

ANNUAL REPORT  
OF THE  
FEDERAL  
TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30  
1946

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON: 1946

Price 25 cents

## FEDERAL TRADE COMMISSION

WILLIAM A. AYRES, *Chairman*  
GARLAND S. FERGUSON  
EWIN L. DAVIS  
ROBERT E. FREER  
LOWELL B. MASON  
OTIS B. JOHNSON, *Secretary*

### FEDERAL TRADE COMMISSIONERS--1945-1946

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., 1982.
William E. Humphrey	Washington	Feb. 25, 1925-Oct. 7, 1983.
Abram F. Myers	Iowa	Aug. 2, 1926-Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb. 11, 1927-Jan. 23, 1983.
Garland S. Ferguson	North Carolina	Nov. 14, 1927.
Charles H. March	Minnesota	Feb. 1, 1929-Aug. 28, 1945.
Ewin L. Davis	Tennessee	May 26, 1933.
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25., 1933.
James M. Landis	Massachusetts	Oct. 10, 1932-June 30, 1984.
George C. Mathews	Wisconsin	Oct. 27, 1932-June 30, 1934.
William A. Ayres	Kansas	Aug. 23, 1984.
Robert E. Freer	Ohio	Aug. 27, 1985.
Lowell B. Mason	Illinois	Oct. 15, 1945.

### EXECUTIVE OFFICES OF THE COMMISSION

Pennsylvania Avenue at Sixth Street, Washington 25, D. C.

### BRANCH OFFICES

45 Broadway, New York 6  
433 West Van Buren Street,  
Chicago 7.

55 New Montgomery Street, San  
Francisco 5.  
447 Federal Office Building,  
Seattle 4.

150 Baronne Street, New Orleans 12

<sup>1</sup> The Chairmanship rotates annually. Commissioner Ferguson will become Chairman in January 1947.



## LETTER OF SUBMITTAL

*To the Congress Of the United States:*

I have the honor to submit herewith the Thirty-second Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1946. A limited number of copies of the report is being printed by the Federal Trade Commission.

By direction of the Commission :

WILLIAM A. AYRES, *Chairman.*

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**ANNUAL REPORT  
OF THE  
FEDERAL TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30, 1946**

**INTRODUCTION**

**DUTIES OF THE COMMISSION**

The Federal Trade Commission herewith submits its report for the fiscal year July 1, 1945, to June 30, 1946.

The Commission, an administrative agency of the Federal Government, was organized March 16, 1915, under the Federal Trade Commission Act, which was approved September 26, 1914, and amended March 21, 1938.

The duties of the Commission fall into two categories: (1) Legal activities in the enforcement of the laws it administers and (2) general investigations of economic conditions in interstate and foreign commerce. Legal activities of the Commission embrace administration of (1) the Federal Trade Commission Act which declares that unfair methods of competition and unfair or deceptive acts or practices in commerce are unlawful ; (2) section 2 of the Clayton Act, as amended by the Robinson-Patman Act, prohibiting prices and other discriminations, and sections 3, 7, and 8 of the, Clayton Act dealing with tying and exclusive dealing contracts, acquisitions of capital stock, interlocking directorates respectively (3) the Export Trade Act, also known as the Webb-Pomerene Law, which, for the purpose of promoting foreign trade, permits the organization of associations to engage exclusively in export under stated restrictions; and (4) the Wool Products Labeling Act of 1939, designed to protect industry, trade, and the consumer against the evils resulting from the unrevealed presence of substitutes and mixtures in wool products. In addition, the Lanham Trade-Mark Act, approved July 5, 1946, to become effective 1 year later, delegated to the Commission important duties in respect to proceedings looking toward cancellation of registered trade-marks. (See p. 7 for sections of the act relating to the duties of the Commission.)

The general investigations arise under section (a), (b), (d), and (h) of the Federal Trade Commission Act; giving the Commission 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 \* \* \*, 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 \* \* \* 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. \* \* \*

(d) Upon the direction of the President or either House of Congress<sup>1</sup> to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.

(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, and with such recommendations as it deems advisable.

### **PRESIDENT APPROVES REORGANIZATION PLAN**

The Commission during the fiscal year drafted a reorganization plan conforming to the program approved by President Truman and designed to expand the cooperative phases of the Commission's work and to improve and expedite observance of the laws under its jurisdiction. The reorganization was put into effect August 12, 1946.

On February 15, 1946, the Commission submitted to the President the details and objectives of the proposed reorganization, which he approved. He forwarded to the House of Representatives, on May 20, 1946, a message endorsing the plan and concurring in the Bureau of the Budget's recommendation that the Commission be given supplemental appropriation "to accomplish your (the President's) expressed objective of strengthening the Commission in order that it may effectively carry out the mandates of the laws entrusted to its administration."

In a letter accompanying the President's message the Director of the Bureau of the Budget succinctly set forth the major objectives of the plan, reorganization follows.

The proposed program contemplates that the Commission, on its own motion will initiate investigations and take uniform corrective actions on an industry wide basis rather than through the present individual company and public complaint procedure. The latter method has been found to be both slow and inequitable. Under present procedure one company, on the basis of a complaint, may be investigated and subsequently prohibited from following a particular unfair practice, leaving competitors of that company free to follow that same practice until such time as the Commission issues an individual cease and desist order against each company. Under the proposed program where there is evidence of unfair trade practices existing in an industry all members of that industry will be investigated and those utilizing unfair methods of competition will be proceeded against simultaneously petition.

