

Annual  
Report  
of the **FEDERAL  
TRADE  
COMMISSION**

For the Fiscal Year Ended  
June 30, 1955

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## Letter of Transmittal

FEDERAL TRADE COMMISSION,  
Washington, D. C.

To the Congress of the United States:

It is a pleasure to transmit herewith the Forty-first Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1955.

By direction of the Commission.

JOHN W. GWYNNE,  
Chairman.

THE PRESIDENT OF THE SENATE.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

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## THE YEAR'S HIGHLIGHTS

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Fiscal 1955 brought to fruition the, new policies and planning of the previous 15 months. It saw significant results of the Commission's reorganization.

While the most conspicuous actions were the launching of an investigation into the rising trend of corporate mergers and an attack on misleading advertising of health and accident insurance companies, the Commission's new vitality was evidenced in the performance of all of its functions. At the year's end, sharp increases had been achieved in the number of investigations undertaken and completed, more complaints and orders had been issued in both antimonopoly and antideceptive cases than for the average of the previous 10 years, and long and unprecedented strides had been taken in policing compliance with previous orders.

Perhaps even more important was the Commission's determination to serve more effectively as a guide to business. By issuing opinions with each Commission order, the Commission's casework achieved a prophylactic value far greater than the effect of the restraints put on the particular firms involved. Supplementing this effort was the Commission's broad program for achieving voluntary compliance with those laws designed to insure fair competition in business. Here a 20-year high in the number of trade practice rules issued by the Commission to guide industry was reached.

A significant development in the Commission's program to advise and assist business in obtaining the full protection of the laws of fair competition was the creation of a Small Business Division. Here for the first time in Commission history, small-business men could avail themselves of help from attorneys most familiar with their problems and within an organizational unit designed for that purpose. During the fiscal year, the Division received 1,021 requests for help, of which 971 were completed, the rest being in varying stages of progress. In addition, more than 300 conferences were held.

The Commission's attack on delay in the handling of casework contributed importantly to the Commission's overall effectiveness. The phrase: "Delay is the worst enemy of administrative law," became virtually a slogan. It motivated an internal speedup embracing

not only the Commission itself but supervisors along the assembly line of case development. The staff, aware that the Commission had disciplined itself against prolonged delay in acting on cases, no longer could indulge in time-consuming and needless formality. For example, fully half of the procedural steps in the progress of an investigation to the point of recommendation for issuance of complaint were eliminated at no real cost in efficiency.

At the end of the fiscal year, each Bureau director summarized the effects of the speedup of that portion of staff work under his supervision.

In the Bureau of Investigation, Director Harry A. Babcock reported an increase of almost 50 percent in the number of investigations completed. In the antimonopoly field alone, 537 investigations were completed as contrasted with 363 in 1953 and 343 in 1951. At the same time, this Bureau referred 21 violations of the Wool Products Labeling Act and 18 violations of the Fur Products Labeling Act to the Bureau of Litigation for formal action. In these 2 fields, more than 8,000 violations were adjusted by industry counseling, and voluntary correction. During the same period, assurance of discontinuance of 281 deceptive practice matters had been obtained. This number was described by Mr. Babcock as "far in excess of any previous record."

In the Commission's litigation work, a marked increase in effective action against illegal monopoly and deception in business was revealed in both complaints and orders issued. The volume of these not only was greater than in fiscal 1954 but substantially exceeded the average of the previous 10 years.

Joseph E. Sheehy, Director of the Bureau of Litigation, reported that the total of 36 antimonopoly complaints in fiscal 1955 was 28.6 percent higher than for the average of the fiscal years from 1944 to 1953 and that 1955's 30 cease and desist orders showed a 40.2-percent increase over the average for the same previous period. The total of 125 deceptive practice complaints in 1955 compared with 92 in 1954 and was 49.3 percent higher than the 1944-53 average year. Deceptive practice orders totaled 82, 2 more than in 1954 and 9 percent higher than the 1944-53 average.

The litigation performance becomes more impressive when the significance of the actions is considered as well as the volume. Five of the pending cases charged large corporations with violating section 7 of the Clayton Act (the Antimerger Act). "Through this litigation," Mr. Sheehy declared, "the Commission is seeking to halt a growing trend in American industry toward mergers of formerly competing corporations or other corporate acquisitions with anticompetitive effects." The five cases are: the requisition by Farm Journal, Inc., of its rival publication, "Better Farming," from the Curtis Publishing

Co.; the alleged monopolistic control by Union Bag and Paper Corp. Of its competitor, the Hankins Container Co.; and alleged illegal mergers involving Pillsbury Mills, Inc., the Nation's second largest flour miller; Crown Zellerbach Corp., one of the world's largest manufacturers of pulp and paper; and Luria Brothers & Co., the largest scrap steel broker in the country.

The principal action in the deceptive practice field during fiscal 1955 was the Commission's nationwide investigation of the advertising of some 1,400 insurance companies selling health, accident, and hospitalization policies. Twenty-eight complaints were brought, charging false and misleading advertising of the coverage and benefits to purchasers of the policies. Four of the complaints were against the four largest companies in the accident and health insurance business: Mutual Benefit Health & Accident Assn. (Mutual of Omaha), Bankers Life and Casualty Co. (The "White Cross Plan"), Reserve Life Insurance Co., and United Insurance Co.

The principal areas of misrepresentation in the advertising of insurance by the 28 companies named in complaints were: (1) policy termination provisions, (2) extent of coverage, (3) maximum dollar limits, (4) lifetime benefit payments, and (5) limitations on loss traceable to conditions in existence at the time of policy issuance.

A total of 19 complaints charging violations of the Robinson-Patman Act were issued during fiscal 1955, a total unsurpassed in the previous 5 years. In addition, 14 such orders were issued.

Illustrative of the effort in this field was the Commission's order to manufacturers of automotive replacement parts selling on a nationwide scale to stop discriminating in price between jobbers competing in the resale of these parts to garages, filling stations, and repair shops dealing with the consuming public.

Also conspicuous in the Commission's antimonopoly efforts were its orders requiring the New York Coffee and Sugar Exchange, Inc., to permit futures trading in all types of coffee in general use in the United States, and requiring 20 manufacturers of metal rain-carrying and drainage equipment to stop price-fixing activities. Another major antimonopoly order was that requiring U. S. Steel, Inland Steel Co., Republic Steel Corp., Jones and Laughlin Steel Corp., and Rheem Manufacturing Co. to abandon a price-fixing conspiracy in the sale of steel drums. Still another significant order was that requiring Revlon Products Corp., a leading manufacturer of cosmetics, to terminate exclusive-dealing contracts with beauty supply jobbers after the arrangements were found to violate section 3 of the Clayton Act.

At the year's end, a group of major antitrust complaints were pending decision. Among these was one charging conspiracy between American importers of twine and rope and the Mexican manufacturers.



of these products for the purpose of fixing prices and regulating their importation. Among the products was agricultural bailer and binder twine widely used by American farmers. Another pending complaint challenged an alleged price-fixing combination in the Puget Sound salmon-packing industry. Still another attacked alleged restraints on competition in the food brokerage business by a national trade association and its 1,750 members.

Complaints also were issued against the multimillion dollar sportswear industry in California alleging an unlawful combination in restraint of trade to produce a rigid price structure enhancing prices to consumers, and against an alleged conspiracy of tobacco warehousemen in Wilson, N. C., to preclude expansion of warehouse facilities in the world's largest flue-cured tobacco market.

Progress was made in the trial of complaints charging eight major ice cream manufacturers and their subsidiaries with competition unfair to small independent ice cream producers. Also, exclusive-dealing arrangements were under attack by the Commission as unlawfully restraining trade in the important liquefied petroleum gas industry, the outboard motor industry, the hearing aid industry, and the growing business in industrial wiping cloths.

In addition, the Commission maintained steady pressure against misrepresentations injurious to the health or pocketbook of the American consumer. Several cases involved widely advertised vitamin and mineral preparations, kidney pills, and preparations for the hair and scalp, including products making the age-old claim of cure for baldness. False advertising in the mail order sale of eyeglasses was involved in 2 cases, and the advertising of oleomargarine as a dairy product brought 1 complaint and 2 cease and desist orders.

In the field of wearing apparel and fabrics, 20 complaints and 18 orders were issued in the enforcement of the Wool Products Labeling Act, and 14 complaints and 8 orders were issued to safeguard the public against the misbranding and false advertising of furs and fur products.

Also, in the field of wearing apparel, six complaints were issued against the sale of certain Japanese-made silk scarves too flammable to meet the standards of the Flammable Fabrics Act. In preventing their sale, the first seizure-condemnation under the Act was prosecuted successfully, and 90,000 such scarves were condemned as too dangerous.

Supplementing the Commission's broad-scale efforts to improve competitive conditions by means of formal actions were its programs to foster voluntary compliance with the law.

Charles E. Grandey, Director of the Bureau of Consultation, was able to report that trade-practice rules had been promulgated for 13 industries, more than double the number for which rules had been issued in fiscal 1904. In addition, the Bureau had negotiated 60 per-

cent more stipulations in which firms and individuals agreed to stop improper business activities, usually false or misleading advertising. As a result of this speedup in its work, the Bureau had no stipulation pending that had been in negotiation more than 4 months.

Coupled with the obtaining of new stipulations, a systematic check of some 8,500 existing stipulations was undertaken. By the end of the fiscal year, the still continuing check had disclosed 60 violations against which corrective measures were begun.

Of far wider scope, however, was the Commission's full-scale effort to check and insure compliance with all outstanding orders. This obligation was one which too often in previous years had been neglected under pressure of more immediate responsibilities. However, because an unenforced cease and desist order means that the Commission's legal proceedings have failed their purpose, a major effort was made to bulwark the agency's previous actions.

As a result, a record number of civil penalty suits for violations of FTC cease and desist order was begun during fiscal 1955, and at the year's end, 26 suits either were pending in Federal courts or were in the drafting stayed at the Commission. This total contrasts sharply with the total of 21 civil penalty suits brought in the preceding 8 years.

Under the supervision of General Counsel Earl W. Kintner, the Commission commenced the first systematic compliance survey of old Commission orders in the Commission's history. By the year's end, more than 1,200 of 4,600 old orders had been reviewed, and a separate review of 171 pre-1947 Robinson-Patman Act orders was well underway. These compliance reviews resulted in the submission of 469 supplementary reports of compliance and the initiation of 118 compliance investigations. Substantial number of these were expected to result in formal enforcement proceedings during 1956-57.

During fiscal 1955, an innovation in compliance work was the appointment of a 4-man advertising "task force" to examine the national and regional advertising of businesses subject to Commission orders, rules, and stipulations. It was believed that by appointing qualified attorneys on this "task force" rather than personnel without legal training wasted effort in selecting material could be avoided.

Not only in casework but in the broad field of economic investigation was achievement recorded during the fiscal year. Here the major accomplishment was the report on "Recent Corporate Mergers and Acquisitions," a comprehensive analysis of merger trends, types, causes, and dimensions. It revealed that such mergers had increased to 3 times the 1949 rate and that nearly two-thirds of the acquisitions were made by companies with assets of \$10 million or more. Purpose of the report was to provide Congress, the Department of Justice and the FTC with facts needed to determine what corrective action should be

taken. Issuance of the report was a first major step in the Commission's continuing concern with the problem of corporate mergers.

At the close of the fiscal year, the Bureau of Economics also was engaged in a report on "Corporate Industry Patterns of Production." This study compares various classes of companies as to overall scale of manufacturing, product structures, and the extent to which their operations are scattered through many plants or concentrated in a few.

Also, a comprehensive study of the positions of the 1,000 largest manufacturing companies in the Nation was nearing completion. The companies were being measured in terms of total shipments, proportion of national output of the particular industries represented, and diversity or dispersion of their manufacturing activities.

While the Commission's bureaus and divisions were thus engaged in an effort to speed action on casework while maintaining an aggressive interest in broad economic problems, the Commission's Hearing Examiners likewise stepped up their activity. Everett F. Haycraft, director of hearing examiners, reported the examiners had disposed of 124 cases in 611 days of hearings during the fiscal year. In 1954, the same staff had disposed of only 94 cases in 325 days of hearings. This improvement can be attributed to the increased authority given hearing examiners. This derived principally from consent order rule changes which authorized hearing examiners to accept or reject stipulations contained in proposed consent orders with acceptance subject to Commission review and rejection subject to appeal to the Commission). Thus, with many costly and time-consuming hearings eliminated, a greater number of consent orders could be expected, and this proved to be the case. In fiscal 1955, 76 cases were so disposed of, as compared to only 36 the previous year.

## SCOPE OF AUTHORITY

### Basic Functions of the FTC

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The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate, of whom no more than three may be of the same political party. The Commission is charged with the responsibility for administering and enforcing laws in the field of antitrust and trade regulation. They deal with prevention of monopoly, restraints of trade, and unfair trade practices. The Commission also has the duty of investigating and reporting economic problems and corporate activity, particularly in relation to the antitrust laws and in aid of legislation. A primary purpose of the laws which the Commission administers is to protect competition in our private enterprise economy. These statutes are briefly described below.

The Federal Trade Commission Act of 1914 including the Wheeler Lea Act Amendments of 1938

This legislation confers upon the Commission two broad functions. Under the first, the Commission, subject to certain exceptions, is "empowered and directed to prevent persons, partnerships, or corporations,<sup>1</sup> \* \* \* from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce," which are declared by the statute to be unlawful. The Commission is given power to investigate, to hear cases and to make determination of practices falling within this proscription.

Whenever deemed necessary in the public interest to resort to mandatory proceedings, the Commission is authorized to issue complaints against persons, partnerships, or corporations within its jurisdiction which it has reason to believe have been or are using any such unlawful methods, acts, or practices in commerce. If, upon due processing and

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<sup>1</sup> Excepted from the Jurisdiction of the Commission under such section are "banks, common carriers subject to the acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Administration Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said act. \* \* \*" Specific exemption from such provision against unfair methods of competition and unfair or deceptive acts or practices in commerce is provided for resale price maintenance contracts or agreements coming within the Federal Fair Trade Act approved July 14, 1952 (15 U. S. C. 47), also known as the McGuire Act.

hearing, the Commission finds that the practices in question violate the act, it is empowered to issue a cease and desist order against the offending party or parties. Such an order may be appealed from the Commission to a United States court of appeals, which is authorized to review the proceeding and to affirm, enforce, modify, or set aside the Commission's order. Thereafter, the case may be taken to the Supreme Court of the United States upon writ of certiorari.

Originally, the cease and desist orders issued under the Federal Trade Commission Act were enforceable only by the appellate court through contempt proceedings, after its action had transformed the order into a decree of the court. The 1938 Wheeler-Lea amendments provided for a civil penalty action in the United States district court for violation of such final cease-and-desist orders. Under this provision the orders become final either through affirmance by the Court of Appeals or at the end of 60 days in the event no appeal is taken. If the order is violated after becoming final, a civil penalty suit may be instituted by the United States. Such an action is brought by the Attorney General at the request of the Commission, and the district court is authorized to impose civil penalties up to \$5,000 for each offense. Under an amendment enacted in 1950, each day of a continuing violation may be treated as a separate offense.<sup>2</sup>

The Wheeler-Lea Act amendments also conferred special authority upon the Commission for the control of false advertising of foods, drugs, cosmetics and curative or corrective devices. For such purposes the term "false, advertisement" is defined to mean "an advertisement, other than labeling, which is misleading in a material respect;<sup>3</sup> \* \* \*." The term also is employed in section 4 of the Oleomargarine Act to any representations or suggestions that oleomargarine is a dairy product. In cases of this type, jurisdiction of the Commission may be grounded in use of the United States mails as well as interstate commerce. When necessary for protection of the public interest, the Commission is authorized to obtain temporary injunctions against the false advertising of foods, drugs, cosmetics or curative devices, pending completion of the cease and desist order proceedings. Where the commodity advertised is injurious to health or where the advertising is with intent to defraud or mislead, criminal prosecution may also be kind with maximum penalties of a \$5,000 fine and 6 months' imprisonment, or double this fine and imprisonment in case of second offenses. The Commission is authorized to certify the facts to the Attorney General for prosecution whenever it has reason to believe any person, partnership or corporation is liable under the criminal provision.

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<sup>1</sup> Amendment contained in the Oleomargarine Act (64 Stat. 20)

<sup>2</sup> Sec. 15, Federal Trade Commission Act.

The second broad category of functions conferred upon the Commission under the Federal Trade Commission Act consists of the powers conferred by section 6. This section empowers the Commission to gather and compile information concerning, and to investigate from time to time, "the organization, business, conduct, practices, and management of any corporation engaged in commerce, except banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships." The Commission also is empowered to require such corporations to furnish information and to file annual and special reports. When directed by the President or Congress, the Commission is authorized to investigate and report facts relating to any alleged violations of the antitrust acts by corporations; to investigate for the Attorney General, or on the Commission's own initiative, the manner in which antitrust decrees against corporations are being carried out; and further, upon application of the Attorney General, to recommend readjustments of the business of corporations alleged to be in violation of the antitrust acts in order to bring the conduct of such business into accord with the requirements of law.

The Commission is further empowered to investigate from time to time trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States and to make reports thereon to Congress with recommendations. Under those section 6 powers of investigation and reporting, the Commission serves the executive and legislative branches of the Government, particularly in antitrust problems and in aid of legislation.

Section 7 confers authority upon the Commission to act as a master in chancery upon reference from the court to ascertain and report an appropriate form of antitrust decree in equity suits brought by or at the direction of the Attorney General.

The act confers visitorial powers upon the Commission, including specifically the right of access to documentary evidence of corporations, the right to issue subpoenas, examine witnesses, and require the production of testimony and documentary evidence, and the power to make rules and regulations to carry out provisions of the act.

#### The Clayton Act<sup>4</sup>

This antitrust law was enacted in 1914. It designates the Federal Trade Commission as an enforcing agency for the provisions of sections 2, 3, 7, and 8. Procedures are prescribed in section 11 by which, upon complaint and due hearing, corrective action may be applied by the Commission in the form of a cease and desist order or, in merger cases, an order of divestiture.

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<sup>4</sup> Approved October 15, 1914 (38 Stat. 730).

Section 2 of the Clayton Act, amended by the Robinson-Patman Act—Discriminatory Pricing.<sup>5</sup>—Subject to specified justification and defenses, this section provides that it shall be illegal to discriminate in price between different purchasers of commodities of like grade and quality sold for use, consumption, or resale within the United States, where the effect of the discrimination "may be substantially to lessen competition or tend to create' a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefits of such discrimination, or with customers of either of them."

Exception is provided for differentials which made only due allowance for differences in cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the commodities are sold or delivered. Selection of customers in bona fide transactions and not in restraint of trade are not prohibited. The section, as amended, also specifies exceptions respecting sales necessitated by market conditions, disposition on account of deterioration of perishable goods; obsolescence of seasonal goods; distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned. A defense to a charge of discrimination is also specified in regard to sales "made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

Quantity-Limit Provision.—This is also contained in section 2 of the amended Clayton Act. It confers authority upon the Commission, after due investigation and hearing of all interested parties, to fix and establish quantity limits as to particular commodities or classes of commodities "where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce."

Brokerages, Commissions, Proportionally Unequal Terms or Facilities.—The Robinson-Patman Act also forbids the payment of certain brokerages and commissions except for services rendered to the party making the payment, as well as forbidding the payment by manufacturers or sellers for, or the furnishing of, services or facilities to dealers or resellers in connection with the processing, handling, sale, or ordering for sale of the products or commodities sold, unless such payments or the services or facilities furnished are made available to all competing customers on proportionally equal terms.

Inducement of Discrimination.—Another provision of the Robinson-Patman Act makes it unlawful for any person in the course of commerce "knowingly to induce or receive" an illegally discriminatory price.

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<sup>5</sup> Approved June 19, 1936 (49 Stat. 1526).

Tying or Exclusive Dealing Contracts.—Section 3 of the Clayton Act prohibits the lease or sale in the course of commerce of goods, wares, merchandise, machinery, supplies or other commodities, for use, consumption or resale within the jurisdiction of the United States on the condition, agreement or understanding that the lessee or purchaser shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of competitors of the lessor or seller, where the effect thereof "may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

Anti-Merger Law.—This statute, approved December 29, 1950,<sup>6</sup> is in the form of a revision and restatement of section of the original Clayton Act. It is specific legislation on the subject of suppression of competition through the merger or consolidation of corporations. Such conduct is prohibited, whether brought about by the direct or indirect acquisition of either stock or assets of the acquired corporation, where the effect of the acquisition or merger may be substantially to lessen competition or tend to create a monopoly in any line of commerce in any section of the country. Certain exceptions are provided, including cases in which the stock is purchased solely for investment and not used for voting or otherwise to bring about or attempt to bring about the substantial lessening of competition. The Commission is designated as having enforcement responsibility applicable to commercial enterprises generally but not including specific businesses which are under the regulatory authority of other agencies, such as banks and common carriers.

Interlocking of Corporate Directorates.—Section 8 of the Clayton Act prohibits a person from serving at the same time as a director of two or more corporations, any one of which has capital, surplus, or undivided profits aggregating more than \$1,000,000, when such corporations are or have been competitors under the conditions prescribed, so that the elimination of competition would constitute a violation of any provisions of the antitrust laws.

Specifically excluded from the jurisdiction of the Federal Trade Commission under this as well as other sections of the Clayton Act are certain types of commercial enterprises subject to other regulatory authority, such as common carriers, air carriers, banks, banking associations and trust companies.

#### The Webb-Pomerene Export Trade Act of 1918<sup>7</sup>

This law authorizes limited cooperative activity among American exporters for the purpose of promoting export trade. Associations engaged solely in export trade are afforded exemption from the Sherman Act within certain strict boundaries set out in the act. To qualify

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<sup>6</sup> 64 Stat. 1125.

<sup>7</sup> 40 Stat. 516.



for such exemption, an association must file with the Commission copies of its association papers or articles of incorporation and a complete description of its organizational structure, and bring this information up to date yearly. The Commission may require submission of additional information relating to the association's business activities at any time. A continuing surveillance of association activities is maintained by the Commission's Division of Export Trade.

Whenever the Commission concludes that an association is not operating within the limits of the antitrust exemption provided by the act, it may make recommendations to the association for readjustment of its practices. Upon failure of an association to comply with such recommendations, the Commission will refer the matter to the Attorney General for appropriate action.

The act also extends the prohibitions of the Federal Trade Commission Act to unfair methods of competition used in export trade against export competitors even though the acts are done outside the territorial jurisdiction of the United States.

#### Wool Products Labeling Act and Fur Products Labeling Act<sup>8</sup>

These laws constitute specific labeling legislation for maintaining the integrity of competition and protection of the buying public against confusion and deception.

Violations are classed as unfair methods of competition and unfair or deceptive acts or practices, within the Federal Trade Commission Act. Informative labeling of wool products and fur products is required. Labels on wool products are required to reveal the respective percentages of "wool," "reprocessed wool," "reused wool" and other constituents of wearing apparel and other articles containing or purporting to contain woolen fiber in whole or in part. Labels on fur products, as well as the advertising and invoicing, are required to disclose to purchasers the true name of the animal from which the fur came. For this purpose, an official Fur Products Name Guide has been prepared by the Commission. Other significant information also is required to be disclosed in the label informing the purchaser whether the fur article is dyed, bleached, damaged, secondhand, or pieced. The country of origin of foreign furs must likewise be disclosed.

The Commission is specifically authorized to inspect and make tests of the merchandise covered, and to issue rules and regulations which have the force and effect of law. Then necessary in the public interest, the Commission may resort to court proceedings for con-

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<sup>8</sup> Approved, respectively, October 14, 1940, 54 Stat. 1128, and August 8, 1951, 65 Stat. 175.

demnation of goods seized as violative, and may apply for temporary injunctions pending completion of cease-and-desist order proceedings against alleged offenders. Suits to collect civil penalties for violation of the Commission's final orders are also available in cases under these acts. For willful violations, misdemeanor prosecutions may be brought by the United States, and fines of up to \$5,000 or 1 year's imprisonment, or both, imposed by the court. Manufacturers and distributors may issue guaranties of having properly labeled their merchandise. Members of the trade may use such guaranties as a defense to charges of misbranding where the particular guaranty in question was relied upon in good faith. Forms of guaranties are prescribed by the Commission.

Flammable Fabrics Act, approved June 30, 1953, effective July 1, 1954<sup>9</sup>

The purpose of this statute is to afford the public protection from wearing apparel made of fabrics which are so highly flammable as to be dangerous. In the past, such fabrics have brought death or severe injury to many people.

A flammability test method is prescribed and apparel or fabrics which fail the tests are considered dangerously inflammable. It is forbidden by statute to introduce or place such merchandise on the market. In its administration of this act, the Federal Trade Commission is authorized to issue rules and regulations, to conduct tests, and to make investigations and inspections. The Commission is authorized to use its power under the Federal Trade Commission Act, including the cease-and-desist order process, in carrying out its responsibilities for enforcing the act. Offending goods found in the market may be seized and condemned through district court action brought by the Commission. Pending completion of proceedings for issuance of a cease-and-desist order against an alleged violator, the Commission may apply to the court for temporary injunction. Suits for violation of a final cease-and-desist order may be brought to recover civil penalties up to \$5,000 for each offense.

Manufacturers and distributors may guarantee their merchandise as having passed reasonable and representative tests for flammability. Members of the trade who rely in good faith upon these guaranties are afforded certain protection against prosecution. Willful violations of the act, whether in placing prohibited products on the market or in issuing a false guaranty, may be prosecuted by the Government as misdemeanors. Upon conviction, fines up to \$5,000 or 1 year's imprisonment, or both, may be imposed by the court.

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<sup>9</sup> 67 Stat 111.

## Regulation of Insurance Public Law 15, 79th Congress

This act was passed by Congress after the Supreme Court had ruled that the insurance business is subject to Federal jurisdiction under the commerce cause of the Constitution.

Under this statute, the Federal Trade Commission and the Clayton acts apply to the business of insurance to the extent that it is not regulated by State law.

## Lanham Trade Mark Act, approved July 5, 1946<sup>12</sup>

This authorizes the Commission to proceed before the Patent Office for cancellation of certain trade-marks improperly registered or improperly used in competition, as provided in section 14 of this act.

## Defense Production Act of 1950<sup>13</sup> and Small Business Act of 1953<sup>14</sup>

The former statute authorizes the Commission to make surveys at the request of the Attorney General to determine any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of administration of the Defense Production Act of 1950. The Chairman of the Commission, as provided in section 708, also is consulted regarding voluntary industry agreements and programs which the President is authorized to utilize to further the objectives of the act. Similar consultative responsibilities rest upon the Chairman of the Commission under section 217 of the Small Business Act. After agreements and programs have been subjected to this consultative review and have received official sanction, those participating are afforded immunity from the antitrust laws and the Federal Trade Commission Act.

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<sup>10</sup> Approved March 9, 1945, 59 Stat. 33. Effective June 30, 1948, see amendment approved July 25, 1947, 61 Stat. 448.

<sup>11</sup> *United States v. Southeastern Underwriters Association*, 332 U. S. 533, June 5, 1944.

<sup>12</sup> 60 Stat. 427.

<sup>13</sup> 64 Stat. 798.

<sup>14</sup> 67 Stat. 232.

## ADMINISTRATION

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The effectiveness of the Commission during fiscal 1955 depended vitally on the organization and competence of its staff. The number and to great extent the scope of the Commission's actions were determined by the volume and quality of staff work on investigations, litigation, and economic analyses. Only from this material could the five Commissioners fashion the decisions that would stop improper business practices and erect guideposts to fair competition.

The year marked the first 12 months of operation of the staff reorganization put into effect by Commission Chairman Edward F. Howrey after approval by the Commission. This reorganization based on an independent management survey, set up functional lines of authority. It represented, Mr. Howrey said, "a major change in both concept and structure \* \* \* enabling the Commission to fulfill its responsibilities with greater dispatch and at less cost."

The reorganization had placed all investigative activities in a newly formed Bureau of Investigation, all trial work in a new Bureau of Litigation, and voluntary compliance procedures in a new Bureau of Consultation. These new bureaus, together with a modified Bureau of Economics, were placed under the operational supervision of Alex. Akerman, Jr., FTC's Executive Director.

Directors of the new bureaus were: Harry A. Babcock, Investigation; Joseph S. Sheehy, Litigation; and Charles E. Grandey, Consultation. Continuing previous positions under the new organization were: David C. Murchison, Legal Adviser and Special Assistant to the Chairman; Earl W. Kintner, General Counsel; Edward F. Haycraft, Director of Hearing Examiners; and Jesse W. Markham, Acting Director, Bureau of Economics. (See chart 1.)

Under the previous organization, investigation and trial work had been apportioned, according to the nature of the case, between the Bureau of Antimonopoly and the Bureau of Antideceptive Practices. In making the change, Chairman Howrey declared the Commission should no longer "enjoy the luxury" of two separate trial and investigative staffs. He also emphasized his belief that the new organization would achieve greater speed by the staff in its development of cases for Commission action.

