



Consumer Protection Programs

Informational
Paper
84

Wisconsin Legislative Fiscal Bureau

January, 2019

Consumer Protection Programs

Prepared by

Rory Tikalsky and Sarah Wynn

Wisconsin Legislative Fiscal Bureau
One East Main, Suite 301
Madison, WI 53703
<http://legis.wisconsin.gov/lfb>

TABLE OF CONTENTS

Introduction.....	1
Consumer Protection Statutory Authority	1
Chapter 1: DATCP Consumer Protection Program	7
Bureau of Consumer Protection.....	7
Bureau of Weights and Measures	14
Bureau of Business Trade Practices	15
Surveys	15
Product Safety Activity	16
Chapter 2: Department of Justice Consumer Protection Program	18
Consumer Protection Enforcement Authority	18
Enforcement Actions	19
Restitution Payments, Investigation Costs, and Related Recoveries.....	19
Report on Restitution Payments	21
Settlement Authority of the Attorney General.....	21
Chapter 3: Other State Agency Programs Providing Consumer Protection	22
Department of Administration - Energy Issues	22
Board on Aging and Long Term Care	22
Department of Children and Families	22
Department of Financial Institutions	23
Department of Health Services	24
Office of the Commissioner of Insurance	24
Office of Lawyer Regulation	25
Public Service Commission	26
Department of Safety and Professional Services	26
Department of Transportation	27
Department of Workforce Development	27
Appendix I Summary of DATCP Trade and Consumer Protection Administrative Rules	28
Appendix II DATCP-Referred Consumer Protection Court Cases Closed in 2016, 2017 and 2018, through June.....	32
Appendix III Unfair Sales Act/Minimum Markup Law	37
Appendix IV Department of Justice Consumer Protection Cases Completed in 2016-18	39

Consumer Protection Programs

Introduction

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 address individual consumer complaints and provide consumer education. Other state regulatory programs also assist consumers. However, this paper focuses primarily on consumer protection programs that address unfair or unlawful treatment or that provide information and education to assist consumers in future transactions.

The paper is divided into five 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; (4) the consumer protection activities of other state agencies; and (5) appendices that briefly describe the trade and consumer protection administrative rules of DATCP (Appendix I), select court cases following DATCP investigations or referrals for prosecution (Appendix II), the Unfair Sales Act and minimum markup law (Appendix III), and select court cases prosecuted by DOJ (Appendix IV).

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 one 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, weight reduction, dating service, and other future service 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; and (13) telecommunications services. Rule-making authority, enforcement authority or both now generally rests with DATCP for most of these sections. The Department can bring actions in state courts for alleged violations under its own authority or by referring cases to local district attorneys or DOJ. 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) provisions concerning the privacy of certain consumer information; (5) requiring businesses with a statewide franchise for video services to provide sufficient consumer access; (6) soliciting contracts using checks or money orders; (7) regulation of foreclosure consultants; (8) a prohibition on using bisphenol A (BPA) in certain children's products; (9) various prohibitions on unfair billing for consumer goods or services; and (10)

regulation of residential contractors.

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 these authorities after consulting with or petitioning 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.

DATCP's consumer protection activities rely significantly on administrative rules adopted under the statutory authorities described in the following paragraphs. The administrative rules are intended to reduce the possibility of arbitrary or inconsistent state regulation of businesses by providing detailed, industry-wide standards of conduct for specific consumer protection issues. 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. A summary of these rules is available in Appendix I.

In addition to enforcing state consumer protection law, a significant part of DATCP's consumer protection role is educating consumers about potential fraudulent or unfair activity periodically reported to DATCP, law enforcement agencies or other regulatory entities. Consumer awareness, both of ongoing suspicious practices and of consumers' rights in certain dealings with businesses, is therefore intended to prevent violations of consumer protection law from occurring. In response to violations, however, DATCP generally uses dispute mediation and progressively more stringent enforcement of violations to ensure compliance with the state's consumer protection laws. Education, mediation and enforcement efforts are discussed in a separate section in greater detail.

The sections following discuss the broad statutory authorities that form the basis for much of DATCP's consumer protection programming. Certain other sections of the statutes identify industry- or product-specific activities that have been deemed fraudulent representations or unfair methods of conducting business, and the statutes may ban such activities, require certain disclosures or attestations by sellers to protect consumer well-being, or both. Examples of these provisions are laws pertaining to food labeling and marketing, and to the substantiation of a product's energy efficiency or safety. Although these laws may be considered part of DATCP's consumer protection responsibilities, they are not discussed in detail in this paper.

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 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 on behalf of the state to 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. Persons alleging a monetary loss due to a fraudulent representation also may bring suit for recovery of the loss and certain allowable court costs. In addition to halting the fraudulent actions for most infringements, the court can impose a civil forfeiture of \$50 to \$200 for each violation and require restitution. Businesses found to be misrepresenting themselves as local or regional may be ordered to forfeit \$100 to \$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 \$100 to \$10,000. Victims of an injunction violation also may sue for restitution of double their monetary loss.

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 made in writing as a letter or a contract. The assurance 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 filed in court and 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 is 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," 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 I lists DATCP rules, many of which were promulgated under the general unfair trade practices statute. The DATCP Bureau of Consumer Protection administers these rules.

The 1995-97 budget act eliminated DOJ's rulemaking authority in the area of consumer protection. However, in areas related to unfair business practices where no DATCP rule exists, DOJ may file a written complaint with DATCP relating to allegations of unfair methods of competition in business, or unfair trade practices in business, or

both. The statutes require DATCP to proceed, after proper notice, to the hearing and adjudication of the allegations. A representative of DOJ, designated by the Attorney General, may appear before DATCP in such proceedings. DOJ may pursue judicial review of the resulting decisions and orders of DATCP.

Special Orders and Injunctions

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

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.

Violators of the unfair trade practices statute are subject to: (1) criminal penalties for each violation of \$25 to \$5,000 and imprisonment in a county jail for up to a year, or both; or (2) civil penalties of \$100 to \$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 statutes, includes the sale of services conveying voice communication, including service for the collection, storage, forwarding and switching of the regulated service as well as any needed equipment. 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, meaning 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, the Federal Communication Commission, or 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 and the PSC, 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 district attorney, upon informing DATCP, may also commence such actions.

A person who violates the consumer protection statutes related to electronic communications services shall be required to forfeit \$25 to \$5,000 for each offense. 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

The no-call program requires telemarketers to register with DATCP and prohibits them from calling or texting consumers who have their phone number listed on a no-call registry. Aside from several exceptions listed in statute and administrative rule, such as solicitations by nonprofit organizations or solicitations to clients or persons who have specifically opted to receive phone solicitations, the no-call registry prohibits most telephone solicitations to numbers on the list. Violations are punishable by forfeitures of up to \$100 per violation.

Beginning August 1, 2014, the state no-call registry ceased to be administered solely by DATCP. Instead, the state no-call list consists of those landline and cellular phone numbers originating from Wisconsin area codes and appearing on the national no-call registry, which is administered by the Federal Trade Commission (FTC). With the state no-call list being administered by the FTC, DATCP no longer distributes to telemarketers the list of Wisconsin phone lines registered under the program. Most other state telemarketing

provisions continue to apply, however, including more stringent limits on continued contacts after no-call registration and on solicitations by subsidiaries and affiliates.

Product Safety

DATCP is responsible for administering multiple product-safety laws regulating hazardous substances and other consumer products that may present an unreasonable risk of injury to the public. DATCP has general authority to ban the sale or distribution of hazardous substances (s. 100.37 of the statutes) or of any consumer product determined to present an unreasonable risk or imminent hazard to the public health, welfare or safety (s. 100.42). In addition, DATCP is responsible for administering several laws intended to address products or packages that, though not necessarily immediately toxic or dangerous to consumers, may have cumulative detrimental impacts on the environment. These various product-safety laws include the following:

- Labeling and Content of Bedding (s. 100.2095)
- Mercury-Containing Dry Cell Batteries (s. 100.27)
- Sale of Detergents Containing Phosphorus (s. 100.28)
- Reductions of Toxics in Packaging (s. 100.285)
- Labeling of Recycled, Recyclable or Degradable Consumer Products (s. 100.295)
- Plastic Container Recycled Content and Labeling (s. 100.297 and s. 100.33)
- BPA Prohibitions in Children's Products (s. 100.335)
- Antifreeze Content (s. 100.38)
- Flammable Fabrics (s. 100.41)
- Poison Prevention in Packaging (s. 100.43)
- Energy Efficiency Standards (s. 100.46)
- Products Containing or Made with Ozone-Depleting Substances (s. 100.50)

Security of Personal Information

In recent biennia, a number of statutory provisions have been created to address the ability of

consumers to secure personal information. These provisions intend to address and mitigate potential harm to consumers, as the proliferation of electronically stored personal information in recent years generally has been associated with thefts of such data and the misappropriation of personal information, commonly referred to as identity theft.

Among the provisions limiting distribution of personal information are allowances for persons to restrict access to their credit reports, also known as a security freeze. Other provisions limit the release of personal information: (1) in trigger leads, which may be provided by credit reporting agencies to third parties following consumer applications for credit; (2) by tax preparers; and (3) contained in records of telephone calls generated by telephone service providers. For most of these provisions, DATCP, DOJ or both have authority to commence court actions in response to violations of the law. DATCP also has rule-making authority with regard to placing security freezes. These laws

generally allow persons incurring losses due to violations of the provisions to file court actions to recover losses and certain other amounts.