Under the proposed program greater emphasis will be placed on the elimination of unfair trade practices through cooperative means. In those instances where circumstances permit, industry members will be given an opportunity to eliminate unfair methods of competition through stipulation agreements to cease and desist or through the establishment of trade practice rules. Hereto-

<sup>1</sup> The independent Officers 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 1947, 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.”

fore trade practice conferences have been held only when the Commission received a request for rules from an industry. The Commission now plans to initiate these conferences on its own motion where this means of eliminating unfair trade practice(s) appears appropriate. This action by the Commission should permit more prompt, equitable, and economic settlement of the issues involved than is otherwise possible.

Subsequently, the House and Senate Appropriations Committees approved the aims set forth in the program, and the Congress voted a supplemental appropriation.

To effectuate the plan, the Commission reorganized certain of its divisions to perform the duties assigned to them under the new program, as follows:

*Office of General Counsel.*--This office consists of a legal staff under the supervision and direction of a General Counsel; an Associate General Counsel in charge of all matters in the Federal courts; an Assistant General Counsel; a Chief Trial Counsel in charge of the preparation of complaints and the trial of all formal cases before the Commission; and three Assistant Chief Trial Counsel.

The General Counsel is the principal legal officer of the Commission, is responsible for the general supervision of all legal proceedings before the Commission, has charge of all Federal court work and may be called upon to advise the Commission on questions of law arising out of any of the Commission's work as distinguished from questions arising out of litigation of formal case before it. He advises the Commission as to the form and substance of proposed legislation which it may recommend for enactment by Congress or regarding which committees of Congress may request the opinion of the Commission.

Neither the General Counsel nor any other attorney in the Office of General Counsel having to do with the prosecution of a formal complaint participates or advises in the decision, recommended decision, or agency review of such complaint or of a factually related complaint, except under the same conditions that are applicable to persons not connected with the Commission, and which are set forth in the Commission's published Rules of Practice (see p. 85).

*Office of Legal Investigations.*--All legal investigations of the Commission are conducted by the staff of its Office of Legal Investigations, which has as its key personnel a Director, and Associate Director, a Chief Examiner, and four Assistant Chief Examiners, a Chief of the Radio and Periodical Division and an Assistant Chief.

The Director of the Office of Legal Investigations is responsible for the coordination of the legal investigational activities of the Commission through the Legal Investigations Division under the Chief Examiner and the Radio and Periodical Division under its Chief. The Director also recommends to the Commission the initiation of industry-wide investigations whenever it appears that uniform corrective action may be warranted in the public interest and this course of action appears to be practicable.

The Radio and Periodical Division conducts current and continuing surveys of radio, newspaper, magazine, mail-order catalog, and circular advertising. It also conducts investigations by mail. It obtains information through contact letters, examines and

analyzes the same and reports to the Commission through the Director with appropriate recommendations.

The Legal Investigations Division, under the Chief Examiner, conducts from Washington or through one of its several branch offices the Commission's field investigations of a legal nature and reports thereon to the Commission through the Director with appropriate recommendations.

*Division of Stipulations.*--The Division of Stipulations consists of a Director, an Assistant Director and a staff of attorney-conferees.

All matters considered appropriate for settlement by stipulation are referred by the Commission to this Division, which serves upon the proposed respondent a statement of the allegedly illegal practices the Office of Legal Investigations recommends should be stopped. The Division of Stipulations takes no part in the investigation of any matter, its duties being confined solely to the negotiation of stipulation.

When served with a statement of the practices alleged to be illegal, the proposed respondent may reply by correspondence or, upon his request, may confer with the Director of the Division of Stipulations, or with a designated attorney-conferee either in person or through his authorized representative.

If the proposed respondent enters into a satisfactory stipulation to cease and desist from such practices as the Director of the Division of Stipulations deems in accord with the Commission's direction, and to have been sufficiently substantiated by the investigational records and reports, or by the admissions of the proposed respondent, the stipulation is submitted to the Commission for its approval. In the event of failure of the proposed respondent to sign a satisfactory stipulation covering the charges which the Director considers to have been so substantiated, the Director then reports the matter to the Commission with recommendation as to what action appears to be required in the public interest. He may recommend formal complaint or closing of the matter in whole or in part without prejudice to the right of the Commission to reopen the case.

*Office of Trade Practice Conferences and Wool Act Administration.*--Rules for the elimination and prevention of unfair trade practices on an industry-wide basis are established by the Commission under its trade practice conference procedure the requirements for which are set forth in the Commission's published Rules of Practice (see page 85). This work is conducted by the Commission through the staff of the Office of Trade Practice Conferences and Wool Act Administration, which Office also administers the Wool Products Labeling Act of 1939 and the rules and regulations issued thereunder. These activities are under the supervision of a Director who is principal adviser to the Commission in such matters; an Associate Director; and three Assistant Directors in charge, respectively, of the Rule Making Division the Rule Administration Division, and the Wool Administration and Inspection Division.