The principal objectives sought in the new organization were: (1) simplification of the form of organization, (2) grouping of related functions for most effective administration, (3) provision for clear-cut centers of responsibility and control, (4) development of the best use of manpower, and (5) strengthening of various segments of the organization in accordance with present and probable future needs as dictated by the estimated workload.

The executive director not only served as general manager in coordinating the work of the star, but he also functioned for the chairman in administrative matters concerning the general counsel, Secretary, and the Commission's hearing examiners.

The reorganization set up control procedures and provided for close supervision of field office investigative work. At the same time, improved supervision of casework was assured by the appointment of project attorneys in the Bureau of Investigation to supervise cases throughout the Commission's consideration of them. Previously, responsibility for a case had been reassigned at various stages of its development, with no single attorney continuously accountable for its progress.

Supplementing this speedup device was a system of time reports for all professional employees. The system called for recording of the total hours devoted to each case and to each step in its development. This enabled the Commission and top officials to recognize quickly where delays were occurring so that corrective action could be taken. Further aid to the general speedup was the elimination of time-consuming and unnecessary reviews of casework; about half of the former procedural steps were eliminated as needless.

In the field, a new office was established at Cleveland, Ohio, to bring the total to seven. Others continued to operate at Washington, New York, Chicago, New Orleans, San Francisco, and Seattle.

As a result of this streamlining throughout the agency, improvements were noted both in volume and in speed. Investigations pending in branch offices per attorney-investigator rose to 8.28, nearly double the 4.42 recorded during fiscal 1954. Investigations completed during the year jumped from a 15.42 average per attorney-investigator in 1954 to 18.13 in 1955. (See chart 2.)

Antimonopoly investigations pending in branch offices also reflected the speedup. In fiscal 1954, a total of 16 percent of these investigations had been pending 18 months or more. In fiscal 1955, the backlog of these older cases had been reduced to just 3 percent of the total. (See chart 3.) Even more revealing was the age of antimonopoly cases pending in litigation. In 1954, 52 percent had been in litigation more than 2 years. In 1955, the proportion was cut to 38 percent. (See chart 4.) In the antideceptive field, the

percentage of cases over 2 years old dropped from 19 percent in 1954 to 8 percent in 1955. (See chart 5.)

The same streamlining produced the issuance of more antimonopoly complaints, 36 in 1955 contrasted to 30 in 1954 (chart 6), and more deceptive practice complaints, 125 in 1955 compared to 93 in 1954. (See chart 7.)

The 5-man Commission itself strove for speedier action with the result that at the year's end, Commission Secretary Robert M. Parrish reported that not a single formal briefed and argued case had been awaiting decision by the Commission for more than 30 days. As to informal matters in which complaints had been recommended, he reported an identical situation.

FEDERAL TRADE COMMISSION  
ORGANIZATION OF STAFF FUNCTIONS

ORGANIZATIONAL CHART - SEE IMAGE

INVESTIGATIONS PENDING IN  
BRANCH OFFICES  
PER ATTORNEY- INVESTIGATOR  
AT CLOSE OF FISCAL YEAR

GRAPH - SEE IMAGE

INVESTIGATIONS COMPLETED  
DURING FISCAL YEAR IN  
BRANCH OFFICES  
PER ATTORNEY- INVESTIGATOR

GRAPH - SEE IMAGE



ANTIMONOPOLY INVESTIGATIONS PENDING IN BRANCH OFFICES  
(AGE IS FROM DATE OF RECEIPT IN BRANCH OFFICE)

156 Investigations  
Pending June 30, 1953

GRAPH - SEE IMAGE

171 Investigations  
Pending May 31, 1954

GRAPH - SEE IMAGE

264 Investigations  
Pending June 30, 1955

GRAPH - SEE IMAGE

AGE OF ANTIMONOPOLY CASES PENDING IN LITIGATION AS OF JUNE 30  
FISCAL YEARS 1952, 1953, 1954, 1955

(AGE IS FROM DATE OF ISSUANCE OF COMPLAINT)

|           |           |           |           |
|-----------|-----------|-----------|-----------|
| 1952      | 1953      | 1954      | 1955      |
| 85 Cases  | 75 Cases  | 71 Cases  | 70 Cases  |
| GRAPH -   | GRAPH -   | GRAPH -   | GRAPH -   |
| SEE IMAGE | SEE IMAGE | SEE IMAGE | SEE IMAGE |

AGE OF ANTIDECEPTIVE CASES PENDING IN LITIGATION AS OF JUNE 30  
FISCAL YEARS 1952, 1953, 1954, 1955  
(AGE IS FROM DATE OF ISSUANCE OF COMPLAINT)

|           |             |             |             |
|-----------|-------------|-------------|-------------|
| 1952      | 1953        | 1954        | 1955        |
| 127 Cases | 89 Cases    | 89 Cases    | 127 Cases   |
| GRAPH -   | GRAPH - SEE | GRAPH - SEE | GRAPH - SEE |
| SEE IMAGE | IMAGE       | IMAGE       | IMAGE       |

ANTI MONOPOLY

COMPLAINTS ISSUED

CEASE AND DESIST  
ORDERS ISSUED

GRAPH - SEE IMAGE

GRAPH - SEE IMAGE

Percentage Increase  
Over 1944-53 Average

## DECEPTIVE PRACTICE

COMPLAINTS ISSUED

CEASE AND DESIST  
ORDERS ISSUED

GRAPH - SEE IMAGE

GRAPH - SEE IMAGE

## INVESTIGATION

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The casework production line—whose end product is public protection—begins with the Bureau of Investigation. Here facts are gathered and analyzed to determine whether they contain, in the staff's opinion, violations of the laws administered by the Commission.

The raw materials for this Bureau's work come principally in the form of letters from the public complaining of business skullduggery or from indignant competitors of business firms that have been cutting too sharply the corners of fair competition. Telephone calls and personal visits add to the grist. Indeed, the Congress and the Commission itself can and do call for investigation of dubious business practices.

Requests received from the public or from business for corrective action by the Commission are known as questions or applications for complaint to distinguish them from the formal complaints issued by the Commission against alleged offenders. It readily can be appreciated that more of these petitions for complaint are received than warrant Commission action, either formal or informal. Many, for example, lie outside the Commission's jurisdiction, and some are so trivial or so close to the borderline of legality that it would be poor utilization of the Commission's resources to pursue these instead of cases invested with more public concern. Therefore, the first step taken by the Bureau of investigation is to select from all petitions for complaint those impressed either with the greatest value as guideposts for all business or corrective of the worst dangers and injustices.

A petition for complaint is assigned to one of the bureau's project attorneys who makes preliminary report on it. In simple cases, the preliminary investigation can be handled by mail; the more complex are sent to field offices and assigned to attorney examiners. Reports by the latter are reviewed by branch managers who submit recommendations to the Bureau. At this point, the Bureau would reach a decision on whether the case should be closed or what type of corrective action would be appropriate. decision to close the case is reviewed first by the Commission's Secretary, and a report of its closing

is reviewed by the Commission itself. If the Bureau's decision is to recommend complaint, the case moves to the Bureau of Litigation.

Since July 1, 1954, the legal investigation work of the Commission has been under the general supervision of the Director, Bureau of Investigation, and the guidance of the chief project attorney and his staff of 22 project attorneys. Each of the latter has primary and continuing responsibility for the initiation and progress of a complaint from its inception to its final disposition.

During the investigations, economic, marketing, and accounting data from the Commission's records and technical and scientific advice from the staff and from other Government agencies are used. In addition, the party complained against may be interviewed and called upon to provide information. Frequently, it also is necessary to interview competitors and members of the general public to find out whether the charges are well founded and if public interest warrants pursuit of the case.

It is the Commission's policy to withhold the names of specific firms and specific products during their investigation. The obvious and valid purposes for this is to spare the firm and its product or service unfavorable publicity until the Commission decides whether the facts are sufficient to warrant the issuance of a formal complaint. (In the event a case is settled by informal stipulation, only the stipulation agreement is made a part of the public record.)

#### MAJOR INVESTIGATIONS

Most extensive investigations result in formal complaints, and in fiscal 1955, the following cases entailed considerable investigative time:

|   | Docket |
|---|--------|
| Anheuser-Busch, Inc -----                                       | 6331   |
| Cross Baking Co -----   | 6334   |
| Magnesium Co. Of America -----                                  | 6370   |
| Southern Oxygen Company -----                                   | 6372   |
| Knemark Mfg. Co -----   | 6364   |
| California Sportswear & Dress Association, Inc -----            | 6325   |
| Callaway Mills Company -----                                    | 6352   |
| National Food Brokers Assn., Inc -----                          | 6363   |
| Maryland Baking Company, et al -----                            | 6327   |
| Retail Paint and Wallpaper Distributors of America, et al ----- | 6367   |
| United Fishermen of Alaska, et al -----                         | 6378   |
| The Union Malleable Manufacturing Company -----                 | 6366   |
| Otis Elevator Company, et al -----                              | 6350   |
| Wilson Tobacco Board of Trade, et al -----                      | 6262   |
| Florida Citrus Exchange -----                                   | 6255   |

Other antimonopoly investigations during the year involved charges of price-fixing tie-in sales, price discrimination, payment of discriminatory promotional and advertising allowances, discrimination in service and facilities, exclusive dealing, boycott, agreements to elimi-

nate competition and preempt markets, agreements to restrict and limit trading on commodity markets, and other types of trade restraints,

In the deceptive practice field, the year's principal investigative work dealt with the following:

False advertising of a mineral and vitamin preparation for treatment of convulsions, rheumatism typhoid fever, and heart trouble.

False and misleading advertising of another preparation for treatment of gall bladder trouble, stomach ulcers, eczema, and hemorrhoids.

False and misleading advertising of mail order eyeglasses; representations concerning the calorie content of food.

False and misleading advertising of oleomargarine as a dairy product.

Disparagement of competing types of cookware.

False and misleading claims concerning usual price of wearing apparel.

False and misleading claims as to effectiveness of agricultural products, fertilizers, and soil conditioners.

Use of deceptive sales schemes in the distribution of sewing machines and other household appliances.

Misrepresentations of Government connection in the sale of correspondence courses.

Deceptive practice inquiries conducted during the year also included investigations among health, accident, and hospitalization insurers, as a continuation of the Commission's nationwide treatment of alleged false and misleading advertising in this industry.

Similar practices are covered by stipulations obtained as a result of deceptive practice investigations completed during fiscal 1955. In addition, correction of questioned practices permitting termination of investigation was effected in 231 cases through receipt of prompt and voluntary assurances that such practices had been discontinued without intent to resume, where it was found that this method of disposition would be in the public interest. Eighty-two investigations were closed for the reason that the practice had been abandoned.

In addition to the foregoing, 21,259 man-hours of attorney time were spent in the investigation of 196 matters to determine compliance with orders to cease and desist, including 11,047 hours on 42 antimonopoly matters and 10,212 hours on 154 deceptive practice matters. Also, 36,764 man-hours were spent conducting investigations in aid of litigating 153 cases where formal complaint had issued.

Incoming applications for complaint numbered 2,513 during fiscal 1955, including 537 antimonopoly and 1,976 deceptive practices. There is no decrease in the flow of these incoming matters, and prompt attention to them is required in discharging the Commission's responsibility to protect businessmen and the public from injurious effects



of unfair competitive practices. It is expected industry-wide treatment will continue to be necessary in many cases.

Issuance of an order prohibiting certain practices by one industry member quite often brings forth additional complaints from other members of the affected industry who had previously been indifferent to the existence of such practices or unaware of their illegality. Publicity given to Commission proceedings in the press and in trade journals has a tendency, therefore, to generate additional work and to increase the investigative caseload beyond normal expectations. This is particularly true of industries composed of numerous small independent business entities, such as ice cream manufacturers, food retailers, bakeries, dairies, and gasoline retailers, selling staple commodities in keenly competitive market.

### SCIENTIFIC OPINIONS

The function of the Division of Scientific Opinions is largely advisory. Its workload is dependent largely upon the number of requests for opinions, consultations, and assistance in connection with formal and informal cases made by other divisions and bureaus of the Commission.

The vast majority of today's advertised products contain ingredients which have some merit, but this limited merit is often exaggerated and misrepresented in the advertising. This makes it necessary to define and delimit the value of the preparations in order to protect the public from misrepresentation and at the same time avoid denying advertisers the right to make valid claims. In many instances the drugs or cosmetics contain one or more relatively new ingredients regarding whose virtues and limitations the published medical and scientific literature frequently provides only fragmentary and inconclusive reports. These situations make it essential that the Division confer with the medical specialists and other scientists who have first-hand knowledge based on use of the drugs or cosmetics under conditions which demonstrate their therapeutic or other properties.

It is not possible accurately to determine the truth or falsity of the claims made for the new ingredients without having them subjected to clinical and hospital tests. In some cases the advertisers have had clinical tests conducted using their products. Some of these clinical tests are genuine contributions to science and assist materially in delimiting the value of the products whereas others are designed merely to provide a specious or spurious defense in the event of challenge. Distinguishing the one type of test from the other requires a painstaking study of the reports of tests submitted in connection with the investigation or litigation of many of the current false advertising cases. In some instances this study points to the necessity of having further clinical tests conducted for the Commission by competent

experts in order to demonstrate the fallacy of the tests sponsored by the advertisers and to establish definitely the virtues and limitations of the products advertised.

A total of 319 written and 622 oral medical and scientific opinions were prepared in this Division during the fiscal year.

## WOOL, FUR, AND FLAMMABLE FABRICS

This Division is charged with administering the Wool Products Labeling Act of 1939, and the Fur Products Labeling Act, and the Flammable Fabrics Act. The purpose of the acts are to protect consumers, manufacturers, and distributors from misbranded wool and fur products and from false invoicing and advertising of fur products and furs, as well as from dangers attending the use and marketing of highly flammable wearing apparel.

The Wool Products Labeling Act in general provides for mandatory disclosure of the fiber content of products containing or purporting to contain woolen fibers which are subject to its provisions. The name or identification of the manufacturer or concern responsible for this content disclosure also must appear on the required label.

The Fur Products Labeling Act provides in substance that purchasers of furs and fur products shall be informed of the true name of the animal that produced the fur as set forth in the Fur Products Name Guide. It also requires disclosure whenever the fur or fur products is composed of used fur, is bleached or dyed, or is composed in whole or in substantial part of paws, tails, bellies, or waste fur. It further requires the name or registered identification number of the manufacturer or distributor of the fur product, and the name of the country of origin of any imported fur used in a fur product. This act covers the labeling of fur products and the advertising and invoicing of furs and fur products.

The Flammable Fabrics Act, which became effective July 1, 1954, seeks to protect the public against hazards incurred in the use of highly flammable fabrics as wearing apparel.

Each of the three acts provides for the filing of continued guaranties with the Federal Trade Commission. public register for such documents is maintained by the Division. Registered identification numbers force on required labels also are issued by the Division upon proper application. Substantive rules and regulations which amplify and explain the basic statutes have been promulgated under each of the three acts. These rules and regulations which have the force and effect of law are necessarily complex and technical. Continuing economic and technological advances require amendments and new rules whenever necessary in the public interest.

Approximately 70 industries manufacture products subject to the Wool Act, involving some 25,000 manufacturers and 260,000 distribu-

tors Subject to the Fur Act are approximately 7,500 manufacturers of fur products which are distributed through some 175,000 distributors.

The Flammable Fabrics Act applies to virtually the entire textile and garment manufacturing industry and to the corresponding distributing trades including converters, wholesalers, and retailers. Fabric and wearing apparel manufacturers in the United States number almost 40,000. Distributors and dealers of wearing apparel number over 300,000. The fact that Congress has placed the Flammable Fabrics Act in the hands of an administrative agency such as the Commission for enforcement clearly shows that the Act is intended to be prophylactic, with emphasis on industry counseling and early detection of incipient violations. The law would be of little value if it were to be administered simply from a punitive standpoint and with corrective measures taken against violators only after someone is burned.

There has been a heavy consumer demand for fabrics made from specialty fibers such as cashmere, vicuna, camel hair, alpaca, and llama. In addition, fur fibers such as mink, leaver, and guanaco, are now being blended with wool in the manufacture of fabrics. These specialty fur fabrics are in short supply and consequently command a premium price, resulting in increasing instances where manufacturers have tried to pass off inferior substitute fibers.

#### Workload Statistics for Fiscal 1955

|   | Flammable<br>Fabrics<br>Act | Wool Act  | Fur Act |
|---|-----------------------------|-----------|---------|
| Commercial establishments covered in industry compliance investigations -----   | 2,598                       | 4,315     | 1,326   |
| Products examined for compliance (sampling methods used in wool products) -----   | 7,511,468                   | 7,260,868 | 154,513 |
| Fur advertisements examined for deficiencies -----  | -----                       | -----     | 17,974  |
| Matters involving questionable practices which were disposed of by the acceptance of assurances of discontinuance ----- | -----                       | 6,192     | 1,955   |
| Opinions and interpretations rendered under the respective acts and regulations -----                                   | 4,530                       | 2,822     | 1,994   |
| Registered identification numbers issued -----  | -----                       | 512       | 328     |
| Continuing guaranties accepted for public register -----  | 3,954                       | 1,297     | 777     |
| Number of matters investigated and referred for complaint or stipulation -----  | 7                           | 26        | 21      |
| Compliance investigations of concerns under cease and desist orders or stipulations -----                               | -----                       | 15        | -----   |

#### ACCOUNTING

This Division furnishes accounting services in connection with the investigation and trial of legal cases and in general economic investigations.

The Division's work consists of accounting analyses and studies of the pricing policies of respondents or proposed respondents to: (1) establish evidence of alleged price discrimination under section 2 of

the Clayton Act as amended by the Robinson-Patman Act; (2) evaluate cost data submitted by respondents in justification of alleged price discrimination, under the Robinson-Patman Act; (3) establish evidence of alleged price-fixing in cases arising under section of the Federal Trade Commission Act; (4) establish evidence of sales below cost in violation of section of the Federal Trade Commission Act; (5) compile production and sales statistics and analyzing financial data of companies and their competitors involved in mergers, in cases arising under section of the Clayton Act; and (6) compile statistics concerning costs, prices, and profits, and the financial position of companies under section 6 of the Federal Trade Commission Act.

During the year accounting services were furnished in connection with 55 legal cases and investigations. These included 33 Robinson-Patman cases, 4 other Clayton Act cases, and 18 section Federal Trade Commission Act cases.

## LITIGATION

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The Bureau of Litigation prepares and tries all types of cases brought under the trade regulation statutes administered by the Commission. These cases are concerned with practices ranging from false advertising by a single firm to price fixing conspiracies involving entire industries.

The cases fall into three major categories:

1. Monopolistic practices alleged to violate section of the Federal Trade Commission Act or sections 2, 3, 7, or 8 of the Clayton Antitrust Act, as amended by the Robinson-Patman Act.

2. False and misleading advertising and other unfair and deceptive acts and practices alleged to violate sections 5, 12, or 15 of the Federal Trade Commission Act.

3. Violations of special acts, namely, the Wool Products Labeling, Fur Products Labeling, and Flammable Fabrics Acts. In addition, the Bureau may be called on to participate in proceedings under the Export Trade Act, as well as under certain provisions of the Lanham Trademark Act.

In connection with casework, Litigation Bureau attorneys:

1. Study investigational files and engage in legal research as the basis for a report summarizing and analyzing the evidence, applying the applicable law and recommending disposition of the case.

2. Draft complaints and comprehensive trial briefs.

3. Handle the trial of cases in which complaints are issued. This function includes the usual duties of any trial lawyer, such as legal research, preparation of the necessary legal documents; participation in conferences with parties, witnesses and attorneys; participation in settlement negotiations and other pretrial procedures; the conduct of hearings; preparation of briefs; and presentation of oral argument. The conduct of hearings involves, of course, the examination of witnesses for the purpose of presenting oral testimony and the introduction of documentary evidence, the cross-examination of defense witnesses and the presentation of rebuttal evidence. Other duties are the preparation of applications for subpoenas duces tecum and other compulsory process, as well as the necessary steps to enforce them;

preparation and filing of answers to defense motions, petitions, and appeals.

In many cases, this work requires time-consuming studies and conferences. It requires intimate and detailed knowledge of the voluminous material in investigational files and reports. It frequently calls for consideration of complex legal, medical, business, and economic factors.

The Bureau is headed by a director who exercises general supervision over its work. He is assisted by an assistant director who directly supervises the work of the trial attorneys. In addition, there are 5 legal advisers—who are specialists in the field of antimonopoly law and 2 who are specialists in the field of law dealing with misrepresentation and other deceptive practices. They provide advice and assistance to the director and assistant director, as well as the trial staff, at all stages of the litigatory process. They also serve as trial attorneys in cases of major importance involving a high degree of complexity and difficulty.

Statistical comparison of fiscal 1954 with fiscal 1955 shows an increasing caseload and increasing output by the Bureau staff. Note, for example, the increase in the number of hearings held in :1955, as well as in the number of complaints issued.

|                                  | Antimonopoly |      | Antideceptive practices |      | Totals |      |
|----------------------------------|--------------|------|-------------------------|------|--------|------|
|                                  | 1954         | 1955 | 1954                    | 1955 | 1954   | 1955 |
| Complaints issued -----          | 30           | 36   | 92                      | 125  | 122    | 161  |
| Findings and orders -----        | 25           | 30   | 80                      | 82   | 105    | 112  |
| Cases dismissed -----            | 10           | 8    | 13                      | 5    | 23     | 13   |
| Other dispositions -----         | 4            | 7    | 1                       | 20   | 5      | 27   |
| Hearings held -----              | 121          | 261  | 213                     | 323  | 334    | 584  |
| Arguments -----                  | 15           | 9    | 4                       | 17   | 19     | 26   |
| Briefs or exceptions filed ----- | 26           | 21   | 17                      | 40   | 43     | 61   |

But statistics can't tell the whole story. The cases cited below illustrate the great variety of practices which the Commission is undertaking to halt as prejudicial to the public interest, either because they restrain competition or tend to mislead or deceive the consuming public.

### MERGER CASEWORK

The merger cases, brought under section 7 of the Clayton Act, are among the most complicated cases handled by the Commission. They invariably require extensive hearings.

The test of legality in merger cases is the competitive effect reasonably to be expected.

The Commission has pending 5 complaints charging corporations with violating section 7 through their acquisition, in whole or in part,

of the stock or other share capital or the assets of one or more corporations engaged in commerce where, in any line of commerce, in any section of the country, the effect may be substantially to lessen competition or to tend to create a monopoly.

Through such litigation, the Commission is seeking to halt a growing trend in American industry toward mergers of formerly competing corporations.

In every case where a complaint of this type has been issued, it has resulted in hard-fought litigation.

The respondents in these merger cases are large corporations which generally are well prepared for any legal attack upon them. Thus, in litigating merger cases, counsel supporting the complaints are required to offer extensive proof, generally of an economic character, to establish their burden under the statute.

Under the law, the Commission institutes its proceeding against a merger or acquisition after its consummation. In view of the complications inherent in undertaking to restore, as near as practicable, the status quo ante, the order of divestiture must be issued as soon after the unlawful act as due process permits.

Pending cases in this field are described below:

1. Pillsbury Mills, Inc., Docket No. 6000

One of the principal pending merger cases involves Pillsbury Mills, Inc., the second largest flour milling company in the United States. Pillsbury operates flour mills throughout the United States and is also engaged in the manufacture of packaged food products having a grain base.

During the 10-year period ending May 31, 1950, Pillsbury acquired some or all of the assets of 6 companies, including flour and feed mills, soybean processing plants and grain elevators. Its net sales grew from approximately \$47 million to about \$201 million, its local assets from \$30 million to approximately \$59 million and its net worth from approximately \$23 million to \$41 million.

The complaint alleges that in 1951 and 1952 Pillsbury acquired all or substantially all of the assets of two competitors, Ballard & Ballard Flour Milling Co., and the Duff Baking Mix Division of American Home Foods, Inc., and that the effect may be substantially to lessen competition or to create a monopoly.

Counsel supporting the complaint have rested their case, and the presentation of defense evidence is now in progress.

2. Crown Zellerbach Corp., Docket No. 6180

Another pending complaint charging violation of section 7 is directed against Crown Zellerbach Corp., one of the largest manufacturers of pulp and paper in the world. The complaint charges that

Crown acquired the assets, valued at over \$15 million, of St. Helen's Pulp & Paper Co., 1 of its 2 principal competitors in the sale of kraft paper and paper products in the Western States. One of the results of the acquisition, the complaint charges, is that paper jobbers and paper converters in the Pacific Coast States have had their already limited sources of supply further diminished.

The presentation of the case in support of the complaint was nearing completion as the year ended.

### 3. Luria Brothers & Co., Inc., et al., Docket No. 6156

A series of allegedly unlawful mergers is among the practices in the iron and steel scrap industry challenged by this complaint. Besides attacking the mergers, the complaint charges that the dominant scrap brokers and nearly 20 steel manufacturers, including the major producers, have engaged in various unfair methods of competition. It also alleges that the dominant scrap broker and an export firm are engaged in a conspiracy in restraint of export trade.

Hearings are under way in this case.

### 4. Union Bag & Paper Corp., et al., Docket No. 6391

Monopolistic control of a competitor is charged in a complaint against Union Bag & Paper Corp., one of the Nation's oldest and largest manufacturers of container board, which also manufactures corrugated boxes made from such board.

The complaint alleges that Union has illegally acquired a substantial part of the shares of the stock in the Hankins Container Co., with which it competes in the eastern area of the United States in selling corrugated boxes and that the challenged stock agreement is but 1 of several which were entered into between these 2 companies whereby, for all practical effects, Union Bag dominates and controls Hankins. The complaint points out that this control has been acquired by several means, in addition to the purchase of the stock, including the placing in the board of Hankins 2 officials of Union, 1 of whom is a member of Union's board of directors.

The complaint alleges that the effect of these agreements is to monopolize or to tend to monopolize in Union the production, sale and distribution in interstate commerce of container board and corrugated boxes and sheets. The complaint charges violation of section 5 of the Federal Trade Commission Act and sections 7 and 8 of the Clayton Act.

### 5. Farm Journal, Inc., Docket No. 6388

This complaint charges that Farm Journal, Inc., which publishes and distributes the publication "Farm Journal," violated section 7 of the Clayton Act by acquiring the publication "Better farming,"



along with certain tangible and intangible property, from Curtis Publishing Company.

The complaint alleges that there are only six farm magazines with circulation of 1,000,000 or more and that only the Farm Journal and Better Farming provide any substantial type of national coverage for the farm reader or advertiser. The complaint states that for the year 1953 advertising revenues for farm magazines were approximately \$41,000,000 of which Farm Journal and Better Farming received approximately 38 percent.

The complaint charges that through the acquisition, actual and potential competition between Farm Journal and Curtis Publishing Co., the first and second publishers in the agricultural field, has been eliminated. Elimination of the magazine Better Farming, it says, is prejudicial to both advertisers and subscribers.

### ROBINSON-PATMAN ACT CASES

Section 2 of the Clayton Act, as amended by the Robinson-Patman Act' accounts for many of the Commission's cases.

This section of the Clayton Act is designed to safeguard the competitive order against the effects of a seller's unjustified discriminatory pricing. It also prohibits a buyer from knowingly inducing and receiving discriminatory prices; a seller from discriminating in the payment for, or furnishing of services or facilities as between competing buyers; and the payment or receipt of brokerage fees, commissions, or other compensation under certain conditions.

Illustrative of current enforcement is the corrective action taken in the import ant multimillion-dollar automotive replacement parts field. The Commission issued during fiscal 1955 orders prohibiting four manufacturers of automotive replacement parts, selling on a nationwide scale, from charging substantially higher prices to some jobbers or wholesaler customers than to other customers competing in the resale of these parts to garages, filling stations, and repair shops dealing with the consuming public.

There are pending before hearing examiners several cases relating to food, beverage, and industrial activities in which charges are made that major manufacturers have engaged in discriminatory pricing to the injury of disfavored customers or to the injury of competitors. The litigation of these various matters will, in all probability, extend through 1956 into 1957.

### PENDING ANTIMONOPOLY CASES

In addition to the cases listed under sections 2 and 7 of the Clayton Act, there are pending numerous cases involving other types of monop-

olistic and trade-restraining practices, violating other sections of the Clayton Act and violating section of the Federal Trade Commission Act. Following are examples of some of the significant restraint of trade cases currently in litigation.

1. Cordage Importers Association, Inc., Docket No. 6389

After a thorough investigation of the importation into the United States from Mexico of various forms of twine and rope which are manufactured from henequin fiber or sisal grown in Mexico, the Commission issued this complaint against the Cordage Importers Association, Inc., its officers and members, and one importer who is not a member of the association. The complaint charged that these respondents conspired with the Mexican manufacturers of such twine for the purpose of regulating its importation and fixing the prices paid by importers, as well as resale prices. The complaint alleges that to carry out such an agreement, the respondents set up a system for enforcing the resale prices of this Mexican twine after it is imported. Among other things, it says, they reported to the Mexican twine manufacturers' association any sales by importers, wholesalers, and retailers high are not in accordance with the fixed prices, and the sources of supply of the offending importers were cut off for certain periods.

