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OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

2010 ANNUAL REPORT ON
CONSUMER PROTECTION, COMPETITION, TELEPHONE AND
CHARITABLE SOLICITATION AND TOBACCO ENFORCEMENT,
AND EDUCATION AND OUTREACH ACTIVITIES



The Attorney General enforces various consumer laws, including Idaho's Consumer Protection, Competition, Telephone Solicitation, and Charitable Solicitation Acts. These laws protect consumers, businesses, and the marketplace from unfair or deceptive acts and practices. The Attorney General seeks to fulfill this charge efficiently and economically through education, mediation, and enforcement.

The Attorney General also enforces and defends the State's Master Settlement Agreement with the tobacco industry and has been delegated the duty of enforcing Idaho's Tobacco Master Settlement Agreement, Tobacco Master Settlement Agreement Complementary, and Prevention of Minors' Access to Tobacco Acts. The Master Settlement Agreement and these acts seek to promote the public health and protect the fiscal soundness of the State of Idaho.

Attorney General Lawrence Wasden reports to the public annually regarding consumer protection, telephone solicitation, charitable solicitation, competition, and tobacco enforcement activities. He also reports on mediation, education and outreach efforts. This report covers the calendar year 2010.

2010 ACTIVITIES SUMMARY

The national foreclosure crisis, which hit Idaho especially hard, was the dominant consumer protection issue in 2010. Complaints about banks and loans topped the consumer complaint list for the year. To assist Idaho consumers who are dealing with mortgages and foreclosures, the Attorney General acted aggressively, pursuing several enforcement actions against deceptive loan modification companies, retaining a housing counselor to assist Idaho

homeowners and implementing an education program related to foreclosures, mortgage modifications, and purchasing a home.

2010 was also dominated by litigation and settlements with pharmaceutical manufacturers concerning the marketing and pricing of their drugs, as well as the Attorney General's defense of Idaho's tobacco Master Settlement Agreement (MSA) payments, which the tobacco industry seeks to take back.

In 2010, the Attorney General recovered \$5,920,578 in restitution, the second largest amount ever recovered by the Attorney General's Office. This equates to \$10.18 for each taxpayer dollar appropriated for consumer operations.

For the past 20 years, Idaho's Attorneys General have recovered more money for Idaho residents and businesses than the Legislature has appropriated from the general fund for consumer protection operations. Salaries and benefits of those who are involved primarily in consumer protection efforts are expected to cost taxpayers approximately \$585,200 for the 2011 fiscal year.

Another \$215,700 is budgeted from the Attorney General's consumer protection account for consumer education and outreach efforts. The consumer protection account is comprised of moneys obtained through the Attorney General's enforcement actions. These funds are spent pursuant to legislative appropriation. The Attorney General's consumer education and outreach efforts do not use tax dollars, but are fully funded from the consumer protection account.

The Attorney General also recovered \$536,237 in civil penalties, fees and costs.

In addition, the state received \$25,989,570 in 2010 pursuant to the tobacco Master Settlement Agreement negotiated between the Office of the Attorney General and tobacco manufacturers in 1998. To date, the state has received \$280,569,373 under the MSA.

Activity this year related to consumer protection, competition, telemarketing, tobacco law enforcement, and consumer education and outreach.

In addition to that noted above, the Attorney General prosecuted, as well as settled, significant consumer protection cases with cable television companies, automobile dealers, and other businesses.

In the antitrust arena, the Attorney General continued litigation involving price fixing and illegal monopolization claims. He also reached a significant price-fixing settlement involving DRAM memory chips.

The year 2010 marked the Attorney General's ninth year of enforcement and administration of Idaho's No Call Law. By year's end, there were 1,019,030 Idaho phone numbers registered on the No Call List. This compares to 939,958 phone numbers in 2009. Citizens are reporting fewer unwanted telephone solicitations.

The Attorney General also undertook actions related to enforcement and defense of Idaho's various tobacco sales laws and the MSA. He continues to litigate against Internet cigarette sellers and cigarette wholesalers violating Idaho's tobacco sales laws. The Attorney General also continues to vigorously defend the state's interests in cases alleging that the MSA is unconstitutional or otherwise in violation of various laws.

The Attorney General's Consumer Protection Division logged 13,734 instances of consumer assistance in 2010. Of those consumer contacts, 1,312 contacts were consumer complaints. In 2010, Idaho consumers reported losses of \$2,715,621.

The remaining 12,422 consumer contacts consisted of receiving information from consumers, responding to consumers' requests for information and forms, and answering consumer inquiries about particular businesses. This number includes the telephone calls and personal contacts responded to by Consumer Protection Division staff.

During the year, the Attorney General produced radio and television public service announcements addressing foreclosure, mortgage modification and purchasing a home. The public service announcements were broadcast statewide from January 1 through March 31, 2010.

To protect children from Internet sexual predators, the Attorney General updated *ProtecTeens*, an award-winning educational video presentation and resource kit concerning Internet safety. The new *ProtecTeens* DVD was released in early 2010, free of charge to Idaho citizens.

The Attorney General's staff also pursued a separate, comprehensive consumer education and outreach program for Idaho's citizens. This program includes consumer education presentations to community groups and participation in consumer education events throughout Idaho.