Under this Office the trade practice conference procedure has been expanded in its usefulness and made available to more industries. Proceedings for establishing trade practice conference rules are now instituted upon motion of the Commission, as well as upon application from members of an industry. Before the reorganization, proceedings were authorized only upon request from an industry. In all such proceedings the principle of cooperation as against formal



procedure is emphasized as a means of curbing unfair competitive methods. The reorganization enables the Commission more effectively to bring to business and the public the important advantages of general and simultaneous correction of bad practices throughout whole industries; to reduce and avoid the necessity of a multiplicity of adversary legal proceedings and piecemeal corrective action, as well as affording industries the help and guidance of approved trade practice rules. It also provides a workable, systematic method for carrying out voluntary compliance with rules to the fullest extent possible and also affords that flexibility and prompt revision of rules which is necessary to keep abreast of constantly changing and developing competitive conditions.

The Office as reorganized likewise effectuates a closer integration of the Wool Act administration with related trade practice rules in order that unified action and more adequate coverage of the textile field may be accomplished.

*Trial Examiners Division.*--The Trial Examiners Division consists of a Chief Trial Examiner, an Assistant Chief Trial Examiner, and a staff of attorneys designated trial examiners who are charged with the trial of the issues under the several acts administered by the Commission. The Division hereafter will function so as to conform to the principles of the Administrative Procedure Act, approved by the President June 11, 1946. This act in many particulars involves a departure from the procedure formerly followed in the trial of cases.

The reorganization affected the Trial Examiners Division to the extent that the work it formerly performed with respect to the negotiation and preparation of certain types of stipulations to cease and desist was transferred to the new Division of Stipulations.

*Division of Accounts, Statistics, and Economic Reports.*--The reorganization did not materially affect this Division except to change its name from the Division of Accounts, Statistics, and Economic Investigations to the Division of Accounts, Statistics, and Economic Reports. The Division's method of investigations had always been conducted on industry-wide bases, as contemplated under the reorganization for legal investigations.

Then work of this Division is in charge of a Director, who also is the Chief Economist; a Chief Accountant, a Chief Statistician and an Assistant Chief Economist, who are Assistant Directors of the Division.

The purposes of the general economic surveys conducted by this Division are to ascertain and report the facts to the President or to the Congress concerning general economic conditions, the state of competition and the degree of concentration in a given industry, together with suggestions for remedial legislation. Such surveys are made in response to the request of the President, at the direction of the Congress, or upon the initiative of the Commission, as provided in section 6 of the Federal Trade Commission Act (see p.1).

As a regular part of its work the Division is called upon to advise and consult with the Commission's attorneys and to prepare accounting, economic, and statistical analyses in connection with legal cases.

*Medical Advisory Division.*--The reorganization did not materially change this Division except to assign to it the duty of liaison with cer-





tain scientific agencies of the Government and of coordinating scientific studies and investigations to avoid conflict or duplication of work, to promote cooperation and to acquire scientific advice and assistance for the Commission.

The Division studies and reports on statements or documents in its field which are before the Commission or its Divisions for consideration and gives scientific opinions and assistance to the Commission and the personnel of its various Divisions.

*Divisions Assigned to Commissioners.*--The reorganization plan provides for the annual rotation among the Commissioners of general supervision over the Commission's several offices and divisions and internal organizations. For the period of July 1, 1946, through March 31, 1947, the assignment of Commissioners to supervisory charge of offices and divisions is as follows:

Chairman William A. Ayres: Office of General Counsel.

Commissioner Garland S. Ferguson: Division of Accounts, Statistics and Economic Reports.

Commissioner Ewin L. Davis: Office of Trade Practice Conferences and Wool Act Administration and Division of Stipulations.

Commissioner Robert E. Freer: Office of Legal Investigations and Medical Advisory Division.

Commissioner Lowell B. Mason: The Executive Office of the Commission (Secretary's Office and the Administrative Divisions), Trial Examiners Division, and Publication and Procurement Division.

( See p.10 for assignments of Commissioners during fiscal year ended June 30,1946.)

### **COMMISSION REVISES RULES OF PRACTICE**

In order to bring its procedure into conformity with the Administrative Procedure Act, approved June 11, 1946, the Commission revised its Rules of Practice, effective July 1, 1946. The stated objective of the act is "to improve the administration of justice by prescribing fair Administrative procedure."

On June 26, 1946, the Commission made the following public announcement concerning the revised Rules of Practice:

The revisions now made are such as are deemed necessary or desirable in view of the text and the principles of the Administrative Procedure Act, approved June 11, 1946. The present revisions have an important limitation in their scope. Sections 7 and 8 of the new act (relating, respectively, to the conduct of agency hearings and to the making of decisions) do not \* \* \* become effective until December 11, 1946. The said sections legalize certain procedural functions which the acts of Congress, as now in effect granting powers to the Federal Trade Commission, do not legalize. Hence amendments to the Commission's Rules of Practice, in addition to those embodied in the rules today released, will later be made. These will implement said sections 7 and 8 of the new act, insofar as the Commission's procedure is concerned.

The Commission, in now issuing its revised Rules of Practice, has acted upon the belief that it is more promotive of the public interest to adopt such rules as are lawful under existing statutes administered by it and are in harmony with the purposes of the new act, than to withhold these rules for 6 months in order to make all the revisions of its Rules of Practice, pursuant to the new statute, at the same time.

The Commission published in the Federal Register of September 11, 1946, a statement concerning its organization procedure, policy, and rules. This information was published to conform to the requirements of the Administrative Procedure Act.

The text of the revised Rules of Practice appears on page 85. Copies of the rules may be obtained upon application to the Commission.