2. Retail Paint and Wallpaper Distributors of America, Inc., et al., Docket No. 6367

The Commission has instituted this proceeding against two trade associations of paint and wallpaper dealers. The complaint alleges a conspiracy to force paint manufacturers to confide their sale to "recognized" dealers of paint, wallpaper, and allied products. It charges that the respondents have acted collectively to induce manufacturers and other suppliers to discontinue selling to certain retailers, including the use of boycott.

3. Paget Sound Salmon Cannery, Inc., et al., Docket No. 6376

This complaint names an association of salmon packers, engaged in the business of canning and packing salmon caught in the Paget Sound area of the United States, the union to which the fishermen who catch the salmon belong and the association of boatowners who own or control the boats from which the salmon fishing is conducted. Charging that all these respondents have combined to fix the prices at which the fish caught in this area is bought and sold, the complaint says this is accomplished by a series of contracts or agreements between the union and the boatowners and the union and the cannery. The complaint alleges that this conspiracy has the capacity and tendency to substantially increase the cost of food.

#### 4. California Sportswear and Dress Association, Inc., et al., Docket No. 6325

This complaint is directed against the concerted activities of three associations, the California Sportswear and Dress Association, Inc., Associated Sportswear Manufacturers of Los Angeles, and the California Apparel Contractors Association, as well as the International Ladies' Garment Workers' Union and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, together with the members of these associations and unions. The complaint charges an unlawful combination in restraint of trade in sportswear and dresses.

The Los Angeles area, here the combination is allegedly centered, accounts for \$40 million of the \$200 million in total annual sales by sportswear manufacturers.

The complaint alleges that competition between ladies' sportswear manufacturers in the area has been adversely affected by the conspiracy. It says the effect has been to create a rigidity in the price structure which is reflected in enhanced prices to consumers.

#### 5. Wilson Tobacco Board of Trade, Inc., et al., Docket No. 6262

This case involves one of the world's largest flue-cured tobacco markets which supplies the tobacco used chiefly in the manufacture of cigarettes. The respondents, Wilson Tobacco Board of Trade, Inc., and the Wilson Warehouse Association, together with approximately 78 individual respondents, are charged with unlawful conspiracy to exclude new warehouses from the tobacco auction warehouse business in the Wilson market and to preclude expansion of existing facilities.

The complaint charges that the effect has been the creation of a virtual monopoly in the tobacco auction warehouse business in the Wilson market, thus clogging the channel through which some 97 million pounds of tobacco annually flow in interstate and foreign commerce.

### ANTIMONOPOLY ORDERS

To illustrate further the scope and significance of the Commission's case work, a sampling of antimonopoly proceedings in which orders were issued in fiscal 1955 is revealing:

#### 1. Barnes Metal Products Co., et al., Docket No. 6225

In this case, Barnes Metal Products; Co., and 19 other manufacturers of "rain goods" (conductor pipe, gutter, eaves trough, elbows, etc.) were required to abstain from a planned common course of action to restrict, restrain, and eliminate price competition in the industry. The respondents cited in the order sell more than 50 percent of the dollar volume of the entire industry.

2. Stenographic Machines, Inc., et al., Docket No. 6076

The only two distributors of shorthand machines in the United States were ordered to refrain from carrying out any agreement to divide the market, between them. They were forbidden to allocate customers for shorthand machines or to restrict any manner the sale and distribution of the machines.

3. New York Coffee and Sugar Exchange, Inc., Docket No. 6235

Pursuant to a consent order, the respondents in this case were required to permit futures trading in all types of coffee which are in general use in the United States. The order outlaws a restrictive contract which specified only coffee from certain Brazilian port for futures trading in the United States. This restrictive arrangement was pointed out by the Commission in its economic report on coffee as one of the causes for the high coffee prices of 1953-54.

4. United States Steel Corp., et al., Docket No. 6078

This corporation, together with Jones & Laughlin, Inland steel Co., Rheems Manufacturing Co., and Republic Steel Corp., consented to the entry of an order requiring the discontinuance of any planned common course of action among themselves or with others to fix the prices of steel drums. These 5 major manufacturers control about 75 percent of the domestic steel drum business.

5. Whitaker Cable Corp., Docket No. 5722; C. E. Niehoff & Co., docket No. 5768; Moog Industries, docket No. 5723; and E. Edelman & Co., Docket No. 5770

These respondents were found to have violated section 2 (a) of the Clayton Act, as amended by the Robinson-Patman Act, and ordered to cease price discrimination in the sale of automotive replacement parts to buyers who compete in their resale.

6. Topco Associates, Inc., Docket No. 6160

This respondent, one of the largest distributors of food products in the Middle West, whose purchases for the year 1951 are estimated at \$22 million, consented to the entry of an order prohibiting the receipt of brokerage fees in violation of section 2 (c ) of the Robinson-Patman amendment to the Clayton Act. Two other brokerage cases involved K. C. Snow Crop Distributors, Inc., Docket No. 6210, and Lafayette Foods, Inc., Docket No. 6223.

7. Kay Windsor Frocks, Docket No. 5735

This respondent, a large manufacturer of women's cotton dresses, which granted advertising allowances to some of its customers, was required, under section 2 (d) of the Clayton Act, to inform competing

customers of the terms upon which they too might receive such compensation.

#### 8. Revlon Products Corp., Docket No, 5685

This corporation, a dominant manufacturer of lipsticks, nail products, and other cosmetic products, was required to terminate its exclusive-dealing contracts with beauty supply jobbers since the arrangements were found to violate section 3 of the Clayton Act.

### DECEPTIVE PRACTICE CASES

That part of the Commission's work most readily understood and appreciated by the ordinary citizen concerns its fight against false advertising and deception. The health and accident insurance cases provided fiscal 1905's most conspicuous activity in this field, but they by no means represented all of it. Some 100 complaints were issued against other firms for unfair and deceptive practices, and 82 orders to cease and desist were meted out to offenders.

There follows a synopsis of some of the fiscal year's significant cases designed to stop misrepresentation injurious to consumers' health or pocketbooks

### INSURANCE CASES

As a result of the Commission's investigation of the advertising practices of the approximately 1,400 insurance companies issuing accident and health policies, and hundreds of letters of complaints received from policyholders, formal complaints were issued against 28 insurance companies. The complaints allege these companies have disseminated false and misleading advertising.

It is the custom to write the majority of this type of insurance coverage on a 1 year term basis, renewable at the option of the company, and to issue it without requiring medical examinations but with liability limited to exclude losses whose cause can be traced to any condition existing prior to the issuance of the policy. The purchasing public, in the absence of a disclosure of these facts, expects to be able to renew their accident and health policies, as long as they pay their premiums, in the same manner as standard life insurance. They also expect to be paid in cases where the loss due to sickness occurs after the policy is in effect, regardless of whether the loss is due to an unknown preexisting condition. If prospective insureds are clearly informed that the policies can be canceled at will by the company or that they do not cover losses due to all sickness, many will not purchase. Policies containing noncancellable, guaranteed renewable, provisions and incontestable clauses relating to preexisting conditions of health, are necessarily more costly.

These circumstances created a strong temptation to advertise the advantages of the insurance in large type and list the qualifying provisions in the legalistic fine print of the policies.

In addition, there has been an extremely rapid growth in this field. Many companies have doubled and tripled their premium income in recent years. Under these conditions of rapid change and fierce competition, a situation developed which, due to loose language in some cases and clear misrepresentation in others, resulted in an unusual amount of false and misleading advertising.

The companies against whom complaints were issued included the largest in this field. Collectively they received a substantial part of the estimated \$1 billion premium payments for all individual accident and health policies in effect in the United States. Their combined premium income from accident and health insurance in 1953 totaled over \$400 million.

Partly because these companies believe that the States and not the Federal Government have jurisdiction to regulate insurance advertising, the great majority are fully contesting these proceedings. They also contended that the complained of advertising was not misleading when considered in context with the rest of their advertising.

Examples of the companies fully contesting these proceedings are:

Mutual Benefit Health & Accident Association (Mutual of Omaha), Docket No. 6248

This company is the largest in the accident and health insurance field. It issues 11 percent of the total insurance carried on an individual basis in this field. Its premium receipts for 1953 totaled \$117,981,038.66. It is licensed to do business in all of the United States.

Bankers Life and Casualty Co., Docket No. 6240

This is the second largest of the accident and health insurance companies. It advertises its policies under the name "The White Cross Plan." Its premium income in this field in 1953 totaled \$90,850,469.02.

Reserve Life Insurance Co., Docket No. 6250

This is the third largest. Its premium income from this type of insurance totaled \$37,707,192.96 in 1953. It is licensed to do business in most of the States of the United States.

Two of the 28 insurance cases have resulted in the issuance of cease and desist orders on the basis of consent settlements.

## FOOD, DRUGS AND DEVICES

1. LeBlanc Medicine Co., Docket No. 6390

This complaint challenged the advertising claims of a mineral and vitamin preparation known as "Kary-On." Contrary to published

and broadcast advertisements, the complaint charged that Kary-On is of no value in the treatment of a long list of ailments including convulsions, rheumatism, erysipelas, cellulitis, typhoid fever, heart trouble, diabetes, ulcers, epilepsy, and asthma.

The complaint also attacked as deceptive unqualified claims that Kary-On is of value in the treatment of indigestion, stomach trouble, digestive disturbances, constipation, loss of appetite, insomnia, aches and pains in various parts of the body, neuritis, nervousness, headache, dizziness, swollen knees, breathing difficulties, and accelerated aging process. It said the product is of no value except where such symptoms or conditions are caused by vitamin B<sub>1</sub>, B<sub>2</sub>, niacin, or iron. deficiencies. It added that each of these conditions and symptoms may result from any one of a number of causes that have no connection with deficiencies of vitamin B<sub>1</sub>, B<sub>2</sub>, niacin, or iron.

Other cases involving misrepresentation of vitamin and mineral preparations include: General Products Corp., Docket No. 6303; Nutrition Enterprises, Docket No. 6359; Chester-Kent, Inc., Docket No. 6374.

## 2. Foster-Milburn Co. et al., Docket No.5937

In this case, the Commission issued a cease and desist order prohibiting nationally advertised claims for Doan's Pills. The order forbids representations that Doan's Pills have any therapeutic value in the treatment of any disease, disorder, or dysfunction of the kidneys, or any beneficial effect upon any symptom or condition which may arise by reason of any disease, disorder, or dysfunction of the kidneys.

## 3. Loesch Hair Experts, et al., Docket No. 6305; Merit Pharmacal Co., Inc., Docket No. 6314; Ward Laboratories, Docket No. 6346

These cases illustrate a project designed to protect the public from false claims of remedies for and prevention of baldness and for treatment of the hair and scalp.

## 4. C. G. Optical Co. Docket No.6260; Advance Spectacle Co., Docket No.6285

These complaints, which grew out of another project investigation, charged false advertising in the mail-order sale of eyeglasses. Cease and desist orders were issued in both cases.

## 5. Oleomargarine Cases

One complaint and two orders to cease and desist were issued against the advertising of oleomargarine as a dairy product in violation of section 15 (a) (2) of the Federal Trade Commission Act.

## WEARING APPAREL AND FABRICS

Twenty complaints and 18 orders to cease and desist were issued in the enforcement of the Wool Products Labeling Act during the fiscal year 1955. The vigorous enforcement of this statute provides protection to the public against false labeling of wool products as to fiber content.

The respondents in case (Broadmore Fashions, Inc., et al., Docket No. 6231) were prosecuted criminally under section 10 of the Wool Act; the respondents were jointly fined \$5,000, and 1 was placed on probation for a year.

Also, during the year 14 complaints and 8 orders to cease and desist were issued under the Fur Products Labeling Act in safeguarding the public against misbranding and false advertising and invoicing of furs and fur products.

Six complaints were issued under the new Flammable Fabrics Act. These involved silk scarves manufactured in Japan.

The first seizure-condemnation case under the act was successfully prosecuted. Under a libel of information filed by the Commission, a decree was entered in the United States District Court for the Southern District of New York condemning as dangerously flammable nearly 90,000 scarves imported from Japan valued at more than \$20,000.

## HOUSEHOLD APPLIANCES

1. Permanent Stainless Steel, Inc., et al., Docket No. 6010; American Stainless Kitchen Co., Docket No. 6294, Flavor-Seal Corp., Docket No. 6348

False advertising of stainless steel cookingware, including disparagement of aluminumware, was the subject matter of these cases. An order was issued in the Permanent case; the other two were pending at the close of the fiscal year.

2. Better Living, Inc., Docket No. 6290, Masterline Corp., Docket No. 6291

False and deceptive claims for price and installation of aluminum storm doors and windows were challenged by these complaints. An order was issued in a similar case.

3. Sewing Machine Cases

Misrepresentation in the sale of sewing machines demands continuing attention. Six orders were issued requiring clear disclosure of the country of origin of imported sewing machine heads. These sewing machine heads, when imported, disclose the country of origin in compliance with Customs requirements but such markings are frequently obliterated or covered in the process of assembling.



## MISCELLANEOUS

### 1. Trade Union Courier Publishing Co., Docket No. 5966

In this case, the Commission ordered a halt to false claims that a newspaper is sponsored by or affiliated with the American Federation of Labor. The order also forbids the company to publish or collect for advertisements not authorized.

### 2. Fashion Academy, Docket No. 6194

The order in this case prohibits false or deceptive representations that a product has been presented with an award or other distinction as the result of a competitive contest.

### 3. Fabricon Company, Docket No. 6282; National Training Service, Inc., Docket No. 6283, Wm. H. Wise Co., Inc., et al., Docket No. 6288; Universal Training Service Docket No. 6345

Four complaints were issued in a continuing project to prevent false advertising by correspondence schools, including representations of being connected with the United States Civil Service Commission. Cease and desist orders were issued in three of these cases. Three additional orders were issued in similar cases.

### 4. Orchids, et al., Docket No. 6129; Loanium Company of America, Docket No. 6130; Ra-Pid-Gro Corp., Docket No. 6267; Burkleigh Co., et al., Docket No. 6270

In the Orchids case, false claims for a soil conditioner called "Loanium" were prohibited. The Loanium Company was barred from using false representations for a chemical grass and plant inhibitor. The Ra-Pid-Gro and Burkleigh cases involved false and exaggerated claims for fertilizers.

### 5. Evis Manufacturing Co., Docket No. 6168

The complaint challenged claims that a "water conditioner" will cause hard water to "act" like softwater and will eliminate and prevent the formation of scales and rust in water systems. Scientists and the water softening industry, as well as industrial users of water, manifested great interest in this case.

## PROSPECTIVE DECEPTIVE PRACTICES CASE LOAD

On July 1, 1955, there were pending 127 formal cases involving deceptive practices. Some of these cases remain to be tried in their entirety; the trial of others is in advanced stages. Also pending were 33 formal matters, either for review or for drafting of complaint. These cases involved a wide variety of commodities and charges.

Summarizing the Commission's performance, Commission Chairman Edward F. Howrey declared:

In the present fiscal year the Commission has brought more cases in the field of deceptive practices than in any single year during the last years. At the same time, we have avoided the peripheral or fringe type of test case—which for so many years depleted and diverted the energies of the Commission.

## ENFORCEMENT AND COURT WORK

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The effectiveness of the Commission's work in investigation and litigation depends ultimately on how well compliance with orders, stipulations, and rules is policed. Laxity in their enforcement would nullify to a great degree the Commission's capacity to foster fair competition.

Compliance work as well as other important legal duties are handled by the general counsel, who is chief law officer for the Commission, and his staff. They have responsibility for:

- (a) All appellate and court work of the Commission;
- (b) All matters of compliance with Commission orders against respondents including preparation of penalty suits for their violation; as well as responsibility for coordinating the integrated compliance program with cease and desist orders, voluntary stipulations and trade practice rules, including a continuing compliance check of advertising in newspapers and periodicals, and on radio and television;
- (c) Supervision and direction of all functions of the Commission in operation of the Export Trade Act;
- (d) Responsibility for analyzing and advising the Commission on new legislation and handling congressional liaison generally.

Clearance by the Chairman of the Commission, upon consultation, of voluntary industry agreements and programs sponsored by other agencies of the Government is a specialized activity of the Commission assigned to the general counsel's office. These voluntary agreements and programs generally have a wide effect on industrial activities throughout the country. They are designed to aid in defense production and related governmental undertakings required by statutes administered by other agencies, such as the Defense Production Act and the Small Business Act of 1953. Thirty-three such industry programs and agreements were in operation at the close of the fiscal year.

In addition, the Commission's business consultative services are subject to the general counsel's scrutiny from the standpoint of Commission policy and coordination of legal action. Members of

his staff are available for informal conferences with small businessmen, attorneys, and others requesting informal advice on the staff level. Particularly is this guidance important to the Small Business and Trade Practice Conference Divisions. It affords assurance against conflicting interpretation or application of the law and provides unity of action essential to effective functioning of the Commission.

Divisions within the Office of the General Counsel carry out the following functions:

### APPELLATE WORK

The principal work of this division is to defend or prosecute proceedings instituted in Federal courts in which the Commission is a party. Any party against whom a cease-and-desist order is issued has a right to test the validity of the order by filing a petition for its review in a United States court of appeals, and any person aggrieved by any final action taken by the Commission for which review is not specifically provided by statute may challenge that action by appropriate proceedings in a United States district court. In cases under the Clayton Act, if the Commission's order is not obeyed, the Commission may seek affirmance and enforcement of the order in a United States court of appeals. This division handles all phases of such litigation, including the briefing and oral argument before the courts. It also participates with the solicitor general whenever these reach the Supreme Court of the United States on petition for writ of certiorari.

This division prepares drafts of reports by the Commission upon legislative proposals on which committees of the Congress or the Bureau of the Budget request the Commission's views. It also drafts legislative proposals which the Commission may wish to submit to the Congress. The division also makes recommendations on questions involving substantive and administrative law and procedure arising from both Commission and court proceedings.

During fiscal 1955 the division carried 20 court cases to completion, 9 of which were antimonopoly cases and 17 were antideceptive practice cases. Of these, 20 were upon petitions for review of orders to cease and desist; 2 were petitions by the Commission for enforcement of orders to cease and desist; and 2 were proceedings initiated by the Commission for modification of orders previously affirmed by the courts. Five of the 26 cases went to the Supreme Court, on petition of the Commission in which certiorari was granted and the modification made by the lower court in the Commission's order was reversed, and 4 were petitions for certiorari by parties who were respondents before the Commission, all of which were denied by the court.

At the close of the fiscal year the workload consisted of 1 case pending in the Supreme Court on petition for rehearing, 30 proceedings pending in United States courts of appeals or on remand to the Commission, and 1 pending in district court. Of the 32 pending cases, 22 are antimonopoly matters, 9 are antideceptive, and 1 pertains to employment rights.

During the fiscal year the division prepared draft reports upon 44 legislative proposals.

### COMPLIANCE

The Compliance Division's assignment is to obtain and maintain compliance with cease and desist orders issued by the Commission.

Violation of an order issued under the Federal Trade Commission Act makes a respondent liable to civil penalty in a suit brought in a United States district court up to \$5,000 for each violation. Where the violation continues, each day of its continuance is a separate offense. This is particularly applicable to continuing conspiracies in restraint of trade.

Penalty proceedings for the period July 1, 1954, to June 30, 1955 were as follows:

|   |       |    |
|---|-------|----|
| Pending July 1, 1954  | ----- | 5  |
| Filed during year   | ----- | 9  |
| Total for disposition   | ----- | 14 |
| Disposed during year  | ----- | 3  |
| Pending July 30, 1955   | ----- | 11 |
| Certified, not yet filed  | ----- | 3  |
| Complaints being prepared, including 1 on suspense at direction of commission | ----- | 11 |

Since the institution of this division in 1947 the record of civil penalty suits is:

| Fiscal year | Total Judgments and settlements | Number of suits certified to the Attorney General | Fiscal year | Total judgments and settlements | Number of suits certified to the Attorney General |
|-------------|---------------------------------|---|-------------|---------------------------------|---|
| 1947        | \$38,000.00                     | 1   | 1953        | \$59,538.20                     | 3   |
| 1948        | -----                           | 0   | 1954        | 8,950.00                        | 2   |
| 1949        | 16,900.00                       | 0   | 1955        | 40,132.69                       | 11  |
| 1950        | 7,000.00                        | 9   |             |                                 |   |
| 1951        | <sup>1</sup> 80,000.00          | 1   | Total       | 262,110.89                      | -----   |
| 1952        | 11,600.00                       | 5   |             |                                 |   |

<sup>1</sup> Morton Salt case—\$100 day penalty, failure to obey order to report.

The primary objective is to secure and maintain compliance rather than a large number of civil penalty judgments. This cannot be attained without judicious and prompt application of civil penalty procedures where after every reasonable effort, compliance apparently cannot be obtained otherwise.

The conduct of investigations is necessary to discover which of its cease and desist orders are being violated and by whom.

Where millions of dollars of the taxpayers' money are being expended annually to obtain orders in the public interest, adequate financial arrangements ought to be made to see that these orders are obeyed. These orders look to the future and have no termination. Experience shows that a respondent may be in compliance today and in violation 3 or 4 years hence, and that without the reasonable and continued surveillance conducted by the Commission through this division, approximately 70 percent of such orders would have no meaning or effect. In at least 70 percent of the compliance cases handled it is unnecessary to do more than analyze and file a compliance report.

The total amount of all civil penalty judgments prior to 1947 was \$74,715. This was 11 years from the date of the Wheeler-Lea Act in 1930 when civil penalties were first authorized by statute for violation of Commission orders. Since 1947 (8 years), civil penalty judgments have totaled \$261,988.20. This is approximately 40 percent of the total operative cost of the Compliance Division over the same period.

In cases involving deceptive practices there is some reason to assume that usually in the absence of a complaint by a competitor or the public, either that; the order is being obeyed or that there is no public interest in the expenditure of time or funds. But the same considerations do not apply to orders of the great complexity involved where business concerns have been ordered to cease and desist from price fixing or other conspiracy and monopolistic practices. Those affected ordinarily do not have sufficient information to enable them to file a complaint, and the general public feels the results of, but does not understand the matter.

## Legal Difference

Most orders involving restraints of trade are issued under the Clayton Act, have no finality until enforced by decree of the United States court of appeals after proof of violation, and proof of a further violation is necessary for a fine in criminal contempt. Since 1947 there have been no such fines, and previously only 3 judgments have been recovered, 1 in 1937, 1 in 1940, and 1 in 1945.

Orders now on the books cover nearly all industries. Through effective enforcement such orders are of great benefit to the public.

Since its organization, the Commission has issued approximately 4,600 cease and desist orders. The Compliance Division from its establishment in 1947 to the close of the fiscal year 1954 had been able to deal adequately with the respondents' methods of compliance in less than 700 of such orders.

With a small staff increase in August 1954 the division undertook a survey of older orders. Review of more than 1,200 of these was

accomplished; 469 supplemental report of compliance were requested, and in about 450 cases respondents are known to be presently in compliance. Out of this review grew 1 civil penalty proceeding and 5 civil penalty investigations. In addition 26 compliance general investigations were instituted. The foregoing relates to antideceptive cases only. No antimonopoly compliance investigations were instituted as a result of the survey during the year, but 71 supplemental reports were requested in such cases and one was received and filed as satisfactory. These reports are nearly always voluminous and complicated, requiring many man-hours of analysis.

A special survey of 171 Robinson-Patman Act orders issued before 1947 also was initiated. In 42 of these cases compliance was found to be current, 22 were screened out as requiring no further present attention, 17 supplemental reports were received and 5 have been filed as satisfactory. The rest are still being actively studied. Also voluminous supplemental compliance reports from the 70 respondents in the Cement case were under study.

A substantial number of the approximately 2,800 outstanding orders with respect to which no investigation or examination whatsoever has been made, proscribed industrywide pricefixing and restraint of trade practices and discriminatory practices violative of the Clayton Act. These orders are directed against numerous evils in many of the country's most vital industries.

Among these 2,800 orders, more than 500 involve restraints of trade and Clayton Act violations, price-fixing conspiracies, and other complicated problems. Many of these cases involve a large number of respondents. For instance, in fiscal 1955 there were 565 respondents in 30 such orders; in the order against the Dental Trade Association there are 145 respondents; in the American Iron & Steel case 89 respondents; and named in the order against the Advertising Specialty National Association, were 294 respondents. In these cases the Complaint Division must ascertain that each respondent is in complaint.

In less than 30 percent of these cases can the reports of complaint be processed, received and filed without further negotiations. These statistics are typical, not exceptional. During the year 118 compliance investigations were instituted and supervised by the division.

To facilitate checking up on complaint with the 4,600 orders, 8,500 stipulations, and 160 sets of trade practice rules relating to advertising, a special task force of 4 attorneys was detailed to examine national and regional advertising by respondents subject to the orders, stipulations and rules. During the fiscal year 1955 this task force turned up 6 cases which went to investigation, 3 of which were being investigated for the institution of civil penalty proceeding.

## DIVISION OF SPECIAL LEGAL ASSISTANTS

The principal function of the Division of Special Legal Assistants is to formulate and prepare documents necessary to implement the decisions of the Commission in all of its adjudicative proceedings. Attorneys in the division also are available for general consultation and research on questions of law, policy and procedures in connection with all phases of the Commission's work

During fiscal 1955 this division prepared drafts of 32 final decisions and 157 interlocutory orders and opinions; and 63 reports, recommendations, and miscellaneous orders. Advisory assistance was rendered in the drafting of 57 proposed orders to be included in new complaints

### OFFICE OF EXPORT TRADE

The office of Export Trade performs those staff functions related to the Commission's administration of the Webb-Pomerene (Export Trade) act, which authorize cooperative activity among American exporters for the purpose of promoting American export trade, and exempts such groups, when operating within specific statutory bounds, from the prohibitions of the Sherman Act. Export trade associations formed pursuant to the act are required to file organizational papers with the Commission and to supplement these submissions annually. The Commission is charged with supervisory authority over the associations and with the corollary duty of inquiring into, and recommending reform of, activities outside the act's permissive area. Where an association fails to comply with the Commission's recommendations for readjustment of its practices, the Commission will refer the matter to the Attorney General for appropriate action.

In fiscal 1955, 42 export trade associations, representing 436 members, were registered with the Commission. Their total exports during the year, by commodity classes, were as follows:

|                           |                   |
|---------------------------|-------------------|
| Metal and metals products | \$84,021,332      |
| Mines and wells, products | 23,618,855        |
| Lumber and wood products  | 5,625,932         |
| Foodstuffs                | 108,357,541       |
| Miscellaneous             | 619,840,517       |
| Total                     | <hr/> 841,464,177 |

In addition to its specific administrative duties under the Webb-Pomerene Act, the Office of Export Trade maintains comprehensive contemporaneous files of general information relating to foreign trade, advises other components of the Commission on foreign trade matters, performs necessary investigative functions in connection with the Commission's general authority under section 6 (h) of the Federal Trade Commission Act to inquire into foreign trade conditions, and



serves as liaison between the Commission and other agencies of Government administering matters related to United States foreign trade.

## ANTIMONOPOLY CASES IN FEDERAL COURTS

### In the Supreme Court

Petition for certiorari was filed by Dictograph Products, Inc., New York, N. Y., seeking review of decision of the United States Court of Appeals for the Second Circuit affirming the Commission's order prohibiting exclusive dealing contracts in the sale of hearing aids. This petition was denied and the case was pending on petition for rehearing at the close of the fiscal year.

### In the United States Courts of Appeals

At the beginning of the fiscal year there were 10 antimonopoly cases pending in the courts, 18 new cases were instituted during the year, 7 were decided, leaving 20 pending in United States courts of appeals and 1 in the Supreme Court. Of the 7 decisions, 4 affirmed the Commission's orders in full, 1 affirmed its order in part,<sup>1</sup> and 2 were dismissed because petitioners did not desire to proceed.

### Decisions

Binney & Smith Company, New York, N. Y. (Second Circuit). Discriminations in price and promotional allowances in sale of school supplies. Consent decree was entered by court affirming and enforcing the Commission's order.

Dictograph Products, Inc., New York, N. Y. (Second Circuit). Affirmed the Commission's order prohibiting the use of exclusive dealing contracts.

Anchor Serum Company, South St. Joseph, Mo. (Seventh Circuit). Affirmed the Commission's order prohibiting the use of exclusive dealing contracts in the sale of hog cholera serum, virus, and related products.

American Crayon Company, Sandusky, Ohio (Sixth circuit). Modified, and affirmed and enforced as modified, the Commission's order prohibiting discriminations in price and promotional allowances in the sale of school supplies.