It should be noted that the Department does not have statutory authority to conduct its own investigations of identity theft. However, the statutes contain general requirements that entities operating in the state notify any state resident that may be the subject of a data breach or other unauthorized access to personal information, provided the access presents a material risk of identity theft or fraud to the subject. Although no state agency is directly responsible for administering the statute, DATCP reports it assists entities in complying with the requirement. The Department also conducts other education campaigns and outreach to law enforcement agencies investigating identity theft, and to consumers seeking to recoup financial losses or restore credit histories following suspected identity theft.

DATCP CONSUMER PROTECTION PROGRAM

DATCP's Division of Trade and Consumer Protection consists of three bureaus: the Bureau of Consumer Protection (BCP), the Bureau of Weights and Measures (BWM), and the Bureau of Business Trade Practices. All three broadly address allowable conduct in commercial transactions or the quantity, quality and purity of certain products marketed in the state. Although some programs throughout the Division may regulate "business-to-business" transactions more so than "business-to-consumer" transactions, programs generally are intended to ensure efficiency in markets to the benefit of all commerce in the state. The following paragraphs primarily describe the structure and operations of DATCP consumer protection programs.

Bureau of Consumer Protection

Funding

Funding for BCP is provided primarily from general purpose revenues (GPR) and program revenues (PR). In 2018-19, BCP is authorized 32.0 positions, plus 4.35 division-level positions for administrative duties attributable to consumer protection programs. Total funding budgeted for consumer protection programming in 2018-19 is approximately \$3.2 million, consisting of \$1,447,600 GPR and \$1,727,800 PR. BCP 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 2016-17 and 2017-18 respectively, the Bureau received \$6,000 and \$5,600 for these

purposes. Activities under the federal contract are described later in detail.

BCP program revenue consists of various fees: (1) telemarketer licensing and other fees under the no-call program; (2) assessments on telecommunications utilities levied by the Public Service Commission and transferred to DATCP; (3) a 25% surcharge on fines and forfeitures for consumer protection violations; (4) sale of supplies and other materials; and (5) surcharges for violations of the state prohibition on BPA use in children's products.

Bureau Organization

The BCP's current organizational structure is described in the following paragraphs, with positions assigned to each area shown in Table 1.

Administration

The Bureau of Consumer Protection is administered by a director. Also included is an identity theft assistance liaison who reports to the director. The liaison provides outreach and support activities related to identity theft as part of a team focused on identity theft issues, discussed later.

Table 1: Consumer Protection Staff (2018-19)

Work Unit/Area	Positions
Administration	2.00
Consumer Information and Education	7.00
Mediation and Enforcement Section	
Section Chief	1.00
Mediation Unit	12.00
Investigation Unit	<u>10.00</u>
Total	32.00

Consumer Information and Education

The consumer information and education unit is often the first point of contact between BCP and consumers. Staff's primary responsibility is operation of the consumer protection hotline, which receives phone calls and emails from individuals reporting potential violations of consumer protection laws. All contacts are cataloged in a database kept by the Bureau to identify trends and emerging issues in the state and to establish program priorities and direction. The database also helps hotline staff persons answer consumer inquiries as to whether complaints have been filed against particular businesses.

Mediation and Enforcement Section

BCP addresses formal complaints through the Mediation and Enforcement Section, which consists of: (1) a mediation unit with 12.0 positions, including 1.0 manager and 11.0 consumer protection investigators; and (2) an investigation unit that consists of 10.0 consumer protection investigators. The Mediation and Enforcement Section is headed by a section chief for a total of 23.0 positions.

Investigation Unit. The investigation unit is responsible for gathering information on complaints and assessing whether further enforcement action is necessary. Investigators work with DATCP's attorneys and DOJ in developing investigative methods and evidence for cases and determining the appropriateness of potential enforcement actions. The procedures for investigating and closing cases are discussed later in greater detail.

Mediation Unit. The mediation unit is responsible for receiving, processing and initiating responses to formal, written complaints. Whereas the consumer information and education unit receives and responds to consumers' initial inquiries, the mediation unit is responsible for resolving disputes for which consumers have submitted a formal complaint, which describe in detail an alleged

improper business action. Complaints may result in further investigation, mediation or one or more types of enforcement, which are discussed later in greater detail. The mediation unit also responds to complaints made against businesses headquartered outside Wisconsin but whose operations within the state are alleged to have violated state laws.

The complaint mediation 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 June 30, 2018, BCP held securities of \$21.1 million for 456 businesses, including \$10 million for fitness centers, \$10 million in time-share sureties, \$300,000 for dating services, \$425,000 for future service plans and \$350,000 for weight-loss centers.

Information and Education

In addition to the procedures used in resolving complaints and enforcing consumer protection laws, BCP also attempts to engage in several early-stage measures to promote voluntary compliance by businesses and to increase consumer awareness of potentially harmful situations. BCP's educational and informational activities include: (1) press releases and social media postings 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) regular appearances on television and radio shows.

DATCP also creates and distributes fact sheets. The most widely distributed fact sheet describes landlord and tenant rights and is available in Spanish and English. DATCP publishes 322 total fact sheets and booklets, including 108 in Spanish. The Department also provides information to local law enforcement agencies to increase their knowledge of consumer protection laws and rules. Staff members also occasionally lecture at technical college law enforcement classes. DATCP estimates presentation audiences of 5,248 in 2016 and 7,184 in 2017.

Identity Theft Assistance

Since 2006, DATCP has dedicated staff to identity theft issues to provide education, process complaints, and assist victims. The Department allocates 1.0 agency liaison and 2.0 consumer protection investigators from BCP's Mediation and Enforcement Section to these issues. Positions are funded from Office of the Commissioner of Insurance PR and GPR. Staff operate a dedicated phone line for identity theft assistance. DATCP reports it received 937 and 1,287 contacts in 2016 and 2017, respectively, relating to identity theft concerns, including questions on prevention and possible instances of identity theft. Contacts resulted in 431 and 453 formal complaints in 2016 and 2017, respectively. Further, staff is responsible for reporting data breaches on the DATCP website, reporting 18 and 47 data breaches in 2016 and 2017, respectively. Reports include information on potentially compromised information, mitigation methods, and assistance available to victims, such as credit monitoring. DATCP also conducts presentations to consumer groups, businesses and law enforcement to educate about best practices related to preventing and managing data breaches.

Complaint Intake, Response, and Investigation Procedures

Initial Contact

A primary function of BCP is to review and

respond to consumer inquiries and complaints. The majority of contacts to the Bureau come electronically via the Bureau's website or by telephone. Table 2 summarizes the types of consumer contacts received by DATCP in 2016 and 2017. Additionally in 2017, DATCP reports its website had over 210,000 views of web pages describing consumer protection programs, complaint intake, and consumer information of note to the public.

Table 2: Summary of Consumer Protection Contacts

Contact Type	2016	2017
Phone Calls	23,376	22,849
Email	1,386	2,020
Walk-Ins	72	114
Other*	<u>197</u>	<u>127</u>
Total	25,031	25,110

*Includes contacts by media, legislators, state agencies and by other forms of communication such as fax or letter.

Persons contacting BCP 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, minimizes more time-consuming written responses by consumer protection staff to consumers and affected businesses, which is the first step following receipt of a formal complaint.

Hotline personnel often send callers fact sheets and other information from DATCP's website that describe applicable laws and consumers' rights under them. The Bureau sent 57,014 informational pieces in 2016, including 23,111 by mail, and 59,833 in 2017, including 23,685 by mail. Staff may also refer callers to other agencies that have

jurisdiction over the area of concern or that can provide further assistance. BCP made 3,007 such referrals in 2016 and 4,479 in 2017.

Written Complaints

In 2017, DATCP received 10,378 unique complaints from consumers, plus an additional 281 duplicate filings, and initiated another 54 complaints on its own. In 2017, the top five complaint categories were: (1) telemarketing with 4,147 complaints (39%), (2) landlord-tenant disputes with 1,141 (11%), (3) telecommunications practices with 763 (7%), (4) identity theft with 453 (4%), and (5) home improvement contracts and projects with 403 (4%). These five categories have typically been among the most common complaints in recent years.

In some instances, the Department may request that a consumer file an official complaint form. These instances may include practices that do not specifically violate current rules or specific statutes, but involve repeated and serious occurrences that DATCP wishes to review for potential further actions. Such complaints may also follow a series of similar complaints warranting further investigation after an initial review by an investigator.

After receiving a complaint, DATCP sends a written response to both the consumer and the affected business. For many complaints, DATCP may find that no illegal action occurred. The Bureau in such cases generally attempts to mediate disputes by informing the consumer and the affected business of their rights or responsibilities and proposing possible solutions to both parties. Although DATCP's primary statutory mission is to identify and prevent unfair business practices and not to represent individual consumers, the Department reports many complaints are resolved to the satisfaction of consumers by providing the involved parties such information. 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 of the statutes, 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 assist consumer protection staff with investigative activities.

Although most complaints are handled through some form of mediation, an estimated 20% of all complaints require some level of investigation, including interviews, data collection, case evaluations and, at times, undercover investigation. Also, 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. Most investigations focus on the following issues: (1) telecommunications; (2) home improvement; (3) telemarketing; (4) direct marketing; (5) landlord-tenant issues; (6) prize notices; (7) deceptive marketing; and (8) unfair billing practices.

