and whether it constituted insurance, as advertised.	The case was investigated and closed with no action taken as the matter was pursued by another state. No additional follow-up is needed.			
State v. Airborne Health Inc, et al. (2008-09)	Health Care Fraud	Multistate	The case involved allegations that the company made health claims in the marketing, packaging, advertising, offering, and selling of its dietary supplements that were not supported by established scientific evidence at the time the claims were made. Specifically, the company was alleged to have marketed its dietary supplements as a cold prevention remedy, a sore throat remedy, a germ fighter, and an allergy remedy without reliable scientific evidence to support the claims.	Under the multistate settlement reached with the company, the company may not make "any express or implied claim in connection with the marketing or advertising of its products, concerning the health benefit, performance, efficacy or safety of a product marketed as a dietary supplement unless at the time the claim is made, competent and reliable scientific evidence exists substantiating such claim." Under the settlement, the company agreed to pay \$7 million to 32 states and the District of Columbia. Wisconsin's share under the settlement totals \$150,000 which is to be allocated at the sole discretion of the Attorney General, as permitted by state law.		150,000	150,000

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
State v. Eli Lilly and Company (2008-09)	Health Care Fraud	Multistate	The case involved allegations of misrepresentations regarding the efficacy of Zyprexa and the risks associated with the drug.	On October 7, 2008, the settling states entered into a \$62 million settlement with Eli Lilly and Company. A related consent judgment was entered on October 8, 2008. Wisconsin's share under the settlement totals \$1,514,600. The Wisconsin award is to be allocated at the sole discretion of the Attorney General, consistent with state law. Selected non-award provisions of the settlement agreement provide that Eli Lilly must: (1) not make any false, misleading, or deceptive claims regarding Zyprexa; (2) require its medical staff, rather than its marketing staff, to have ultimate responsibility for developing and approving the medical content for all medical letters and medical references regarding Zyprexa, including those that may describe off-label information; (3) provide accurate, objective, and scientifically balanced responses to unsolicited requests for off-label information from a health care provider regarding Zypreca; (4) contractually require continuing medical education providers to disclose Eli Lilly's financial support of their programs and any financial relationship with faculty and speakers; (5) only provide product samples of Zypreca to a health care provider whose clinical practice is consistent with the product's current labeling; and (6) register clinical trials and submit results as required by federal law.		\$1,514,600	\$1,514,600
State v. Asphalt Specialists and McDonald, Jace (2008-09)	Home Repair	DATCP	The case involved allegations that Asphalt Specialists of Middleton violated Wisconsin's deceptive advertising law. Asphalt Specialists was also alleged to have violated Wisconsin's Home Improvement Code including: (1) failing to provide home improvement contracts; and (2) failing to provide customers with lien waivers following payment.	On December 5, 2008, judgment was entered against Asphalt Specialists of Middleton and its owner, Jace McDonald, for violating Wisconsin's Home Improvement Code and for engaging in deceptive business practices. The judgment prohibits Jace McDonald from engaging in residential home improvement services for five years.	\$29,400	100	29,500

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
State v. Ross Schlomann & R Construction (2008-09)	Home Repair	DATCP	Ross Schlomann and R Construction allegedly entered into a \$55,250 home improvement contract promising to provide home improvement services, including materials and labor, within 90 days. The defendants were alleged to have failed to pay subcontractors for the work, despite being paid \$45,000 by the homeowners. The defendants were also alleged to have failed to provide lien waivers to the homeowners, as required by law, for the money that was paid to them. The subcontractors filed liens against the homeowners' property for lack of payment by the defendants. The case involved alleged violations of: (1) home improvement practices; and (2) felony criminal statutes concerning theft by contractor.	By order dated December 12, 2008, Ross Schlomann and R Construction were ordered to pay restitution.	\$38,800		\$38,800
Gipson, Brandon A. (2008-09)	Identity Theft	U.S. Postal Inspector	Brandon A. Gipson allegedly portrayed himself as other individuals to obtain property using credit cards issued to another party without that party's consent.	On October 2, 2009, a plea of guilty to four counts of unauthorized use of an individual's personal identifying information was entered in Milwaukee County.			
Optional Federal Insurance Charter (2008-09)	Insurance	Multistate	The case involved a National Association of Attorneys General request to join in opposing federal insurance chartering.	The Wisconsin Department of Justice joined an amicus curiae brief on December 1, 2008.			
State v. Countrywide Financial Corporation (2008-09)	Mortgage Foreclosure Advertising	DFI	The case involved allegations of unfair and deceptive business practices.	The case was settled for more than \$40 million on February 19, 2009. The settlement terms include loan modification offers, more than \$1.6 million in foreclosure relief benefits for Wisconsin consumers, and waivers of default/delinquency fees, loan modification fees, and prepayment penalties.		\$824,200	824,200
Community Support, Inc. (CSI) (2008-09)	Multistate Charitable Solicitations	Multistate	The case involved an investigation into alleged illegal charitable solicitation activity.	A consent judgment was entered against CSI enjoining it from engaging in specific deceptive fundraising practices. Violations of the settlement may result in penalties of \$10,000 per violation. The company must also reimburse the settling states \$200,000 for the costs of the investigation. The Wisconsin award totals \$8,000.		8,000	8,000