Whitney & Co., Seattle, Washington (Ninth Circuit). Consent decree enforcing the Commission's order prohibiting brokerage payments in violation of section 2 (c) of the Clayton Act.

Revlon Products Corporation, New York, N. Y. (Second Circuit). Petition to review Commission order prohibiting exclusive dealing contracts was dismissed because petitioner did not desire to proceed.

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<sup>1</sup> The Supreme Court on December 5, 1955, reversed that part of the judgment of the Sixth Circuit which set aside a portion of the Commission's order.

Barton, Duer & Koch Paper Company, Baltimore, Md. (Fourth Circuit). Petition for review of order prohibiting price-fixing and other restraints of trade in the sale of paper and paper products was dismissed because petitioner did not wish to proceed.

#### Pending Cases

National Lead Company, New York, N. Y.; Anaconda Copper Mining Company and International Smelting and Refining Company, New York, N. Y.; Eagle-Picher Company and Eagle-Picher Sales Company, Cincinnati, Ohio; the Sherwin-Williams Company, Cleveland, Ohio. Pending in the Seventh Circuit on 4 separate petitions (consolidated by the court for hearing) to review and set aside an order prohibiting, pursuant to section of the Federal Trade Commission Act, price-fixing and related practices by the several companies and prohibiting further acquisitions of competitors by National Lead Company; and also prohibiting each company, individually from discriminating in price in violation of section 2 of the Clayton Act, all with respect to lead pigments.

Chain Institute, Inc., et al., Chicago, Illinois (Eighth Circuit). Petition for review of order prohibiting price-fixing and price discrimination in the sale of claim and claim products.

Bradner Smith & Company, Chicago, Illinois (Seventh Circuit; Nackie Paper Company, Milwaukee, Wisconsin (Seventh Circuit); Harlem Paper Products Corporation, et al., Bronx, N. Y. (Second Circuit); Metropolitan Bag & paper Distributors Association, Inc., New York, N. Y. (Second Circuit); Robins Paper Company of Baltimore City, Baltimore, Md. (Fourth Circuit); and The National Paper Trade Association, Inc., et al., New York, N. Y. (Second Circuit). Petitions for review of order prohibiting price-fixing and other restraints of trade in the sale of paper and paper products.

Standard Oil Company, Chicago, Illinois (Seventh Circuit). Petition for review of order to cease and desist from discriminating in price in the sale of gasoline.

Union Circulation Company, Inc., et al., New York, N. Y. (Second Circuit). Petition for review of order prohibiting agreements in restraint of trade in distribution of magazines.

Advertising Specialty National Association, et al., Washington, D.C. (First Circuit). Petition for review of order prohibiting agreements in restraint of trade in the sale of novelties used for advertising purposes.

LaSalle Extension University, et al., Chicago, Ill. (Seventh Circuit) and Stenographic Machines, Inc., Chicago, Ill. (Seventh Circuit). Pending on petitions for review of order prohibiting agreements in restraint of trade in mechanical shorthand machines.

Whitaker Cable Corporation, North Kansas City, Mo. (Seventh Circuit). Petition for review of order to cease and desist prohibiting price discrimination in the sale of automotive parts.

E. Edelmann & Company, Chicago, Illinois (Seventh Circuit). Petition for review of order to cease and desist prohibiting price discrimination in the sale of automotive parts.

Moog Industries, Inc., St. Louis Mo. (Eighth Circuit). Petition for review of order to cease and desist prohibiting price discrimination in the sale of automotive parts.

American Crayon Company, Sandusky, Ohio (Sixth Circuit). Discrimination in price and promotional allowances in the sale of school supplies. Review by the Supreme Court of part of judgment of Court of Appeals for the Sixth Circuit being sought.

## DECEPTIVE PRACTICE CASES IN FEDERAL COURTS

### In the Supreme Court

The Rhodes Pharmacal Co., case was pending at the beginning of the fiscal year on petition for certiorari to review that part of the judgment of the Court of Appeals for the Seventh Circuit which modified one provision of the Commission's order prohibiting false claims for a drug product. The petition was granted, the lower court was reversed, and the Commission's original order restored. Petitions for certiorari were filed during the year by Perry Halseth (lottery), Seymour Sales Co. (lottery), and Dolcin Corporation (false claims for a drug product), to review decisions of lower court affirming orders of the Commission. All three were denied.

### In the United States Courts of Appeals

In addition to the 1 case pending in the Supreme Court there were 13 deceptive practice cases pending in the United States Courts of Appeals at the beginning of the fiscal year. Five new petitions to review and set aside Commission orders and 3 motions for modification of decrees were filed during the year and 13 such proceedings were completed. Five cases were decided. In 4 the orders were affirmed and enforced without change; and in 1 the order was modified and affirmed. Two cases were dismissed for lack of prosecution, 1 case on remand was closed by the Commission, and in 2 the original proceedings were completed, but further litigation was instituted.

### Decisions

Cases in which the Commission's orders were affirmed and enforced without change are: Perry Halseth, et al., Chicago, Ill. (Seventh Circuit). Lottery devices.

Marlene's Inc., Chicago, Ill. (Seventh Circuit). False advertisements of a weight-reducing tablet.

Seymour Sales Company, Chicago, Ill. (District of Columbia Circuit). Lottery devices.

Doris Savitch, et al. (Personal Drug Company) New York, N. Y. (Second Circuit). False advertisements of a drug product.

Cases in which Commission orders to cease and desist were, after modification, affirmed and enforced are:

Dolcin Corporation, et al., New York, N. Y. (District of Columbia Circuit). False advertisements of "Dolcin," a medicinal product offered for arthritic and rheumatic conditions. The Court modified one provision of the order and remanded the case to the Commission to allow Dolcin to introduce new evidence.

Two petitions to review commission orders were dismissed because the parties did not desire to proceed, as follows:

Astor Industries, Inc., et al., New York, N. Y. (Second Circuit). Failure to disclose foreign origin of sewing machine heads and unfair and deceptive practices in the use of brand or trade name.

LaSalle Extension University, Chicago, Ill. (Seventh Circuit). False and misleading advertising and unfair and deceptive acts and practices in the sale of a home-study course in law.

#### Miscellaneous

Joseph Rosenblum, New York, N. Y. (Second Circuit); Standard Distributors, Chicago, Ill. (Second Circuit); and Lustberg, Nast & Company, Inc., New York, N. Y. (Second Circuit). Joint motions to modify court decrees to conform to modifications subsequently made by the Commission in its orders were granted.

The New American Library of World Literature, Inc., New York, N. Y. (Second Circuit). Deceptive failure to disclose abridgment or change of title in the sale of book reprints. The Commission issued a new order to cease and desist pursuant to remand by the Court.

Philip Morris & Company, Ltd., Inc., New York, N. Y. (District of Columbia Circuit). False and misleading advertising of cigarettes. The Commission accepted a stipulation to cease and desist and further proceedings pursuant to the remand became unnecessary.

American Tack Company, Inc., New York, N. Y. (Second Circuit). Failure to disclose foreign origin of goods. This proceeding was closed when the company failed to seek review of the judgement of the Court of Appeals affirming and enforcing the Commission's order.

#### Pending Cases

Tractor Training Service, et al., Portland, Oreg. (Ninth Circuit). False representations in advertising of correspondence study course in diesel engines and heavy equipment.

James H. Sewell, Santa Ana, Calif. (Ninth Circuit). False advertisements of a device for insertion in shoes for corrective purposes

Standard Distributors, Inc., Chicago, Ill. (Second Circuit). Misrepresentation of an encyclopedia. The Commission directed institution of proceeding to obtain modification of court decree to conform with modified order of Commission.

Marshall Maltz, Chicago, Ill. (Seventh Circuit). Lottery devices.

The New American Library of World Literature, Inc., et al., New N. Y. (Second Circuit). Misrepresentation of book reprints and condensations. Petition to review modified order of Commission.

U. S. Industries, Inc., New York, N. Y. and Chicago, Ill. (Fifth Circuit). False representation and unfair practices in the sale of cookware.

Clean-Rite Vacuum Stores, Inc., Washington, D. C. (District of Columbia Circuit). False advertising in the sale of vacuum cleaners.

#### Pending on Remand to the Commission

Carter Products, Inc., New York, N. Y. (Ninth Circuit). False advertisements of a drug product.

Dolcin Corporation, et al., New York, N. Y. (District of Columbia Circuit). False advertisements of a drug product.

#### In the United States District Courts

One suit was pending in a United States district court at the beginning of the fiscal year, and one was filed in a district court during the year. One suit was dismissed for lack of jurisdiction, and one remained pending at the close of the year:

Reubin Berkowitz, et al. (District of Columbia.) Suit by petitioners filed under the Declaratory Judgments Act seeking a determination that the Commissioner's orders against them do not apply to blank punch boards and push cards, was dismissed for lack of jurisdiction.

Oliver W. Toll, Washington, D. C. (District of Columbia). Suit for a declaratory judgment determining employment rights.

## ECONOMIC ANALYSIS AND REPORTING

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The role of economic analysis as part of the Commission's law enforcement function assumed increasing importance during the year. This shift in emphasis was accelerated by close cooperation of the economic staff with the Merger Task Force appointed in April 1955, as well as by increased participation of the economic staff in the preparation and trial of cases arising under enactments other than section 7 of the Clayton Act as amended. More of the resources of the Bureau of Economics thus were directed to pretrial and trial work with the result that at least 60 percent of the time of the combined professional staff of the Bureaus Division of Economic Evidence and Reports and the Division of Financial Statistics was spent in law enforcement during the year. The other 40 percent was spent on the Commission's financial reporting service on United States manufacturing corporations, on preparation of the May 1955 merger report, and on other general and special assignments.

The Bureau's function in casework includes work on both section 7 and other cases. On section 7 matters, the work includes the recording, screening, preliminary investigation, and economic evaluation of the effects of particular acquisitions and mergers prior to the issuance of complaint and also the preparation and presentation of evidentiary material in formal proceedings. Economic analysis also is performed both before and after complaint in cases arising under other laws administered by the Commission.

### Financial Reports of United States Manufacturing Corporations

Balance sheets and income and expense statements of United States manufacturing corporations are statistically consolidated by the Financial Statistics Division of the Bureau of Economics. This work is carried on in cooperation with the Securities and Exchange Commission which furnishes data on registered corporations.

This quarterly series was inaugurated in 1947 to:

( 1 ) Provide authoritative data for Government agencies that need statistics on the consolidated financial condition of manufacturing corporations in the United States on a current and continuing basis, and

(2) Eliminate duplicate reporting to Government agencies and thereby reduce inconvenience to industry.

The major Government users of the data are the Joint Committee on the Economic Report, the Treasury Department, the Department of Commerce, the Board of Governors of the Federal Reserve System, and the Executive Office of the President. The data are published and are also widely used by business organizations and other private users.

### Coffee Price Investigation

The Commission's report on coffee prices prepared during 1954<sup>1</sup> was generally accepted as the most comprehensive and timely economic study on the coffee situation in 1953 and 1954 when retail coffee prices rose as high as \$1.32 per pound. The publication of the report and the subsequent complaint and order against the New York Coffee and Sugar Exchange were accompanied by a reversal of the precipitous coffee price spiral of 1953-54. The accuracy of the report's forecast of coffee production for 1955 has been borne out.

### Industrial Concentration and Product Diversification in the 1,000 Largest Manufacturing Companies

A comprehensive study of the positions of the 1,000 largest manufacturing companies in the national economy has been made by the Commission's economic staff and a report on the subject was nearing completion at the end of the year. The principal subjects of this inquiry are: (1) the position of these companies among all manufacturing companies of the United States measured in terms of total shipments; (2) the part of the national output of particular industries that is supplied by companies included among the 1,000; and (3) the diversity, or dispersion, of their manufacturing activities among commodity lines or industries. Detailed comparisons of the importance of groups of these large companies in particular industries is a unique feature of this report. Another is a series of tables showing the number of companies principally engaged in a given industry that shipped products primary to other industries.

## MERGER REPORT

Work on other problems was interrupted to prepare Report on Corporate Mergers and Acquisitions, issued in May.<sup>2</sup> Based on data in the Commission's files, the first part of this study carried forward

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<sup>1</sup> The report, entitled Economic Report on the Investigation of Coffee Prices, as published under date of July 30, 1954. Copies may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D. C., 532 pp. \$2.

<sup>2</sup> Report on Mergers and Acquisitions, issued May 1955. Copies from Superintendent of Documents, Government Printing Office, Washington, D. C., 210 pp. 55 cents.

through 1954 the long-term statistical series on disappearance of manufacturing and mining concerns through mergers and acquisitions that was begun by the Temporary National Economic Committee.<sup>3</sup> The Commission found that since 1949 the pace of important mergers and acquisitions had been rising; in 1954 the number in manufacturing and mining reported in financial manuals was three times that of 1949, and just slightly less than the number reported for each of the years 1946 and 1947 when merger activity reacted postwar peak. Nevertheless, mergers and acquisitions were occurring at substantially lower rate in 1954 than during the later twenties.

A second statistical analysis in the merger report is based on a sample of all acquisitions and mergers falling within the Commission's jurisdiction and recorded by the Commission during the first 43 months of the Anti-Merger Act of 1950.<sup>4</sup> This analysis showed that companies with assets of at least \$10 million had made approximately 1,000 acquisitions during this period, and that about 100 were of properties valued at \$10 million or more.

Considerable attention was devoted to the "who-how-why" of current merger activity. In discussing the "who" the report pointed out that the most common type of merger originates with the acquiring company. Other mergers originate with smaller companies that wish to sell out. On occasion a large company seeks a buyer for part of its property or business. Still another important agent often present is an outside financial or other interest.

Dealing with the "how" of mergers, the report states that important acquisitions usually involve either the exchange of stock between companies, or the purchase of stock of the acquired company from individuals and firms either privately or in the open market. The report describes the several forms of organization used in both acquisitions and mergers.

Turning to the "why" of mergers, the report lists six advantages to the acquirer which frequently were apparent. These are: additional capacity, noted in 2 out of 5 acquisitions; a longer line of products in the same business, noted in 1 out of 4; diversification of the business, also 1 out of 4; vertical mergers looking toward sources of supply, 1 out of 8; vertical mergers looking toward ultimate sale to consumers, 1 out of 10; and additional capacity located in new markets, 1 out of 10.

The report concludes with a survey of the statutory standards of the Anti-Merger Act, and of the problems of determining the probable competitive consequences of a merger or acquisition. Important matters considered are the market facts relevant to an appraisal of competitive consequences. This, of course, depends on the character of the

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<sup>3</sup> TNEC Monograph No. 27, Part III, the Structure of Industry, by Willard L. Thorp, 1941.

<sup>4</sup> Amendment to section 7 of the Clayton Act.



merger and the nature of the markets affected. The final chapter includes a survey of the very limited amount of information generally available for compiling market share estimates of evidentiary value.

Preparation of the Report on Corporate Mergers and Acquisitions was limited to 4 months in order that "it should not divert so many of the Commission's staff members from their continuing task of analyzing specific mergers that the administration of section 7 of the Clayton Act would be impaired." It was designed to inform the Commission, the Department of Justice, Congress, and the public on the important events concerning mergers.

### Aid in Screening and Investigation of Mergers

Care in the selection of merger investigations requires that decisions on matters for study be made as part of a series of steps rather than immediately upon the recording of an acquisition. The first screening operation seeks to sift out: (a) acquisitions where the Commission definitely does not have jurisdiction, (b) acquisitions where the acquired company is in failing or bankrupt condition, (c) acquisitions by a small company of another small company in markets where there are many competitors, and (d) other acquisitions which, on the basis of the briefest information, can be shown to be insignificant.

Letters of inquiry are sent to companies where the acquisition appears likely to have significant competitive consequences. These inquiries seek to establish such matters as the name, date of incorporation, location, plants, or other real property, products, markets, and in some cases principal suppliers and customers of these companies. Inquiry letters also request such documents as the purchase or merger agreement, annual reports, and registration statements.

If, after inquiry, there appears to be evidence that substantial lessening of competition may result from the acquisition, the economics staff recommends either a field investigation a survey of other companies operating in the same markets, or that a complaint be filed at once.

### ASSISTANCE IN LITIGATION

Aid to the legal staff in hearings on formal complaints is an important and continuing part of the economic evidence work of the Bureau. Three cases accounted for a major amount of the economic staff's time, Crown-Zellerbach Corp., Pillsbury Mills, Inc., and Luria Brothers and Co., Inc. (These cases are discussed in the summary of the work of the Bureau of Litigation.) The principal work on them by the Bureau of Economics included the following:

Crown-Zellerbach Corp.—Prior to the initiation of the case, the economic staff made a preliminary analysis of the market positions of Crown-Zellerbach Corp. and St. Helens Pulp Paper Co., which became the basis for the allegations in the complaint. Subsequently,

a survey of jobber and converter markets for coarse papers was conducted in the 11 Western States, the results of which have been submitted in evidence. During the trial of the case, the economic sta, assisted by accountants from the Division of Accounting of the Bureau of Investigation, prepared a number of exhibits; supplied expert testimony; served as economic advisers to the trial staff, both in presenting the Commission's case and in analyzing the evidence offered by respondent; and assisted in the preparation of interim briefs.

Pillsbury Mills, Inc.—During the year extensive hearings were held largely for the presentation of testimony by the respondent, the formal trial having begun in Minneapolis, Minn., Sept. 23, 1952. This phase of the case required the full time assistance of one economist and several months' time of specialist in connection with the evaluation of the testimony presented and preparations for cross examination. At the close of the year testimony from the respondent was still being received.

Luria Bros. & Co., Inc.—The formal trial in this matter began with hearings in Philadelphia, January 12, 1955. Prior to this date the economic staff had carried out, in conjunction with the legal staff, a comprehensive inquiry into the market positions in the iron and steel scrap industry of Luria Bros. & Co., Inc. and other leading suppliers of scrap to the steel industry. Analyses by the economic staff of the results of this inquiry provided the economic base for allegations in the complaint and for developing evidence through testimony in the hearings. During the trial a member of the economic staff has assisted the trial staff in appraising economic evidence, made field investigations on economic aspects of the proceedings, and testified on the economic significance of the evidence presented.

## COOPERATION WITH INDUSTRY

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In addition to formal actions against unfair competitive methods and illegal business practices, the Commission provides an extensive program of voluntary and cooperative procedures to avoid or correct trade practices harmful to industry and the public.

This program is administered by the Bureau of Consultation, consisting of the Divisions of Trade Practice Conferences, Stipulations and small Business. Its purpose is to aid and guide industry to achieve voluntary compliance with the laws enforced by the Commission. The program is accomplished through trade practice rules interpretative of the laws, settlement by stipulation of certain types of cases, informal hearings and consultative and informal advisory services to members of the industry and small business. These cooperative procedures save time and money for the Government and for business by avoiding formal litigation.

### TRADE PRACTICE CONFERENCES

The Trade Practice Conference Division assists in obtaining voluntary observance of law on an industry-wide basis by working with members of industry and other interested persons or groups to formulate trade practice rules. These define and prescribe business practices that are unfair, deceptive, or otherwise unlawful. They guide industry by spelling out what practices the Commission considers unlawful under the statutes it administers, and enable industry voluntarily to bring its practices into compliance with the law.

Rules are revised or supplemented to keep them current with new legislation, subsequent decisions of the Commission and the courts, new Commission policy and new industry practices.

#### Procedure

Trade practice conference proceedings for an industry may be instituted by the Commission on its own motion, or in response to an application by a trade association of the industry or any interested

person or group. The great majority of proceedings culminating in rules have been commenced in response to such applications.<sup>1</sup>

The Commission grants applications for trade practice conference proceedings only when it appears likely that the proceedings will constructively advance the best interest of the industry on sound competitive principles, or result in substantial improvement in voluntary compliance with the law, or otherwise protect or advance the public interest.

After the Commission authorizes a trade practice conference proceeding for an industry, a conference is scheduled in a city convenient to a majority of its members, and all known members of the industry are invited.

At the conference, unfair trade practices within the industry are discussed, suggested rules are considered and ample opportunity is given industry members to present their views. If necessary, additional conference sessions may be held.

Following the conference, the Commission staff studies all the suggestions made, orally and in writing, and prepares a draft of proposed rules. This is submitted to the Commission with recommendation that these rules be released for public hearing. If the Commission agrees, a public hearing is scheduled and copies of the proposed rules are mailed to all known industry members and other interested parties.

Comments and suggestions made by industry members and others at the hearing are considered, and a draft of recommended final rules is submitted to the Commission for approval and promulgation. When approved, they are published in the Federal Register and become effective, usually 30 days after promulgation. Copies are sent to each member of the industry, accompanied by an acceptance card which the member may use to signify his intention to comply with them.

## Classification of Rules

Trade practice rules for an industry may be wholly of the Group I classification, or also may include rules in Group II.

Group I rules embrace trade practices which are considered illegal under laws administered by the Commission. Appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in commerce by any person or organization subject to its jurisdiction.

Group II rules embrace industry practices that may be recommended by industry members as suitable guides for sound business

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<sup>1</sup> The method for instituting trade practice conference proceedings for industries is set forth in subpart (c) of Part 2 of the Commission's "Rules of Practice, Procedure, Organization and Acts" published by the Commission in May of 1955.

methods. Since these practices are not required by law compliance with Group II rules is wholly voluntary.

### Conference Proceedings

More trade practice rules (new and revised) were promulgated by the Commission during fiscal 1955 than in any year during the previous 2 decades.

A summary of the rulemaking work of the division during the year follows:

|   |       |     |
|---|-------|-----|
| Conference proceedings pending July 1, 1954                           |       |     |
| Conferences authorized—new and revised rules                          | ----- | 26  |
| Applications for conferences—new and revised rules                    | ----- | 12  |
| Total   | ----- | 38  |
| Applications for Conference proceedings received during the year      | ----- | 14  |
| Total Conference proceedings in process July 1, 1954 to June 30, 1955 | ----- | 52  |
| Conference proceedings disposed of July 1, 1954 to June 30, 1955:     |       |     |
| By Closing  | ----- | 2   |
| By promulgation of new rules  | ----- | 6   |
| By promulgation of revised rules                                      | ----- | 7   |
|   | ----- | 15  |
| Total proceedings pending June 30, 1955                               | ----- | 37  |
| Trade Practice rules in force July 1, 1954                            | ----- | 163 |
| New Trade Practice rules promulgated                                  | ----- | 6   |
| Total   | ----- | 169 |
| Trade Practice rules rescinded during year                            | ----- | 16  |
| Trade Practice rules in force June 30, 1955                           | ----- | 153 |

During the year, rules were promulgated for the following industries: Radio and Television (Revision), Wholesale Plumbing and Heating (Revision), Cosmetic and Toilet Preparations (Revision), Bedding Manufacturing and Wholesale Distributing (Revision), Waterproof Paper (Asphaltic Type), Library Binding, Chemical Soil Conditioner, Orthopedic Appliance, Millinery (Revision), Fire Extinguishing Appliance (Revision), Tobacco Smoking Pipe, Cigar and Cigarette Holder, Fountain Pen and Mechanical Pencil (Revision), Gummed Paper and Sealing Tape.

The radio and television industry rules provide an outstanding example of the guidance given an expanding industry with difficult trade practice problems. These rules include an important definitive one relating to false and misleading descriptions of cabinet composition as well as others designed to prevent deception respecting the size of pictures and picture tubes of television sets. They also prohibit alteration of identifying names or marks; deceptive use or change of cabinets; alteration or removal of serial numbers; deception

as to the convertibility of a television set to services other than those for which it was originally manufactured; deception concerning being "new"; misuse of terms "discontinued model," "floor sample," "demonstrator," etc.; deception concerning identity of products when products are repaired, reconditioned, or rebuilt by other than the original manufacturer; misuse of terms "factory rebuilt"; and misrepresentation of the effectiveness of television antennas.

The trade practice rules for the Chemical Soil Conditioner Industry provide needed clarification of legal requirements for this comparatively new industry. The rules deal with a variety of misrepresentations and will assist in the elimination of unfair practices. They prohibit, for example, claims that an industry product will help produce good crops in every type of soil, or that it offers a significant substitute for nutrient material. The rules also require disclosure of applicable conditions and limitations in claims that a product will treat effectively a specified area; will effectively form or stabilize soil aggregates; will, when mixed with a plant nutrient, serve as a soil conditioner or fertilizer, or will "condition" soil when used as a surface application only on uncultivated soil.

Rules for the wholesale plumbing and heating industry represent a significant advance in the guidance afforded industry members for compliance with subsections 2 (a) and 2 (f) of the Clayton Act as amended. Notes and examples clarify provisions of these subsections as interpreted in Commission and court decisions. These rules also include a new "selling below cost" rule arrived at after intensive study and which is more informative on what constitutes illegal selling below cost than any previous rule on the subject.

In addition to the conference proceedings resulting in trade practice rules during the year, substantial progress was made in pending rules involving industries whose practices have a direct and important impact upon the public. These involve the following industries: Nursery, commercial dental laboratory, brick and structural clay tile and allied products, mastic a-d texture sprayed coating, frozen food, direct selling, refrigeration and air-conditioning contracting, low and medium price jewelry, diamond, corset brassiere and allied products, and watch attachment.

Several informal conferences between representatives of cigarette producers and division staff members were held. These probably will result in closer cooperation of the cigarette industry with the Commission and a substantial decrease in the use of questionable advertising claims for cigarettes.

## ADMINISTRATION OF TRADE PRACTICE RULES

After promulgating trade practice rules, the Commission keeps in close touch with the industries concerned in order to obtain maximum

voluntary industry-wide compliance with the Group I provisions. This liaison is maintained through informal correspondence, office conferences and, in certain cases, field visits by staff members with the industry members and representatives.

Subject to exceptions specified in the Commission's published policy statement, complaints of rule violations are handled by the Division of Trade Practices Conferences. Necessary corrections are made promptly and, in most instances, informally. Sometimes, however, mandatory action under the law is necessary.

During fiscal 1955 the hitherto separate rule making and rule administration activities of the Trade Practice Conference Division were integrated to achieve more effective administration of rules. The attorney conducting proceedings leading to the rules now also handles their administration. Both the division and industry profit by the attorney's familiarity with problems of the industry and his acquaintance with industry members.

A novel method of counseling members of industry operating under trade practice rules was used for the wholesale plumbing and heating industry. At a panel discussion, Bureau of Consultation staff members answered questions on provisions of the rules and their administration. The questions on provisions of the rules and their administration. The questions and answers were publicized for the entire industry to receive the benefit of the discussion. The panel discussion was so well received and so useful that it is proposed to extend the plan to other industries to the extent budgetary and personnel limitations permit.

A summary of compliance work during the fiscal year under trade practice rules then in effect is as follows:

|   |     |
|---|-----|
| Compliance matters pending July 1, 1954 -----   | 178 |
| New matters initiated -----                     | 553 |
|   | 731 |
| Total matters for disposition -----             | 731 |
| Disposed of July 1, 1954 to June 30, 1955       |     |
| By Division of Trade Practice Conferences ----- | 445 |
| Referred out of division -----                  | 74  |
|   | 519 |
| Total matters disposed of -----                 | 519 |
| Compliance matters pending June 30, 1955 -----  | 212 |

Several industries received special attention in the administration of the rules among them were:

Masonry Waterproofing Industry.—Representations exaggerating the degree and permanence of water impermeability of industry products were substantially curtailed as the result of administrative contact with industry members.

Watch Designation Rules—Discontinuance of numerous deceptive representations in advertising watches as "waterproof" and "shockproof" were effected through administrative action under the rules.

Portrait Photographic Industry.—Voluntary corrective procedure resulted in substantial reduction in the deceptive use of coupons and certificates, and misrepresentation in advertising of contests, exhibits, special or limited offers, and coloring and finishing of photographs.

Pearl, Cultured Pearl, and Imitation Pearl Industry.—Fictitious pricing of cultured pearls and failure of importers to label imported products as to foreign origin were discontinued in many instances as the result of administrative contact under the rules with industry members.

Bedding Manufacturing and Wholesale Distributing Industry.—Substantial improvement was made in obtaining cooperative compliance with the rule to stop fictitious pricing and false advertising and labeling of the therapeutic properties of stock springs and mattresses.

Sun Glass Industry.—Rule violations were corrected in cases of fictitious pricing, misuse of the term "gold plated" to describe sun glass frames covered with gold by electrolysis, and representations that products are "guaranteed" without disclosure of the terms and conditions of the guarantee.

Jewelry Industry.—Satisfactory results were achieved under the rule administration procedure in effecting abandonment of such practices as misuse of the word "gold" to describe articles not gold plated or composed throughout of gold, and failure to describe properly the gold content of products plated with gold; misuse of the word "perfect" to describe diamonds; misrepresentation concerning the origin of jewelry; and misrepresentation of synthetic or simulated stones as nature's stones.