The Attorney General transferred \$6,084,700 in unspent consumer protection account funds to the General Fund during fiscal year 2010. The Attorney General has transferred \$14,539,129 to the General Fund from the consumer protection account since fiscal year 2000.

Prior fiscal year transfers were \$661,901 in 2009; \$2,580,272 in 2008; \$1,282,752 in 2007; \$158,758 in 2006; \$181,292 in 2005; \$746,861 in 2004; \$503,129 in 2003; \$1,128,516 in 2002; \$510,948 in 2001; and \$700,000 in 2000.



APPLICABLE LAWS

In the field of consumer protection, competition, tobacco, and telephone and charitable solicitations, the Attorney General enforces the following Idaho statutes and rules:¹

- Consumer Protection Act
- Competition Act
- Charitable Solicitation Act
- Telephone Solicitation Act, including the Idaho No Call Law
- Credit Report Protection Act
- Tobacco Master Settlement Agreement Act
- Tobacco Master Settlement Agreement Complementary Act
- Prevention of Minors' Access to Tobacco Act
- Reduced Cigarette Ignition Propensity Act
- Consumer Protection Rules
- Telephone Solicitation and Pay-Per-Telephone Call Services Rules
- Tobacco Master Settlement Agreement Complementary Act Rule

The Attorney General also enforces provisions of other consumer-related statutes, including those dealing with charitable trust assets and chain and pyramid distribution schemes. In addition, the Office of the Attorney General provides information regarding Idaho's Lemon Law and Mobile Home Park Acts, Idaho's landlord-tenant laws, and identity theft.

LEGISLATION

The Attorney General did not propose consumer-related legislation in 2010.

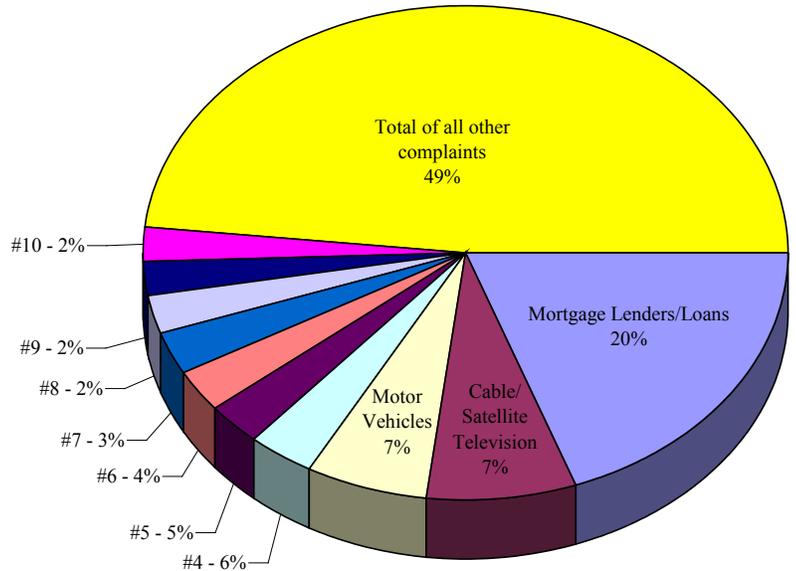


¹ The listed Idaho statutes and rules are codified, respectively, as follows: Consumer Protection Act, title 48, chapter 6, Idaho Code; Competition Act, title 48, chapter 1, Idaho Code; Charitable Solicitation Act, title 48, chapter 12, Idaho Code; Telephone Solicitation Act, title 48, chapter 10, Idaho Code; Credit Report Protection Act, title 28, chapter 52, Idaho Code (Supp.); Tobacco Master Settlement Agreement Act, title 39, chapter 78, Idaho Code; Tobacco Master Settlement Agreement Complementary Act, title 39, chapter 84, Idaho Code; Prevention of Minors' Access to Tobacco Act, title 39, chapter 57, Idaho Code; Reduced Cigarette Ignition Propensity Act, title 39, chapter 89, Idaho Code; Consumer Protection Rules, IDAPA 04.02.01, *et seq.*; Telephone Solicitation and Pay-Per-Telephone Call Services Rules, IDAPA 04.02.02, *et seq.*; and Tobacco Master Settlement Agreement Complementary Act Rule, IDAPA 04.20.01, *et seq.*