Serious violations with a significant impact on affected consumers will tend to merit greater use of staff resources. 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.

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. Investigations are assigned to staff based on priority and in an attempt to balance caseloads.

DATCP conducted 101 formal investigations related to complaints in 2016 and 115 in 2017. DATCP reports it maintains regular contact throughout the course of an investigation with DOJ, or local district attorneys' offices, if a case is more appropriately pursued at the county level. According to DATCP, this typically includes preceding a formal investigation by discussing with prosecutors the most appropriate course for the investigation, including critical evidence needed and potential means of enforcement. DATCP and DOJ also report the agencies meet at least monthly to discuss progress on ongoing investigations, although in the course of case development, it is common for agency staff to communicate daily on questions of law or determining the remaining responsibilities of each agency in closing the investigation and preparing the case for further action.

Investigations generally result in formal reports, known as summary investigative reports, of the case's facts and any violations DATCP believes to have occurred. These reports provide supporting evidence that may be used in court proceedings against the alleged violator. Cases referred to prosecuting agencies may result in civil claims, or criminal charges if appropriate. Alternatively, the agencies may agree the case is more appropriately pursued under an alternative enforcement action, several of which are discussed in the following paragraphs.

Enforcement Actions

The Department enforces consumer protection rules or statutes in several ways, including: (1) cease-and-desist letters; (2) warning letters; (3) assurances of compliance; (4) special orders; and (5) formal prosecutions. A summary of selected enforcement actions taken by DATCP in 2016 and 2017 is shown in Table 3.

Table 3: Summary of Consumer Protection Enforcement Actions and Case Referrals

Action	2016	2017
Investigations	101	115
Cease-and-Desist Letters	279	89
Warning Letters	591	576
Assurances of Compliance	11	4
Special Orders	0	0
Case Referrals		
Local District Attorney	25	33
Wis. Dept. of Justice	10	22
U.S. Attorneys/Agencies	0	0
Other*	<u>2</u>	<u>0</u>
Total Referrals	37	55
Actions Filed Pursuant to DATCP Referrals		
Local District Attorney	18	25
Wis. Dept. of Justice	4	5
U.S. Attorneys/Agencies	<u>2</u>	<u>0</u>
Total Cases Filed	24	30

*Includes referrals to other jurisdictions or internally for further DATCP action.

Cease-and-Desist Letters

Cease-and-desist letters are the initial stage of enforcement for telemarketer violations of the no-call list. When a complaint is received regarding the no-call list, DATCP sends a cease-and-desist letter to the telemarketer. Based on the telemarketer's response, additional enforcement actions may follow, such as a warning letter.

Warning Letters

Warning letters are issued to businesses under the authority of s. 93.06 (10) of the statutes 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. Warning letters specify the violation that has occurred and state an expectation that such violations will cease. If further enforcement actions are not warranted, the warning letter is usually the final step in resolving a consumer complaint. Possible noncompliance is generally identified through subsequent complaints or through Department surveys.

Assurances of Compliance

The Department requires a written assurance of compliance 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. Issuing an assurance of compliance typically involves an in-person meeting with the business suspected of improper practices. The violating business must sign a statement assuring compliance, which the Department can use to facilitate compliance by other means, if necessary, such as through court proceedings. Compliance assurances can include restitution agreements or other suitable outcomes for complainants while avoiding more time-consuming enforcement processes such as court cases.

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 and 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

As described earlier, the Department prepares cases for formal prosecution by district attorneys or DOJ attorneys. Violations of consumer protection statutes and rules are customarily prosecuted if they are considered to be serious, have a major adverse impact on consumers, or are recurring by the business. Table 3 shows cases referred in 2016 and 2017, as well as actions filed by prosecuting attorneys for DATCP-referred cases. Appendix II provides a summary of select court cases developed by DATCP that were completed in 2016, 2017 and 2018 through June 30. The cases shown in Appendix II are not a comprehensive list. Rather, the list includes criminal cases and those civil cases for which the disposition included \$10,000 or more in combined restitution, fines or forfeitures, and court costs. In addition, certain cases investigated or referred by DATCP are not listed in Appendix II but are listed in Appendix IV as having been recently closed by DOJ. This discrepancy arises in part from DATCP monitoring a defendant for compliance with settlement or judgment terms for a period following the conclusion of court proceedings. DATCP classifies the case as closed once restitution or other monitoring requirements have been satisfied.

DATCP generally remains 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 settlements, both of which may include court orders or injunctions that prohibit future conduct by a defendant. In addition, defendants may be liable for civil forfeitures, penalties and restitution to Wisconsin consumers. General fines or forfeitures obtained in state courts are deposited in the common school fund. Additionally, fines and forfeitures for violations of consumer

protection laws include a 25% consumer protection surcharge that is deposited to a DATCP program revenue annual appropriation for consumer education. Revenues from this surcharge totaled \$334,900 in 2017-18. Under s. 100.261(3)(c) of the statutes, revenues to the appropriation that exceed \$185,000 in a fiscal year are to be deposited to the state's general fund. DATCP reports it plans to transfer \$149,900 to the general fund in 2018-19, consistent with this requirement for excess revenues collected in 2017-18.

Telemarketer Regulation and No-Call List

The Bureau of Consumer Protection administers the no-call program under s. 100.52 of the statutes and administrative rule ATCP 127, which establishes terms for the licensing of telemarketers, specifies provisions for maintaining and distributing the no-call registry, and clarifies allowable actions for making telephone solicitations. Telemarketers pay initial licensing 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 per registered telemarketer, and fees may be paid on a quarterly basis. Consumers are not charged for registering.

Fees are mostly deposited to a program revenue continuing appropriation for DATCP administration of the program. For 2018-19, DATCP is provided \$699,000 and 6.2 positions from the appropriation. In addition, the Department is budgeted \$302,600 telephone solicitation PR with 4.2 positions in 2018-19 in an annual appropriation for general consumer protection and consumer education, which supports positions divided among BCP's consumer information and education, mediation, and investigation units.

DATCP discontinued Wisconsin's no-call list in 2014, transferring all numbers to the FTC, which maintains a federal no-call list. Telemarketers now receive lists of registered phone lines from the FTC instead of DATCP, which occurs at least

every 31 days under federal law. FTC administrative rules charge telemarketers an annual no-call list access fee of \$60 per area code accessed, although there is no charge for accessing up to five area codes. To access all six active area codes in Wisconsin, telemarketers would have to pay \$60 annually to the FTC, in addition to charges assessed by DATCP.

For consumers, registration for the no-call list is now managed by the FTC. Federal law allows states to administer and enforce telemarketing laws that are more stringent than federal provisions. Wisconsin's law is more stringent. For instance, telemarketers under federal law may contact a registered number up to 18 months following the completion of a customer's transaction or contractual relationship, while DATCP administrative rules permit only one contact by a seller to determine whether the lapsing of a contract was inadvertent. The FTC reports approximately 4.74 million active and registered Wisconsin phone lines on the federal no-call list as of November, 2018.

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%. In the past, DATCP has intermittently waived fees due to large balances in the account, but has collected all quarterly payments since 2007. Through 2018, the cumulative amount of waived quarterly payments is estimated at \$4.76 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 15% specified under ATCP 127.81(5). The court also clarified the maximum fine for a violation under the telephone solicitation program at \$100.

DATCP has transferred a total of \$9.86 million from the appropriation balance to the general fund since 2003-04 under various annual lapse requirements. These amounts are shown in Table 4. On July 1, 2018, the telephone solicitation appropriation had a balance of \$1,378,200. No-call revenues were \$1.68 million in 2016-17 and \$1.55 million in 2017-18.

Table 4: Transfers of Telemarketer Registration Fees to the General Fund

2003-04	\$666,700
2004-05	62,000
2006-07	402,000
2007-08	2,038,000
2008-09	83,400
2009-10	1,424,600
2010-11	1,917,800
2011-12	665,000
2012-13	556,600
2013-14	777,700
2014-15	763,600
2015-16	250,000
2016-17	250,000
2017-18	0
Total	\$9,857,400

Bureau of Weights and Measures (BWM)

In 2018-19, BWM is authorized: (1) \$5,390,400 petroleum inspection fund SEG with 42.05 positions, funded primarily by a 2¢ per gallon fee on petroleum products received for sale in the state; (2) \$1,657,700 weights and measures PR with 17.05 positions, supported by license fees on various regulated devices or businesses, fees from municipalities for weights and measures

inspection services provided by DATCP under contract, and tonnage surcharges related to weights and measures; and (3) \$35,400 GPR with 0.35 position. Also, in the 2017-19 biennium, DATCP has budgeted \$871,700 from federal (FED) funds provided by the U.S. Environmental Protection Agency for underground storage tank regulation, with 3.0 positions. These amounts include administrative positions both in BWM and those for division administration that are supported by appropriations made for weights and measures or petroleum product inspection programs.

A significant portion of BWM field inspections assist municipalities in weights and measures regulatory work required by Chapter 98 of the statutes. The statutes require municipalities with population of more than 5,000 to enforce state weights and measures laws in their jurisdiction, unless a municipality enters a contract with DATCP or another municipality for weights and measures inspection services. As of July 1, 2018, 119 municipalities had contracts for DATCP services. These contracts obligate DATCP to provide a total of about 7,690 hours of annual inspection services to the contracting municipalities.