## STIPULATIONS

Voluntary correction of unfair practices in individual cases, as distinguished from industrywide action, is accomplished under the stipulation procedure. This affords businessmen an opportunity to enter into a voluntary agreement to discontinue practices considered to be unlawful, and saves the time and expense of formal complaint and trial.<sup>2</sup>

During the fiscal year the Division of Stipulations initiated a new program for eliminating delays in negotiating stipulations and in ob-

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<sup>2</sup> Opportunity to enter into a stipulation is not afforded when the alleged violation of law involves false advertising of food, drugs, devices, or cosmetics which are inherently dangerous, the sale of fabrics or wearing apparel which are so highly inflammable as to be dangerous, or the suppression or restraint of competition through conspiracy or discriminatory or monopolistic practices. The Commission reserves the right in all cases to withhold the privilege of disposition by voluntary agreement.



taining compliance with them. As a result, 60 percent more stipulations were negotiated than during the previous year.

### Stipulation Procedure

Matters appropriate for disposition by stipulation are referred for this procedure after investigation by the Bureau of Investigation. The alleged offender is furnished with a statement of the acts or practices which, following investigations, appear to be unlawful. He is afforded an opportunity to present his side of the matter either in person or through counsel, by written communication or at an informal conference with a Commission representative. (102 such conferences were held during the year.) Thereafter, a stipulation or voluntary agreement providing for discontinuance of any practices shown by the facts to be illegal may be entered into as a basis for disposing of the case. The stipulation becomes effective upon approval by the Commission and is a matter of public record. If a satisfactory stipulation cannot be negotiated the file is forwarded for further appropriate action.

### Disposition of Stipulation Cases in Fiscal 1955

|   |         |
|---|---------|
| Cases forwarded with recommendation for:                              |         |
| Acceptance of executed stipulations -----                             | 104     |
| Closing without prejudice -----                                       | 6       |
| Issuance of complaint -----   | 5       |
| Cases referred to Bureau of Investigation for further attention ----- | 43      |
| <br>Total -----   | <br>158 |

Stipulations approved during the year provided for discontinuing a wide variety of unfair or deceptive practices. Among the deceptions were claims that: A throat lozenge containing an antibiotic cure prevents or shortens the duration of the common cold; an analgesic tablet is of aid in arresting the progress of arthritis, rheumatism, sciatica, or neuritis; a vaporizing device or a chemical compound used in it reduces the incidence of infection or the spread of communicable disease, or is of value in the prevention of colds, sinus, or influenza; a kit for home treatment of various leg conditions heals phlebitis, strengthens weakened veins or restores the legs to normal; a special dietary food supplying calories, vitamin B<sub>1</sub> and iron is of value in increasing body weight, unless limited to cases of iron deficiency anemia, thiamine deficiency, poor appetite or bad eating habits; a skin ointment will cure acne, impetigo, or skin irritations in general; a stock shoe with certain special features eliminates foot, leg, or back pains; a contour chair has any beneficial effect on posture; a detergent does away with the need for scrubbing hospital instruments; the water

produced by a "water demineralizer" is chemically pure or the chemical equivalent of distilled water; the food freezer unit of a refrigerator is self-defrosting; a correspondence course assures the taker of passing Civil Service examinations; a cleaning fluid is "fireproof."

In other stipulations, a manufacturer of home-freezers and two distributors of freezers in combination with food purchase plans agreed to discontinue claims that savings in food costs will pay for the freezer or that any definite savings can be realized through the use of home-freezer.

In two stipulations, promoters of "product awards" agreed not to grant any "award" which purports to be based on the judgment of qualified and impartial appraisers that the product receiving the award is superior to competitive products in specified respects, when in fact the "award" is not granted on that basis.

Nine importers or distributors of hooked rugs stipulated they would not use the word "wool" to describe any rug which is not composed wholly or "wool" as defined in the stipulations.

Two manufacturers of hair and scalp preparations agreed to stop representing that their products grow hair or prevent baldness.

Four insecticide manufacturers stipulated not to claim that their products kill all insects.

Two vendors of jackets of a type issued to the Armed Forces agreed to refrain from representing that the jackets were manufactured for or in accordance with specifications of the Armed Forces.

Two furriers entered into agreements not to label or invoice fur products falsely or deceptively.

A manufacturer of woolen fabrics and a manufacturer of woolen interlining material agreed not to misbrand their products as to fiber content.

### Stipulation Compliance

Parties to approved stipulations are required to file with the Commission within 60) days after notice of this approval a report showing how they have complied with their agreements. A stipulator may be required thereafter to file supplemental reports as the situation demands. During the year, 74 reports were received and filed as showing satisfactory compliance. Nineteen matters in which compliance reports were not considered satisfactory were referred for further attention.

In a continuing compliance check of older stipulations, violations of 60 stipulations were found and corrective action initiated by the division. Satisfactory reports of compliance with 111 stipulations were received.

## SMALL BUSINESS

The Division of Small Business completed its first year of operation on June 30, 1955. It was created specifically to enable the Commission to assist small business more fully in obtaining the protection, relief and guidance available to it under the Federal Trade Commission Act, the Clayton Act, the Robinson-Patman Act, and other statutes administered by the Commission.

The principal functions of the division are:

1. To consult with the small-business man and explain the functions and procedure of the Federal Trade Commission and assist him in their use to the fullest extent;
2. To give informal advice relative to the applicability of Commission case law and statutes administered by it to specific practices, thereby enabling the small-business man to conform his practices to the law. This procedure grants no immunity and is not binding upon the Commission.
3. To keep small businessmen informed with respect to, and to expedite the movement through the Commission of, those matters which involve practices adversely affecting them; and
4. To perform certain liaison functions with the Select Committees on Small Business of the United States Senate and the House of Representatives, as well as with the Small Business Administration and occasionally with other governmental agencies.

These functions are performed by answering oral or written requests for information or advice relative to specific and individual problems. Each problem is separately handled and given whatever research, consultation or liaison work it might require. Answers are accompanied with supporting citations and documents where pertinent.

During the year, the division received 1,021 matters of which 971 were completed. The remaining 50 were in process awaiting completion of required legal research, receipt of scientific opinion, or further information from the inquirer. In addition, 319 conferences were held by the division's small staff.

Matters received by this division which do not fall within the scope of the statutes administered by the Commission are referred to the appropriate governmental agency, and the inquirer is so notified.

## APPROPRIATIONS AND FINANCIAL OBLIGATIONS

### FUNDS AVAILABLE FOR FISCAL YEAR 1955

Funds available to the Commission for the fiscal year 1955 amounted to \$4,129,000. Public Law 428, 83d Congress, approved June 24, 1954, provided \$4,045,000; and Joint Resolution 69 Stat. 240-241, approved June 30, 1955, provided the sum of \$84,000 for the pay increases pursuant to Public Law 94, 84th Congress, approved June 28, 1955.

#### Obligations by Activities, Fiscal Year 1955

|   |           |
|---|-----------|
| 1. Antimonopoly:                                    |           |
| Investigation and litigation -----                  | \$1,554   |
| Economic and financial reports -----                | 275,210   |
| 2. Deceptive practices:                             |           |
| Investigation and litigation -----                  | 1,093,448 |
| Trade practice conferences and small business ----- | 245,334   |
| Wool, fur, and flammable fabrics enforcement -----  | 258,938   |
| Lanham Act and insurance -----                      | 57,928    |
| 3. Executive direction and management -----         | 361,006   |
| 4. Administration -----                             | 279,645   |
|   | 4,126,281 |

#### Obligations by Objects, Fiscal Year 1955

|  |             |
|--|-------------|
| Personal services -----                | \$3,811,673 |
| Travel -----                           | 122,570     |
| Transportation -----                   | 5,818       |
| Communication services -----           | 51,194      |
| Rents and utility services -----       | 25,285      |
| Printing and reproduction -----        | 21,255      |
| Other contractual services -----       | 46,253      |
| Supplies and materials -----           | 40,746      |
| Equipment -----                        | 1,362       |
| Refunds, awards, and indemnities ----- | 125         |
|  | 4,126,281   |

### SETTLEMENTS MADE UNDER FEDERAL TORT CLAIMS ACT

In reference to section 404 of the Federal Tort Claims Act, the following report is made:  
During the fiscal year 1955 the Commission paid no claims nor were any claims pending.

## COMPARATIVE APPROPRIATIONS

Appropriations available to the Commission for the past 3 fiscal years and obligations for the same period, together with the unobligated balances, are shown in the table below. The table also lists the number of employees as of June 30 of each year.

| Year | Number of employees | Nature of appropriations                  | Appropriations | Obligations    | Balance    |
|------|---------------------|---|----------------|----------------|------------|
| 1953 | 642                 | Lump sum (including printing and binding) | \$4,178,800    | \$4,172,992.33 | \$5,087.67 |
| 1954 | 596                 | --- do -----                              | 4,053,800      | 4,045,966.21   | 7,833.79   |
| 1955 | 584                 | --- do -----                              | 4,129,000      | 4,126,281.00   | 2,719.00   |

## APPENDIXES

## Federal Trade Commissioners—1915-55

| Name                 | State from which appointed | Period of service             |
|----------------------|----------------------------|-------------------------------|
| Joseph E. Davies     | Wisconsin                  | Mar. 16, 1915-Mar. 18, 1918   |
| Edward N. Hurley     | Illinois                   | Mar. 16, 1915-Jan. 31, 1917   |
| William J. Harris    | Georgia                    | Mar. 16, 1915-May 31, 1918    |
| Will H. Parry        | Washington                 | Mar. 16, 1915-Apr. 21, 1917   |
| George Rublee        | New Hampshire              | Mar. 16, 1915-May 14, 1916    |
| William B. Colver    | Minnesota                  | Mar. 16, 1917-Sept. 25, 1920  |
| John Franklin Fort   | New Jersey                 | Mar. 16, 1917-Nov. 30, 1919   |
| Victor Murdock       | Kansas                     | Sept. 4, 1917-Jan. 31, 1924.  |
| Huston Thompson      | Colorado                   | Jan 17, 1919-Sept. 25, 1926.  |
| Nelson B. Gaskill    | New Jersey                 | Feb. 1, 1920 - Feb. 24, 1925. |
| John Garland Pollard | Virginia                   | Mar. 6, 1920-Sept. 25, 1921.  |
| John F. Nugent       | Idaho                      | Jan 15, 1921-Sept. 25, 1927.  |
| Vernon W. Van Fleet  | Indiana                    | June 26, 1922-July 31, 1926.  |
| Charles W. Hunt      | Iowa                       | June 16, 1924-Sept. 25, 1932. |
| William E. Humphrey  | Washington                 | Feb. 25, 1925-Oct. 7, 1933.   |
| Abram F. Myers       | Iowa                       | Aug. 2, 1926-Jan. 15, 1929.   |
| Edgar A. McCulloch   | Arkansas                   | Feb. 11, 1927-Jan. 23, 1933.  |
| Garland S. Ferguson  | North Carolina             | Nov. 14, 1927-Nov. 15, 1949.  |
| Charles H. March     | Minnesota                  | Feb. 1, 1929-Aug. 28, 1945.   |
| Ewin L. Davis        | Tennessee                  | May 26, 1933-Oct. 23, 1949.   |
| Raymond B. Stevens   | New Hampshire              | June 26, 1933-Sept. 25, 1933. |
| James M. Landis      | Massachusetts              | Oct. 10, 1933-June 30, 1934.  |
| George C. Mathews    | Wisconsin                  | Oct. 27, 1933-June 30, 1934.  |
| William A. Ayres     | Kansas                     | Aug. 23, 1930-Feb. 17, 1952.  |
| Robert E. Freer      | Ohio                       | Aug. 27, 1935-Dec. 31, 1948.  |
| Lowell B. Mason      | Illinois                   | Oct. 15, 1945-.               |
| John Carson          | Michigan                   | Sept. 28, 1949-March 31, 1953 |
| James M. Mead        | New York                   | Nov. 16, 1949-.               |
| Stephen J. Spingarn  | New York                   | Oct. 25, 1950-Sept. 25, 1953. |
| Albert A. Carretta   | Virginia                   | June 18, 1952-Sept. 25, 1954. |
| Edward F. Howrey     | Virginia                   | April 1, 1953-.               |
| John W. Gwynne       | Iowa                       | Sept. 26, 1953-.              |
| Robert T. Secrest    | Ohio                       | Sept. 26, 1954-.              |

## Types of Unfair Methods and Practices

The following list illustrates unfair methods of competition and unfair or deceptive acts and practices condemned by the Commission from time to time in its orders to cease and desist. The list is not limited to orders issued during the fiscal year. Because of space limitation it does not include all of the specific practices outlawed by the Clayton Act and committed to the Commission's jurisdiction, namely, various forms of price discrimination, exclusive-dealing and tying arrangements, competitive stock acquisition, and certain kinds of competitive interlocking directorates.

1. The use of false or misleading advertising concerning, and the misbranding of, commodities, respecting the materials or ingredients of which they are composed, their quality, purity, origin, source, attributes, or properties, or nature of manufacture, and selling them under such name and circumstances as to deceive the public. An important part of these include misrepresentation of the therapeutic and corrective properties of medicinal preparations and devices, and cosmetics, and the false representation, expressly or by failure to disclose their potential harmfulness, that such preparations may be safely used.

2. Describing various symptoms and falsely representing that they indicate the presence of diseases and abnormal conditions which the product advertised will cure or alleviate.

3. Representing products to have been made in the United States when the mechanism or movements, in whole or in important part, are of foreign origin.

4. Bribing buyers or other employees of customers and prospective customers, without employers' knowledge or consent, to obtain or hold patronage.

5. Procuring the business or trade secrets of competitors by espionage, or by bribing their employees, or by similar means.

6. Inducing employees of competitors to violate their contracts and enticing them away in such numbers or under such circumstances as to hamper or embarrass the competitors in the conduct of their business.

7. Making false and disparaging statements respecting competitors' products and business, in some cases under the guise of ostensibly disinterested and specially informed sources or through purported scientific, but in fact misleading, demonstrations or tests.

8. Widespread threats to the trade of suits for patent infringement arising from the sale by competitors of alleged infringing products, not in good faith, but for the purpose of intimidating the trade and hindering or stifling competition, and claiming, without justification, exclusive rights in public names of unpatented products.

9. Conspiring to maintain uniform selling prices, terms and conditions of sale through the use of a patent-licensing system.

10. Trade boycotts or combinations of traders to prevent certain wholesale or retail dealers or certain classes of such dealers from procuring goods at the same terms accorded to the boycotters or conspirators, or through coercion to influence the trade policy of their competitors or of manufacturers from whom they buy.

11. Passing off goods for products of competitors through appropriation or simulation of such competitors' trade names, labels, dress of goods, or counterdisplay catalogs

12. Selling rebuilt, second-hand, renovated, or old products, or articles made in whole or in part from used or second-hand materials, new, by so representing them or by failing to reveal that they are not new or that second-hand materials have been used

13. Buying up supplies for the purpose of hampering competitors and stifling or eliminating competition.

14. Using concealed subsidiaries, ostensibly independent, to obtain competitive business otherwise unavailable, and making use of false and misleading representations, schemes, and practices to obtain representatives and make contracts, such as pretended puzzle-prize contests purportedly offering opportunities to win handsome prizes, but which are in fact mere "come-on" schemes and devices in which the seller's true identity and interest are initially concealed.

15. Selling or distributing punchboards and other lottery crevices which are to be or may be used in the sale of merchandise by lot or chance; using merchandising schemes based on lot or chance, or on a pretended contest of skill.

16. Combinations or agreements of competitors to fix, enhance, or depress prices, maintain prices, bring about substantial uniformity in prices, or divide territory or business, to cut off or interfere with competitors' sources of supply, or to close market to competitors; or use by trade associations of so-called standard cost system, price lists, or guides, or exchange of trade information calculated to bring about these ends, or otherwise restrain or hinder free competition.

17. Intimidation or coercion of producer or distributor to cause him to organize, join, or contribute to, or to prevent him from organizing, joining, or contributing to, producers' cooperative association or other association.

18. Aiding, assisting, or abetting unfair practice, misrepresentation, and deception, and furnishing means of instrumentalities therefor; and combining and conspiring to offer or sell products by chance or by deceptive methods, through such practices as supplying dealers with lottery devices, or selling to dealers and assisting them in conducting, contest schemes as a part of which pretended credit slips or certificates are issued to contestants, when in fact the price of the goods has been marked up to absorb the face value of the credit slip; and the supplying of emblems or devices to conceal marks of country of origin of goods, or otherwise to misbrand goods, as to country of origin.

19. Various methods to create the impression that the customer is being offered an opportunity to make purchases under unusually favorable conditions when such is not the case, such devices including—

(a) Sales plans in which the seller's usual price is falsely presented as a special reduced price for a limited time or to a limited class, or false claim of special terms, equipment, or other privileges or advantages.

(b) False or misleading use of the word "Free" in advertising.

(c) Use of misleading trade names calculated to create the impression that a dealer is a producer or importer selling directly to the consumer, with resultant savings.

(d) Offering of false "bargains" by pretended cutting of a fictitious "regular" price.

(e) Use of false representations that an article offered has been rejected as nonstandard and is offered at an exceptionally favorable price, or that the number thereof that may be purchased is limited.

(f) Falsely representing that goods are not being offered as sales in ordinary course, but are specially priced and offered as a part of a special advertising campaign to obtain customers, or for some purpose other than the customary profit.

(g) Misrepresenting, or causing dealers to misrepresent, the interest rate of carrying charge on deferred payments



20. Using containers ostensibly of the capacity customarily associated by the purchasing public with standard weights or quantities of the product therein contained, or using standard containers only partially filled to capacity, so as to make it appear to the purchaser that he is receiving the standard weight or quantity.

21. Misrepresenting in various ways the necessity or desirability or the advantages to the prospective customer of dealing with the seller, such as—

(a) Misrepresenting seller's alleged advantages of location or size, or the branches, domestic or foreign, or the dealer outlets he has.

(b) Making false claim of being the authorized distributor of some concern, or failing to disclose the termination of such relationship, in soliciting customers of such concern, or of being successor thereto or connected therewith, or of being the purchaser of competitor's business, or falsely representing that competitor's business has been discontinued, or falsely claiming the right to prospective customer's special consideration through such false statements as that the customer's friends or his employer have expressed a desire for, or special interest in, consummation of seller's transaction with the customer.

(c) Alleged connection of a concern, organization, association, or institute with, or endorsement of it or its' product or service by, the Government or nationally, known organization, or representation that the use of such product or services is required by the Government, or that failure to comply with such requirement is subject to penalty.

(d) False claim by a vendor of being an importer, or a technician, or diagnostician, or a manufacturer, grower, or nurseryman, or a distiller, or of being a wholesaler, selling to the consumer at wholesale prices; or by a manufacturer of being also the manufacturer of the raw material entering into the product, or by an assembler of being a manufacturer.

(e) Falsely claiming to be a manufacturer's representative and outlet for surplus stock sold at a sacrifice.

(f) Falsely representing that the seller owns a laboratory in which the product offered is analyzed and tested.

(g) Representing that ordinary private commercial seller and business is an association, or national association, or connected therewith, or sponsored thereby, or is otherwise connected with noncommercial or professional organizations or associations, or constitutes an institute, or, in effect, that it is altruistic in purpose, giving work to the unemployed.

(h) Falsely claiming that business is bonded, or misrepresenting its age or history, or the demand established for its products, or the selection afforded, or the quality or comparative value of its goods, or the personnel or staff or personages presently or theretofore associated with such business or the products thereof.

(i) Claiming falsely or misleadingly by patent, trade-mark, or other special and exclusive rights.

(j) Granting seals of approval by a magazine to products advertised therein and misrepresenting thereby that such products have been adequately tested, and misrepresenting by other means the quality, performance, and characteristics of such products.

22. Obtaining business through undertakings not carried out and not intended to be carried out, and through deceptive, dishonest, and oppressive devices calculated to entrap and coerce the customer or prospective customer, such practices including—

(a) Misrepresenting that seller fills orders promptly, ships kind of merchandise described, and assigns exclusive territorial rights within definite trade areas to purchasers or prospective purchasers.

(b) Obtaining orders on the basis of samples displayed for customer's selection and failing or refusing to respect such selection thereafter in filling of orders, or promising results impossible of fulfillment, or falsely making promises or holding out guaranties, or the right of return, or results, or refunds, replacements, or reimbursements or special or additional advantages to the prospective purchasers such as extra credit, or furnishing of supplies or advisory assistance; or falsely assuring the purchaser or prospective purchaser that certain special or exclusively personal favors or advantages are being granted him.

(c) Concealing from prospective purchaser unusual features involved in purchaser's commitment, the result of which will be to require of purchaser further expenditure in order to obtain benefit of commitment and expenditure already made, such as failure to reveal peculiar or nonstandard shape of portrait or photographic enlargement, so as to make securing of frame therefor from sources other than seller difficult and impracticable, if not impossible.

(d) Obtaining by deceit prospective customer's signature to a contract and promissory note represented as simply an order on approval.

(e) Making use of improper and coercive practices as means of exacting additional commitments from purchasers, through such practices as unlawfully withholding from purchaser property of latter lent to seller incident to carrying out of original commitment, such as practice of declining to return original photograph from which enlargement has been made until purchaser has also entered into commitment for frame therefor.

(f) Falsely representing earnings or profits of agents, dealers, or purchasers, or the terms or conditions involved, such as false statement that participation by merchant in seller's sales promotion scheme is without cost to merchant, and that territory assigned an agent, representative, or distributor is new or exclusive.

(g) Obtaining agents or representatives to distribute the seller's products through falsely promising to refund the money paid by them should the product prove unsatisfactory, or promising that the agent would be granted right to exclusive or new territory, would be given assistance by seller, or would be given special credit or furnished supplies, or overstating the amount of his earnings or the opportunities which the employment offers.

(h) Advertising a price for a product as illustrated or described and not including in such price all charges for equipment or accessories illustrated or described or necessary for use of the product or customarily included as standard equipment, and failing to include all charges not specified as extra.

23. Giving products misleading names so as to give them as value to the purchasing public which they would not otherwise possess, such as names implying falsely that—

(a) The products; were made for the Government or in accordance with its specifications and of corresponding quality, or that the advertiser is connected with the Government in some way, or in some way the products have been passed upon, inspected, underwritten, or endorsed by it; or

(b) They are composed in whole or in part of ingredients or materials which in fact are present only to a negligible extent or not at all, or that they have qualities or properties which they do not have; or

(c) They were made in or came from some locality famous for the quality of such products, or are of national reputation; or

(d) They were made by some well and favorably known process; or

(e) They have been inspected, passed, or approved after meeting the tests of some official organization charged with the duty of making such tests expertly and disinterestedly, or giving such approval; or

(f) They were made under conditions or circumstances considered of importance by a substantial part of the general purchasing public; or

(g) They were made in a country, or city, or locality considered of importance in connection with the public taste, preference, or prejudice; or

(h) They have the usual characteristics of value of a product properly so designated, as through use of a common, generic name, such as "paint," to designate a product lacking the necessary ingredients of paint; or,

(i) They are of greater value, durability, and desirability than is the fact, as labeling rabbit fur as "Beaver"; or

(j) They are designed, sponsored, produced, or approved by the medical profession, health and welfare associations, hospitals, celebrities, educational institutions and authorities, such as the use of letters "M. D." and the words "Red Cross" and its insignia and words "Boy Scout."

24. Selling below cost or giving products without charge, with intent and effect of hindering or suppressing competition.

25. Dealing unfairly and dishonestly with foreign purchasers and thereby discrediting American exporters generally.

26. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

27. Entering into contracts in restraint of trade whereby foreign corporations agree not to export certain products to the United States in consideration of a domestic company's agreement not to export the same commodity, nor to sell to anyone other than those who agree not to so export the same.

28. Employing various false and misleading representations and practices attributing to products a standing, merit and value to the purchasing public, or a part thereof, which they do not possess, such practices including—

(a) Misrepresenting, through salesmen or otherwise, products' composition, nature, qualities, results accomplished, safety, value and earnings or profits to be had therefrom.

(b) Falsely claiming unique status or advantages, or special merit therefor, on the basis of misleading and ill-founded demonstrations or scientific tests, or pretended widespread tests, or of pretended widespread and critical professional acceptance and use.

(c) Misrepresenting the history or circumstances involved in the marking and offer of the products or the source or origin thereof (foreign or domestic), or of the ingredients entering therein, or parts thereof, or the opportunities brought to the buyer through purchase of the offering, or otherwise misrepresenting scientific or other facts bearing on the value thereof the purchaser.

(d) Falsely representing products as legitimate, or prepared in accordance with Government or official standards or specifications.

(e) Falsely claiming Government or official or other acceptance, use, and endorsement of product, and misrepresenting success and standing thereof through use of false and misleading endorsements or false and misleading claims with respect thereto, or otherwise.

(f) Making use of a misleading trade name and representing by other means that the nature of a business is different than is the fact, such as a collection agency engaged in tracing alleged delinquent debtors representing itself to be a delivery system, an organization in search of missing heirs, or one connected with a Government agency.

(g) Misrepresenting fabrics or garments as to fiber content; and, in the case of wool products, failing to attach tags thereto indicating the wool, reused wool, reprocessed wool or other fibers contained therein, and the identity of the manufacturer or qualified reseller, as required by the Wool

Products Labeling Act, or removing or mutilating tags required to be affixed to the products when they are offered for sale to the public.

29. Failing and refusing to deal justly and fairly with customers in consummating transactions undertaken through such practices as refusing to correct mistakes in filling orders or to make promised adjustments or refunds, and retaining, without refund, goods returned for exchange or adjustment, and enforcing, notwithstanding agents' alterations, printed terms of purchase contracts, and exacting payments in excess of customers' commitments.

30. Shipping products at market prices to customers or prospective customers or to the customers or prospective customers of competitors without an order and then inducing or attempting by various means to induce the consignees to accept and purchase such consignments.

31. Inducing the shipment and sale of commodities through buyer's issuance of fictitious price lists and other printed matter falsely representing rising market conditions and demand, and leading seller to ship under the belief that he would receive prices higher than the buyer intended to or did pay.

## Statutes Pertaining to the Federal Trade Commission

The authority and powers of the Federal Trade Commission in the main are drawn from the following statutes:

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated below.
2. Clayton Act, sections 2, 3, 7, 8 and 11, approved October 15, 1914 (35 Stat. 730, 731, 732), amended as indicated below.
3. Webb-Pomerene Export Trade Act, approved April 10, 1918 (40 Stat. 510).
4. Wheeler-Lea Act, approved March 21, 1938 (52 Stat. 111), amending the Federal Trade Commission Act.
5. Robinson-Patman Act, approved June 19, 1936, and amendment thereto approved May 26, 1938 (49 Stat. 1526; 52 Stat. 446), revising and extending section of the Clayton Act.
6. Wool Products Labeling Act of 1939, approved October 14, 1940 (54 Stat. 1128) .
7. Public Law 15, 79th Congress, approved March 9, 1945, "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" (59 Stat. 33).
8. Lanham Trade Mark Act, approved July 5, 1946 (60 Stat. 427).
9. Oleomargarine Act, approved March 16, 1960, amending Section 5 of the Federal Trade Commission Act respecting civil penalties, and section 15 respecting misleading advertisement of oleomargarine or margarine (64 Stat. 20).
10. Public Law 899, 81st Congress, approved December 29, 1950, the so-called antimerger legislation, amending and extending section 7 of the Clayton list. (64 Stat. 1125).
11. Fur Products Labeling Act, approved August 8, 1951 (65 Stat. 175).
12. Flammable Fabrics Act, approved June 30, 1953, and amendment thereto approved August 23, 1954 (67 Stat. 111; 68 Stat. 770).

### Federal Trade Commission Act\*

(15 U. S. C., Secs. 41-58)

AN ACT To create a Federal Trade Commission, to define its powers and duties, and for other purposes

SEC. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission), which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect; of this Act, the term of each to be designated by the President,

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\* Published as last amended by the Federal Fair Trade, or McGuire, Act approved July 14, 1952. (See footnote 5 on p. 82.)

but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed: Provided, however, That upon the expiration of this term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The Commission shall choose a chairman from its own membership.<sup>1</sup> No Commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the Commission shall not impair the right of the remaining commissioners to exercise all the powers of the Commission.

The Commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year,<sup>2</sup> payable in the same manner as the salaries of the judges of the courts of the United States. The Commission shall appoint a secretary who shall receive a salary of \$5,000 a year,<sup>3</sup> payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may from time to time be appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the Commission may from time to time and necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the Commission and by the Civil Service Commission.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and path on the presentation of itemized vouchers therefor approved by the Commission.

Until otherwise provided by law, the Commission may rent suitable offices for its use.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the Commission.<sup>4</sup>

SEC. 3. That upon the organization of the Commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the Commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the Commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the Commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the

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<sup>1</sup> Under Reorganization Plan No. 8 of 1950, which became effective May 24, 1950, pursuant to the Reorganization Act of 1949, the power to appoint the chairman was transferred to the President. The plan also transferred to the chairman, subject to specified limitations, the executive and administrative functions formerly exercised by the Commission as a whole.