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
State v. Pfizer Inc. (Geodon) (2008-09)	Multistate Fraud Sales	Multistate	The case involved allegations of unfair and/or deceptive acts and practices relating to sales and marketing of the drug Geodon.	On September 2, 2009, Wisconsin and 42 other states reached a \$33 million settlement with Pfizer related to alleged improper marketing of Geodon. The Wisconsin award totaled \$749,600, to be allocated at the discretion of the Attorney General consistent with state law. Selected non-award terms of the settlement provide that Pfizer must: (1) not make any false, misleading or deceptive claims regarding Geodon; (2) not promote Geodon for off-label uses; (3) post on its website a list of physicians and related entities who received payments from Pfizer until 2014; (4) provide product samples of Geodon only to health care providers who have specialties that customarily treat patients who have diseases for which treatment with Geodon would be consistent with the product's current labeling; (5) register clinical trials and submit results as required by federal law; and (6) require its medical staff to be responsible for the identification, selection, approval and dissemination of article reprints containing off-label information regarding Geodon, and that such information not be referred to or used in a promotional manner.		\$749,600	\$749,600
DISH Network/Echostar (2008-09)	Multistate No-Call	Multistate	The case involved a multistate investigation alleging that DISH Network: (1) refused to accept responsibility for the misconduct of its third-party retailers and installers; (2) made telemarketing calls to consumers in violation of do-not-call rules; (3) failed to disclose all terms and conditions of their customer agreements, including the availability of rebates, credits and free offers; (4) did not disclose that purchased or leased equipment was previously used and/or refurbished; (5) made reference to competitors' price offers when the goods or services being compared were materially different; and (6) charged customer credit cards and debited bank accounts without providing adequate notice and obtaining appropriate authorization.	Under the multi-state settlement reached on July 16, 2009, DISH Network must pay restitution to consumers, with \$20,000 paid to the state of Wisconsin, to be allocated at the discretion of the Attorney General.		20,000	20,000

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
State v. Dell, Inc and Dell Financial Services (2008-09)	Multistate Sales	Multistate	The case involved allegations of unfair and deceptive business practices, and an investigation of marketing and sales practices.	By settlement dated January 12, 2009, Dell admitted no wrongdoing but agreed to pay \$1.5 million in restitution to eligible consumers who file claims. Dell also agreed to pay an additional \$1.85 million to the states for reimbursement of legal costs and other expenses. Finally, under the settlement Dell agreed to: (1) explicitly disclose certain financing terms; (2) fulfill its warranty obligations within 30 days from the date of notification or receipt of a defective product; (3) disclose whether phone-based troubleshooting or remote diagnosis is required before Dell will provide on-site repair or warranty-related service; (4) if a rebate is available, provide the necessary rebate documentation at the time the product is delivered or the service is provided; and (5) mail rebates within the specified timeframe, or within 30 days if no date is specified.	\$35,400	\$46,700	\$82,100
State v. Preferred Readers Service, Inc. (2008-09)	No-Call	DATCP	The case involved allegations that Preferred Readers Service, Inc. allegedly violated laws concerning Wisconsin's Direct Marketing Rule (no-call).	A default judgment was entered on July 7, 2008. The defendant is enjoined from further violations of state law regarding direct marketing and fraudulent representations. In addition, judgment was entered against the defendant in the amount of \$17,400.	200	17,200	17,400
Merck and Schering Plough/Vytorin (2009-10)	Pharmaceutical Marketing	Multistate	The case involved allegations that drug manufacturers failed to disclose their negative drug study results in a timely manner. Specifically, a study that ended in May, 2006, purportedly found that Vytorin was no more effective in reducing the formation of plaque in carotic arteries than a competitor generic drug. The results of this study were allegedly not released until January, 2008, with complete results allegedly not being released until April, 2008. However, prior to the release of these results Vytorin was allegedly heavily promoted in direct advertising to consumers.	On July 14, 2009, the settling states entered into a multi-state settlement with Merck, Schering-Plough and a joint venture, MSP Singapore Company, LLC, concerning slow disclosure of negative drug study results. As a part of the settlement, the companies agreed to pay 36 state attorneys general (including the District of Columbia) \$5.4 million. Wisconsin received \$100,000 which may be allocated at the sole discretion of the Attorney General, as permitted by state law. The agreement also involved an assurance of voluntary compliance. Under the assurance of voluntary compliance the companies must: (1) obtain pre-approval from the federal Food and Drug Administration for all direct television advertising to consumers; (2) comply with FDA		100,000	100,000