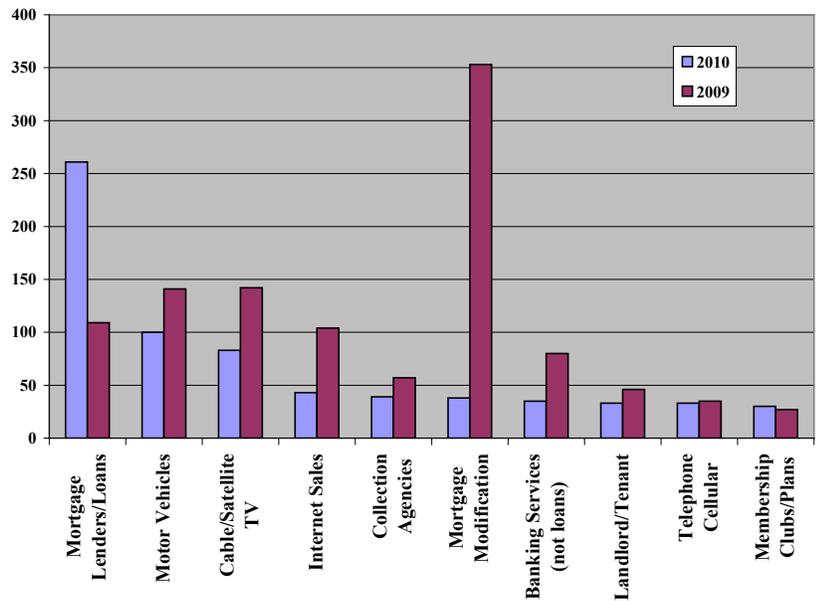
2010 TOP TEN CONSUMER COMPLAINTS

Total consumer complaints decreased in 2010. Complaints related to mortgage lenders and loans ranked as the number one complaint category. Complaints related to mortgage modifications, the number one category in 2009, dropped by nearly 90% to 38 complaints in 2010.

2010 Total	1,312
1. Mortgage Lenders/Loans	261
2. Motor Vehicles	100
3. Cable/Satellite TV	83
4. Internet Sales	43
5. Collection Agencies	39
6. Mortgage Modification	38
7. Banking Services (not loans)	35
8. Landlord/Tenant	33
9. Telephone Cellular	33
10. Membership Clubs/Plans	30
Total of all other complaints	647



2009 Total	1,896
1. Mortgage Modification	353
2. Cable/Satellite TV	142
3. Motor Vehicles	141
4. Mortgage Lenders/Loans	109
5. Internet Sales	104
6. Banking Services (not loans)	80
7. Collection Agencies	57
8. Landlord/Tenant	46
9. Construction/Remodel	39
10. Educational Inst./Programs	35
Total of all other complaints	790



ENFORCEMENT

CONSUMER PROTECTION

Enforcement of Idaho's consumer laws protects the free and competitive market and ensures a level playing field for all businesses. A market place unfettered by false, deceptive, and misleading practices, and free of unreasonable restraints of trade, will yield the best allocation of Idaho's economic resources, the lowest prices, the highest quality, and the greatest material progress. The Attorney General undertook a variety of consumer protection matters in 2010 that were noteworthy in scope and impact.

Housing, Home Ownership, and Foreclosure Prevention

According to RealtyTrac, between 2008 and 2010, Idaho faced a 124% increase in home foreclosures. During the past year, the Attorney General's Consumer Protection Division assisted homeowners, homebuyers, and tenants. The division mediated complaints between homeowners and their mortgage servicers and disputes between landlords and their tenants. An increase in sham mortgage modification and foreclosure rescue businesses in Idaho resulted in the filing of a number of complaints against these entities.

The Consumer Protection Division accomplished the following in the housing area in 2010:

Enforcement Actions

- **APS Northwest Idaho, LLC (d/b/a HomeModifier).**

The Attorney General received complaints from consumers who paid APS Northwest Idaho for modification assistance that they did not receive. In November 2009, the Attorney General sued the Post Falls, Idaho based company and its three owners for multiple violations of the Idaho Consumer Protection Act. In August 2010, the three owners agreed to a settlement that prohibited them from engaging in loan modification activities in Idaho or with Idaho consumers. They also paid restitution to reimburse consumers and agreed to cover the state's attorney's fees and costs. A civil penalty of \$30,000 is held in abeyance pending each of the owner's continued compliance with the settlement agreement.

- **Apply 2 Save, Inc. / Derek Oberholtzer / Steven Lux.**

Beginning in 2008, hundreds of consumers nationwide filed complaints against Apply 2 Save, Inc., a mortgage modification company in Coeur d'Alene, Idaho, claiming the company defrauded them. Consumers complained that Apply 2 Save and its owner, Derek Oberholtzer, took hundreds of thousands of dollars from them in a loan modification scam. The Attorney General sued Apply 2 Save and Oberholtzer in April 2009, alleging the defendants accepted payments from consumers for modification services that they never performed. Steven Lux, a former officer of the

company, settled with the Attorney General and paid \$45,000 in consumer restitution and \$5,000 in attorney's fees and costs. Apply 2 Save and Oberholtzer filed Chapter 7 bankruptcy soon after the Attorney General sued them. In September 2010, after receiving a discharge of his debts, Oberholtzer entered into a settlement agreement with the Attorney General prohibiting him from acting as a debt or credit counselor and prohibiting him from engaging in mortgage lending, brokering, or loan modification activities within Idaho or with Idaho consumers. Apply 2 Save's bankruptcy remains pending.

Consumer Education

The Consumer Protection Division disseminated the following consumer education manuals, tip sheets, and public service announcements regarding housing issues:

- Manual: *Foreclosure Prevention and Foreclosure Scams: How to Tell the Difference*
- Manual: *Buying a Home*
- Manual: *Landlord & Tenant Guidelines*
- Tip Sheet: *The Protecting Tenants at Foreclosure Act*
- Public Service Announcement: *Foreclosure Prevention*
- Public Service Announcement: *Buying a Home*
- Public Service Announcement: *Rental Foreclosures*

Housing Counseling

The Attorney General's Consumer Protection Division continues to address complaints in which consumers report difficulties in communicating with their mortgage servicers about federal and proprietary mortgage loss mitigation programs. The division's part-time housing counselor helps facilitate better communication between consumers and their servicers and addresses consumers' concerns about a variety of housing issues. The division has established a cooperative working relationship with a number of servicers that has helped consumers obtain loan modifications and avoid unnecessary foreclosures.