<sup>2</sup> The salaries of the commissioners were increased to \$15,000 a year under the provisions of Public Law 359, 81st Cong., approved October 15, 1949.

<sup>3</sup> The salary of the secretary is controlled by the provisions of the Classification Act of 1923, approved March 4, 1923, 42 Stat, 1488.

<sup>4</sup> Auditing of accounts was made a duty of the General Accounting Office by the Act of June 10, 1921, 42 Stat. 24.

Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the Commission in the exercise of the powers, authority, and duties conferred on it by this Act.

The principal office of the Commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The Commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 4. The words defined in this section shall have the following meaning when found in this Act, to wit:

"Commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

"Corporation" shall be deemed to include any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members, and has shares of capital or capital stock; or certificates of interest, and any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, without shares of capital or capital stock or certificates of interest, except partnerships, which is organized to carry on business for its own profit or that of its members.

"Documentary evidence" includes all documents, papers, correspondence, books of account, and financial and corporate records.

"Acts to regulate commerce" means the Act entitled "An Act to regulate commerce," approved February 14, 1887, and all Acts amendatory thereof and supplementary thereto and the Communications Act of 1934 and all Acts amendatory thereof and supplementary thereto.

"Antitrust Acts" means the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also sections 73 to 77, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; also the Act entitled "An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913; and also the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

SEC. 5. (a)<sup>5</sup> (1) Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

(2) Nothing contained in this Act or in any of the Antitrust Acts shall render unlawful any contracts or agreements prescribing minimum or stipulated prices, or requiring a vendee to enter into contracts or agreements prescribing minimum or stipulated prices, for the resale of a commodity which bears, or the later or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful as applied to intrastate transactions under any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia in

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<sup>5</sup> Sec. 5 (a) is published as amended by Public Law 542, 82d Cong., ch. 745, 2d Sess., H. R. 5767, Approved July 14, 1952, 66 Stat. 631.; 15 U. S. C. 47 (Federal Fair Trade Act [McGuire Act] ).

which such resale is to be made, or to which the commodity is to be transported for such resale.

(3) Nothing contained in this Act or in any of the Antitrust Acts shall render unlawful the exercise or the enforcement of any right or right of action created by any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia, which in substance provides that willfully and knowingly advertising, offering for sale, or selling any commodity at less than the price or prices prescribed in such contracts or agreements whether the person so advertising, offering for sale, or selling is or is not a party to such a contract or agreement, is unfair competition and is actionable at the suit of any person damaged thereby.

(4) Neither the making of contracts or agreements as described in paragraph (2) of this subsection, nor the exercise or enforcement of any right or right of action as described in paragraph (3) of this subsection shall constitute an unlawful burden or restraint upon, or interference with, commerce.

(5) Nothing contained in paragraph (2) of this subsection shall make lawful contracts or agreements providing for the establishment or maintenance of minimum or stipulated resale prices on any commodity referred to in paragraph (2) of this subsection, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

(6) The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition or such act or practice. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the transcript of the record in the proceeding has been filed in a circuit court of appeals of the United States, as hereinafter provided, the Commission may at any time, upon



such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require: Provided, however, That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate circuit court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days<sup>6</sup> from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the Commission. Upon such filing of the petition and transcript the court; shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of: such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

(d) The jurisdiction of the circuit court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.

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<sup>6</sup> Section 5 (a) of the amending Act of 1938 provides:

SEC. 5. (a) In case of an order by the Federal Trade Commission to cease and desist, served on or before the date of enactment of this Act, the sixty-day period referred to in section 5 (c) of the Federal Trade Commission Act, as amended by this Act, shall begin on the date of the enactment of this Act.

(e) Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the Commission or judgment of court to enforce the same shall in anywise relieve or absolve any person, partnership, or corporation from any liability under the Antitrust; Acts.

(f) Complaints, orders, and other processes of the Commission under this section may be served by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or director of the corporation to be served; or (b) by leaving a copy thereof at the residence or the principal office or place of business of such person, partnership, or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his ,or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

(g) An order of the Commission to cease and desist shall become final—

(1) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the Commission may thereafter modify or set aside its order to the extent provided in the last sentence or subsection (b); or

(2) Upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed, or the petition for review dismissed by the circuit court of appeals, and no petition for certiorari has been duly filed; or

(3) Upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the circuit court of appeals; or

(4) Upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Commission be affirmed or the petition for review dismissed.

(h) If the Supreme Court directs that the order of the Commission be modified or set aside, the order of the Commission rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(i) If the order of the Commission is modified or set aside by the circuit court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered in accordance with the mandate of the circuit court of appeals shall become final on the expiration of thirty days from the time such order of the Commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(j) If the Supreme Court orders a rehearing; or if the case is remanded by the circuit court of appeals to the Commission for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision the court has been affirmed by the Supreme Court, then the order

of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission has been rendered.

(k) As used in this section the term "mandate," in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

(l) Any person, partnership, or corporation who violates an order to the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.<sup>7</sup>

SEC. 6. That the commission shall also have power—

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust Acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation and the report shall be made public in the discretion of the commission.

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust Acts in order that the corporation may thereafter

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<sup>7</sup> This sentence added by sec. 4 (e) of Public Law 459, 81st Cong., approved March 16, 1950. and effective July 1 1950.

<sup>8</sup> The independent Offices Appropriation Act of 1934 provided that future investigation by the Commission for Congress must be authorized by concurrent resolution of the two houses. Under the Appropriation Act of 1951, funds appropriated for the Commission are not to be spent upon any investigation thereafter called for by congressional concurrent resolution "until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such Investigation."

maintain its organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act.

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust Acts, the court may, upon the conclusion of the testimony therein if it shall be then of the opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this Act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have

jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act; at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken, and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it; Provided, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or wilfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000 or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the Commission for filing the same, and such failure shall continue for thirty days after notice of such

default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 11. Nothing contained in this Act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust Acts or the Acts to regulate commerce, nor shall anything contained in the Act be construed to alter, modify, or repeal the said antitrust Acts or the Acts to regulate commerce or any part or parts thereof.

SEC. 12. (a) It shall be unlawful for any person, partnership, or corporation to disseminate, or cause to be disseminated, any false advertisement—

(1) By United States mails, or in commerce by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics; or

(2) By any means, for the purpose of inducing, or which is likely to induce directly or indirectly, the purchase in commerce of food, drugs, devices, or cosmetics.

(b) The dissemination or the causing to be disseminated of any false advertisement within the provisions of subsection (a) of this section shall be an unfair or deceptive act or practice in commerce within the meaning of section 5.

SEC. 13. (a) Whenever the Commission has reason to believe—

(1) that any person, partnership, or corporation is engaged in, or is about to engage in, the dissemination or the causing of the dissemination of any advertisement in violation of section 12, and

(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of section 5, would be to the interest of the public,

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or in the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing a temporary injunction or restraining order shall be granted without bond. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business.

(b) Whenever it appears to the satisfaction of the court in the case of a news paper, magazine, periodical, or other publication, published at regular intervals—

(1) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and

(2) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method

or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement.

the court shall exclude such issue from the operation of the restraining order or injunction.

SEC. 14<sup>9</sup> (a) Any person, partnership, or corporation who violates any provision of section 12 (a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than six months, or by both such fine and imprisonment; except that if the conviction is for a violation committed after a first conviction of such person, partnership or corporation, for any violation of such section, punishment shall be by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment: Provided, That for the purposes of this section meats and meat food products duly inspected, marked, and labeled in accordance with rules and regulations issued under the Meat Inspection Act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

(b) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of advertising except the manufacturer, packer, distributor, or seller of the commodity to which the false advertisement relates, shall be liable under this section by reason of the dissemination by him of any false advertisement, unless he has refused on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the United States, who caused him to disseminate such advertisement. No advertising agency shall be liable under this section by reason of the causing by it of the dissemination of any false advertisement, unless it has refused, on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, or seller, residing in the United States, who caused it to cause the dissemination of such advertisement.

SEC. 15. For the purpose of sections 12, 13, and 14—

(a) (1) The term "false advertisement" means an advertisement, other than labeling, which is misleading in a material respect; and in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement or, under such conditions as are customary or usual. No advertisement of a drug shall be deemed to be false if it is disseminated only to members of the medical profession, contains no false representations of a material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

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<sup>9</sup> Section 5 (b) of the amending Act of 1938 provides:

SEC. 5. (b) Section 14 of the Federal Trade Commission Act, added to such Act by section 4 of this Act, shall take effect on the expiration of sixty days after the date of the enactment of this Act.

(2)<sup>10</sup> In the case of oleomargarine or margarine an advertisement shall be deemed misleading in a material respect if in such advertisement representations are made or suggested by statement, word, grade designation, design, device, symbol, sound, or any combination thereof, that such oleomargarine or margarine is a dairy product, except that nothing contained herein shall prevent a truthful, accurate, and full statement in any such advertisement of all the ingredients contained in such oleomargarine or margarine.

(b) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(c) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(d) The term "device" (except when used in subsection (a) of this section) means instruments, apparatus, and contrivances, including their parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or in other animals; or (2) to affect the structure or any function of the body of man or other animals.

(e) The term "cosmetic" means (1) articles to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof intended for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

(f)<sup>10</sup> For the purposes of this section and section 407 of the Federal Food, Drug, and Cosmetic Act, as amended, the term "oleomargarine" or "margarine" includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.

SEC. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection ( 1 ) of section 5, it shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection.

SEC. 17. If any provision of this Act, or the application thereof to any person, partnership, corporation, or circumstance, is held invalid, the remainder of the Act and the application of such provision to any other person, partnership, corporation, or circumstance shall not be affected thereby.

SEC. 18. This Act may be cited as the "Federal Trade Commission Act."

Original act approved September 26, 1914.

Amended act approved March 21, 1938.

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<sup>10</sup> This subsection added by sec. 4 (a) of Public Law 459, 81st Cong., approved March 6, 1950, and effective July 1, 1950.



# Clayton Act<sup>1</sup>

(Approved in original form Oct. 14, 1914; 38 Stat. 730; 15 U. S. C. Sec. 12, et. seq.)

[PUBLIC—No. 212—63D CONGRESS, AS AMENDED BY PUBLIC—No. 692—74TH CONGRESS,<sup>1</sup> AND PUBLIC—No. 899—81ST CONGRESS]

[H. R. 15657]

AN ACT To supplement existing laws against unlawful restraints and monopolies, and for other purposes

Be it enacted by the Senate and house of Representatives of the United States of America in Congress assembled, That “antitrust laws,” as used herein, includes the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled “An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved February twelfth, nineteen hundred and thirteen; and also this act.

“Commerce,” as used herein means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State. Territory of foreign nation, or between an insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That nothing in this Act contained shall apply to the Philippine Islands.

The word “person” or “persons” whenever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories the laws of any State, or the laws of any foreign country.

SEC. 2.<sup>2</sup> (a) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: Provided, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities

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<sup>1</sup> The Robinson-Patman Act, approved June 19, 1936, 49 Stat. 1526; 15 U. S. C., Sec. 13 (see footnote 2). See also footnote 4 on page 96 and footnote 8 on page 101, with respect to the repeal of Section 9, Section 17 in part, Sections 18 and 19, and Sections 21-23, inclusive, by two acts of June 25, 1948, namely, C. 645 (62 Stat. 683) and C. 646 (62 Stat. 896); and footnotes on pages 94 and 97 concerning the amendment of Sections 7 and 11 by act of Dec. 29, 1950, C. 1184 (64 Stat. 1125).

<sup>2</sup> This section of the Clayton Act contains the provisions of the Robinson-Patman Anti-Discrimination Act, approved June 19, 1936, amending Section 2 of the original Clayton Act, approved Oct. 15, 1914.

Section 4 of the Robinson-Patman act provides that nothing therein “shall prevent a cooperative association from returning to its members, producers, or consumers the whole, or any part of, the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association.”

Public, No. 550. 75th Congress, approved May 26, 1938, to amend the said Robinson-Patman Act, further provides that nothing therein “shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.”

in which such commodities are to such purchasers sold or delivered: Provided, however, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: And provided further, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price of services or facilities furnished the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: Provided however, That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

(c) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(e) That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(f) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this section.

SEC. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the Jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchasers thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessee or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

SEC. 4. That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court; of the United States in the district in which the defendant resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

SEC. 5. That a final judgment or decree hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters, respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, This section shall not apply to consent judgments or decrees entered before any testimony has been taken: Provided further, This section shall not apply to consent amendments or decrees rendered in criminal proceedings or suits in equity, now pending, in which the taking of testimony has been commenced but has not been concluded, provided such judgments or decrees are rendered before any further testimony is taken.

Whenever any suit or proceeding in equity or criminal prosecution is instituted by the United States to prevent, restrain, or punish violations of any of the antitrust laws, the running of the statute of limitations in respect of each and every private right of action arising under said laws and based in whole or in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof.

SEC. 6. That the labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

SEC. 7. a That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of one or more corporations engaged in commerce, where in any line of commerce in any section of the country, the effect of such acquisition, of such stocks or assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from requiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium

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<sup>3</sup> Section 7, and also section 11, of the Clayton Act appear here in the form into which they were amended by Act of Dec. 29, 1950 (P. L. 899; 64 Stat. 1125; 15 U. S. C. 18).

of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: Provided, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Civil Aeronautics Board, Federal Communications Commission, Federal Power Commission, Interstate Commerce Commission, the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 of the Public Utility Holding Company Act of 1935, the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in such Commission, Secretary, or Board.

SEC. 8. No private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; but the foregoing prohibition shall not apply in the case of any one or more of the following or any branch thereof:

(1) A bank, banking association, savings bank, or trust company, more than 90 per centum of the stock of which is owned directly or indirectly by the United States or by any corporation of which the United States directly or indirectly owns more than 90 per centum of the stock.

(2) A bank, banking association, savings bank, or trust company which has been placed formally in liquidation or which is in the hands of a receiver, conservator, or other official exercising similar functions.

(3) A corporation, principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States which has entered into an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 of the Federal Reserve Act.

(4) A bank, banking association, savings bank, or trust company, more than 50 per centum of the common stock of which is owned directly or indirectly by persons who own directly or indirectly more than 50 per centum of the common stock of such member bank.

(5) A bank, banking association, savings bank, or trust company not located and having no branch in the same city, town, or village as that in which such member bank or any branch thereof is located, or in any city, town, or village contiguous or adjacent thereto.

(6) A bank, banking association, savings bank, or trust company not engaged in a class or classes of business in which such member bank is engaged.

(7) A mutual savings bank having no capital stock.

Until February 1, 1939, nothing in this section shall prohibit any director, officer, or employee of any member bank of the Federal Reserve System, or any branch thereof, who is lawfully serving at the same time as a private banker or as a director, officer, or employee of any other bank, banking association, savings bank, or trust company, or any branch thereof, on the date of enactment of the Banking Act of 1935, from continuing such service.

The Board of Governors of the Federal Reserve System is authorized and directed to enforce compliance with this section, and to prescribe such rules and regulations as it deems necessary for that purpose.

That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to

stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

SEC. 9.<sup>4</sup> Every president, director, officer or manager of any firm, association or corporation engaged in commerce as a common carrier, who embezzles, steals, abstracts or willfully misapplies or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation, arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or the use of another, shall be deemed guilty of a felony and upon conviction shall be fined not less than \$500 or confined in the penitentiary not less than one year nor more than ten years, or both, in the discretion of the court.

Prosecutions hereunder may be in the district court of the United States for the district wherein the offense may have been committed.

That nothing in this section shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof; and a judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

SEC. 10. That after two years from the approval of this Act no common carrier engaged in commerce shall have any dealings in securities, supplies, or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership, or association when the said common carrier shall have upon its board of directors or as its president, manager, or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership, or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors, and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate Committee Commission a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding \$25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$5,000, or confined in jail not exceeding one year, or both in the discretion of the court.

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<sup>4</sup> Repeated by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified, and enacted into "positive law" Title 18 of the Code (Crimes and Criminal Procedure. Said act reenacted said matter as to substance, as 18 U. S. C., Sec. 660 (62 Stat. 730).

SEC. 11.<sup>5</sup> That authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject. To the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Civil Aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce to be exercised as follows:

Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 2, 3, 7, and of this Act, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect, and containing a notice of hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission or Board requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the Commission or Board, to intervene and appear in quid proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission or Board. If upon such hearing the Commission or Board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue .and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share, capital, or assets, held or rid itself of the directors chosen contrary to the provisions of sections 7 and 8 of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a United States court of appeals, as hereinafter provided, the Commission or Board may at any time, upon such notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person fails or neglects to obey such order of the Commission or Board while the same is in effect, the Commission or Board may apply to the United States court of appeals within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its publication a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the Commission or Board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission or Board. The findings of the Commission or Board as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission or Board, the court may order such additional evidence to be taken before the Commission or Board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission or Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28, United States Code.

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<sup>5</sup> Section 11, also section 7, of the Clayton Act appear here in the form into which they were amended by Act of Dec. 29, 1950 (P. L. 899; 64 Stat. 1125; 15 U. S. C. 21).

Any party required by such order of the Commission or Board to cease and desist from a violation charged may obtain a review of such order in said United States court of appeals by filing in the court a written petition praying that the order of the Commission or Board be set aside. A copy of such petition shall be forthwith served upon the Commission or Board, and thereupon the Commission or Board forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by substantial evidence, shall in like manner be conclusive.

The jurisdiction of the United States court of appeals to enforce, set aside, or modify orders of the Commission or Board shall be exclusive.

Such proceedings in the United States court of appeals shall be given precedence over cases pending therein, and shall be in every way expedited. No order of the Commission or Board or the Judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust Acts.

Complaints, orders, and other processes of the Commission or Board under this section may be served by anyone duly authorized by the Commission or Board. either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

SEC. 12. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought; not only in the judicial district v hereof it is an inhabitant, but also in any district wherein it may be found or transacts business: and all process in such cases may be served in the district of which it is an inhabitant, or whatever it may be found.

SEC. 13. That in any suit, action, or proceeding brought by or on behalf of the United States subpoenas for witnesses who are required to attend a court of the United States in any judicial district in any case, civil or criminal, arising under the antitrust laws may run into any other district: Provided, That in civil cases no writ of subpoena shall issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the trial court being first had upon proper application and cause shown.

SEC. 14. That whenever a corporation shall violate any of the penal provisions of the antitrust laws, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation, and such violation shall be deemed a misdemeanor, and upon conviction thereof of any such director, officer, or agent he shall be punished by a fine of not exceeding, \$5,000 or by imprisonment for not exceeding one year, or by both, in the discretion of the court.

SEC. 15. That the several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned whether they reside in the district in which the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

SEC. 16. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, as against threatened loss or damage by a violation of the antitrust laws, including sections two, three, seven, and eight of this Act, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: Provided, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to brief suit in equity for injunctive relief against any common carrier subject to the provisions of the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, in respect of any matter subject to the regulation, supervision, or other jurisdiction of the interstate Commerce Commission.

SEC. 17.<sup>6</sup> That no preliminary injunction shall be issued without notice to the opposite party.

No temporary restraining order shall be granted without notice to the opposite party unless it shall c).early appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every such temporary restraining order shall be endorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed ten days, as the court or judge may fix, unless within the time so fixed the order is extended for a like period for good cause shown, and the reasons for such extensions shall be entered of record. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time and shall take precedence of all matters except older matters of the same character; and when the same comes up for hearing the party obtaining the temporary restraining order shall proceed with the application for a preliminary injunction, and if he does not do so the court shall dissolve the temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

Section two hundred and sixty-three of an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, is hereby repealed.

Nothing in this section contained shall be deemed to alter, repeal, or amend section two hundred and sixty-six of an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March Third, nineteen hundred and eleven.

SEC. 18.<sup>7</sup> That, except as otherwise provided in section 10 of this Act, no restraining order or interlocutory order of injunction shall issue, except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

SEC. 19.<sup>7</sup> That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained, and shall be binding only upon the parties to the suit, their officers, agents, servants, employees and attorneys, or those in active concert or participating with them, and who shall, by personal service or otherwise, have received actual notice of the same.

SEC. 20. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless

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<sup>6</sup> See second paragraph of footnote 8 on page 101.

<sup>7</sup> See second paragraph, of footnote 8 on page 101.



necessary to prevent irreparable injury to property, or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any persons engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

SEC. 21.<sup>7</sup> That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thin', therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States, or under the laws of any State in which the act was committed, shall be proceeded against for his said contempt hereinafter provided.

SEC. 22.<sup>7</sup> That whenever it shall be made to appear to any district court or Judge thereof, or to any judge therein sitting, by the return of a proper officer or lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: Provided, however, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

In all cases within the purview of this Act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the Unites States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of \$1,000, nor shall such imprisonment exceed the term of six months: Provided, That in any case the court or a judge thereof may, for good cause shown, by affidavit or proof taken in open court or before such judge and filed with the papers in the case, dispense with the rule to show cause, and may issue an attachment for the arrest of the

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<sup>7</sup> See footnote 8 on page 101.

person charged with contempt; in which event such person, when arrested, shall be brought before such court or a judge thereof without unnecessary delay and shall be admitted to bail in a reasonable penalty for his appearance to answer to the charge or for trial for the contempt; and thereafter the proceedings shall be the same as provided herein in case the rule had issued in the first instance.

SEC. 23<sup>5</sup> That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as Justice may require. Upon the granting of such writ of error, execution of judgment shall be stated and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

SEC. 24.<sup>8</sup> That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all the other cases of contempt not specifically embraced within section twenty-one of this Act, may be punished in conformity to the usages at law and in equity now prevailing.

SEC. 25.<sup>8</sup> That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this Act.

SEC. 26. If any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved, October 15, 1914.

## Flammable Fabrics Act

(Approved June 30, 1953; 67 Stat. 111; 15 U. S. C. Sec. 1191)

PUBLIC—No. 88—83D CONGRESS, CH. 164—1ST SESS.]

[H. R. 5069]

AN ACT To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

Be it enacted by the Senate and use of Representatives of the United States of America in Congress assembled,

### SHORT TITLE

SECTION 1. This Act may be cited as the “Flammable Fabrics Act.”

### DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

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<sup>8</sup> Sections 21 to 25, Inclusive, were repealed by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified, and enacted into "positive law," Title 18 of the Code (Crimes and Criminal Procedure). Said act reenacted said matter, excluding Section 23, as to substance, as 18 U. S. C., Section 402 (as amended by Public Law 72, May 21, 1949, 81st Congress), 18 U. S. C., Section 3285 and 18 U. S. C., Section 3691. Section 23 was omitted as no longer required in view of the civil and criminal rules promulgated by the Supreme Court.

The Act of June 25, 1948, c. 646 (62 Stat. 896), which revised, codified, and enacted into law Title 28 of the Code (Judicial Code and Judiciary, repealed the first, second, and fourth paragraphs of Section 17, and repealed Sections 18 and 19, in view of Rule 35, Federal Rules of Civil Procedure, which covers the substance of the matter involved.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: Provided, however, that such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: Provided further, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: And provided further, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than fiber, filament, or yarn) woven, knitted, felled, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended.

#### PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, the sale, or the offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

#### STANDARD OF FLAMMABILITY

SEC. 4. ( a ) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and footwear covered by section 2 (d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together with such proposals for legislation as he deems appropriate.

(c) Notwithstanding the provisions of paragraph 3.1 Commercial Standard 191-53, textiles free from nap, pile, tufting, dock, or other type of raised fiber surface when tested as described in said standard shall be classified as class 1, normal flammability, when the time of flame spread is three and one-half seconds or more, and as class 3, rapid and intense burning, when the time of flame spread is less than three and one-half seconds.<sup>1</sup>

#### ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8 (b) of this Act shall be enforced by the Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

#### INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered

<sup>1</sup> Subparagraph (c) added by Public No. 629. 83d Cong., Ch. 833, Second Session, S. 3379 (An Act to amend section 4 of the Flammable Fabrics Act, with respect to standards of flammability in the case of certain textiles), approved Aug. 23, 1954.

thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

#### PENALTIES

SEC. 7. Any person who willfully violates section 3 or (b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: Provided, That nothing herein shall limit other provisions of this Act.

#### GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty is not, under the provisions of section 4 of this Act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing effected the flammability of the fabric or wearing apparel covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric: or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and; address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

#### SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from anticipating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

#### INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any

provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

#### EXECUTIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: Provided, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this Act, as to be dangerous when worn by individuals.

#### EFFECTIVE DATE

SEC. 12. This Act shall take effect one year after the date of its passage.

#### AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved June 30 1953.

## General Investigations by the Commission since 1915

Since its establishment in 1915, the Federal Trade Commission has conducted numerous general inquiries which are alphabetically listed and briefly described in the following pages.<sup>1</sup> They were made at the request of the President, the Congress, the Attorney General, Government agencies, or on motion of the Commission pursuant to the Federal Trade Commission Act.

Reports of these inquiries in many instances have been published as Senate or House documents or as Commission publications. Printed documents, unless indicated as being out of print,<sup>2</sup> may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D. C. Processed publications are available without charge from the Federal Trade Commission while the supply lasts.

Agencies initiating or requesting investigations are indicated in parentheses in the headings. Investigations, the results of which have been published, are listed below. Following this listing are unpublished investigations conducted by the Commission.

Accounting Systems (F. T. C.).—Pointing the way to a general improvement in accounting practices, the Commission, published *Fundamentals of Cost System for Manufacturers* (H. Doc. 1356, 64th, 31 p., o. p., 7/1/16) and *A System of Accounts for Retail Merchants* (19 p., o. p., 7/15/16).

Accounting Systems.—See *Distribution Cost Accounting*.

Advertising as a Factor in Distribution.—See *Distribution Methods and Costs*.

Agricultural Implements.—See *Farm Implements and Distribution Methods and Costs*.

Agricultural Implements and Machinery (Congress).<sup>3</sup>—Prices of farm products reached record lows in 1932 but prices of many farm implements, machines, and repair parts maintained high levels resulting in widespread complaints in the next few years. The Commission investigated the situation (Public Res. 130, 74th, 6/24/36) and, following submission of its report, *Agricultural Implement and Machinery Industry* (H. Doc. 702, 75th, 1,176 p., 6/6/38), the industry made substantial price reductions. The report criticized certain competitive practices on the part of the dominant companies which the companies later promised to remedy. It showed, among other things, that a few major companies had maintained a concentration of control which resulted in large part from their acquisition of the capital stock or assets of competitors prior to enactment of the Clayton Antitrust Act in 1914 and thereafter from their purchase of assets of

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<sup>1</sup> The wartime cost-finding inquiries, 1917-18 (p. 124), include approximately 370 separate investigations.

<sup>2</sup> Documents out of print (designated "o. p.") are available in depository libraries.

<sup>3</sup> Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses.

competitors rather than capital stock.<sup>4</sup> (See also under Farm Implements and Independent Harvester Co.)

Agricultural Income (Congress).—Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 61, 74th, 8/27/35), and table and juice ,grapes, fresh fruits and vegetables (Public Res. 112, 74th, 6/20/36), the Commission made recommendations concerning, among other things, the marketing of commodities covered by the inquiry; corporate consolidations and mergers;<sup>5</sup> unbalanced agricultural industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that act (Public, 328, 75th in 1937. [Report of the F. T. C. on Agricultural Income Inquiry, Part I, Principal Farm Products, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p.); Part II, Fruits, Vegetable, and Grapes, 906 p. 6/10/37; Part III, Supplementary Report, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc.17, 75th, 16 p.).]

Agricultural Prices.—See Price Deflation.

Automobiles.—See Distribution Methods and Costs, and Motor Vehicles.

Bakeries and Bread.—See under Food.

Beet Sugar.—See under Food—Sugar.

Building Materials.—See Distribution Methods and Costs.

Calcium Arsenate (Senate).—High prices of calcium arsenate, a poison used to destroy the cotton boll weevil (S. Res. 417, 67th, 1/23/23), appeared to be due to sudden increased demand rather than trade restraints (Calcium Arsenate Industry, S. Doc.345, 67th, 21 p.,op 3/3/23).

Cartels. See paragraphs headed Copper Industry, International Phosphate Cartels, Sulphur Industry, International Electrical Equipment Cartel, International Steel Cartels, Fertilizer (F. T. C.), International Petroleum Cartels, and International Alkali Cartels.

Cement (Senate).—Inquiry into the cement industry's competitive conditions and distributing processes (S. Res. 448, 71st, 2/16/31) showed that rigid application of the multiple basing-point price system<sup>6</sup> tended to lessen price competition and destroy the value of settled bids; concerted activities of manufacturers and dealers strengthened the system's price effectiveness; and dealer associations' practices were designed to restrict sales to recognized "legitimate" dealers (Cement Industry, S. Doc. 71, 73d, 160 p., o. p., 6/9/33).