DATCP inspectors' weights and measures field work most often includes: (1) verifying the proper functioning of weights and measures used in commercial activity, including scales, liquid dispensers and timers; (2) conducting surveys of retail stores for scanner accuracy and price verification; and (3) verifying advertised product weights or volumes on prepackaged foods and consumer goods.

Table 5: Summary of Weights and Measures Field Inspection Activities

Inspection Category	2016	2017
Package Weight Checks	103,046	108,046
Price Accuracy Checks	58,629	57,120
Fuel Pumps (Grades)	44,773	38,209
Non-Fuel Scales and Meters	<u>14,972</u>	<u>13,512</u>
Total (Non-Fuel)	221,420	216,887

In 2016 and 2017, weights and measures inspectors performed surveys at approximately 6,300 and 5,600 locations, respectively. (A single location may have had multiple inspection types performed, such as price accuracy checks and scale verifications; the totals do not include reinspections, in which an inspector would return to a location to verify the correction of equipment previously determined to need recalibration or to be otherwise noncompliant.) Further details of devices checked during surveys are shown in Table 5.

Further, BWM maintains and staffs the state's metrology lab, which verifies the calibration of scales and other devices used by inspectors and servicers to test weight and measures in commercial use throughout the state. In 2016 and 2017, respectively, the Department tested 14,439 and 15,315 weights and measures.

Inspectors also are responsible for conducting sampling of petroleum products and other liquid fuels, as well as verifying compliance with standards for the safe storage and dispensing of petroleum products. Sampling and inspections for petroleum products and storage tanks occurs primarily at retail fuel stations, as well as other fuel terminal or wholesale locations throughout the state. In 2017-18, 7,650 inspections occurred at facilities with petroleum systems or petroleum product storage tanks. Of these inspections, 2,766 were retail sellers of gasoline and other petroleum products. In 2017: (1) 753 new tanks were registered; (2) 292 tank permits were issued; (3) 806 tanks were reported closed; and (4) 751 storage tank plans were reviewed.

DATCP reports that in 2017, 5,221 petroleum product samples were sent to a lab where they underwent 20,580 lab tests, resulting in 103 failed tests. In 2017, DATCP took the following enforcement actions with regards to storage tanks: (1) 3,158 administrative orders (first notice); (2) 1,167 administrative orders (final notice); and (3) 226 red tags. First-notice administrative orders describe a violation and direct its correction, while

final notices are issued in the event administrative orders are not complied with. Red tags prohibit filling a noncompliant storage tank and are issued only following noncompliance with final notices or in the event a violation presents an immediate threat to public safety.

BWM is also responsible for enforcing laws related to the handling of potentially ozone-depleting refrigerants, including the proper servicing of mobile air conditioners and cold-storage trailers.

Bureau of Business Trade Practices

The Bureau of Business Trade Practices handles regulatory duties related to unfair trade practices and is primarily concerned with potential instances of unfair industry competition. Examples of Bureau of Business Trade Practices programs include: (1) regulation of product pricing under the Unfair Sales Act, which is commonly known as the "minimum markup" law; (2) the agricultural producer security program, which attempts to ensure that commodity dealers, storage facilities, and processors have sufficient means to pay individual producers of dairy, grains, and vegetables from whom they purchase; and (3) grading and inspection services for grain, fruits and vegetables to be further marketed nationally or internationally. Appendix I contains a list of administrative rules related to trade practices, and Appendix III summarizes the Unfair Sales Act. The Business Trade Practices Bureau is supported by GPR, various program revenues, the segregated petroleum inspection fund, and the segregated agricultural producer security fund.

Surveys

BCP complements on-site inspections by BWM

staff with surveys to measure compliance with other consumer-protection laws. Consumer protection staff may perform the following: (1) surveys of retail stores to check for hazardous household substances or products; (2) review of advertisements, employment offers, and residential leases on a random basis to identify possible law violations; and (3) mail surveys to monitor price comparison advertising, initiated due to consumer complaints and Department oversight.

Product Safety Activity

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: (a) identifying product hazards; (b) eliminating unsafe products or reducing risks of exposure to them; (c) providing the public with information needed to identify product hazards; and (d) providing the public with information needed to compare and use products safely.

DATCP 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 contends that public information is perhaps the most effective compliance tool. The Department collects information from consumer complaints, news reports, and other public and professional contacts. It 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 U.S. Consumer Product Safety Commission (CPSC). The agencies cooperate in hazard identification, marketplace monitoring, investigations, research, compliance actions and public information. DATCP has a memorandum of understanding with CPSC and performs several investigative functions for CPSC on a cooperative contract basis as described below.

Investigations. 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. The Department also has investigated or inspected sellers of various products at the request of the CPSC to ensure compliance with federal regulations or other enforcement actions, although no such inspections have been requested since 2012.

Recalls and Compliance Checks. The Department has performed recalls under its own statutory authority for such products as stuffed/plush toys, matches, books, riding lawn mowers 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 25 recall effectiveness checks in 2016 and 28 in 2017 for, among other products, various toys, recreational products, tools, furniture, and children's products.

Product Safety Surveys. DATCP has occasionally performed consumer product safety surveys.

Since 1999, examples of such activities have included: (1) analyzing records of state fire departments for reports of fires caused by consumer products; (2) surveying second-hand and resale stores for recalled or illegal products, and educating store operators about the illegality of such reselling; (3) surveying cigarette lighters to verify the inclusion of child safety mechanisms; and (4) surveying manufacturers and importers of infant and toddler products subject to federal regulations for durability. Surveys may be conducted on the Department's own initiative or in conjunction with CPSC efforts. DATCP reports it did not conduct any safety surveys in 2016 or 2017.

Product Safety Campaigns. DATCP participates in various state and federal product safety campaigns. For instance, from 2012 to 2017, DATCP has participated in a CPSC Carbon Monoxide Safety Program for safe use of products that can produce carbon monoxide. Further, the Department is among approximately 30 states participating in an information-sharing system coordinated by CPSC, in which CPSC and state product-safety agencies exchange information on educational efforts, incident data and legislative changes. DATCP also publishes a monthly Keep Your Kids

Safe newsletter that summarizes and highlights all recalls related to children.

DATCP also conducts cooperative planning with 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 publicize information about product safety regulations.

The Department was involved in the establishment of the International Consumer Product Health and Safety Organization. ICPHSO provides 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, product liability experts, and government officials. DATCP also works with the standards organization ASTM International, a voluntary organization for standards development in a variety of products.

DEPARTMENT OF JUSTICE CONSUMER PROTECTION PROGRAM

Following the 1996 transfer of most consumer protection functions to DATCP, DOJ retained a small consumer protection section in its Division of Legal Services. During the 2011-13 biennium, DOJ formally created the consumer protection and anti-trust unit in its Division of Legal Services. In 2018-19, this unit consists of 11.55 positions, including: (1) 6.75 attorneys; (2) 1.0 consumer protection investigator; (3) 1.0 legal secretary; and (4) 2.8 paralegals. Of this staff, 1.0 attorney is dedicated to anti-trust matters while the remaining attorneys and investigators are dedicated to consumer protection matters. The Department of Justice does not separately budget for individual units within its Division of Legal Services. However, for 2018-19, DOJ estimates the budget for salaries and fringe benefits associated with the consumer protection and anti-trust unit to be \$1,221,900 GPR and 11.55 GPR positions.

Consumer Protection Enforcement Authority

Under the marketing and trade statutes (Chapter 100), DOJ may, after consulting with DATCP, determine violations and initiate prosecutorial proceedings involving certain prohibited practices aimed at protecting consumers. The Department has indicated that the consumer protection unit primarily handles cases relating to: (1) fraudulent representations prohibited under s. 100.18 of the statutes; and (2) telecommunication trade practices violations under s. 100.207 of the statutes. For each type of prohibited practice, DOJ may seek to restrain the activity by a temporary or permanent injunction. If DOJ brings an enforcement action under 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.

The Attorney General may also bring an action against any corporation or limited liability company (LLC) thought to have violated an order issued under s. 100.20 of the statutes (methods of competition and trade practices), for the purpose of enjoining the corporation or LLC from doing business in Wisconsin or revoking its certificate of incorporation, authority, or organization.

As previously indicated, DOJ must consult with DATCP before commencing actions relating to consumer protection violations. 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.

In addition to its authority to bring cases independently, DOJ may represent the state in 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.

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 by filing a complaint 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.

Enforcement Actions

During 2016-18 (July 1, 2016, through June 30, 2018), a total of 121 consumer protection cases and investigations were opened by DOJ's consumer protection unit. Of this total, 29 cases and investigations were referrals from other state agencies, as follows: (1) DATCP referred 26 cases; and (2) the Department of Financial Institutions referred three cases. The remaining 92 cases and investigations represent multistate cases, cases referred to DOJ from non-governmental entities, cases internally generated by DOJ, or cases for which DOJ's records does not identify its origin. Of these 92 cases, 24 were multi-state in nature and 68 were Wisconsin-specific.

During 2016-18, DOJ's consumer protection unit closed 70 consumer protection cases and investigations, with the financial recovery in these cases totaling \$11,575,000. Appendix IV identifies the consumer protection cases completed by DOJ's consumer protection unit during 2016-2018, in which the financial recovery in the case equaled or exceeded \$100,000. Appendix IV also summarizes the consumer protection cases of a criminal nature concluded during 2016-18. These cases included investigations, litigation, prosecution, 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. During 2016-18, for the 12 cases summarized in Appendix IV, the direct financial recovery totaled \$17,547,300.

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.