### LANHAM TRADE-MARK ACT

The Lanham Trade-Mark Act (Public Law 489, 79th Cong.), approved by the President, July 5, 1946, delegates to the Federal Trade Commission certain duties with respect to the cancellation of trademarks registered with the Patent Office. The act becomes effective July 5, 1947.

Section 14 of the act provides that--

the Federal Trade Commission may apply to cancel on the grounds specified in subsections (c) and (d) of this section any mark registered on the principal register established by this act, and the prescribed fee shall not be required.

Under subsections (c) and (d) of section 14, the Commission may apply for cancellation--

(c) at any time if the registered mark becomes the common descriptive name of an article or substance on which the patent has expired, or has been abandoned or its registration was obtained fraudulently or contrary to the provisions of section 4 or of subsections (a), (b), or (c) of section 2 of this act for a registration hereunder, or contrary to similar prohibitory provisions of said prior acts for a registration thereunder, or if the registered mark has been assigned and is being used by, or with the permission of, the assignee so as to misrepresent the source of the goods or services in connection with which the mark is used or if the mark was registered under the act of March 3, 1881, or the act of February 20, 1905, and has not been published under the provisions \* \* \* of this act; or

(d) at any time in the case of a certification mark on the ground that the registrant (1) does not control, or is not able legitimately to exercise control over, the use of such mark, or (2) engages in the production or marketing of any goods or services to which the mark is applied, or (3) permits the use of such mark for other purposes than as a certification mark, or (4) discriminately refuses to certify or to continue to certify the goods or services of any person who maintains the standards or conditions which such mark certifies.

Subsections (a), (b), and (c) of section 2, referred to above, authorize the Commission to apply for cancellation of a registered mark if it--

(a) Consists of or comprises immoral, deceptive, or scandalous matter ; or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute.

(b) Consists of or comprises the flag or coat of arms or others insignia of the United States, or of any State or municipality, or of any foreign nation, or any simulation thereof.

(c) Consists of or comprises a name, portrait, or signature identifying a particular living individual except by his written consent, or the name, signature, or portrait of a deceased President of the United States during the life of his widow, if any, except by the written consent of the widow.

The act provides further that the Commission may apply for cancellation when registration of a mark was obtained contrary to the provisions of section 4, which reads--

SEC. 4. Subject to the provisions relating to the registration of trade-marks, so far as they are applicable, collective and certification marks, including in dictations of regional origin used in commerce, shall be registrable under this act, in the same manner and with the same effect as are trade-marks, by persons, and nations, States, municipalities, and the like, exercising legitimate control over the use of the marks sought to be registered, even though not possessing an industrial or commercial establishment, and when registered they shall be entitled to the protection provided herein in the case of trade-marks,

except when used so as to represent falsely that the owner or a user thereof makes or sells the goods or performs the services on or in connection with which such mark is used \* \* \*.

### **SUMMARY OF LEGAL ACTIVITIES DURING FISCAL YEAR**

The Commission issued 101 formal complaints alleging violations of the laws it administers; entered 89 orders directing respondents to cease and desist from such violations ; and accepted 96 stipulations to discontinue unlawful practices, 23 pertaining especially to radio and periodical advertising.

The Commission was a party in 17 cases decided in the United States courts. Results favorable to the Commission were obtained in 14 cases, 5 in the Supreme Court and 9 in United States Circuit Courts of Appeals. Commission orders to cease and desist were affirmed by circuit courts of appeals in 9 cases, 1 with modifications. Three petitions for review were withdrawn from circuit courts of appeals by respondents, leaving Commission orders to cease and desist in effect. The Supreme Court in 5 cases denied respondents' pleads for certiorari. A Commission order to cease and desist was reversed in 1 case in the circuit court of appeals, and the Supreme Court reversed 2 orders and remanded the cases for further proceedings. Three petitions for review of Commission orders were filed by respondents in circuit courts of appeals.

Trade practice conferences were held for nine industries. Trade practice rules were approved for promulgation for the artificial limb industry, construction equipment distributing industry piston ring industry, and wholesale confectionery industry (Philadelphia trade area);

In the administration of the Wool Products Labeling Act field inspections were made of several million articles subject to the labeling provisions of the act, covering the labeling practices of over 5,500 manufacturers, distributors, and other marketers.

The Commission conducted several investigations into the operation of export associations organized under the Export Trade Act. Investigation of the Phosphate Export Association was completed, and recommendations for the readjustment of the business of the association were issued. At the close of the fiscal year, 49 export associations were registered with the Commission.

### **PROCEEDINGS RESUMED ON CASES SUSPENDED BECAUSE OF WAR**

The suspense of work on many cases because of war conditions was lifted by the Commission on August 27, 1945. These cases involve a wide range of products including precision instruments, machinery, chemicals, construction materials and automobile tire chains. The suspensions had been ordered pursuant to an arrangement between the War and Navy Departments and the Commission, April 28, 1942, providing for the postponement of any proceeding at the request of those Departments when, in the opinion of the Secretary of War and the Secretary of the Navy, their continuation would seriously interfere with the war effort. On August 17, 1945, the War Department, and on August 20, 1945, the Navy Department, withdrew their requests. The Commission thereafter announced the lifting of its suspension of these

matters and proceeded with them as expeditiously as possible.