Medicaid Drug Pricing

Idaho Medicaid provides health care services, including prescription drugs, to low-income Idahoans. The Attorney General is representing the State of Idaho in lawsuits against drug manufacturers, based on the companies' alleged false and deceptive average wholesale price reporting practices. By law, Idaho Medicaid must reimburse pharmacies and hospitals at the "estimated acquisition cost" of the drug. Idaho Medicaid primarily uses "average wholesale prices," as reported by drug manufacturers, as a basis for determining this amount. The Attorney General alleges that the defendant drug manufacturers reported falsely inflated average wholesale prices. As a result, the state paid health care providers millions of dollars more than they should have received.

In 2010, the Attorney General reached settlements with the following defendants in average wholesale price cases:

- **Teva Pharmaceuticals USA, Inc.; Ivax Corp.; Ivax Pharmaceuticals, Inc.; and Barr Laboratories, Inc.**

These drug manufacturers paid Idaho \$1.9 million to resolve the Attorney General’s claims relating to their reporting of “average wholesale price.”

- **Sandoz, Inc.**

This drug manufacturer paid Idaho \$1.65 million to resolve the Attorney General’s claims relating to its reporting of “average wholesale price.”

- **Alpharma USPD, Inc.; Purepac Pharmaceutical Co.**

These drug manufacturers paid Idaho \$1.27 million to resolve the Attorney General’s claims relating to their reporting of “average wholesale price.”

At the end of 2010, average wholesale price lawsuits filed by the Attorney General are pending against the following drug companies:

Abbott Laboratories	Mylan Pharmaceuticals, Inc.
AstraZeneca LP	Novartis Pharmaceuticals Corp.
AstraZeneca Pharmaceuticals, LP.	Ortho Biotech Products, LP
Aventis Pharmaceuticals, Inc.	Ortho-McNeil Pharmaceutical, Inc
Centocor, Inc.	Par Pharmaceutical Cos.,
Forest Laboratories, Inc.	Pfizer, Inc.
Ingelheim Roxane, Inc.	Pharmacia Corp.
Janssen Pharmaceutical Products, LP	Schering-Plough Corp.*
Johnson & Johnson	SmithKline Beecham Corp., d/b/a GlaxoSmithKline
McNeil-PPC, Inc.	Warrick Pharmaceuticals Corporation*
Merck & Co., Inc.	Watson Pharma, Inc., f/k/a Schein Pharmaceuticals, Inc.
Mylan, Inc.	Watson Pharmaceuticals, Inc.

* The Attorney General settled with Schering-Plough Corp. and Warrick Pharmaceuticals Corporation in January 2011.

Automobiles

- **Dennis Dillon Auto Park and Truck Center; Gunning & Associates Marketing, Inc.; Cash Rewards, Inc.; and David Maloy**

In March 2009, the Attorney General filed a lawsuit against Dennis Dillon Auto Park and Truck Center, Gunning & Associates Marketing, Inc., Cash Rewards, Inc., and David Maloy. The Attorney General alleged multiple violations of the Idaho Consumer Protection Act, including that the defendants operated four unlawful and deceptive dealer rebate schemes in 2004 and 2005 that resulted in significant consumer losses. The parties settled in 2010, agreeing to consumer restitution in the amount of \$130,000 plus reimbursement for the Attorney General's fees and costs in the amount of \$20,000.

- **Internet Auto Rent & Sales**

The Attorney General entered into a settlement with Internet Auto Rent & Sales that required Internet Auto to change its advertising practices. The Attorney General alleged violations of the Idaho Consumer Protection Act and rules applicable to automobile advertising, including advertising unlawful dealer rebates and failing to disclose all material terms and conditions regarding pricing and financing in a clear and conspicuous manner. The settlement also requires Internet Auto to pay a civil penalty of \$5,000 and reimburse the Attorney General's fees and costs in the matter. A \$50,000 penalty is held in abeyance pending Internet Auto's compliance with the settlement.

Automobile Warranties

- **U.S. Fidelis, Inc.**

The Attorney General settled a lawsuit against U.S. Fidelis, a vehicle service contract seller that used direct-mail postcards and robodialers to market its contracts. The Attorney General alleged that U.S. Fidelis misrepresented the coverage of the service contracts and led consumers to believe the contracts were extensions of manufacturer warranties. In addition, the Attorney General alleged violations of the Telephone Solicitation Act and rules. U.S. Fidelis filed for Chapter 11 bankruptcy in March 2010. The settlement with U.S. Fidelis permanently prohibits it from selling auto service contracts or telemarketing in Idaho. The settlement also requires U.S. Fidelis to pay the state \$93,000 in civil penalties and costs. However, any recovery will come from the company's bankruptcy.