Further, a court judgment or settlement agreement may authorize the Attorney General to apply judgment or settlement funds to court costs, attorneys' 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 DOJ's restitution appropriation after all reasonable attempts have been exhausted to identify eligible recipients, the residual funds are used for any of the other designated purposes provided by the terms of the settlement agreement or court order. In 2016-17, \$575,500 in expenditures for restitution and for other purposes authorized by the particular judgment or settlement was made from DOJ's restitution appropriation. In 2017-18, \$4,197,700 in expenditures for restitution and for other purposes authorized by the particular judgment or settlement was made from DOJ's restitution appropriation. [Note that restitution expenditures were uncommonly high in 2016-17 as a result of a judgement in November, 2016, against Volkswagen for false representations (discussed in greater detail in Appendix IV).]

The Department utilizes its Division of Management Services gifts, grants and proceeds continuing program revenue appropriation to receive and allocate settlement funds that are distributed at the sole discretion of the Attorney General. During 2016-17, \$12,242,400 in settlement funds to be allocated at the sole discretion of the Attorney General was deposited to this appropriation. In addition, during this same time period, \$134,800 in discretionary settlement funds for consumer protection was deposited into this appropriation. Discretionary settlement funds for consumer protection are amounts that may be allocated at the discretion of the Attorney General. However, per the court judgment, the funding must be utilized for consumer protection purposes. During 2017-18, DOJ received \$200,300 of Attorney General discretionary funding. In addition, during 2017-18, DOJ received \$300,000 of Attorney General discretionary funds that must be utilized for consumer protection purposes.

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, civil consumer protection court judgments and settlements secured by DOJ often include amounts for: (1) attorney fees and case costs; (2) 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 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 attorneys' 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% 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 violations,

as well as other violations pursued by the agency. The appropriation began the 2016-17 fiscal year with a balance of \$5,907,000 and received additional revenue of \$928,900 during the fiscal year. In 2016-17, \$2,412,800 was expended from the appropriation, and as a result, the appropriation closed 2016-17 with a balance of \$4,422,100. During the 2017-18 state fiscal year the appropriation received additional revenue of \$1,395,200, expended \$3,923,200, and closed the 2017-18 state fiscal year with a balance of \$1,894,100.

Under 2017 Act 369 as enacted on December 14, 2018, DOJ is required to deposit all settlement funds into the general fund. Further, DOJ is directed to lapse all unencumbered settlement funds that are currently in the DOJ appropriation into the general fund. As a result, in order for monies to be appropriated as directed by the court or settlement agreement, the Legislature will need to enact legislation. Further, the gifts, grants, and proceeds appropriation was converted from a continuing appropriation to an annual, all monies received appropriation.

Report on Restitution Payments

Under s. 165.25(10) of the statutes, DOJ is required to submit a semiannual report to the Department of Administration (DOA) and to the Joint Committee on Finance on the amounts received pursuant to a court order or settlement agreement to provide restitution to victims. The Department's report is required to specify: (1) the amount of restitution received by DOJ during the reporting period; (2) the persons to whom DOJ paid restitution; (3) the amount paid by DOJ to

each recipient during the reporting period; and (4) DOJ's methodology for selecting recipients and determining the amount paid to each recipient.

Settlement Authority of the Attorney General

Under 2017 Act 369, the Legislature has the right to intervene in certain actions. An intervenor appointed by the Assembly, Senate, or Joint Committee on Legislative Organization (JCLO), or if there is no intervenor, the Joint Committee on Finance (JFC) must approve any compromise or discontinuance of a civil action prosecuted by the state instead of the Governor, as under prior law. Further, Act 369 provided that the Attorney General may not submit a proposed settlement plan to JFC if the plan concedes the unconstitutionality or other invalidity of a statute or concedes that a statute violates or is preempted by federal law without JCLO's approval.

Under Act 369, in defending an action, if an action is for injunctive relief or there is a proposed consent decree, the Attorney General must receive the approval of an intervenor, or if there is no intervenor, submit the settlement or compromise plan to the JFC for passive review. If JFC does not schedule a meeting to review the plan within 14 days, the Attorney General may proceed, but, if JFC does schedule a meeting, the Attorney General may proceed only with the approval of JFC. Further, the Act provides that the Attorney General may not submit a proposed settlement plan to JFC if the plan concedes the unconstitutionality or other invalidity of a statute or concedes that a statute violates or is preempted by federal law without JCLO's approval.

OTHER STATE AGENCY PROGRAMS PROVIDING CONSUMER PROTECTION

Other 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 programs, a variety of state agencies respond to consumer complaints and provide information to consumers. This chapter lists these agencies and provides a brief description of each agency's consumer protection activities.

Department of Administration - Energy Issues

The Department of Administration's Division of Energy, Housing and Community Resources operates the Home Energy Plus Program. The program provides general information to consumers and energy assistance and weatherization benefits to low-income residents. The division operates a website and toll-free number to provide program information.

In 2017-18, Home Energy Plus distributed approximately 160,100 copies of its brochure in English, Spanish, and Hmong to local agencies and energy assistance and weatherization service providers. Local providers must conduct their own outreach activities, which may include radio, television and newspaper advertisements and distributing 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 individuals who need long-term care, and provides information to the public.

In federal fiscal year 2016, regional ombudsmen opened 1,008 cases and provided 37,997 consultations, informational contacts, and referrals. The Board's ombudsman staff and trained volunteers also made 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. In calendar year 2016, volunteer ombudsmen donated 5,170 hours and made 2,535 facility visits. Finally, the Board provides consumers with information and assistance regarding Medicare, Medicaid, and private insurance policies through printed materials, a website, and the toll-free Medigap helpline. In calendar year 2016, the helpline received 14,776 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 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 taking other disciplinary actions.

DCF also provides consumers with information on all licensed and certified childcare providers, as well as programs provided by or contracted for a school board. Through the DCF website, an individual can initiate a child care provider search through the child care quality rating and improvement system, known as YoungStar. The search produces information regarding the location, quality rating, type of child care (licensed, certified, or school program), contact information, and the regulatory history of the child care provider. For child care providers not participating in YoungStar, the provider may still be accessed through the YoungStar website, and the same information will be provided, except for the quality rating. Child care providers not participating in YoungStar may not receive child care subsidy reimbursements under the Wisconsin Shares program. Child care providers can be searched by address, city, ZIP code, county, type of child care, provider name, and whether the provider is participating in YoungStar. The regulatory history shows compliance history, a list of any violations, and the corrective action plan for any violations.

Department of Financial Institutions

The Department of 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. DFI's 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 126 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 475,823 active entities on file with the Department. DFI also examines and files documents under the Uniform Commercial Code, filing 167,900 documents in 2017.

The Department regulates state-chartered banks and trusts (165), savings banks (12) and savings and loan associations (two). The Department also licenses approximately 18,300 solicitors/collectors, adjustment service companies, collection agencies, community currency exchanges, insurance premium finance companies, loan companies, sales finance companies, sellers of checks, mortgage banking professionals, payday lenders and auto title lenders. 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. Additionally, the Department registers 9,600 charitable organizations, professional fundraisers, and professional employer organizations and groups. It performs compliance reviews and responds to complaints related to such entities.

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 2017, the Division of Securities responded to 108 complaints, associated with both licensed and unlicensed entities. As a result of those investigations, seven warning letters were issued, five administrative orders were issued against 12 respondents, and eight matters were referred for criminal prosecution against 13 defendants. Approximately \$515,300 was awarded as monetary relief to investors, and \$60,000 in fines and penalties was ordered. Total amounts assessed as monetary relief to investors in administrative, civil and criminal actions combined was \$15,160,700.

The Bureau of Consumer Affairs administers the Wisconsin Consumer Act, which governs consumer credit transactions. During 2017, the Bureau received 879 consumer complaints. Subsequent investigations revealed 113 compliance problems under the Wisconsin Consumer Act, resulting in orders requiring merchants to correct their violations. A total of \$76,519 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, as well as 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 taking other disciplinary actions.

DHS develops and distributes health-related information used primarily by consumers. For example, DHS has created a variety of consumer guides that can be used by individuals 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 DHS website. 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 by ensuring that insurance companies are financially solvent and adhering to consumer protection laws. OCI's Bureau of Market Regulation investigates written consumer complaints and inquiries as well as responds to telephone inquiries or requests for information. Most official complaints involve the handling of claims, but may also include service to policyholders, marketing and sales practices, and underwriting. Following its investigation of a complaint, OCI may order license discipline, 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 available through the OCI website.

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. It 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, investigating 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 to be 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, 2017, 549 matters were pending disposition in the OLR. The OLR received 1,760 new grievances in the 2017-18 fiscal year. In 2017-18, 40 attorneys were publicly disciplined and 19 private reprimands were issued. [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, 54 attorneys entered the alternatives-to-discipline program. Finally, 12 cases were dismissed with an advisory letter. On June 30, 2018, 551 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, 13.95 investigators, 7.0 administrative

and support staff, 1.0 litigation counsel, and 2.55 assistant litigation counsel. Total expenditures for the OLR were \$3,156,700 PR in 2017-18 and are budgeted at \$3,355,800 PR in 2018-19. 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 works to ensure that, in the absence of competition, adequate and reasonably priced service is provided to utility customers. The Commission's consumer protection activities are the responsibility of the Division of Water, Telecommunications and Consumer Affairs. The Division's Consumer Affairs work unit reported 4,306 total contacts from consumers in calendar year 2017. As of November 26, 2018, contacts totaled 4,285 in 2018. Of 2017 contacts received, 1,251 became official complaints. Of 2018 complaints through November 26, 1,251 became official complaints. Most complaints concern disconnections, billing errors, applications for service, deposits, and deferred payment agreements.