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
				suggestions to modify drug advertising; (3) register clinical trials and post the results; (4) prohibit ghost writing of articles; (5) reduce conflicts of interest for Data Safety Monitoring Boards that ensure the safety of participants in clinical trials; and (6) comply with detailed rules prohibiting the deceptive use of clinical trials.			
State v. Pfizer Inc. (Celebrex and Bextra) (2008-09)	Pharmaceutical Marketing	Multistate	The case investigated the promotion, marketing, and advertising of Celebrex and Bextra by Pfizer and Pharmacia Corporations (which was purchased by Pfizer).	By order dated October 27, 2008, the defendant was ordered to pay \$60 million to the settling states, with Wisconsin's share being \$954,100. The amounts are to be allocated at the sole discretion of the Attorney General, as permitted by state law. Under the settlement Pfizer must submit all direct consumer television advertising to the FDA for approval and must comply with any FDA comment before utilizing the advertisement.		\$954,100	\$954,100
The TJX Companies, Inc. (2008-09)	Privacy	Multistate	The case involved a multistate investigation into the company's security/privacy policies and procedures. TJX Companies, Inc. owned TJ Maxx, Marshalls, Homegoods, AJ Wright, and Bob's Stores. It was alleged that between 2005 and 2007, hackers were alleged to have gained access to millions of credit and debit cards.	On June 23, 2009, the company entered into a settlement with the settling states. The settlement provides for an assurance of discontinuance and the company obligated itself to pay \$9.75 million to the states, including \$104,000 to Wisconsin. Under the settlement, TJX must: (1) assess internal and external risks to consumers' personal information; (2) implement safeguards to protect this information; and (3) regularly monitor and test the effectiveness of these safeguards. The company must also regularly report to the Attorneys General on the effectiveness of its program after obtaining a third-party assessment of its systems.		104,000	104,000

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
State v. Bonnell, Peter J., Schurr, Linda Investors Union, LLC d/b/a Annuity Service Center (2008-09)	Sales	DATCP	The Annuity Service Center contacted consumers by mailing a postcard in an attempt to generate sales leads for independent insurance agents. Specifically, the defendants were alleged to have mailed 65,000 deceptive solicitations to generally elderly Wisconsin residents for the purpose of inducing the recipients to schedule meetings with local licensed insurance agents. Recipients were allegedly led to believe that annuities in their names had reached their surrender periods. The postcards urged the recipients to telephone the defendants to deal with the mature annuities, while the alleged purpose of mailing the postcards was to get the recipients to schedule appointments to discuss the purchase of new insurance products.	Under a settlement dated August 13, 2008, Peter Bonnell, Linda, Schurr, and Investors Union, LLC d/b/a Annuity Service Center agreed to pay \$15,000 to the State of Wisconsin. In addition, the settlement provides that the defendants must cease all direct mail or telephone solicitations to Wisconsin residents for the purpose of selling life insurance, annuities, or similar insurance products.		\$15,000	\$15,000
State v. Great Lakes Wholesale Foods, Inc., d/b/a Great Lakes Distributors (2008-09)	Sales	DATCP	The case involved allegations of: (1) failure to disclose required information before a sale; (2) failure to issue or honor a consumer's right to cancel; and (3) salespersons' misrepresentations to consumers. The company sold meat and seafood products door-to-door to Wisconsin residents.	On March 30, 2009, a consent judgment was entered requiring Great Lakes to pay \$10,000 in forfeitures and reimbursement of state's expenses in bringing the action, including: (1) \$4,570 in forfeitures; (2) \$2,915 to DOJ for the costs of prosecution including attorneys fees; and (3) \$2,515 in state surcharges. The consent judgment also prohibits any future door-to-door sales activities in Wisconsin.		10,000	10,000
State v. Krist Oil Co. (2009-10)	Sales	DATCP	Retail gas stations were alleged to have increased pump prices more than once in a 24 hour period in violation of state law.	On December 23, 2009, judgment was entered against Krist Oil. Under the judgment the state received \$2,100 and Krist Oil was ordered to comply with state law requiring that all prices posted by wholesalers and every other person selling or distributing motor fuel must remain in effect for at least 24 hours after they are posted.		2,100	2,100
BBZ (2009-10)	Subpoena	DATCP	The Department of Agriculture, Trade and Consumer Protection requested DOJ assistance in issuing a subpoena and conducting a subsequent deposition.	The case was closed at the state level. The Federal Trade Commission took over the case.			
Blue World Pools, Inc. (2008-09)	Subpoena	DATCP	Blue World Pools Inc., was alleged to have not complied with a legal subpoena process and providing false information.	The case was not pursued as only one consumer complainant appeared entitled to legal remedy and the business has not returned to Wisconsin.			