## GENERAL INVESTIGATIONS

Five general investigations were completed during the fiscal year and reports thereon were made to Congress under the titles:

*Resale Price Maintenance.*

*Wholesale Raking Industry, Part I--Waste in the Distribution of Bread; and Part II--Costs, Prices, and Profits.*

*International Phosphate Cartels.*

*Distribution Methods and Costs, Part IX--Cost of Production and Distribution of Fish on the Pacific Coast.* This investigation was undertaken in cooperation with the Office of the Coordinator of Fisheries, Department of the Interior.

During its existence the Commission has conducted more than 135 general investigations and 370 cost studies.<sup>2</sup> A majority of these general investigations were authorized by congressional resolutions, some were conducted pursuant to Presidential orders, a number were made at the request of other branches of the Government, and others on the initiative of the Commission. Many of these inquiries have supplied valuable information bearing on competitive conditions and trends in interstate trade and industrial development and have shown the need for, and wisdom of, legislative or other corrective action.

Investigations conducted by the Commission have led, directly or indirectly, to the enactment of important laws, including the Export Trade Act the Packers and Stockyards Act, the Securities Act of 1933, the Stock Exchange Act of 1934, the revised Federal Power Commission Act of 1934, the Public Utilities Holding Company Act of 1935, the Natural Gas Act of 1938, and the Robinson-Patman Anti-discrimination Act of 1936, which amended section 2, of the Clayton Act.

## THE COMMISSIONERS AND THEIR DUTIES

The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate. Not more than three may belong to the same political party.

As provided in the Federal Trade Commission Act, the term of office of a Commissioner is 7 years, dating from the 26th<sup>3</sup> of September last preceding his appointment, except when he succeeds a Commissioner who relinquishes office prior to the expiration of his term in which case the act provides that the new member "shall be appointed only for the unexpired term of the Commissioner whom he shall succeed." Upon the expiration of his stated term of office, a Commissioner continues to serve until his successor shall have been appointed and shall have qualified.

As of June 30, 1946, the Commission was composed of the following members: William A. Ayres, Democrat, of Kansas, Chairman; Garland S. Ferguson, Democrat, of North Carolina; Ewin L. Davis, Democrat, of Tennessee; Robert E. Freer, Republican, of Ohio; Lowell B. Mason, Republican, of Illinois.<sup>4</sup>

The Chairmanship of the Commission rotates annually among its members. Commissioner Ayres is serving as Chairman during the

<sup>2</sup>An alphabetical list and brief of description of the investigations conducted by the Commission appear in the appendix, beginning at p.103.

<sup>3</sup> September 26 marks the anniversary of the approval of the Federal Trade Commission Act in 1914.



<sup>4</sup> Commissioner Mason took office October 15, 1945. He succeeded Commissioner Charles H. March, who died August 28, 1945.

calendar year 1946, having succeeded Commissioner Davis. Commissioner Ferguson will become Chairman in January 1947. Through this method of rotating the chairmanship, each Commissioner serves as Chairman at least once during his term of office. The Chairman presides at meetings and signs the more important official papers and reports at the direction of the Commission.

In addition to the general duties of administering the statutes committed to the Commission for enforcement, each has supervisory charge of the work of one or more of the divisions of the Commission. During the 1946 fiscal year Chairman Ayres had supervisory charge of the Medical Advisory Division and the several Administrative Divisions; Commissioner Ferguson, of the Trial Examiners Division and the Division of Trade Practice Conferences; Commissioner Davis, of the Trial and Appellate Division; Commissioner Freer, of the Radio and Periodical Division and the Division of Accounts, Statistics and Economic Investigations; and Commissioner Mason, of the Legal Investigations Division. (See p.6 for assignments of Commissioners for period from July 1, 1946, through March 31 1947.)

The Secretary of the Commission is its executive officer. Each case coming before the Commission for consideration is assigned to a Commissioner for examination and report before it is acted upon by the Commission. The Commissioners meet each work day for the transaction of business, including the hearing of oral arguments in cases before the Commission. They usually preside individually at the trade practice conferences held for industries, perform numerous administrative duties incident to their position, and direct the work of a staff which, as of June 30, 1946, numbered 513 officials and employees, including attorneys, economists, accountants, and administrative personnel stationed in Washington and in 5 branch offices. In addition, 34 members of the staff were on military furlough and serving in the armed forces of the Nation.

### **PUBLICATIONS OF THE COMMISSION**

The Federal Trade Commission Act , section 6 (f) , provides that the Commission shall have power--

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 to 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.

Publications issued during the fiscal year were:

*Annual Report of the Federal Trade Commission for the Fiscal Year Ended June 30, 1945.* House Document No. 407, Seventy-ninth Congress, second session, January 11, 1946 ; 116 pages. Available from the Superintendent of Documents, Government

Printing Office, at 25 cents a copy while the supply lasts.

*Trade Practice Rules for the Artificial Limb Industry, April 16, 1946*, 14 pages. Available from Federal Trade Commission without charge while the supply lasts.

*International Phosphate Cartels, May 1, 1946*; 60 pages. Available from Federal Trade Commission without charge while the supply lasts.

*Resale Price Maintenance, December 13, 1945*; 872 pages. Available from the Superintendent of Documents, Government Printing Office, at \$1.50 a copy while the supply lasts. *Summary*, 39 pages, available from the Federal Trade Commission without charge while the supply lasts.

*Wholesale Baking Industry, Part I, Waste in the Distribution of Bread, April 18, 1946*; 25 pages. Available from the Superintendent of Documents, Government Printing Office, at 10 cents a copy while the supply lasts.