Of 2018 complaints reported through November 26, approximately 43% of all complaints involved combined electric and gas service; 21% involved electric service; 5% involved natural gas service; 24% involved either water, combined water and sewerage service, or combined water and electric service matters; 7% involved telecommunications service; and less than 1% involved miscellaneous issues. Actions taken by the Division to resolve complaints include investigation, mediation, and the issuance of informal determinations by Commission staff. Decisions by staff may be appealed to the Commission, which may issue cease-and-desist orders, refer a matter to DOJ for

civil prosecution, or reopen the complaint for additional investigation. The Division monitors large gas and electric utilities' early identification programs for customers facing energy hardships and seeks to resolve such hardships before they become heating crises in winter.

Department of Safety and Professional Services

The Department of Safety and Professional Services (DSPS) administers certain activities and programs regarding licensing of professional occupations and trade professions. The Division of Legal Services and Compliance provides investigative and prosecutorial services relating to the licensed professions, such as medical doctors, nurses, dentists, and pharmacists, under the jurisdiction of 27 regulatory boards or the Department's direct licensing authority. As of July, 2018, the Department and its boards regulated approximately 459,800 active credential holders in 239 different professions, occupations and businesses. The Department received 3,221 complaints involving regulated persons or entities in 2017-18. 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 and has staff in four district offices who work with the trades professions.

Further, 2017 Act 59 transferred the program responsibilities of the Educational Approval Board (EAB) and 6.50 PR positions to DSPS. The EAB had previously been an independent unit of state government budgeted under the Wisconsin Technical College System. DSPS now administers the Educational Approval Program (EAP), which approves and supervises for-profit colleges,

out-of-state nonprofit colleges and universities, and some in-state, nonprofit institutions, as well as solicitors that recruit students on behalf of an institution. Schools and solicitors representing schools reapply annually for approval from the EAP. Additionally, EAP investigates student complaints, maintains student records following the closure of a school, and maintains a student protection fund consisting of fees collected from schools.

Additional information is available in the LFB informational paper entitled, "Regulation of Occupations by the Department of Safety and Professional Services."

Department of Transportation

The Division of Motor Vehicles is responsible for licensing new and used motor vehicle dealers, recreational vehicle dealers, motor vehicle manufacturers and distributors, and salvage dealers. The Department investigates approximately 1,300 complaints annually related to sales and lease practices, warranties, product quality, and the motor vehicle lemon law. Most investigations involve insufficient disclosure of used vehicle condition. The Department's investigations may result in informal mediation, formal warnings requiring a written assurance that the business will discontinue a practice, license suspension or revocation, or the administrator of the Division of Hearings and Appeals may issue a special order against specific licensee practices. The Department conducts public appearances, publishes brochures, and provides information on its website regarding vehicle purchasing and consumer protection. The agency employs regional investigators and operates a consumer assistance hotline.

The Department also provides consumer

protection services to customers of the state's vehicle inspection program. This contractor-managed program conducts emissions testing of about 650,000 vehicles annually in southeastern Wisconsin, pursuant to Clean Air Act requirements for areas with air quality issues. Departmental auditors regularly review the approximately 190 private inspection facilities that provide these services to ensure compliance with applicable laws and contractual obligations. The auditors investigate consumer issues related to emissions testing, wait time, and fraud complaints. In addition, auditors review electronic records and videos to identify and investigate possible fraudulent practices.

Department of Workforce Development

The Department of Workforce Development (DWD) enforces both civil rights and labor standards laws through the Civil Rights Bureau and the Labor Standards Bureau, which are located in the Division of Equal Rights. The Equal Rights Division maintains offices in Madison and Milwaukee.

The Civil Rights Bureau enforces anti-discrimination laws affecting housing, employment, and public accommodations. DWD received approximately 3,150 discrimination complaints in 2017; approximately 96% 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. The Civil Rights Bureau also enforces the family and medical leave law and certain anti-retaliation laws.

The Labor Standards Bureau enforces labor standards laws, including laws on minimum wage, overtime, and child labor. In 2017, the Bureau investigated 2,100 cases, about 1,900 of which involved unpaid wage claims from employees.

APPENDIX I

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.

Car Rentals; Customer Notices (ATCP 118). Specifies the form and content of a notice 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 certain toys and children's clothing.

Coupon Sales Promotions (ATCP 131). Prohibits misrepresentation in the offering of

coupons, requires written agreements between coupon 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. Implements the state no-call program.

Electronic Communications Services (ATCP 123). Regulates subscription and billing practices related to cable and telecommunication services provided to consumers primarily for personal, household or family use. Also establishes requirements for provision of video services for providers such as cable operators receiving a statewide franchise.

Environmental Labeling of Products (ATCP 137). Establishes standards for advertising and labeling that makes environmental claims for consumer products, such as products advertised as recycled, recyclable or degradable. Further establishes labeling requirements for plastic containers to facilitate recycling or reuse of the containers.

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.

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. Also regulates the guarantee of basement waterproofing services, and prohibits contractors from using the pressure pumping method to waterproof basements without a seller's and engineer's analysis; basement-waterproofing provisions were previously contained in ATCP 111.

Manufactured Home Communities - Fair Trade Practices (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 Repair (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.

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 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.

Weights and Measures Administrative Rules

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.

Flammable, Combustible and Hazardous Liquids (ATCP 93). Specifies standards and requirements for proper storage, handling and dispensing of flammable liquids.

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.

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

Petroleum and Other Liquid Fuel Products (ATCP 94). Establishes standards and specifications for quality of gasoline, petroleum-based and other liquid fuels, and provides procedures for inspection of such products.

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.

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.

Trade Practice Administrative Rules

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 Dealers and Grain Warehouse Keepers (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 measure truthfully the type, weight, grade and quality of grain when determining purchase price.

Milk Contractors (ATCP 100). Provides reasonable assurance that producers will be paid for their milk and prohibits price discrimination between individual producers.

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.

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.

Sales Below Cost (ATCP 105). Generally prohibits sales below the seller's costs. Further,

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

Vegetable Contractors (ATCP 101). Regulates vegetable procurement contracts to ensure producers receive compensation for goods sold.

APPENDIX II

DATCP-Referred Consumer Protection Court Cases Closed in 2016, 2017 and 2018 through June 30 (Total Judgments of \$10,000 or More and Criminal Cases)

Case Name	Case Type	Where Referred	Resolution	Forfeiture, Restitution, and Other Payments	Other Conditions
Civil Cases					
1st Midwest Mortgage Corporation	Telemarketing	Wisconsin DOJ	Judgment	Forfeiture of \$10,500.	
AFD Advisors, LLC	Telemarketing	Federal Trade Commission	Settlement/Stipulation	Forfeiture of \$1,091,450.	72 months in prison.
Alumni Research Inc; Alumni Directory Office	Direct Marketing	Florida Attorney General	Judgment	Restitution of \$1,746,095. Forfeiture of \$2,687,783.83.	Prohibited from engaging in charitable solicitations and confirm closed business.
Aqua Care Marketing LLC; American Bath & Shower; American Bathroom Safety Co; Superior Bath	Direct Marketing	Wisconsin DOJ	Judgment	Forfeiture of \$40,000.	
Classmates Online Inc.	Fraudulent Representations	Wisconsin DOJ	Judgment	Restitution of \$291,304.	
Customers Gas Service of Amberg LLC	Fraudulent Representations	Wisconsin DOJ	Judgment	Restitution of \$3,169. Forfeiture of \$118,464.	
DirecTV Inc	Electronic Communication Services	Wisconsin DOJ	Judgment	Restitution of \$1,046,992. Forfeiture of \$292,500.	
Email Discounts LLC; Email Discount Network LLC	Unfair Billing	Wisconsin DOJ	Judgment	Forfeiture of \$22,000. Court fees of \$55,000.	
Franklin Financial Solutions	Fraudulent Representations	Arizona Attorney General	Judgment	Restitution of \$28,753,194. Attorney fees of \$54,207.	Prohibited from telemarketing.
Going Places Travel Corp.	Direct Marketing, Prize Notice	Wisconsin DOJ	Judgment	Restitution of \$3,803,562. Forfeiture of \$841,600.	
Grand Vacation Club Inc.	Fraudulent Representations, Direct Marketing	Wisconsin DOJ	Judgment	Restitution and administration costs of \$1,800,000. Forfeitures of \$285,958. Collections of \$214,042.	