- **Credexx, Inc.**

The Attorney General also settled a lawsuit against Credexx, Inc., a vehicle service contract seller that also used direct-mail postcards and robodialers to market its contracts. The Attorney General alleged that Credexx falsely claimed that consumers' warranties had expired or were about to expire, and represented the warranties as "bumper-to-bumper" when they, in fact, had many exclusions. The settlement with Credexx

permanently bars it from doing business in Idaho. The settlement also required Credexx to pay a judgment in the amount of \$88,000, of which \$10,000 was designated for consumer restitution, \$75,000 for civil penalties, and \$3,000 for the Attorney General's fees and costs.

Other Consumer Protection Matters

- **AscendOne Corporation**

The Attorney General entered into a \$4.5 million multistate settlement with AscendOne, resolving allegations that the debt management company unlawfully offered and sold debt management services to Idaho consumers through its subsidiaries, Amerix Corporation, CareOne Services, Inc., FreedomPoint Financial Corporation, and 3C, Inc. The Attorney General also alleged that instead of providing consumers with counseling regarding their options, AscendOne did little more than enroll consumers into a management plan that generated fees for AscendOne and did not always benefit consumers. The Attorney General's Office received \$169,398 to cover legal fees and costs incurred during the investigation.

- **The Dannon Company, Inc.**

The Attorney General joined in a \$21 million multistate settlement with Dannon, resolving allegations of unsubstantiated and unlawful marketing of two Dannon products, Activia and DanActive. The settlement also requires Dannon to change its advertising practices. The Attorney General's Office will receive \$425,000 in 2011 to cover legal fees and costs incurred during the investigation.

- **DIRECTV**

The Attorney General joined in a \$13.5 million multistate settlement with DIRECTV resolving allegations of deceptive advertising and other unlawful business practices. The settlement also requires DIRECTV to change its business practices and provide restitution to injured consumers. The Attorney General's Office will receive \$185,000 in 2011 to cover legal fees and costs incurred during the investigation.

- **LifeLock, Inc.**

The Attorney General joined in a \$12 million multistate settlement with LifeLock, Inc., resolving allegations of misleading advertising of its identity theft services. The Attorney General alleged that LifeLock misrepresented the nature of specific services it provided to protect or alert consumers when their personal information had been compromised. Of the settlement amount, \$11 million is designated for consumer restitution and \$1 million to cover the Attorney General's costs of the investigation.

- **Publishers Clearing House**

The Attorney General joined in a multistate settlement with Publishers Clearing House, which modifies a prior judgment filed in 2000. The 2010 agreement contains stronger provisions to ensure consumers are not further misled or confused by the company's sweepstakes promotions, including greatly increased consumer surveys to ensure that consumers understand that purchasing does not increase their chances of winning a sweepstakes prize. The agreement also required Publishers Clearing House to pay the states \$3.5 million to cover the costs of the investigation. Idaho's share of the settlement is \$40,000.

- **World Web Pages.net**

The Attorney General entered into a settlement with World Web Pages.net, a website design company that solicited Idaho businesses by telephone. The Attorney General alleged that World Web Pages.net billed Idaho businesses for monthly services that were not authorized by the businesses. The settlement prohibits World Web Pages.net from telemarketing in Idaho without first registering as a telemarketer. The settlement also required the company to pay \$500 in civil penalties and reimburse the Attorney General for his fees and costs.



CHARITABLE SOLICITATIONS AND CHARITABLE TRUST ASSETS

Idaho law assigns to the Attorney General the duty of enforcing charitable trusts and protecting charitable trust assets. The Idaho Charitable Solicitation Act also prohibits false, deceptive, and misleading charitable solicitations and assigns the Attorney General the duty of enforcing its provisions. In 2010, the Attorney General participated in an important charitable trust asset matter and produced a manual to assist members of non-profit corporation boards of directors in performing their duties under Idaho law.

- **International Christian Fellowship**

In an effort to preserve more than \$1 million in charitable trust assets, the Attorney General intervened in a case between a family estate and International Christian Fellowship, Inc., an Idaho nonprofit corporation. Through a pending settlement agreement, the corporation had sought to dissolve the charitable trust and move the assets into a newly-created, private limited liability company. Pursuant to his authority under the common law and separate statutory law, the Attorney General intervened in the case and asked the court to declare that the International Christian Fellowship held charitable or public trust assets that could be distributed only according to its charitable purposes. After the Attorney General intervened, the corporation withdrew its proposal to dissolve the trust.

- **Nonprofit Board of Director Manual**

The Attorney General published a manual, *Service on an Idaho Nonprofit Board of Directors*, designed to assist persons who serve on nonprofit boards of directors. The manual, available free of charge, helps board members understand the three “R’s” of serving on a board as a director: the Role they play, the Rights they have, and the Responsibilities placed upon them.



COMPETITION ACT

In enacting Idaho’s Competition Act, the legislature stated that the act’s purposes are to maintain and promote economic competition in Idaho commerce, to provide the benefits of that competition to consumers and businesses in the state, and to establish efficient and economical procedures to accomplish these purposes and policies. The Attorney General continued several matters of litigation relative to claims brought under the Competition Act. He also announced three settlements.