The publications of the Commission reflect the character and scope of its work and vary in content and treatment from year to year. Important among them are those presenting fact-finding studies, reports and recommendations relating to general business and industrial inquiries. Illustrated by appropriate charts and tables, these books and pamphlets deal with current developments, possible abuses, and trends in an industry, and contain scientific and historical background of the subjects discussed. They have supplied the Congress, the Executive agencies of the Government, and the public with information not only of specific and general value but of especial value as respects the need or wisdom of new and important legislation, to which they have frequently led, as well as to corrective action by the Department of Justice and private interests affected. The Supreme Court has at times had recourse to them, and many have been designated for reading in connection with university and college courses in business administration, economics, and law.

The 38 volumes of *Federal Trade Commission Decisions* contain (1) the findings of fact and orders to cease and desist issued by the Commission throughout the years; (2) the stipulations accepted by the Commission wherein respondents agree to cease and desist from unlawful practices; and (3) the decisions of the courts in Commission cases for the different periods covered by the different volumes. They constitute a permanent and authoritative record of the remedial measures taken by the Commission to stop violations of the laws it administers. The decisions establish for industry, business, and the individual the guideposts of fair competitive dealing. They also tell, case by case, the story of the multiplicity of unlawful practices which have been found to be detrimental to the public interest and of the accomplishments of the Commission in the prevention of such practices.

Decisions of the Federal courts reviewing Commission cases also are published from time to time in separate volumes and may be purchased from the Superintendent of Documents, Government Printing Office.

The trade practice rules the regulations under the Wool Products Labeling Act, and the Rules of Practice before the Commission are published in pamphlet form and may be obtained from the Commission without charge.



### RECOMMENDATIONS TO CONGRESS

The only specific recommendation for legislation which the Commission has made in its annual reports for some years past is that section 7 of the Clayton Act be amended in order to curb more effectively the increasing mergers of competing corporations under common ownership through acquisition of their stock or assets. During the current fiscal year a bill to accomplish that purpose (H. R. 4810, 79th Cong. 2d sess.) was favorably reported by the House Committee on the Judiciary, but did not reach the floor for discussion before the end of the concluding session of the Seventy-ninth Congress. The Commission renews its advocacy of the objective embodied in such bill, an objective which was also supported by the Temporary National Economic Committee. The following chart shows the sharp increase in the merger movement since the end of the war.

GRAPH  
not available

Another recommendation which the Commission desires to make is for such amendment of the Clayton Act as will give the Commission's orders to cease and desist under that act the same sanctions and the same decree of finality that its orders now have under the Federal Trade Commission Act. Orders issued under the Clayton Act can now be enforced only by first obtaining court affirmance and a court decree commanding obedience to the order, and then following this with a contempt proceeding if the court decree is disobeyed. Prior to the Wheeler-Lea amendment of the Federal Trade Commission Act in 1938, that was the only method of enforcing compliance with the Commission's orders issued under that act, but since that amendment such orders become final within 60 days unless judicial review is initiated, and violations of any final order are subject to a specified money penalty, recoverable by civil penalty suit. There appear to be no substantial reasons why orders under both acts should not have the same status as to finality and as to penalties for violation.

(Commissioner Mason did not participate in these legislative recommendations.)



## **PART I. GENERAL INVESTIGATIONS**

Reports submitted to Congress during the fiscal year covered *International Phosphate Cartels*, May 1, 1946; *Wholesale Baking Industry, Part I--Waste in the Distribution of Bread*, April 22, 1946; and *Resale Price Maintenance*, December 13, 1945.

Two other investigations were completed and the reports transmitted to Congress soon after the close of the fiscal year. They were *Wholesale Baking Industry, Part II--Costs, Prices, and Profits*, August 7, 1946, and *Distribution Methods and Costs, Part IX--Cost of Production and Distribution of Fish on the Pacific Coast*, July 25, 1946.

The reports are summarized below.

### **INTERNATIONAL PHOSPHATE CARTELS**

For approximately three-quarters of a century the Congress and the public have been concerned with different aspects of the monopoly problem. International cartel agreements are one phase of this problem. Public apprehension concerning cartel operations was intensified when it was disclosed that Germany had used international cartel agreements to retard scientific developments in the United States and to further her own preparations for war.

The term "cartel," which applies to a type of combination in restraint of trade, was introduced into American usage from Europe, particularly from Germany where it originated under the name "kartel." In the United States, cartel types of activities have flourished under various designations. However, not all such activities have restrained competition.

A cartel may be defined as a combination in restraint of competition in industry and trade that is implemented through agreements among enterprises maintaining separate identities and separate ownerships, stock controls, and managements. From the viewpoint of operation, cartels may be classified as (1) local, (2) national, (3) international. The Commission's study has concentrated on agreements among international cartels.

United States industries participating in cartels have included producers of aluminum, alkalies, electric equipment and appliances, fertilizer (phosphates and potash), petroleum products, steel products, and sulfur.

The report of the Commission on international phosphate cartels shows that as early as January 20, 1920, less than a year after the organization of Phosphate Export Association,<sup>1</sup> a Webb-Pomerene law export association, negotiations were opened with the French North African miners for an international cartel agreement to stabilize the marketing of phosphate rock in Europe. An agreement was not arrived at because demand exceeded the supply.