Case Name	Case Type	Where Referred	Resolution	Forfeiture, Restitution, and Other Payments	Other Conditions
Griffin Sales Inc.	Direct Marketing, Prize Notice	Waukesha County DA	Judgment	Civil Forfeiture of \$10,000. Fines and assessments of \$5,591.	
Instant Tax Service	Fraudulent Representations, Identity Theft	Wisconsin DOJ	Conviction/Settlement	Court Assessments \$43,145.25	1 year of prison and 6 of years probation.
J. C. Moon	Fraudulent Representations	Wisconsin DOJ	Conviction	Fine of \$50,000. \$186,000 in taxes to be paid by both defendants.	Novak: 4 years' federal prison. Morrison: 8 years' federal prison.
John Lanham DPM & Associates SC	Fraudulent Representations	Wisconsin DOJ	Settlement/Stipulation	Forfeiture of \$15,000.	
Kearns Motor Car Co.	Prize Notice	Jefferson County DA	Settlement/Stipulation	Civil Forfeiture of \$10,270.	
Kunes Country Chevrolet-Cadillac Inc.	Prize Notice	Jefferson County DA	Settlement/Stipulation	Civil Forfeiture of \$12,975.	
Lakes Gas Co.	Fraudulent Representations	Polk County DA	Settlement/Stipulation	Restitution of \$71,686. Assessments of \$15,000.	
Lexus Corp.	Prize Notice	Outagamie County DA	Settlement/Stipulation	Forfeiture of \$15,974.	
New Line Marketing LLC	Fraudulent Representations, Prize Notice	Wisconsin DOJ	Judgment	Forfeiture of \$20,000.	Permanently enjoined from sending any Wisconsin resident mail solicitation.
Partners in Health Care	Fraudulent Representations	Federal Trade Commission	Judgment	Payment of \$8,746,094.	Permanently restrained from telemarketing.
Rapid Yellow Pages	Fraudulent Representations	Federal Trade Commission	Judgment	Payment of \$1,200,000.	May not conduct telemarketing business in U.S.
Russ Darrow LLC	Direct Marketing, Prize Notice	Wisconsin DOJ	Judgment	Forfeiture of \$25,000.	
Sprint Communications Company	Electronic Communication Services	Wisconsin DOJ	Settlement/Stipulation	Restitution of \$1,756,745. Forfeiture of \$280,000.	
Stewart 64 LLC	Direct Marketing, Prize Notice	Outagamie County DA	Settlement/Stipulation	Forfeiture of \$12,313.	
Ubersox Auto Group	Prize Notice	Crawford County DA	Settlement/Stipulation	Forfeiture of \$11,888.	
Vacation Property Marketing Inc.	Fraudulent Representations	Federal Trade Commission	Judgment	Monetary Judgements: Taylor - \$3,728,445, Perry - \$23,516,369, Wilson - \$4,322,179.	Defendants not allowed to conduct telemarketing.
Witt Auto Sales Inc.	Prize Notice	Marinette County DA	Settlement/Stipulation	Forfeiture of \$12,374. Fees and assessments of \$4,874.	
Corey Oil, LTD	Fuel Quality	Waukesha County DA	Settlement/Stipulation	Forfeiture of \$10,000.	

Case Name	Case Type	Where Referred	Resolution	Forfeiture, Restitution, and Other Payments	Other Conditions
Valley Scale Service, Inc.	Weights and Measures	Clark County DA	Settlement/Stipulation	Forfeiture of \$11,033.	
Northern Equipment Company, Inc.	Fuel Quality	Waukesha County DA	Settlement/Stipulation	Forfeiture of \$11,439.	
Badger Scale, Inc.	Weights and Measures	Sheboygan County DA	Settlement/Stipulation	Forfeiture of \$11,670.	
Transcat Inc.	Weights and Measures	Manitowoc County DA	Settlement/Stipulation	Forfeiture of \$11,729.	
Gordy's Chippewa Foods, Inc.	Weights and Measures	Eau Claire County DA	Settlement/Stipulation	Forfeiture of \$13,000	
Gander Mountain Company	Weights and Measures	Manitowoc County DA	Settlement/Stipulation	Forfeiture of \$13,049.	
NCR Corporation	Weights and Measures	Eau Claire County DA	Settlement/Stipulation	Forfeiture of \$13,341.	
RapidMart of Watertown LLC	Fuel Quality	Waukesha County DA	Settlement/Stipulation	Forfeiture of \$15,000.	
A&A Petroleum, Inc.	Fuel Quality	Waukesha County DA	Settlement/Stipulation	Forfeiture of \$15,917.	
Jerry's Enterprises, Inc.	Weights and Measures	St Croix County DA	Settlement/Stipulation	Forfeiture of \$16,690.	
JOT Gill, LLC	Fuel Quality	Wisconsin DOJ	Judgment	Forfeiture of \$22,367.	
Skogen's Foodliner, Inc.	Weights and Measures	Eau Claire County DA	Settlement/Stipulation	Forfeiture of \$24,391.	
Lakeland Real Estate Investments, LLC	Storage Tank	Wisconsin DOJ	Judgment	Forfeiture of \$25,540.	
Sendik's Food Markets, LLC	Weights and Measures	Ozaukee County DA	Settlement/Stipulation	Forfeiture of \$33,500.	
North Country Business Products, Inc.	Weights and Measures	Racine County DA	Settlement/Stipulation	Forfeiture of \$33,841.	
U.S. Venture, Inc.	Fuel Quality	Brown County DA	Settlement/Stipulation	Forfeiture of \$40,000	
AmeriGas Propane, L.P.	Weights and Measures	Racine County DA	Settlement/Stipulation	Forfeiture of \$46,000.	
Advance Auto Parts, Inc.	Weights and Measures	Waukesha County DA	Settlement/Stipulation	Forfeiture of \$50,000	
Boparai, LLC	Storage Tank	Wisconsin DOJ	Judgment	Forfeiture of \$61,443.	
Criminal Cases					
Albatross Roofing LLC; Ross Corbett George	Home Improvement Theft	Dane County DA	Judgment	Forfeiture \$958.	
Armor Shield Home Improvement Systems LLC, Armor Shield Home Improvements, Armor Shield of WI, Armor Shield Roof Systems	Home Improvement Theft	Wisconsin DOJ	Conviction	Restitution of \$11,968.	6 years of probation for both defendants.

Case Name	Case Type	Where Referred	Resolution	Forfeiture, Restitution, and Other Payments	Other Conditions
Baums Home Improvements, Jeffery Baum	Home Improvement Theft	Waukesha County DA	Conviction	Restitution of \$3,289.	6 months in jail and 2 years of probation, and no independent contractor work.
Baums Home Improvements, Jeffery Baum	Home Improvement Theft	Waukesha County DA	Conviction	Restitution of \$1,447.	6 months in jail and 2 years of probation, and no independent contractor work.
Baums Home Improvements, Jeffery Baum	Home Improvement Theft	Milwaukee County DA	Conviction		3 months in jail, 12 months of probation, and 20 hours community service.
Baums Home Improvements, Jeffery Baum	Home Improvement Theft	Walworth County DA	Conviction		6 months in jail and 1 year of probation.
Baums Home Improvements, Jeffery Baum	Home Improvement Theft	Milwaukee County DA	Conviction	Restitution of \$2,210.	6 months in jail and 2 years of probation.
Baums Home Improvements, Jeffery Baum	Home Improvement Theft	Waukesha County DA	Settlement		
Bella Kitchen & Bath, LLC	Home Improvement Theft	Wisconsin DOJ	Conviction	Restitution of \$32,533.	270 days in jail and 18 years of probation.
Dewing Contracting	Home Improvement Theft	Walworth County DA	Conviction	Restitution of \$6,875.	20 days in jail and 2 years probation.
Gilbert, Jesse	Home Improvement Theft	Lincoln County DA	Conviction	Restitution of \$2,200. Court fees of \$163.	24 months of probation.
Handyman Services, William Bearer	Home Improvement Theft	Green County DA	Conviction	Restitution of \$80.	90 days in jail.
J Brock Construction	Home Improvement Theft	Calumet County DA	Conviction	Restitution of \$10,219	15 days in jail.
JK & Sons Concrete and Waterproofing LLC, Jeffery Starszak	Home Improvement Theft	Waukesha County DA	Conviction	Fine of \$833 or 16 days jail.	
Klein Construction, James Klein	Home Improvement Theft	Shawano County DA	Settlement		
Lose Weight Systems	Theft, Fraudulent Representations	U.S. Postal Inspection Service	Conviction		40 months in prison, 60 months of probation.
Modern Technology Inc	Theft, Unfair Billing	Federal Trade Commission	Judgment	Payment of \$15,654,283.	Banned on directly or indirectly advertising, marketing, or sale of business in any format.

Case Name	Case Type	Where Referred	Resolution	Forfeiture, Restitution, and Other Payments	Other Conditions
Monolith Tile & Granite LLC	Home Improvement Theft	Dane County DA	Conviction	Restitution of \$3,023. Forfeiture of 4,291.	2 years of probation and prohibited from being employed as general contractor.
RM Milwaukee Roofing & Repair	Home Improvement Theft	Milwaukee County DA	Conviction	Restitution and court fees of \$22,680.	1 year House of Corrections, 3 years of probation and no work as contractor.
Sunset Vacations LLC	Theft, Fraudulent Representations	Wisconsin DOJ	Settlement	Restitution and court fees of \$1,800,000. Forfeiture of \$288,958.	
Tax Club Inc.	Theft, Fraudulent Representations	Federal Trade Commission	Judgment	Payment of \$140,000,000.	No outbound telemarketing.
Tree Docs	Home Improvement Theft	Walworth County DA	Conviction	Restitution of \$47,742. Court fees of \$4,924.	30 days in jail and 12 months of probation.
Tree Docs	Home Improvement Theft	Kenosha County DA	Conviction	Restitution of \$712.	
Tree Docs	Home Improvement Theft	Waukesha County DA	Conviction	Restitution of \$1,300. Fine of \$1,543. Court fees of \$363.	9 months in jail and 3 years of probation.

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 thought 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. It was thought the remaining large firms would use near-monopoly power to charge exorbitant prices after smaller firms were mostly forced from the market.