- **DRAM Manufacturers**

The Attorney General joined with other states to sue 13 dynamic random-access memory (DRAM) manufacturers and their subsidiaries in 2006, for alleged price fixing related to DRAM chips. DRAM is a widely used form of computer memory found in personal computers, servers, and other electronic devices. As a result of the price fixing, the lawsuit alleges that Idaho consumers, businesses, and governmental agencies, both state and local, paid more for their computers, servers, and other electronic devices than they would have paid had there not been any price fixing.

The Attorney General has now entered into multiple settlements with all the defendants, including restitution collectively totaling \$260 million in the participating jurisdictions. The restitution is on behalf of consumers, businesses, the state and certain local governmental agencies that paid more for computers, servers and other electronic devices because of the alleged price-fixing of DRAM chips. A claims process will determine the amounts to be distributed to Idaho consumers, businesses, the State of Idaho and local governments. The claims process is presently being implemented.

- **Vitamin Manufacturers**

The Attorney General joined in a \$25 million multistate settlement with numerous vitamin manufacturers regarding a vitamin price-fixing conspiracy. In Idaho, the Attorney General alleged that the involved vitamin companies conspired for more than a decade to fix prices and restrict supplies of vitamins.

Under the settlement, the companies paid more than \$25 million to compensate consumers and businesses in the participating jurisdictions. Because it would be nearly

impossible to determine how much each consumer paid in higher prices, the Idaho consumer portion of the settlement, \$134,180, was distributed to the Idaho Food Bank and Second Harvest Inland Northwest to benefit Idahoans and their families in need of food and assistance.

- **Idaho Orthopedists**

The Attorney General joined the United States Department of Justice in settling with the Idaho Orthopaedic Society, one orthopedic practice group and various orthopedists, concerning allegations that competing physicians in the Boise area conspired to collectively deny medical care to injured workers and to engage in group boycotts to obtain higher workers compensation and other fees.

The settlement prevents the settling orthopedists from agreeing with their competitors on fees and contract terms. The settlement also prohibits the settling orthopedists from collectively denying medical care to patients, refusing to deal with any payor, or threatening to terminate any contract with a payor.

- **Abbott Laboratories, Fournier Industries et Sante, and Laboratoires Fournier, S.A.**

The Attorney General settled with these companies for alleged anticompetitive practices that kept generic versions of the popular drug TriCor off the market. TriCor is used to regulate triglyceride and cholesterol levels. The state was reimbursed \$64,637 that it paid in overcharges for the drug as part of the Idaho Medicaid program. The companies also agreed not to undertake various steps to preclude generic drug manufacturers from seeking FDA approval of a generic version of the latest version of TriCor.



TOBACCO

The legislature has assigned the Attorney General enforcement duties under Idaho's Tobacco Master Settlement Agreement Act (MSA Act), Tobacco Master Settlement Agreement Complementary Act (Complementary Act), and Prevention of Minors' Access to Tobacco Act. The Attorney General prosecutes violations of these laws and defends them against constitutional challenge in state and federal court actions. The Attorney General also enforces and defends the State's Master Settlement Agreement (MSA).

In addition, Attorney General Wasden serves on the board of directors of the American Legacy Foundation. The foundation was created by the MSA to conduct ongoing national advertising to discourage youth tobacco use.

The MSA has had a substantial impact on cigarette consumption in the United States. Since 1998, the year the MSA was signed, cigarette consumption has dropped more than 30%. Youth smoking rates also have declined, according to a study sponsored by the National Institute on Drug Abuse.

The MSA has also had a positive impact on the public health in Idaho. In 1998, the year the MSA was negotiated, Idaho's smoking rate was 20.3%. In 2009, the year with the most recent statistics, the rate was 16.3%, a 20% reduction. Similarly, in 1993, the youth smoking rate in Idaho was 27.3%. In 2009, the rate was 14.5%, a 47% reduction.

Master Settlement Agreement

During 2010, the tobacco industry paid \$25,989,570 to Idaho pursuant to the MSA, bringing Idaho's total to more than a quarter billion dollars (\$280,569,373).

The Attorney General continues to defend the MSA and Idaho's tobacco laws in state and federal lawsuits brought by tobacco manufacturers and distributors. The lawsuits assert that the MSA, as well as Idaho's MSA and Complementary Acts, violate constitutional provisions or are preempted by federal law. To date, the Attorney General has defeated challenges to these Idaho laws in actions arising in Idaho, California, Washington, D.C., Oregon, Kentucky, and New York. Several matters are still pending.

Pursuant to Idaho's Complementary Act, the Attorney General maintains and administers a directory of tobacco manufacturers and brands that are in compliance with Idaho's MSA and Complementary Acts. At present, the Attorney General has certified 36 tobacco manufacturers and 178 tobacco brands. The directory is available in the tobacco section of the Attorney General's website (www.ag.idaho.gov).

The Attorney General also promulgated and enforces rules under the Complementary Act.

The Attorney General is presently litigating a dispute with the tobacco industry over the state's enforcement of Idaho's MSA Act. The industry disputes the effectiveness of the state's efforts. The state has introduced evidence that it diligently enforced Idaho's MSA Act, that its enforcement efforts produced a compliance rate of 99%, and that this indicates effective, diligent enforcement. A finding of diligent enforcement will insulate Idaho from monetary claims of the tobacco industry.