Chain Stores (Senate).—Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/12/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors fin selected cities. (For subtitles of 33 reports published

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<sup>4</sup> Conditions With Respect to the Sale and Distribution of Milk and Dairy Products (H. Doc. 94, 75th, 1/4/37), p. 38; Report of the F. T. C. on Agricultural Income Inquiry, Part I (3/2/37), p. 26; Agricultural Implement and Machinery Industry (H. Doc. 702, 75th, 6/6/39), p. 1038; The Present Trend of Corporate Mergers and Acquisitions 3/7/47); The Merger Movement: A Summary Report (1948); and F. T. C. Annual Reports: 1938, pp. 19 and 29; 1939, p. 14; 1940, p. 12; 1941, p. 19; 1942, p. 9; 1944, p. 7; 1945, p. 8; 1946, p. 12; 1947, p. 12; and 1948, p. 11.

<sup>5</sup> See footnote 4 above.

<sup>6</sup> Basing-point systems are also discussed in the published reports listed herein under "Price Bases," "Steel Code," and "Steel Sheet Piling."





under the general title, Chain Stores, 1931-33, see F. T. C. Annual Report, 1941. p. 201. )

In the Final Report on the Chain-Store Investigation. (S. Doc. 4, 74th, 110 p., o. p., 12/14/34), legal remedies available to combat monopolistic tendencies in chain-store development were discussed.<sup>7</sup> The Commission's recommendations pointed the way to subsequent enactment of the Robinson-Patman Act (1936) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

Cigarette Shortage (F. T. C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944-45.—In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that it was not attributable to violations of laws administered by the Commission; but that certain undesirable practices such as hoarding and tie-in sales had developed. (Report of the F. T. C. on the Cigarette Shortage, 33 pages, processed, 2/13/45.)

Coal (Congress and F. T. C.), Wartime, 1917-18, Etc.—From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were: Anthracite Coal Prices, preliminary (S. Doc. 19, 65th, 4 p., o. p., 5/4/17); Preliminary Report by the F. T. C. on the Production and Distribution of Bituminous Coal (H. Doc. 152, 85th, 8 p., o. p., 5/19/17); Anthracite and Bituminous Coal Situation, summary (H. Doc. 193, 65th, 29 p., o. p., 6/19/17); and Anthracite and Bituminous Coal (S. Doc. 50, 65th, 420 p., o. p., 6/19/17)—pursuant to S. Res. 217, 64th 2/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1 /17; Washington, D. C., Retail Coal Situation (5 p., release, processed, o. p., 8/11/17)—pursuant to F. T. C. motion; Investment and Profit in Soft-Coal Mining (two parts, 5/31/22 and 7/6/22, 218 p.,o.p., S. Doc. 207, 65th)—pursuant to F. T. C. motion; and Report of the F. T. C. on Premium Prices of Anthracite (97 p.,o. p., 7/6/25)—pursuant to F. T. C. motion.

Coal, Cost of Production (F. T. C.), Wartime, 1917-18.—President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U. S. Fuel Administration in continuing price control, the Commission compiled monthly cost production reports, collecting cost records for 1917-18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (Cost Report., of the F. T. C.— Coal, 6/30/19, summarized for principal coal-producing States or regions: (1) Pennsylvania, bituminous, 103 p., o. p.; (2) Pennsylvania, anthracite, 145 p., o. p.; (3) Illinois, bituminous, 127 p., o. p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p., o. p.; (5) Ohio, Indiana, and Michigan, bituminous, 288 p.,o.p.; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p.,o.p.; and (7) trans-Mississippi States, bituminous, 459 p., o. p.).

Coal, Current Monthly Reports (F. T. C.).—The Commission (December 1919) initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917-18 (Coal - Reports on Cost of Production, 4/20/20 to 10/30/20, Nos.1 to 6, and two quarterly report with revised costs, 8/25/20 and 12/6/20, processed, o. p. ). An injunction to

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<sup>7</sup> See footnote 4, p. 107

prevent the calling, for the monthly reports (denied about 7 years later) led to their abandonment.

Coffee (F. T. C.).—In its 1954 Economic Report of the Investigation of Coffee Prices, the Commission reported that the coffee price spiral of 1953-54 "cannot be explained in terms of the competitive laws of supply and demand." The report lists and discusses six major factors responsible for the price spiral, and recommends Congressional action to correct some of the "market imperfections" and "irregularities" found. (593 pp., 7/30/54.)

Combed Cotton Yarns.—See Textiles.

Commercial Bribery (F. T. C.).—Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published A Special Report on Commercial Bribery (H. Doc. 1107, 65th, 3 p., o. p., 5/10/18), recommending legislation striking at this practice; Commercial Bribery (53. Doc. unnumbered, 65th, 36 p., o. p., 8/22/18); and Commercial Bribery (S. Doc. 258, 66th, 7 p, o. p., 3/18,/20).

Concentration in Manufacturing, Changes in, 1935 to 1947 and 1950 (F. T. C.).— This 153-page report shows that, on the basis of a study of the top 200 companies, concentration in American manufacturing was 2.8 percentage points higher in 1950 than in 1935. The report explores the reasons for the changes in recorded concentration in individual industries

Concentration of Productive Facilities (F. T. C.).—In a study of the extent of concentration of economic power, the Commission reported that 40 percent of the total net capital assets of all manufacturing corporations in the United States in 1947 was concentrated in the 113 largest manufacturers. The report is entitled The Concentration of Productive Facilities, 1957—Total Manufacturing and 26 Selected Industries (96 p.). See also Divergence between Plant and Company Concentration.

Control of Iron Ore (F. T. C.).—A study of the concentration of iron ore supplies covers the sources and consumption of iron ore in 1948, no estimate of reserves available to major companies and an analysis of effect of possible shortage on big and small companies. The Control of Iron Ore (1952).

Cooperation in American Export Trade.—See Foreign Trade.

Cooperation in Foreign Countries (F. T. C.).—Inquiries made by the Commission regarding the cooperative movement in 15 European countries resulted in a report, Cooperation in Foreign Countries ( S. Doc. 171, 68th, 202 p., o. p., 11/29/24), recommending further development of cooperation in the United States.

Cooperative marketing (Senate).—This inquiry (S. Res. 34, 69th, 3/17/25) covered the development of the cooperative movement in the U. S. and illegal Interferences with the formation and operation of cooperatives; and a comparative study of costs, prices, and marketing methods (Cooperative Marketing, S. Doc. 95, 70th, 721 p., o. p., 4/30/28).

Copper.—See Wartime Cost Finding, 1917-18.

Copper Industry (F. T. C.).—The Commission's report on The Copper Industry, transmitted to Congress (3/11/47), was in two parts: Part I—The Copper Industry of the United States and International Copper Cartels, and Part II—Concentration and Control by the Three Dominant Companies. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the ore reserves and of the productive capacity, but also because the domestic supply is inadequate to meet the demands of high level national production and employment. Furthermore, the production of foreign copper, on which the United States will become increasingly dependent, is likewise dominated by a few corporate groups which in the past have operated cooperatively in cartels to regulate production and prices."

Corporation Reports.—See Quarterly Financial Reports.

Corporate Mergers and Acquisitions (F. T. C.).—To determine the impact on the Nation's economy of corporate mergers and acquisitions, the Commission made a study of the merger movement for the years 1940-46, inclusive. The results of the study were transmitted to Congress in a report entitled *The Present Trend of Corporate Mergers and Acquisitions* (23 p., o. p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel—all predominantly "small business" fields.

In 1947 the Commission published *The Present Trend of Corporate Mergers* (23 p., o. p.). This is a review of some of the economic effects of the loophole in the Clayton Act existing at that time in the fact that there was no prohibition against mergers by the acquisition of assets.

In 1948 the Commission published *The Merger Movement: A Summary Report* (134 p., o. p., also 7 p. processed summary). In this report the legal history of the antimerger provisions of the Clayton Act is reviewed. Significant individual mergers are examined in detail. Maps, diagrams, charts and tabular statistical materials are used to illustrate the economic effects of the then in force antimerger legislation.

The Report on Corporate Mergers and Acquisitions (210 p.) was published in May 1955: This study, bringing up to date much of the statistical material in the 1947 and 1948 reports, showed, among other things, that 1,773 formerly independent competitive firms in manufacturing and mining industries alone had disappeared in the period 1947-54 as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only 3 industries, food, nonelectrical machinery, and textiles and apparel—all predominantly small business fields.

Cost Accounting.—See Accounting Systems.

Cost of Living (President), Wartime, 1917-18.—Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See *Foods (President), Wartime, 1917-18*, herein.] Proceedings of the conference were published (*High Cost of Living*, 119 p., o. p.).

Cotton Industry.—See Textiles.

Cottonseed Industry (House).—Investigating alleged price fixing (Res. 439, 69th, 3/2/27) the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refineries had fixed prices in violation of the antitrust laws (*Cottonseed Industry*, H. Doc. 193, 70th, 37 p., 3/5/28).

Cottonseed Industry (Senate).—Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29—71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at a fixed price under boycott threat; and whether such corporations acquired control of cotton gins to destroy competitive markets and depress or control prices paid to seed producers (*Investigation of the Cottonseed Industry*, preliminary report, S. Doc. 531, 71st, 4 p., o. p., 2/28/30, and final report, 207 p., o. p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

Distribution Cost Accounting (F. T. C.).—To provide a guide for current legislation and determine ways for improving accounting methods, the Commission

studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection ( Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling, H. Doc. 287, 77th, 215 p., o. p., 6/23/41).

Distribution.—See Millinery Distribution.

Distribution of Steel Consumption.—A study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers. (1949-1950) The results of the study were transmitted to the Subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p ) 3/31/52.

Distribution Methods and Costs (F. T. C.).—This inquiry into methods and costs of distributing important consumer commodities: (F. T. C. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F. T. C. Act. Eight parts of the F. T. C. Report on Distribution Methods and Cost., were transmitted to Congress and published under the subtitles: Part I, Important Food Products (11/11/43, 223 p., o. p.); Part III, Building Materials—Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o. p.); Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements (3/2/44, 189 p., o. p. ); Part V, Advertising as a Factor in Distribution (10/30/44, 50 p. ); Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p.); Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area (6/30/45, 59 p.); Part VIII, Cost of Production and Distribution of Fish in New England (6/30/45, 118 p.); and Part IX, Cost of Production and Distribution of Fish on the Pacific Coast (7/25/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

Divergence Between Plant and Company Concentration (F. T. C.).—In this 1950 report, the Commission measured the divergence between plant and company concentration for each of 340 manufacturing industries. The Divergence Between Plant and Company Concentration, 1947 (162 p). See also Concentration of Productive Facilities.

Du Pont Investments (F. T. C.).—The Report of the F. T. C. on Du Pont Investments (F. T. C. motion 7/29/27; report, 46 p., o. p. processed, 2/1/29) discussed reported acquisition by E. I. du Pont de Nemours & Co. of U. S. Steel Corp. stock, together with previously reported holdings in General Motors Corp.

Electric and Gas Utilities, and Electric Power.—See Power.

Farm implements (Senate), Wartime, 1917-18.—The Report of the F. T. C. on the Causes of High Prices of Farm Implements (inquiry under S. Res. 223, 65th, 5/13/18; report, 713 p, o. p., 5/4/20) disclosed numerous trade combinations for advancing prices and declared the consent decree for dissolution of International Harvester Co. to be inadequate. The Commission recommended revision of the decree and the Department of Justice proceeded to that end.

Farm Implements (F. T. C.).— 1948 report on the Manufacture and Distribution of Farm Implements (160 p., also 8 p. processed summary) concerns the production and distribution policies of large manufacturers of farm machinery. The report includes information respecting important developments and trends In the industry.

Feeds, Commercial (Senate).—Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Commission found that although some association activities were in restraint of

trade, there were no substantial antitrust violations (Report of the F. T. C. on Commercial Feeds, 206 p., o. p., 3/29/21).

Fertilizer (Senate).—Begun by the Commissioner of Corporations 8 ( S, Res. 487, 62d, 3/1/13 ), this inquiry disclosed extensive use of bonus independent fertilizer companies for competitive purposes (Fertilizer Industry, S. Doc. 551, 64th, 269 p., o. p., 8/19/16). Agreements for abolition of such unfair competition were reached.

Fertilizer (Senate).—A second fertilizer inquiry (S. Res. 307, 67th, 6/17/22) developed that active competition generally prevailed in that industry in the U. S., although in some foreign countries combinations controlled certain important raw materials. The Commission recommended improved agricultural credits and more extended cooperation by farmers in buying fertilizer (Fertilizer Industry, S. Doc. 347, 67th, 87 p., o. p., 3/3/23)

Fertilizer (F. T. C.).—The Commission's 1949 report on The Fertilizer Industry (100 p.) is concerned primarily with restrictions and wastes which interfere with the supply of plant food materials in the quantities needed and at prices low enough to facilitate maintenance of soil fertility. The Nation's resources of nitrogen, phosphate, and potash are discussed, and the inter-relationships of producers and mixers are reviewed. The report also summarizes available information concerning cartel control of nitrogen, phosphates, and potash.

Fish.—See Distribution Methods and Costs.

Flags (Senate), Wartime, 1917-18.—Unprecedented increases in the prices of U. S. flags in 1917, due to wartime demand, were investigated (S. Res. 35, 65th, 4/16/17). The inquiry was reported in Prices of American Flags (S. Doc. 82, 65th, 6 p., o. p., 7/26/17).

Flour Milling—See Food, below.

Food (President), Wartime, 1917-18.—President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the acts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs" and "to ascertain the facts bearing on alleged violations of the antitrust acts." Two major series of reports related to meat packing and the grain trade with separate inquiries into flour milling, canned vegetables and fruits, canned salmon, and related matters, as listed below.

Food (President) Continued—Meat Packing.—Food Investigation-Report of the F. T. C. on the Meat-Packing Industry was published in six parts: I. Extent and Growth of Power of the Five Packers in Meat and Other industries (6/24/19, 574, p., o. p.); II. Evidence of Combination Among Packers (11/25/18, 294 p., o. p.); III. Methods of the Five Packers in Controlling the Meat-Packing Industry (6/28/19, 325 p., o. p.); IV. The Five Large Packers in Produce and Grocery Foods (6/30/19, 390 p., o. p.); V. Profits of the Packers (6/28/19, 110 p., o. p.); VI. Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Livestock (6/30/19, 183 p., o. p.); and summary (H. Doc. 1297, 65th, 51 p., o. p., 7/3/18).

The reports first led to antitrust proceedings against the Big Five Packers, resulting in a consent decree (Supreme Court of the D. C., 2/27/20),<sup>9</sup> which had substantially the effect of Federal legislation, in restricting their future operations to certain lines of activity. As a further result of the investigation, Con-

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<sup>8</sup> The Commission was created September 26, 1914, upon passage of the Federal Trade Commission Act, sec. 3 of which provided that "all pending investigations and proceedings of the Bureau of Corporations (of the Department of Commerce) shall be continued by the Commission."

<sup>9</sup> The legal history of the consent decree and a summary of divergent economic interests involved in the question of packers participation in unrelated lines of food products were set forth by the commission in Packer Consent Decree (S. Doc. 219, 68th, 44 p., o. p., 2/20/25), prepared pursuant to S. Res. 278, 68th, 12/8/24.

gress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p. 150.)

Food (President) Continued—Grain Trade.—Covering the industry from country elevator to central market, the Report of the F. T. C. on the Grain Trade was published in seven parts: I. Country Grain Marketing (9/15/20, 350 p., o. p.); II. Terminal Grain Markets and Exchange (9/15/20, 333 p., o. p.); III. Terminal Grain Marketing (12/21/21, 332 p., o. p.); IV. Middlemen's Profits and Margins (9/26/23, 215 p., o. p.); V. Future Trading Operations in Grain (9/15/20 347 p., o. p.); VI. Prices of Grain and Grain Futures (9/10/24, 374 p., o. p.); and VII. Effects of Future Trading (6/25/26, 419 p., o. p.). The investigation as reported in vol. V, and testimony by members of the Commission's staff ( U. S. Congress House Committee on Agriculture, Future Trading, hearing, 67th, April 25-May 2, 1921) was an important factor in enactment of the Grain Futures Act (1921). (Further reference to the grain trade is made under Grain Elevators, Grain Exporters, and Grain Wheat Prices, p. 149 )

Food (President) Continued—Bakeries and Flour Milling.—One F. T. C. report was published by the Food Administration (U. S. Food Administration, Report of the F. T. C. on Bakery Business in United States, pp. 5-13, o. p., 1133/17). Other reports were: Food Investigation, Report of the F. T. C. on Flour Milling and Jobbing (4/4/18, 27 p., o. p.) and Commercial Wheat Flour Milling (9/15/20, 118 p., o. p. ).

Food (President) Continued—Canned Foods,<sup>10</sup> Private Car Lines, Wholesale Food Marketing.—Under the general title Food Investigation were published Report of the F. T. C. on Canned Foods—General Report and Canned Vegetables and Fruits (5/18/18, 83 p., o. p.); Report of the F. T. C. on Canned Foods— Canned Salmon (12/27/18, 83 p., o. p.); Report of the F. T. C. on Private Car Lines, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p., o. p.); and Report of the F. T. C. on Wholesale Marketing of Food (6/30/19, 268 p., o. p. ), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

Food—Bread and Flour (Senate).—Reports on this inquiry (S. Res. 163, 68th, 2/26/24) were: Competitive Conditions in Flour Millings (S. Doc. 97, 70th, 140 p., o. p., 5/3/26); Bakery Combines and Profits (S. Doc. 212, 69th, 95 p., 2/11/27); Competition and Profits in Bread and Flour (S. Doc. 98, 70th, 509 p., o. p., 1/11/28); and Conditions in the Flour Milling Business, supplementary (S. Doc. 96, 72d, 26 p., o. p., 5/28/32).

Food—Wholesale Baking Industry (F. T. C.).—This inquiry (F. T. C. Res., 8/31/45) resulted in two reports to Congress: Wholesale Baking Industry. Part I—Waste in the Distribution of Bread (4/22/46, processed, 29 p., o. p. and Wholesale Baking Industry, Part II—Costs, Prices and Profits (8/7/46, 137 p., o. p.). Part I developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products. It was found that, although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved

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<sup>10</sup> In connection with its wartime cost findings inquiries, 1917-18, p. 124 herein, the Commission published Report of the F. T. C. on Canned Foods 1918—Corn, Peas, String Beans, Tomatoes, and Salmon (86 p., 11/21/21).

was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days, or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread-baking industry."

Part II presents information concerning prices and pricing practices in the industry, profits earned, and unit costs of production and distribution. It compares the details of production and distribution costs for bread and rolls, other bakery products, and for all bakery products for two operating periods in 1945, March and September. Comparisons of costs are also made for these two periods for plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by size groups of wholesale bakeries.

Food—Fish.—See Distribution Methods and Costs.

Food—Flour Milling (Senate).—This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in *Wheat Flour Milling Industry* (S. Doc. 130, 68th, 130 p., o. p., 5/16/24).

Food—Flour-Milling Industry, Growth and Concentration in (F. T. C.).—The Commission's study showed that there has been a progressive increase in the size of flour-mill operations and a progressive decrease in the number of flour-milling establishments. Nevertheless, the Commission reported, there is a lesser degree of concentration in the Flour-milling industry than in many other important industries. The results of the study were presented to Congress in a report on the Growth and Concentration in The Flour-Milling Industry (6/2/47).

Food—Grain Elevators (F. T. C.), Wartime, 1917-18.—In view of certain bills pending before Congress with reference to regulation of the grain trade, the Commission, in a preliminary report, *Profit's of Country and Terminal Grain Elevators* (S. Doc. 40, 67th, 12 p., o. p., 6/13/21) presented certain data collected during its inquiry into the grain trade ordered by the President.

Food—Grain Exporters (Senate).—The low prices of export wheat in 1921 gave rise to this inquiry (S. Res. 133, 67th, 12/22/21) concerning harmful speculative price manipulations on the grain exchanges and alleged conspiracies among country grain buyers to agree on maximum purchasing prices. The Commission recommended stricter supervision of exchanges and additional storage facilities for grain not controlled by grain dealers (Report of the F. T. C. on Methods and Operations of Grain Exporters, 2 vols., 387 p., o. p., 5/16/22 and 6/18/23).

Food—Grain, Wheat Prices (President).—An extraordinary decline of wheat prices was investigated (President Wilson's directive 10/12/20) and found to be due chiefly to abnormal market conditions (Report of the F. T. C. on Wheat Prices for the 1920 Crop, 91 p., o. p., 12/13/20).

Food—Important Food Products.—See Distribution Methods and Costs.

Food—Meat Packing Profit Limitation (Senate), Wartime, 1917-18.—Following an inquiry (S. Res. 177, 66th, 9/3/19) involving wartime control of this business as established by the U. S. Food Administration in 1917-18, the Commission recommended greater control and lower maximum profits (Maximum Profit limitation on Meat Packing Industry, S. Doc. 110, 66th, 179 p., o. p. 9/25/19).

Food—Milk.—See Distribution Methods and Costs.

Food—Milk and Milk Products (Senate), Wartime, 1917-18.—Covering an inquiry (S. Res. 431, 65th, 3/3/19) into fairness of milk prices to producers and of canned-milk prices to consumers, the Report of the F. T. C. on Milk and Milk



Products 1914-18 (6/6/21, 234 p., o. p.) showed a marked concentration of control and questionable practices many of which later were recognized by the industry as being unfair.

Food—Milk and Dairy Products (House).—Competitive conditions in different milk-producing areas were investigated (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: Report of the F. T. C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds (H. Doc. 152, 74th, 901 p., o. p., 4/5/35); Report of the F. T. C. on the Sale and Distribution of Milk and Milk Products (Connecticut and Philadelphia milksheds, interim report, H. Doc. 387, 74th, 125 p., o. p., 12/31/35); Chicago Sales Area (H. Doc. 451, 74th, 103 p., o. p., 4/15/36); Boston, Baltimore, Cincinnati, St. Louis (H. Doc. 501, 74th, 243 p., o. p., 6/4/36); Twin City Sales Area (H. Doc. 506, 74th, 71 p., o. p., 6/13/36); and New York Milk Sales Area (H. Doc. 95, 75th, 138 p., o. p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products, H. Doc. 94, 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food—Peanut Prices (Senate).—An alleged price-fixing combination of peanut crushers and mills was investigated (S. Res. 139, 71st, 10/22/29). The Commission found that an industry-wide decline in prices of farmers' stock peanuts during the business depression was not due to such a combination, although pricing practices of certain mills tended to impede advancing and to accelerate declining prices (Prices and Competition Among Peanut Mills, S. Doc. 132, 72d, 78 p., o. p., 6/30/32).

Food—Raisin Combination (Attorney General).—Investigating allegations of a combination among California raisin growers (referred to F. T. C. 9/30/19), the Commission found the enterprise not only organized in restraint of trade but conducted in a manner threatening financial disaster to the growers. The Commission recommended changes which the growers adopted (California Associated Raisin Co., 26 p., processed, o. p., 6/8/20).

Food—Southern Livestock Prices (Senate).—Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination as being practiced, a Commission investigation (S. Res. 133, 66th, 7/25/15) revealed the alleged discrimination did not appear to exist (Southern Livestock Prices, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

Food—Sugar (House).—An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (Report of the F. T. C. on Sugar Supply and Prices, 205 p., o. p., 11/15/20).

Food—Sugar, Beet (F. T. C.).—Initiated by the Commissioner of Corporations,<sup>11</sup> but completed by the F. T. C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (Report on the Beet Sugar Industry in the U. S., H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

Foreign Trade—Antidumping Legislation (F. T. C.).—To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed, 6/27/38).

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<sup>11</sup> See footnote 8, p. 112.

Foreign Trade—Cooperation in American Export Trade (F. T. C.).—This inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U. S. manufacturers for export trade, was enacted as a result of Commission recommendations (Cooperation in American Export Trade, 2 vols., 984 p., o. p., 6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions 1916. 14 p., o. p.).

Foreign Trade--Cotton Growing Corporation (Senate).—The report of an inquiry (S. Res. 317, 68th, 1/27/25) concerning the development of this British company, Empire Cotton Growing Corporation (S. Doc. 226, 68th, 30 p., o. p., 2/28/25), showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

Gasoline.—See Petroleum.

Grain.—See Food.

Grain Exchange Actions (F. T. C. and Chairman of Senate Committee on Agriculture and Forestry).—The Commission's report on Economic Effect of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946 (85 p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1946, for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act and the U. S. Warehouse Act "should be so amplified and coordinated, or even combined, as to make effective the type and scope of regulation over futures trading contemplated by the Congress in enacting the Commodity Exchange Act."

Guarantee Against Price Decline (F. T. C.).—Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in Digest of Replies in Response to an Inquiry of the F. T. C. Relative to the Practice of Giving Guarantee Against Price Decline (68 p., o. p. 5/27/20),

Housefurnishings (Senate). —This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (Report of the F. T. C. on Housefurnishing Industries, 1018 p., o. p., 1/17/23, 10/1/23, and 10/6/24).

Independent Harvester Co. (Senate), Wartime, 1917-18.—After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the F. T. C. Report to the Senate on the Independent Harvester Co. (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and insufficient capital.

Interlocking Directorates (F. T. C.).—This 1950 report on Interlocking Directorates summarizes the interlocking relationships among directors of the 1,000 largest manufacturing corporations. It also covers the interlocking directorates between these corporations and a selected list of banks, investment trusts, Insurance companies, railroads, public utilities, and distributive enterprises.

International Alkali Cartels (F. T. C.).—In a report (1950) on International Cartels in the Alkali Industry, the Commission discussed the nature, extent, and effect of international agreements concerning baking soda, soda ash, and caustic soda to which organized groups of American and European alkali producers were parties from 1924 until 1946.

International Electrical Equipment Cartel (F. T. C.).—In its 1948 report on this subject ( 107 p., also 10 p. processed summary ) the Commission points out the high degree of economic concentration in the electrical equipment industry which exists in each of the important industrial nations.

International Petroleum Cartel.— staff study of the activities of the seven major oil companies, in relation to control over the international oil industry. Staff Report to the Federal Trade Commission submitted to the Subcommittee on Monopoly of the Select Committee on Small Business, U. S. Senate Committee print No. 6, 82d Cong.—2d sess. 378 p., 1952

International Phosphate Cartels (F. T. C.).—The F. T. C. Report on International Phosphate Cartels (F. T. C. Res. 9/19/44) developed facts with respect to the practices, arrangements between domestic phosphate companies and foreign competitors through international cartels, through which minimum export prices were fixed. These prices varied from market to market, depending upon competition, ocean freight rates, and other factors. The agreements established fixed quotas in each grade, and sales were allocated among members of the Phosphate Export Association according to their quotas and the grade involved. The report (processed, 60 p.) was transmitted to Congress 5/1/46.

International Steel Cartels (F. T. C.).— report to Congress concerning numerous cartel agreements relating to steel which were adopted between World War I and World War II. Certain American companies participated in these agreements, which were both national and international in scope. The international agreements allotted quotas to the different national groups, fixed prices in the export trade, and established reserved and unreserved areas. (International Steel Cartels (1948), 115 p., also 12 p. processed summary.)

Iron Ore.—See Control of Iron Ore.

Large Manufacturing Companies (F. T. C.).—This 1951 report, entitled List of 1,000 Large Manufacturing Companies. Their Subsidiaries and Affiliates, 1948, shows for each of the 1,000 largest manufacturing corporations which publish financial statements the percentage of stock interest held by the corporation in each of its subsidiaries and affiliates. The parent corporations are grouped in 21 major industries and ranked as to size on the basis of their total assets in 1948, 223 p., 6/1/51.

Leather and Shoes (F. T. C. and House), Wartime, 1917-18.—General complaint regarding high prices of shoes led to this inquiry, which is reported in Hide and Leather Situation, preliminary report (H. Doc. 857, 65th, 5 p., o. p., 1/23/18), and Report on Leather and Shoe Industries (180 p., o. p. 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the Report of the F. T. C. On Shoe and Leather Costs and Prices (212 p., o. p., 6/10/21)

Lumber—Costs.—See Wartime Cost Finding, 1917-18.

Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers' associations {referred to F. T. C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the F. T. C. on Lumber Manufacturers' Trade Associations, incorporating regional reports of 1/10/2:1, 2/18/21, 6/9/21, and 2/15/22 (150 p., o. p.); Report of the F. T. C. on Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau (22 p., o. p., 1/24/23), also known as Activities of Trade associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory (S. Doc. 293, 67th, o. p.); and Report of the F. T. C. on Northern, Hemlock and Hardwood Manufacturers Association (52 p., o. p., 6/7/23).

Lumber Trade Association (F. T. C.).—Activities of five large associations were investigated in connection with the Open-Price Associations inquiry to bring down to date the 1919 lumber association inquiry (Chap. VIII of Open Price Trade Associations, S. Doc. 226, 70th, 516 p., o. p., 2/13/29).