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
State v. VONAGE Holdings Corp. (2009-10)	Telecommunications	DATCP	The case involved a referral from DATCP alleging VONAGE misrepresented a 30-day risk free trial period, misrepresented that consumers could keep existing phone numbers, and failed to honor on a timely basis a consumer's request to cancel service.	Under a multistate settlement reached on November 16, 2009, VONAGE agreed to settle with Wisconsin and 31 other states for \$3 million, of which Wisconsin received \$408,000. The amounts are to be allocated at the sole discretion of the Attorney General, as permitted by state law. Under the settlement, VONAGE agreed to modify its cancellation and retention practices.		\$408,000	\$408,000
Miller, Judy d/b/a FS Lending (2008-09)	Telemarketing	DATCP	The case involved a referral from DATCP alleging violations of telephone solicitation laws and failure to register as a telemarketer.	The case was closed as the entity appears to be out of business.			
The OYP Group (2008-09)	Telemarketing Advertising	DATCP	The case involved a Canadian company that allegedly telephoned churches, small businesses, and organizations purportedly to sell "yellow-page" advertising on an obscure Internet site.	DATCP withdrew the referral. The company stopped doing business in Wisconsin and no action was filed.			
Anderson, Alan A. (Kool View) (2009-10)	Trade Fraud Advertising	DATCP	This DATCP referral alleged fraudulent advertising of rebates for free windows. Specifically, it was alleged that the defendants deceived customers into purchasing replacement windows and other products by misrepresenting that they could obtain rebates four years later for the amount of their purchase, essentially making the products free, and that the program was limited to participants in an energy field study. It was further alleged that only 8% of the money needed to fully pay rebates was set aside, and that there was no energy field study.	On February 16, 2009, the state reached a settlement with Kool View Company, Inc. and Alan Anderson resulting in a judgment of \$200,000.		200,000	200,000
Kool View & National Rebate Fund, Inc. (2009-10)	Trade Fraud Advertising	DATCP	The case represented a DATCP referral regarding alleged fraudulent advertising of rebates for free windows.	On March 25, 2009, a \$5.5 million judgment was ordered against The National Rebate Fund, Inc. and Timothy Stubbs in the Kool View rebate scheme. In addition, they are enjoined from: (1) conducting future sales or marketing efforts in Wisconsin; and (2) withdrawing any funds from the Delaware bank holding the money held in escrow to pay rebate claims.	\$3,868,700	1,639,500	5,508,200

Case Name	Case Type	Source of Case	Case Description	Resolution	Restitution*	State Award**	Total***
Stubbs, Timothy (Kool View and National Rebate Fund, Inc.) (2009-10)	Trade Fraud Advertising	DATCP	The case represented a DATCP referral regarding alleged fraudulent advertising of rebates for free windows.	On March 25, 2009, a \$5.5 million judgment was ordered against The National Rebate Fund, Inc. and Timothy Stubbs in the Kool View Rebate Scheme. In addition, they are enjoined from: (1) conducting future sales or marketing efforts in Wisconsin; and (2) withdrawing any funds from the Delaware bank holding the money held in escrow to pay rebate claims.	\$20,000		\$20,000
Eborn, Jonathan D. d/b/a Google Money Tree (2009-10)	Unfair Trade Practices Fraud	DATCP	This case represented a DATCP referral requesting an enforcement review. Google Money Tree allegedly promoted "free" kits for consumers to make money from home. Complaints received by DATCP alleged questionable business practices and transactions.	The Federal Trade Commission sued the company and obtained a receiver and asset freeze. The state case was subsequently closed as the state could not obtain any remedy beyond what would be available to the Federal Trade Commission.			
United Financial Systems (2009-10)	Unfair Trade Practices Fraud	DATCP	The case involved allegations of possible violations of the state's direct marketing law.	The case was closed as DATCP has no jurisdiction. The case was transferred to the Commissioner of Insurance.			
Pristine Exteriors Inc. (2008-09)	Unfair trade practices home repair	DATCP	The case involved a referral from DATCP alleging failure to comply with a civil investigative demand.	The civil investigative demand was outside of the jurisdiction of the state of Wisconsin. DATCP agreed to close the case.			
Totals					\$4,740,900	\$7,172,600	\$11,913,500

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

** Amounts received as state awards include civil forfeitures, attorneys fees, costs and penalties.

*** Total amounts recovered include funds awarded under default judgments. Default judgments are entered against defendants who fail to contest the Department's case, often by failing to appear.