<sup>1</sup> See p. 68 for recommendations made by the commission for the readjustment of



this association's business.

Negotiations were continued from time to time, and in December 1933 several international agreements were signed which included Phosphate Export Association and Florida Hard Rock Association, representing United States producers, and the French North African group, the Egyptian interests (Italian and British), and the Pacific Island interests (French and English). The following year an agreement was signed controlling shipments from the Dutch East Indian Island of Curacao to Europe. On April 15, 1937, another cartel agreement was entered into involving division of tonnage for shipment to Japan between a "Low Grade Group" consisting of American, French North African, and Egyptian producers, and a "Pacific High Grade British interests producing in Ocean, Nauru, and Christmas Islands, and French interests producing in Makatea Island.

The so-called French agreement was the basic international phosphate agreement. It was an agreement between Phosphate Export Association, composed of United States producers in Florida, and Comptoir des Phosphates D'Algerie et de Tunisie and Office Cherifien des Phosphates, representing French African producers.

Among other provisions, the agreement allocated European phosphate sales between the Florida and French African producers in the proportions of 16 and 84 percent, respectively, up to 4,500,000 metric tons, and in the proportions of 14 percent to the United States producers and 86 percent to the French African producers when sales exceeded 4,500,000 metric tons. The agreement was for a 10-year period, to end December 31, 1943. European prices, except to France, were to be fixed by mutual agreement. The French Government insisted that French industry and French farmers should receive the benefit of favorable prices.

It appears that certain articles of the agreement were inserted (1) to protect American producers should Swift Co. and Ore & Chemical Corp., the latter controlled by Germany's Metallgesellschaft, withdraw from Phosphate Export Association; (2) to protect the Florida companies in the Japanese market and prevent sales by Morocco producers in Canada and Cuba; and (3) to discourage imports to the United States by "reserving to the American group full liberty of action in the United States of America." This last provision was understood by a member, as stated in a letter, as meaning:

Naturally, also, the agreement should provide that during its life the French producers will not Ship their rock to the United States.

For several years prior to 1932, French Morocco producers shipped phosphate rock to the United States, but during the years 1933 to September 1939, when the cartel agreement was effective, no shipments were received from Morocco.

Annual exports of phosphate from the United States averaged 849,690 long tons during the 15-year precartel agreement period, 1919-33, and averaged 1,100,767 long tons while the cartel agreement was effective from 1934 to 1938. United States export price averaged \$3.98 per long ton f. o. b. mines for the period 1919-39, compared with an average of \$2.82 for domestic sales of Florida phosphate. During the period of the cartel agreement the average export price was \$4.27 per ton compared with \$2.44 f. o. b. mine for domestic sales.

The profit per dollar of sales for the seven companies comprising Phosphate Export Association was 26.62, 23.91, and 25.86 cents, respectively, in 1936, 1937, and 1938, when the cartel agreement was effective, compared with 19.93, 13.10, and 19.42 cents in 1939, 1940, and 1941, after the agreement became inoperative following the outbreak of World War II in 1939.

Before payment of Federal income taxes, the net profits of four of the phosphate mining companies averaged 12.11 percent in 1937 and 12.55 percent in 1938 when the cartel agreement was effective, decreased to 9.42 percent in 1939 and to 7.46 percent in 1940, and then increased to 11.95 percent in 1941.

The international phosphate cartel agreements, in which Phosphate Export Association participated, included a number of typical cartel activities, such as price fixing by joint action in export markets (except France), allocation of trade on a percentage basis in markets shared jointly, and elimination of competition in members' exclusive markets, e. g., Cuba, Canada, and the United States, which were reserved to United States producers.

## WHOLESALE BAKING INDUSTRY, PART I

The report on the *Wholesale Baking Industry, Part I--Waste in the Distribution of Bread* was submitted to the President and Congress April 22, 1946.

During the war the Commission was twice requested to make a study of the wholesale baking industry, first, in 1941, for the Office of Price Administration, and second, in the last quarter of 1942 for the Director of the Office of Economic Stabilization. In these inquiries a number of wasteful and uneconomic distribution practices were disclosed. For example, it was found that in September 1942, after the bread industry had announced it was attempting to voluntarily reduce waste resulting from return of unsold bread, there was still bread destroyed or sold for animal food sufficient to furnish one third of a 1-pound loaf daily for more than the entire population of Philadelphia, or of a State with a population exceeding that of South Carolina. Other uneconomic practices were found to exist.

As a result of the report made to the Economic Stabilizer, the return of unsold bread resulting from so-called consignment selling, furnishing bread racks to certain retailers free to induce dealers to handle the bread of a particular wholesaler, and other costly trade practices were forbidden under War Food Order No.1, and delivery service was reduced under the orders of the Office of Defense Transportation.

Notwithstanding the world shortage of food, particularly of cereals, observance of War Food Order No.1 was far from complete, particularly on the part of some large interstate and large local bakeries, especially in the larger markets where they did not dominate the bread trade, such as the Metropolitan New York area, Cleveland, the Pacific Coast States and in sections of Texas.

In sections where wholesale bakers observed the prohibition against return of unsold bread, companies not only conserved human food but increased their profits. In fact, when the Government increased the

extraction of flour from wheat to 80 percent, a large baker wrote to his branch plant managers that:

It has been called to the attention of the Government that had the baking industry lived up to F. D. O. No. 1, 2 it is possible we would not have had to go to a darker flour in this country.