Prevention of Minors' Access to Tobacco

The Attorney General is part of an ongoing, multistate enforcement effort related to the retail sale of cigarettes to minors. Idaho and other states have negotiated agreements that are designed to reduce youth tobacco product sales. The Attorney General has entered into such agreements with retailers, including Kroger, Wal-Mart, Walgreens, and RiteAid stores and with gas station and convenience store chains operating under the Chevron, ConocoPhillips, ExxonMobil, and BP brand names. Preliminary research indicates that the agreements are meeting the goal. The Attorney General continues to review data and monitor retail compliance with Idaho's tobacco sales laws.

Tobacco Enforcement

- **Scott Maybee**

Scott Maybee sold cigarettes over the Internet under several names, including smartsmoker.com, ordersmokesdirect.com, and buycheapcigarettes.com. Idaho's lawsuit alleged that he sold more than two million cigarettes that were not on the Attorney General's Directory of Compliant Tobacco Product Manufacturers and Brand Families and that he sold the cigarettes at retail without obtaining a tobacco permit from the Department of Health and Welfare, as required by Idaho's Prevention of Minors' Access to Tobacco Act. The court entered judgment against Maybee for \$163,225 in civil penalties and \$8,742 for attorney's fees and costs and permanently enjoined him from selling cigarettes in violation of Idaho's tobacco laws. Maybee appealed the judgment to the Idaho Supreme Court. The Court affirmed the judgment in January 2010. The United States Supreme Court denied Maybee's petition to review the Idaho Supreme Court's decision.

- **Native Wholesale Supply Company**

The Attorney General and the Idaho State Tax Commission filed suit against Native Wholesale Supply, an unlicensed cigarette wholesaler from Perrysburg, New York. The Attorney General alleged Native Wholesale illegally sold Seneca and Opal brand cigarettes in Idaho and sold cigarettes at wholesale without the required Idaho wholesale tax permits. These cigarette brands and their manufacturer, Grand River Enterprises, have been enjoined from sale in Idaho following entry of a judgment against Grand River Enterprises in 2002. Records received by the Attorney General show that, since 2004, Native Wholesale Supply has sold more than 100 million illegal cigarettes in Idaho. Despite receiving notice of these illegal sales and being served with the lawsuit, Native Wholesale Supply continued illegal cigarette shipments into Idaho. The case is currently in Fourth District Court in Ada County.

- **Lil' Brown Smoke Shack**

Lil' Brown Smoke Shack sells various tobacco products over the Internet. Idaho's lawsuit alleged that the business sold various tobacco products at retail without obtaining a tobacco permit from the Department of Health and Welfare, as required by Idaho's Prevention of Minors' Access to Tobacco Act. The state also alleged that Lil' Brown Smoke Shack has sold tobacco products that were not on the Attorney General's Directory of Compliant Tobacco Product Manufacturers and Brand Families, a separate violation of Idaho tobacco sales laws. The Attorney General settled with the business, obtaining its compliance with Idaho law. The business reimbursed the Attorney General's expenses and fees for litigating the case.



THE ATTORNEY GENERAL'S NO CALL LIST

Idahoans continue to add telephone numbers to the Attorney General's No Call List. By the end of 2010, Idahoans had registered 1,019,030 telephone numbers, an increase of 79,072 numbers from the 939,958 telephone numbers registered at the end of 2009. Idahoans registered on the No Call List continue to report that unwanted telephone solicitations have decreased significantly or have stopped completely.



EDUCATION AND OUTREACH

The Consumer Protection Act is intended to protect the marketplace and help individuals and businesses avoid deceptive and anticompetitive practices. Consumer education is a significant method for achieving these goals. The Attorney General provides consumer information through his website (www.ag.idaho.gov), sponsors television and radio public service announcements, publishes pamphlets on consumer topics, informs the media and public about current scams, and makes presentations to community groups.

Outreach

- **Public Service Announcements**

During 2010, the Attorney General produced radio and television public service announcements addressing foreclosure, mortgage modification, and purchasing a home. The public service announcements were broadcast statewide from January 1 through March 31, 2010. The spots are on the Attorney General's website. The Attorney General obtained additional grant funding to air new public service announcements in 2011.

- ***ProtecTeens***

ProtecTeens is a video presentation and resource kit to educate parents about the potential danger to their children from sexual predators and others on the Internet. Attorney General Wasden and Secretary of State Ben Ysursa are responsible for the development of *ProtecTeens*. The Attorney General and the Secretary of State created a broad partnership that includes Governor C.L. "Butch" Otter, First Lady Lori Otter, Superintendent of Public Instruction Tom Luna, the Idaho Prosecuting Attorneys Association, the Idaho Sheriffs' Association, the Idaho Chiefs of Police Association, the Idaho Internet Crimes Against Children Task Force, the Idaho Medical Association, the Idaho School Boards Association, the Idaho Association of School Administrators, and the Idaho PTA.