Meat-Packing Profit Limitations.—See Food.

Mergers (F. T. C.).—( See Corporate Mergers. )

Milk.—See Food.

Millinery Distribution (President).—This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of leased departments in department or specialty stores (Report to the President of the United States on Distribution Methods in the Millinery Industry, 65 p., processed, 11/21/30).

Monopolistic Practices and Small Business.—A study by the staff of the Commission on the effect of certain monopolistic practices on small business, requested by the Subcommittee on Monopoly of the Senate Select Committee on Small Business. The results were transmitted to the Subcommittee and published as a committee print by Select Committee on Small Business, U. S. Senate, 82d Cong. (88 p. 3/31/52).

Motor Vehicles (Congress).—Investigating ( Public Res. 87, 75th, 4/13,38 ) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and strong competition; that many local dealers' associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition; that inequities existed in dealer agreements and in certain manufacturers' treatment of some dealers; and that some companies' car finance plans developed serious abuses (Motor Vehicle Industry, H. Doc. 468, 76th, 1077 p., o. p., 6/5/39). The lending companies voluntarily adopted a number of the Commission's recommendations as company policies.

National Wealth and Income (Senate).—In 1922 the national wealth was estimated (inquiry pursuant to S. Res. 451, 67th, 2/28/23) at \$353,000,000,000 and the national income in 1923 at \$70,000,000,000 [National-Wealth, and Income (S. Doc.126, 69th, 381 p., o. p., 5/25/26) and Taxation and Tax-Exempt Income (S. Doc.148, 68th, 144 p., o. p., 6/6/24)].

Open-Price Associations (Senate).—An investigation ( S. Res. 28, 69th, 3/17/25) to ascertain the number and names of so-called open-price associations, their importance in industry and the extent to which members maintained uniform prices, was reported in Open-Price Trade Associations (S. Doc. 226, 70th, 516 p., o. p., 2/13/29).

Packer Consent Decree.—See Food (President) Continued—Meat Packing.

Paper—Book (Senate), Wartime, 1917-18.—This inquiry (S. Res. 269, 64th, 9/7/1;) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints [Book Paper Industry—A Preliminary Report (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and Book Paper Industry—Final Report (S. Doc. 79, 65th, 125 p., o. p., 8/21/17) ].

Paper—Newsprint (Senate), Wartime, 1917-18.—High prices of newsprint (S. Res. 177, 64th, 4/24/16) were shown to have been partly a result of certain news print association activities in restraint of trade. Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers. The Commission for several years conducted monthly reporting of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [Newsprint Paper Industry, preliminary (S. Doc. 3, 65th, 12 p., o. p., 3/3/17; Report of the F. T. C. on the Newsprint Paper Industry (S. Doc. 49, 65th) 162 p., o. p., 6/13/17); and News-

print Paper Investigation (in response to S. Res. 95, 65th, 6/27/17; S. Doc. 61, 65th, 8 p., o. p., 7/10/17) ].

Paper—Newsprint (Senate).—The question investigated (S. Res. 337, 70th, 2/27/29) was whether a monopoly existed among newsprint manufacturers and distributors in supplying paper to publishers of small dailies and weeklies (Newsprint Paper Industry, S. Doc. 214, 71st, 116 p., o. p., (6/30/30).

Petroleum.—See International Petroleum Cartel.

Petroleum Products.—See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).—At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: Investigation of the Price of Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and Report on the Price of Gasoline in 1915 (H. Doc. 74, 65th, 224 p., o. p., 4/11/17—both pursuant to S. Res. 109, 63d, 6/18/13<sup>12</sup> and S. Res. 457, 63d, 9/28/14, which reports discussed high prices and the Standard Oil Companies' division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; Advance in the Prices of Petroleum Products (H. Doc. 801, 66th, 57 p., o. p., 6/1/20)—pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; Letter of Submittal and Summary of Report on Gasoline Prices in 1924 (24 p. processed, 6/4/24, and Cong. Rec., 2/28/25, p. 5158)—pursuant to request of President Coolidge, 2/7/24; Petroleum Industry—Prices, Profits and Competitions (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)—pursuant to S. Res. 31, 69th, 6/3/36; Importation of Foreign Gasoline at Detroit, Mich., (S. Doc. 206, 72d, 3 p., o. p., 2/27/33)—pursuant to S. Res. 274, 72d, 7/16/32; and Gasoline Prices (S. Doc. 178, 73d, 22 p., o. p., 5/10/34)—pursuant to S. Res. 166, 73d, 2/2/34.

Petroleum—Foreign Ownership (Senate).—Inquiry was made ( S. Res. 311, 67th, 6/29/22) into acquisition of extension oil interests in the U. S. by the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American interests (Report of the F. T. C. on Foreign Ownership in the Petroleum Industry, 152 p., o. p., 2/12/23).

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations,<sup>13</sup> this inquiry ( S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipeline companies which were unfair to small producers (Report on Pipe-Line Transportation of Petroleum, 467 p., o. p., 2/28/13), some of which practices were later remedied by the Interstate Commerce Commission.

Petroleum—Regional Studies (Senate and F. T. C.).—Reports published were: Pacific Coast Petroleum Industry (two parts 4/7/21 and 11/28/21, 538 p., o. p.)—pursuant to S. Res. 138, 66th, 7/31/19; Reports of the F. T. C. On the Petroleum Industry of Wyoming (54 p., o. p., 1/3/21)—pursuant to F. T. C. Motion; Petroleum Trade in Wyoming and Montana (S. Doc. 233, 67th, 4 p., o. p., 7/13/22—pursuant to . T. C. motion, in which report legislation to remedy existing conditions was recommended; and Report of the F. T. C. motion, 10/6/26 (inn response to requests of producers of crude petroleum).

Potomac Electric Power Co. (Procurement Director, United States Treasury).— study (2/29/94) of the financial history and operations of this corporation for the years 1896-1943 was made at the request of the Director of Procure-

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<sup>12</sup> See footnote 8, p. 112.

<sup>13</sup> See footnote 8, p. 112. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in Conditions in the Healdton Oil Field (Oklahoma) (116 p., 3/15/15).

meet, United States Treasury, and the report thereon was introduced into the record in the corporation's electric rate case before the District of Columbia Public Utilities Commission.

Power—Electric (Senate).—This inquiry (. Res. 329, 68th, 2/9/25) resulted in two reports, the first of which, Electric Power Industry—Control of Power Companies (S. Doc. 213, 89th, 272 p., o. p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in superimposing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power—Utility Corps., below. Supply of Electrical Equipment and Competitive Conditions (S. Doc. 46, 70th, 282 p., o. p., 1/12/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

Power—Interstate Transmission (Senate).--Investigation ( S. Res. 151, 71st, 11/8/28)) was made of the quantity of electric energy transmitted across State lines and used for development of power or light, or both (Interstate Movement of Electric Energy, S. Doc. 238, 71st, 134 p., o. p., 12/20/30).

Power—Utility Corporations (Electric and Gas Utilities) (Senate).—This extensive inquiry ( S. Res. 83, 70th, 2/15/28; Public Res. 46, 73d 6/1/34; and F. T. C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commission's reports and recommendations, focusing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants, and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets; 70 subholding companies with \$5,685,463,201 total assets; and 278 operating companies with \$7,245,106,464 total assets. The testimony, exhibits, and final reports (Utility Corporations, S. Doc. 92 70th) comprised 95 volumes.<sup>14</sup>

Price Bases (F. T. C.).—More than 3,000 manufacturers representing practically every industrial segment furnished data for this study (F. T. C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method " was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-hauling or cross-freighting to be an economic evil (Report of the F. T. C. On Price Bases Inquiry, Basing-Point Formula, and Cement Prices, 218 p., o. p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N. R. A. code (Study of Zone-Price Formula in

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<sup>14</sup> Final reports were published in 1935; a general index in 1937. Some of the volumes are out of print. For report titles, see F. T. C. Annual Reports, 1935, p. 21, and 1936, p. 36.

<sup>15</sup> Basing-point systems are also discussed in the published reports listed under "Cement," "Steel Code," and "Steel Sheet Piling" herein.

Range Boiler Industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

Price Delation (President).—To an Inquiry (3/21/21) of President Harding, the Commission made prompt reply (undated) presenting its views of the cause of a disproportional decline of agricultural prices compared with consumer prices (Letter of the F. T. C. to the President of the U. S., 8 p., o. p.).

Profiteering (Senate), Wartime, 1917-18.—Current conditions of profiteering (S. Res. 255, 65th, 6/10/18) as disclosed by various Commission investigations were reported in Profiteering (S. Doc. 248, 65th, 20 p., o. p., 6/29/18).

Quarterly Financial Reports United States Manufacturing Corporations (F. T. C. and S. E. C.).—This 1947 series of reports is intended to meet the general needs of the Government and the public for current reliable corporation financial data. The reports show the aggregate estimates for American manufacturing corporations as derived from reports collected by the Federal Trade Commission and the Securities and Exchange Commission. This work is based upon resumption by F. T. C. of its prewar financial reporting function and Continuation by S. E. C. of its current responsibilities for collection of financial information from corporations with securities registered on a national exchange. F. T. C. obtains comparable information from a carefully selected sample of small, medium size and large nonregistered corporations. The sample has been designed so that the two sets of data can be combined to provide estimates for 21 major industry groups (increased to 23 major groups in 1951) as well as the aggregate for all manufacturing corporations. The Quarterly Financial Reports formerly were known as Industrial Corporation Reports.

Quarterly Financial Report, United States Retail and Wholesale Corporation.—This presents estimates of the income statements and balance sheets for the total operations of United States wholesale trade corporations (merchant wholesalers only) and retail trade corporations, for various industrial segments of retailing and merchant wholesaling, and for different sizes of business in retailing and merchant wholesaling. These estimates are for the year 1950 and each of the four quarters of 1951. They were compiled from financial statements received from individual corporations.

Quarterly Financial Report, Five Manufacturing Industries, 1947-51.—This presents averages of the quarterly income statements and balance sheets for the total operations of representative samples of manufacturing corporations (with average annual sales within a specified range) in specific industries and in a specific geographical region.

Radio (House).—A comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23); Report of the F. T. C. on the Radio Industry, 347 p., o. p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice Proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended, 11/2/35).

Rags, Woolen.—See Textiles.

Raisin Combination.—See Food.

Range Boilers.—See Price Bases.

Rates of Return in Selected Industries (F. T. C.).—A comparison of the prewar (World War II) and postwar rates of return on stockholders' investments after taxes for more than 500 identical manufacturing corporations. The present report, published annually, covers the years 1940 and 1947-52, includes 25 selected manufacturing industries.

Resale Price Maintenance (F. T. C.).—The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led

to the first inquiry, resulting in a report, Resale Price Maintenance (H. Doc 1480, 65th, 3 p., o. p., 12/2/18). Other reports were: A Report on Resale Price Maintenance ( H. Doc. 145, 66th, 3 p., o. p., 6/30/19) and Resale Price Maintenance (F. T. C motion,, 7/25/27; reports, Part I, II. Doc. 546, 70th, 141 p., o. p., 1/30/29, and Part II, 215 p.,o. p., 6/22/31). The Report of the F. T. C. on Resale Price Maintenance, o. p., (F. T. C. Res., 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of' minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities in both the price-maintained and none price-maintained categories.

Rubber Tires and Tubes.—See Distribution Methods and Costs.

Salaries (Senate).—The Commission investigated (S. Res. 75, 73d, 5/29/33) salaries of executives and directors of corporations (other than public utilities) engaged in interstate commerce, such corporations having more than \$1,000,000 capital and assets and having their securities listed on the Nev York stock: or curb exchanges. The Report of the F. T C. on Compensation of Officers and Directors of Certain Corporations (15 p., processed, 2/26/14) explained the results of the inquiry.<sup>16</sup> The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

Southern Livestock Prices.--See Food.

Steel Code and Steel Code as Amended (Senate and President).—The Commission investigated (S. Res. 166 73d, 2/2/34) price fixing, price increases, and other matters (Practices of the Steel Industry Under the Code, S. Doc. 159, 73d, 79 p.,o. p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (Report of the F. T. C. to the President in response to Executive Order of May 30, 1934, With Respect to the Basing-point System in the Steel Industry, 125 p., o p., 11/30/34).<sup>17</sup> The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).—An inquiry (S. Res. 286, 67th 6/12/22 ) into a proposed merger of Bethlehem Steel Corp., and Lackawanna Steel Co., and of Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co., resulted in a two-volume report. Merger of Steel and Iron Companies ( S. Doc. 208, 67th, 11 p., o. p., 6/5/22 and 9/7/22).

Steel Costs and Profits.—See Wartime Cost Findings, 1917-18.

Steel Sheet Piling—Collusive Bidding (President).—Steel sheet piling prices on certain Government contracts in New York, North Carolina, and Florida were investigated (inquiry referred to F. T. C. 11/20/35). The F. T C. Report to the President on Steel Sheet Piling (42 p., processed, 6/10/36 o. p.) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system<sup>18</sup> and provisions of the steel industry's code.

Stock Dividends (Senate).—The Senate requested ( S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same information for an equal period prior to the decision was also requested. The Commission submitted a list of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed

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<sup>16</sup> The salary lists do not appear in the report but are available for inspection.

<sup>17</sup> As of the same date, the N. R. A. published its Report of the National Recovery Administration on the Operation of the Basing Point System in the Iron and Steel Industry (175 p., processed). The basing-point system is also discussed in published reports listed under “Cement” and “Price Bases” herein.

<sup>18</sup> See footnote 15, p. 120.



questionable as a business policy (Stock Dividends, S. Doc. 26, 70th, 273 p., o. p., 12/5/27).

Sugar.—See Food.

Sulphur industry (F. T. C.).—In its report to Congress on The Sulphur Industry and International Cartels (6/16/47), the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.—See National Wealth and Income.

Temporary National Economic Committee, Studies of the F. T. C.—See F. T. C. Annual Report, 1941, p. 218, for titles.

Textiles (President).—President Roosevelt (Executive Order of 9/26/34) directed an inquiry into the textile industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. Reports covering the cotton, woolen and worsted, silk and rayon, and thread, cordage and twine industries were: Report of the F. T. C. on Textile Industries, Parts I to VI, 12/31/34 to 6/20/35, 174 p., o. p. (Part VI financial tabulations processed 42 p., o. p. ); Report of the F. T. C. on the Textile Industries in 1933 and 1934 ), Parts I to IV; 8/1/35 to 12/5/35, 129 p., o. p.; Parts II and III, o. p. (Part IV, processed, 21 p., o. p.; accompanying tables, processed, 72 p., o. p.); Cotton Spinning Companies grouped by Types of Yarn Manufactured During 1933 and 1934, 1/31/36, 20 p., processed, o. p.; Cotton Weaving Companies grouped by Types of Woven Goods Manufactured During 1933 and 1934, 3/24/36, 48 p., processed, o. p.; Textile Industries in the First Half of 1935, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed, o. p.; Textile Industries in the Last Half of 1935, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed, o. p.; and Textile Industries in the First Half of 1936, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed, o. p.

Textiles—Combed Cotton Yarns.—High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (Report of the F. T. C. on Combed Yarns, 94 p., o. p., 4/14/21).

Textiles—Cotton Growing Corporation.—See Foreign Trade.

Textiles—Cotton Merchandising (Senate).—Investigating abuses in handling consigned cotton (S. Res. 252, 68th, 6/7/24), the Commission made recommendations designed to correct or alleviate existing conditions (Cotton Merchandising Practices, S. Doc. 194, 68th, 38 p., o. p., 1/20/25).

Textiles—Cotton Trade (Senate).—Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920-22, as reported in Preliminary Report of the F. T. C. on the Cotton Trade (S. Doc. 311, 67th, 28 p., o. p., 2/26/23). After a second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, 68th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations.

Textiles—Woolen Rag Trade (F. T. C.), Wartime, 1917-18.—The Report on the Woolen Rag Trade (90 p., o. p., 6/30/19) contains information gathered during

the World War, 1317-18, at the request of the War Industries Board, for its use in regulating the prices of woolen rags employed in the manufacture of clothing.

Tobacco (Senate).—Inquiry (S. Res. 323, 2/9/26) into activities of two well-known companies disclosed that alleged illegal agreements or conspiracies did not appear to exist. (The American Tobacco Co. and the Imperial Tobacco Co., S. Doc. 34, 69th, 129 p., o. p., 12/25/25).

Tobacco Marketing—Leaf (F. T. C.).—Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and improvement of marketing processes and cooperative relations (Report on Marketing of Leaf Tobacco in the Flue-Cured Districts of the States of North Carolina and Georgia, 54 p., o. p., processed, 5/23/31).

Tobacco Prices (Congress).—Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533, 66th, 6/3/20) and low tobacco prices as compared with high prices of manufactured tobacco products (3. Res. 129, 67th, 8/9/21) resulted in the Commission recommending modification of the 1911 decree (dissolving the old tobacco trust) to prohibit permanently the use of common purchasing agencies by certain companies and to bar their purchasing tobacco under any but their own names (Report of the F. T. C. on the Tobacco Industry, 162 p., o. p., 12/11/20, and Prices of Tobacco Products, H. Doc. 121, 67th, 109 p., o. p., 1/17/22).

Trade and Tariffs in South America (President). Growing out of the First Pan-American Financial Conference held in Washington, lay 2029, 1915, this inquiry (referred to F. T. C. 7/22/15) was for the purpose of furnishing necessary information to the American branch of the International High Commission appointed as a result of the conference. Customs administration and tariff policy were among subjects discussed in the Report on Trade and Tariffs in Brazil, Uruguay, Argentina, China, Bolivia, and Peru (246 p., o. p., 6/30/16).

Twine.—See Sisal Hemp and Textiles.

Utilities.—See Power.

Wartime Cost Finding (President), 1917-18.—President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in approximately 370 wartime cost investigations. At later dates reports on a few of them were published,<sup>19</sup> including: Cost Reports of the F. T. C.—Copper (26 p., o. p., 6/30/19); Report of the F. T. C. on Wartime Costs and Profits of Southern Pine Lumber Companies (34 P., ° P., 5/1/22); and Report of the F. T. C. on Wartime Profits and Costs of the Steel Industry (138 p., o. p., 2/18/26). The unpublished reports<sup>20</sup> cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled in various degrees, by Government agencies such as the War and Navy Departments, War Industries Board, Price Fixing, Committee, Fuel Administration, Food Administration, and Department of Agriculture. The Commission also conducted cost inquiries for the Interior Department, Tariff Commission, Post Office Department, Railroad Administration, and other Government departments or agencies. It is estimated that the inquiries helped to save the country many millions of dollars by checking unjustifiable price advances.

Wartime Costs and Profits (F. T. C.).—Cost and profit information for 4,107 identical companies for the period 1941-45 is contained in a Commission report on Wartime Costs and Profits for Manufacturing Corporations, 1941 to 1945 (30 p., processed, with 10 p. appendix). Compilation of the information

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<sup>19</sup> See footnote 10, p. 113.

<sup>20</sup> Approximately 260 of the wartime cost inquiries are listed in the F. T. C. Annual Reports, 1918, pp. 29-30, and 1919, pp. 38-42, and in World War Activities of the F. T. C., 1917-18 (69 p., processed, 7/15/40).

contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-18, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flax, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper—Book, Paper—Newsprint, Profiteering, and Textiles—Woolen Rag Trade.

### The following are unpublished investigations by the Commission for the use of other government agencies:

Aluminum Foundries (W. P. B.), Wartime, 1942-43.—Details were obtained for the War Production Board, at its request, from aluminum foundries throughout the U. S. covering their operations for May 1942 and their compliance with W. P. B. Supplementary Orders m-1-d, M-1-c, and M-1-f.

Antifreeze Solutions, Manufacturers of (W. P. B.), Wartime, 1943-44.—War Production Board Order 1268 of 1/20/43 prohibited production of salt and petroleum-base antifreeze solutions. While production of these products had ceased, great quantities were reported to be still in the hands of producers and distributors. To enable W. P. B. to determine what further action should be taken to protect essential automotive equipment from these solutions, it requested the Commission to locate producers' inventories as of 1/20/43, and to identify all deliveries made from such inventories to distributors subsequent to that date.

Capital Equipment (W. P. B.), Wartime, 1942-43.—For the War Production Board, a survey was made in connection with Priorities Regulation No. 12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had been related had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Chromium Processors (W. P. B.), Wartime, 1942-43.—For the War Production Board, the Commission investigated the transactions of the major chromium processors to determine the extent to which they were complying, with Amendment No. 2 to W. P. B. General Preference Order No. m-18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W. P. B.), Wartime, 1942-43.—The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W. P. B. Limitation Orders L-182 and L-182 as amended 3/2/43; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No. 1.

Contractors, Prime, Forward Buying Practices of (W. P. B.), Wartime, 1942-43.—The matter of procurement, use, and inventory of stocks of critical materials involved in the operation of major plants devoting their efforts to war production was inquired into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

Copper Base Alloy Ingot Makers (W. P. B.), Wartime, 1942-43.—This investigation was designed to ascertain the operations, shipments, and inventories of copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M-9-a and b, and M-9-c.

Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.—A survey and inspection of a specified list of: companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board ).

Cost of Living (President).—President Roosevelt, In a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1943-44.—Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M-38, M-11, M-11-b, M-126, L-81, L-131, and L-131-a, all as amended.

Electric Lamp Manufacturers (W. P. B.), Wartime, 1942-43.—At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W. P. B. Limitation and Conservation Orders L-33 and M-9-c.

Fertilizer and Related Products (O. P. A.), Wartime, 1942-43.—At the request of O. P. A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

Food—Biscuits and Crackers (O. P. A.), Wartime, 1942-43.—As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food—Bread Baking (O. E. S.), Wartime, 1942-43.—This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O. E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O. P. A.

Food—Bread Baking (O. P. A.), Wartime, 1941-42.—In the interest of the low-income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O. P. A. (Jan. 1942) in an unpublished report.

Food—Flour Milling (O. E. S.), Wartime, 1942-43.—Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the

industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices. The report was made to O. E. S. and a more detailed report was prepared for O. P. A.

Fruit Growers and Shippers (W. P. B.), Wartime, 1943-44.—This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape shipper, all located in California, were in violation of W. P. B. Order L-232 with respect to quotas affecting the use of lugs (wooden shipping containers).

Furnaces, Hot Air, Household (W. P. B.), Wartime, 1943-44.—The Commission made a Nation-wide survey for the War Production Board of the operations of one of the largest manufacturers in the United States of household hot air furnaces, to determine whether its practices in selling and servicing domestic heating plants were in violation of Orders L-79 and P-84, and other applicable regulations and orders of W. P. B.

Fuse Manufacturers (W. P. B.), Wartime, 1942-43.—For the War Production Board the Commission investigated and reported on the activities of representative fuse manufacturers whose operations were subject to W. P. B. Limitation Orders L-158 and L-161, as amended.

Glycerin, Users of (W. P. B.), Wartime, 1942-43.—At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Household Furniture (O. P. A.), Wartime, 1941-42.—Costs, prices, and profits of 87 representative furniture companies were studied to determine whether, and to what extent, price increases were justified. A study was also made to determine whether price-fixing agreements existed and whether wholesale price increases resulted from understandings in restraint of trade. Confidential reports were transmitted to O. P. A. in Sept. 1941.

Insignia Manufacturers (W. P. B.), Wartime, 1944-45.—Preliminary studies made by the War Production Board disclosed the probability that certain insignia manufacturers had acquired larger quantities of foreign silver than necessary to fill legitimate orders and diverted the balance to unauthorized uses. In response to W. P. B.'s request the Commission surveyed the acquisition and use of foreign silver by such manufacturers to determine the degree of their compliance with Order M-199 and checked the receipt and use of: both domestic and treasury silver, as well as the manufacture of insignia, as controlled by Orders L-131 and M-9-c.

Jewel Bearings, Consumers of (W. P. B.), Wartime, 1942-43.—or the War Production Board, users of jewel bearings were investigated to determine the extent to which they were complying with W. P. B. Conservation Order M-50, which had been issued to conserve the supply and direct the distribution of jewel bearings and jewel-bearing material.

Metal-Working Machines, Invoicing and Distribution of (W. P. B.), Wartime, 1942-43.—For the War Production Board an inquiry was made to obtain complete data from the builders of: metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all nonportable power-driven shears, presses, hammers, bending machines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Nickel Processors (W. P. B.), Wartime, 1942-43.—The Commission was designated by the War Production Board to investigate the transactions of some 600

nickel processors for the purpose of determining the extent to which they were complying with W. P. B. Preference Order No. M-6-a, issued 9/30/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

Optical Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 8/12/52) the manner in which an antitrust consent decree entered (Sept. 1948) against the American Optical Company and others, restraining them from discriminatory and monopolistic practices, was being observed, and report (2/10/54) to the Attorney General.

Paint, Varnish, and Lacquer Manufacturers (W. P. B.), Wartime, 1943-44.— The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M-139, M-150, M-159, M-246, and M-327 In their acquisition and use of certain chemicals, all subject to W. P. B. allocations, used in the manufacture of paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

Paperboard (O. P. A.), Wartime, 1941-42.—Costs, profits, and other financial data regarding operations of 68 paperboard mills (O. P. A. request, 11/12/41) for use in connection with price stabilization work, were transmitted to O. P. A. in a confidential report (May 1942).

Paper—Newsprint (Attorney General).—The Commission investigated ( inquiry referred to F. T. C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U. S. District Court, Southern District of New York.

Petroleum Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being, observed, and reported (4/2/37) to the Attorney General.

Priorities (W. P. B.), Wartime, 19415.—Pursuant to Executive orders (January 1)40), W. P. B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with W. P. B. orders relative to the allocation of supply and priority of delivery of war materials F. T. C. priorities investigations are listed herein under the headings: Aluminum, Foundries Using; Antifreeze Solutions, Manufacturers of; Capital Equipment, Chromium, Processors of; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of; Contractors, Prime, Forward Buying Practices of; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of; Costume Jewelry, Manufactures of; Electric Lamps, manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia manufacturers; Jewel Bearings, Consumers of; Metal-working Machines, Invoicing and Distribution of; Nickel, Processors of; Paint, Varnish, and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and ,Silver Suppliers ; Steel Industry ; Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W. P. B.

Quinine, Manufacturers and Wholesalers of (W. P. B.), Wartime, 1942-43.— At the instance of the War Production Board, investigation was made to determine whether requirements of its Conservation Order No. M-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Silverware Manufacturers (W. P. B.), Wartime, 1942 43.—Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the copper orders, that is,

W. P. B. General Preference Order No. M-9-a, Supplemental Order No. M-9-b, and Conservation Order m-9-c, as amended.

Silverware Manufacturers and Silver Suppliers (W. P. B.), Wartime, 1942-43.—The activities of silverware manufacturers and silver suppliers under W. P. B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L-140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).—The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised how certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (Mexican Sisal Hemp, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Steel Costs and Profits (O. P. A.), Wartime, 19423.—A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942 at the request of O. P. A., was made to that agency. The inquiry covered 29 important steel-producing companies.

Steel Industry (O. P. M.), Wartime, 19412.—This investigation covered practically every steel mill in the country and was conducted for the purpose of determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed. i. e., the technique used in the steel industry in meeting the requirements of O. P. M. (later the War Production Board) orders and forms controlling the distribution of pig iron, iron and steel, iron and steel alloys, and iron and steel scrap.

Textile Mills, Cotton (W. P. B.), Wartime, 1943 44.—For the War Production Board the Commission conducted a compliance investigation of manufacturers of cotton yarns, cordage, and twine to ascertain whether they were in violation of Priorities Regulation 1, as amended, by their failure to fill higher rated orders at the time they filled lower rated orders.

Tin Consumers (W. P. B.), Wartime, 1942-43.—The principal consumers of tin were investigated at the instance of the War Production Board to determine the degree of their compliance with Conservation Order m-43-a, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories, distribution, and use of the tin supply in the U. S.

War Materials Contracts (House), Wartime, 1941-42.—At the request of the House Committee on Naval Affairs, the Commission assigned economic and legal examiners to assist in the Committee's inquiry into progress of the national defense program (H. Res. 162, 77th, 4/2/41). The Commission's examiners were active in field investigations covering aircraft manufacturers' cost records and operation, naval air station construction, materials purchased for use on Government contracts, and industry expansion financing programs.

Wartime Inquiries, 1941-45.—To aid in the 1941-45 war program, F. T. C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal, accounting, statistical and other services in conducting investigations. It made cost, price, and profit studies; compiled industrial corporation financial data; investigated compliance by basic industries with W. P. B. priority orders; and studied methods and costs of distributing important commodities. The 1941-45 wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; Cigarette Shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food—Biscuits and Crackers; Food—Bread Baking; Food—Fish; Food—Flour Milling; Household Furniture; Industrial Financial Reports; Metal-Working Machines; Paperboard; Priorities; Steel Costs and Profits; and War Material Contracts.