Motor vehicle fuel, alcoholic beverages, and tobacco products must be sold at a markup of 3% to wholesalers and 6% to retailers. Due to compounding, these markups yield a required 9.18% increase over the price set by producers. The statutes include applicable taxes and fees as well as transportation costs prior to imposing the minimum markup.

Table 6 below shows simplified examples of 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 costs are assumed at about 2¢ per gallon. Table 6 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.

DATCP, in conjunction with district attorneys, has a responsibility for enforcing the act. DATCP or a district attorney may seek forfeitures of \$50 to \$500 for the first below-cost sale and \$200 to \$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

Table 6: 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

\$200 to \$5,000. In addition, any parties harmed by violation of minimum markup requirements may seek injunctions and damages against the offending seller.

In addition to protections against below-cost sales, s. 100.305 of the statutes protects consumers against "unreasonably excessive prices" during "abnormal economic disruptions." Periods of disruption may be declared by the Governor and include natural disasters, hostile actions, energy supply disruptions, or labor or civil unrest. ATCP 106 species unreasonably excessive prices. DATCP, or DOJ after consulting with DATCP, may issue warnings to violating sellers or prosecute excessive pricing. Violators are subject to forfeitures up to \$10,000.

Court Challenges

In January, 2009, the Dane County Circuit Court ruled, in response to a challenge of the minimum markup law's validity under the Wisconsin Constitution, that the law was not unconstitutional beyond a reasonable doubt, and the law would continue to be in effect. However, 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 thereafter resumed enforcement of the minimum markup as it applies to motor vehicle fuel. In May, 2012, Wisconsin's Fourth District Court of Appeals also affirmed the 2009 Dane County decision upholding the law.

A lawsuit challenging s. 100.30 of the statutes on state constitutional grounds was filed in 2016, claiming the minimum markup provisions: (a) violate the due process of retailers and consumers by requiring prices higher than what may otherwise prevail in the market; and (b) violate the equal protection of sellers and consumers by requiring markups on sales of motor vehicle fuel, alcohol and tobacco products, but not other transactions. The suit was dismissed in 2018 without a decision, and DATCP enforcement was not affected.

APPENDIX IV

Department of Justice Consumer Protection Cases Completed in 2016-18 (Total Judgments of \$100,000 or More and Criminal Cases)

Case Name	Case Type	Source of Referral	Resolution	Discretionary Settlement Funds ¹	State's Award ²	Restitution ³	Judgment Total ⁴
State of Wisconsin v. Hyundai/Kia, et al.	False Representations	NAAG	Wisconsin along with 33 states and the District of Columbia, reached a \$41.2 million settlement to resolve the allegations. Wisconsin received \$920,800 under the settlement.	\$917,300	\$3,500		\$920,800
State of Wisconsin v. Volkswagen AG, et al.	False Representations	NAAG	Wisconsin along with 37 states and jurisdictions, reached a \$443.5 million settlement to resolve the allegations. Wisconsin received \$11.4 million under the settlement. The settlement also will: (a) provided cash payments to affected consumers; (b) required Volkswagen to buy back or modify certain VW and Audi 2.0-liter diesel vehicles; and (c) prohibited Volkswagen from engaging in future unfair or deceptive acts and practices.	\$9,428,800	\$2,000,000		\$11,428,800
State of Wisconsin v. Bristol-Myers Squibb Company	Fraudulent Drug Advertising	NAAG	Wisconsin along with 33 states and the District of Columbia, reached a \$19.5 million settlement to resolve the allegations. Wisconsin received \$374,500 under the settlement.	\$368,800	\$5,700		\$374,500
State of Wisconsin v. The Timeshare Group, Inc., et al.	False Representations & Unfair Billing	BBB	The \$145,000 settlement includes: (a) \$32,000 to reimburse 14 consumers; (b) \$30,000 distributed between seven timeshare owners' associations; (c) \$60,000 in forfeitures and assessments; and (d) \$23,000 to reimburse the State costs. In addition, Mr. Fried is barred from providing		\$83,000	\$62,000	\$145,000

Case Name	Case Type	Source of Referral	Resolution	Discretionary Settlement Funds¹	State's Award²	Restitution³	Judgment Total⁴
			timeshare marketing, sales, disposal, transfer or resale services to Wisconsin consumers or relating to timeshare resort properties in Wisconsin. Wisconsin timeshare resorts have the opportunity to have any timeshares held in the defendant's holding companies deeded back to the resort by the defendants.				
State of Wisconsin v. DIRECTV, LLC	False Representations & Unfair Billing	DATCP	A Consent Judgment was filed in Dane County Circuit Court in March 2017 that included permanent injunctive relief, civil forfeitures, mandatory credits to customers, and payment of the State's costs.		\$296,000	\$1,047,000	\$1,343,000
State of Wisconsin v. Flat Rate Plumbing, Inc., et al.	False Representations & Unfair Billing	DATCP	Matter resolved with a Consent Judgment.		\$56,100	\$73,600	\$129,700
State of Wisconsin v. Johnson & Johnson Consumer, Inc., et al.	Fraudulent Drug Advertising	NAAG	Wisconsin, along with 42 other states, reached a \$33 million settlement with Johnson & Johnson Consumer Inc. and Johnson & Johnson to resolve the allegations. Wisconsin received \$643,800 under the settlement. The Consent Judgment requires Johnson & Johnson to ensure that its marketing and promotional practices do not unlawfully promote over the counter drug products.	\$634,500	\$9,300		\$643,800
State of Wisconsin v. Boehringer Ingelheim Pharmaceuticals, Inc.	Fraudulent Drug Advertising	NAAG	Wisconsin along with other states, reached a \$13.5 million settlement to resolve the allegations. Wisconsin received \$227,700 under the settlement.	\$159,400	\$68,300		\$227,700
State of Wisconsin v. Capitol	Fraudulent Drug Advertising	DATCP	The settlement permanently prohibits Capitol Petroleum and Shahzad from selling or assisting in the sale of synthetic cannabinoid substances and requires them to pay		\$1,283,600		\$1,283,600

Case Name	Case Type	Source of Referral	Resolution	Discretionary Settlement Funds ¹	State's Award ²	Restitution ³	Judgment Total ⁴
Petroleum, LLC, et al.			\$1,283,600 in civil forfeitures, assessments, and costs.				
State of Wisconsin v. Sprint Communications, Inc.	Electronic Communications Services	NAAG	The settlement includes \$305,000 in forfeitures and assessments, early termination fee refunds to eligible customers, and a \$5 credit to eligible customers.		\$305,000		\$305,000
State of Wisconsin v. Wisconsin O'Connor Corporation, et al.	Landlord/Tenant Law	DATCP	The settlement includes \$500,000 in restitution, forfeitures, fees, and assessments. In addition WOC is required to make changes to its rental agreements, provide new agreements to current tenants, and provide specific notifications to tenants. The judgment requires three years of monitoring		\$200,000	\$300,000	\$500,000
State of Wisconsin v. Customer's Gas Services of Amberg, LLC	False Representations & Unfair Billing	DATCP	The matter resolved with an Entry of Judgment.		\$134,000		\$134,000
Civil Case Total				\$11,508,800	\$4,444,500	\$1,482,600	\$17,435,900
Criminal Cases							
State v. Greg Dudzik	Criminal	DATCP	The court withheld sentence on five counts of theft in a business setting and placed the defendant on probation for 15 years and ordered restitution.		\$19,300	\$346,100	\$365,400
State v. Casey Karch	Criminal	DATCP	The defendant plead no contest to theft by contractor more than \$10,000 and theft by contractor between \$5,000 and \$10,000. The defendant was sentenced to three years of probation (sentence withheld) to run concurrently. Further, the defendant was ordered to pay restitution, complete a			\$5,500	\$5,500

Case Name	Case Type	Source of Referral	Resolution	Discretionary Settlement Funds ¹	State's Award ²	Restitution ³	Judgment Total ⁴
			COMPAS Evaluation (a risk and needs assessment), submit to a DNA sample, and use a trust account for business purposes so that an agent can monitor his activities.				
State v. Greg Dudzik	Criminal	DATCP	The defendant plead no contest to theft by contractor of more than \$10,000, and theft by contractor of between \$5,000 and \$10,000. The defendant was sentenced to three years of probation (sentence withheld) to run concurrently. Further, the defendant was ordered to pay restitution, complete a COMPAS Evaluation, and submit to a DNA sample, use a trust account for business purposes so that an agent can monitor his activities.		\$1,000		\$1,000
State v. Troy Tofte	Criminal	DATCP	The defendant plead guilty to 15 counts of theft in a business setting and theft through misrepresentation. The defendant received the following sentence: (a) three years of Wisconsin state prison and three years of extended supervision; (b) one year and six months Wisconsin state prison, two years extended supervision; and (c) six years' probation, consecutive to Wisconsin state prison, sentence withheld. The court set restitution and granted substance abuse program after serving six years of sentence.		\$97,100	\$376,900	\$474,400
Criminal Case Total				\$0	\$125,200	\$745,700	\$870,900

¹ Discretionary settlement funds are amounts that may be expended for purposes permitted by state law, at the sole discretion of the Attorney General.

² Amounts received as state awards include civil forfeitures, attorneys fees, costs and penalties.

³ Due to third party administration of some settlement recoveries, DOJ cannot always determine the full amount of restitutions received by Wisconsin consumers.

⁴ 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.