In 2010, the Attorney General prepared and released a new, revised, and updated *ProtecTeens* DVD version. *ProtecTeens* is also available for viewing on the Attorney General's website at www.ag.idaho.gov. Idahoans may also use the website to request

that a *ProtecTeens* DVD be mailed to them or request a *ProtecTeens* presentation to a group or organization.

- **Consumer Presentations**

In 2010, Consumer Protection staff made consumer education presentations throughout the state and spoke to hundreds of people at a variety of speaking engagements. Topics covered issues affecting Idaho consumers and included presentations on identity theft, health and safety, and mortgage foreclosures.

The Attorney General’s educational and outreach efforts do not use tax dollars. Money from civil penalties, fees, and reimbursed costs is deposited into the consumer protection account. Funds from this account pay for the Attorney General’s educational activities, pursuant to legislative appropriation.

Education

- **Consumer Education Publications**

The Consumer Protection Division offered 17 consumer publications in 2010.

<i>A Parents’ Guide to Social Networking Websites</i>	<i>Internet Lingo Dictionary</i>
<i>Buying a Home</i>	<i>Internet Safety</i>
<i>Charitable Giving</i>	<i>Landlord and Tenant Guidelines</i>
<i>Credit and Debt</i>	<i>Pyramids, Gift Schemes & Network Marketing</i>
<i>Foreclosure Prevention and Foreclosure Scams: How to Tell the Difference</i>	<i>Residential Construction</i>
<i>Guidelines For Motor Vehicle Advertising in Idaho</i>	<i>Senior Citizens Manual</i>
<i>Idaho Consumer Protection Manual</i>	<i>Telephone Solicitation</i>
<i>Idaho Lemon Law</i>	<i>Young Adult Handbook</i>
<i>Identity Theft</i>	

The Attorney General offers Spanish translations of the consumer protection publications listed above. The Spanish materials were produced using grant funds. The Attorney General’s Consumer Protection Division continues to utilize the Language Line Service to enable non-English-speaking consumers to obtain consumer information and referrals by telephone.

In addition to the publications listed above, the Attorney General offers consumer tip sheets covering telephone solicitors, automobile repairs, mail fraud, construction fraud, charitable donations and other subjects.

All of the Attorney General's printed consumer education materials are available free of charge upon request or through the Attorney General's website at www.ag.idaho.gov. The website also contains Idaho's consumer protection laws and information for citizens who wish to file a consumer complaint. Consumers may obtain additional information on consumer issues by calling 334-2424 (Boise) or toll-free (in-state) 800-432-3545.



MEDIATION

Consumer specialists in the Attorney General's Consumer Protection Division mediated 1,312 complaints in 2010 and, as a result of that effort, recovered \$162,278 for Idaho consumers.



CONSUMER PROTECTION -- BY THE NUMBERS

ACTIVITY	2010	2009	2008	2007	2006	2005	2004	2003
Complaints*	1,312	1,896	1,676	1,614	2,051	1,875	4,079	2,259
Other Consumer Contacts*	12,422	14,255	4,997	3,384	3,226	5,236	2,762	7,635
Dollars Claimed Lost	\$2,715,622	\$2,227,203	\$9,800,077	\$3,641,859	\$2,622,263	\$1,380,717	N/A	\$967,673
Consumer Restitution Recovered	\$5,920,578	\$7,431,388	\$932,134	\$662,253	\$1,692,089	\$603,089	\$5,777,643	\$1,671,078
Civil Penalties & Costs Recovered	\$536,237	\$5,944,188	\$2,988,047	\$1,772,175	\$281,678	\$252,777	\$528,138	\$566,486
Enforcement Actions**	22	18	39	19	12	22	15	30
Telemarketers Registered	75	62	53	71	66	52	76	76
Idaho Numbers on No Call List	1,019,030	939,958	855,696	702,513	624,222	434,382	362,061	256,182

ACTIVITY	2002	2001	2000	1999	1998	1997	1996	1995
Complaints*	3,076	3,664	2,193	1,874	5,678	5,451	4,497	3,627
Other Consumer Contacts*	11,998	21,925	8,125	8,005	N/A	N/A	N/A	N/A
Dollars Claimed Lost	\$860,542	\$1,190,849	\$765,555	\$793,493	\$882,486	\$920,285	\$528,945	\$960,191
Consumer Restitution Recovered	\$1,147,339	\$1,429,325	\$905,055	\$376,972	\$638,360	\$1,918,676	\$1,363,375	\$532,657
Civil Penalties & Costs Recovered	\$1,569,232	\$209,560	\$546,136	\$962,019	\$413,121	\$537,768	\$164,300	\$134,000
Enforcement Actions**	45	32	23	29	56	50	63	96
Telemarketers Registered	69	30	46	48	51	46	61	57
Idaho Numbers on No Call List	45,968	33,731	N/A	N/A	N/A	N/A	N/A	N/A

* From 1989 to 1998, this category included all written complaints lodged, inquiries made, information provided, and consumers' requests for written information. Implementation of a new database in 1999 enables the Division to now track complaints and other consumer contacts separately. Beginning in 2009, the Division also began tracking the number of telephone calls and personal contacts.

** Includes Assurances of Voluntary Compliance, Judgments and Orders Compelling Response and Granting Injunctive Relief obtained. Lawsuits filed, but not yet concluded, are not counted.