Even with only imperfect compliance with War Food Order No.1, the savings of wheat for human consumption were important. Compared with September 1942, when it appears waste from consignment selling had been reduced to its lowest point through voluntary effort, the 1945 reduction in return of unsold bread, based upon statistics obtained from bakeries located in all parts of the country, was 3.18 percent, which would have resulted in annual savings of 465,138,000 pounds of bread and yeast-raised bakery products for the year 1945. As stated in the Commission's report:

This quantity of bread would be sufficient to supply the 46,467,000 total 1940 population of England, Scotland, and Wales with a daily ration of one-third pound of bread for 30 days; for the entire population of France for over 36 days; or a similar ration for the 9,090,000 population of the Netherlands for 5 months; for the 8,387,000 population of Belgium for 5 ½ months; or for the 8,887,000 population of Finland for 1 year. This estimate of savings covers bread and yeast-raised products. Additional savings would have resulted from discontinuing the taking back of unsold cakes and other sweet goods.

The long-time effect of consignment selling is found in its competitive results. It is used by financially strong wholesale bakers to establish themselves in new markets to the competitive detriment of smaller, less financially strong bakers. Consignment selling, the giving of free goods and premiums, free bread racks, the installation of counters free in the larger retail outlets, and the practice of selling 20-ounce or even heavier loaves in new or highly competitive territory, while selling a 1-pound loaf at the same price in other markets where the sellers were firmly established have characterized competition in the industry. Smaller and medium sized wholesalers complained of these practices as endangering their existence.

In its report to the President and the Congress, the Commission stated:

In conclusion, then, there are several sound reasons for continuing and strengthening, rather than relaxing, the waste-preventing provisions of wartime regulations respecting consignment selling of bakery products that may be summarized as follows:

1. Humanitarian considerations growing out of world-wide need for conservation of foodstuffs at least until war devastated economies are rehabilitated.

2. Need in the baking industry for such reasonable public assistance and direction, short of dictatorial control, as may be necessary for the maintenance of fair and equitable competitive conditions under which small local bakers can compete with units of large bakery consolidations on the basis of their efficiency in supplying the local market rather than on their relative financial ability to withstand competitive losses due to wasteful competition in consignment selling.

3. American consumer interest in the elimination of competitive waste to the end that food

supplies adequate to maintain national health and welfare shall be available both during and after the present emergency at minimum prices consistent with healthy development and operation of the wholesale baking industry.

4. Make available to returning veterans a field of useful business in which they may have a fair chance to develop a profitable and growing business. A skillful small baker can furnish the public a product equal or superior to that of the

<sup>2</sup> Food Distribution Order No.1, originally known as War Food Order No., 1.

large baker, particularly where the bakery products are trucked considerable distances.

Elimination of competitive waste and unfair and inequitable aspects of consignment selling as now practiced by the industry contributes materially to all of these sound objectives without danger to American standards of living or public health with a minimum of inconveniences to consumers of wholesale bakery products during the present emergency, and can continue to do so after the emergency is past.

#### THE REMEDY

The only thing needed to stop waste from the return of unsold bread is to obtain complete cooperation of wholesale bakery officials, driver salesmen, and retail dealers in the observance of War Food Order No.1 in the present emergency. It has been suggested by a union official in a territory in which returned bread was destroyed by being dumped in a river, that the cooperation of national union officials would be helpful.

It is also 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.

#### WHOLESALE BAKING INDUSTRY, PART II

Part II of the report on the Wholesale Baking Industry was in course of preparation during the fiscal year, but was not transmitted to Congress until August 7, 1946. It presents information concerning prices and pricing practices in the industry, profits earned and unit costs of production and distribution. The report 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, namely, March and September. Comparisons of costs are also made for these two periods for plants, arranged by geographical areas. In addition, comparisons of the costs of production and distribution are made by size groups of wholesale bakeries and of 1945 costs with the 1942 costs, the latter compiled in an earlier inquiry for the Director of the Office of Economic Stabilization.

#### FISH PRODUCTION AND DISTRIBUTION, PACIFIC COAST

The Commission's report entitled *Distribution Methods and Costs, Part IX--Cost of Production and Distribution of Fish on the Pacific Coast* was not completed in time for transmission to Congress until shortly after the close of the fiscal year, on July 25, 1946. Similar reports for other areas have been submitted to Congress and represent an extension of the general investigation of distribution methods and costs for other important consumer commodities made by the Commission pursuant to authority conferred upon it by section 6 of the Federal Trade Commission Act.

In April 1944, the Commission was requested by the Office of the Coordinator of

Fisheries of the United States Department of the Interior to conduct a study of the production and distribution of fishery products in the New England, Middle Atlantic, Gulf, Pacific, and Great Lakes producing regions. The Coordinator of Fisheries was charged under Executive Order 9204 with the responsibility for developing and assuring sustained production of aquatic food supplies essential to the conduct of the war. The results of this study were

used by his office as a basis for its policies in administering this order, particularly in its recommendations to the Office of Price Administration in the field of price regulation, and to the War Manpower Commission in the field of manpower and labor.

The details of costs and related information concerning the industry were obtained for the war years from a representative number of fishing vessels and wholesale and retail distributors of fish and Seafood in the five regions selected. The field work of the inquiry was on by the Commission's staff during May and June, 1944. However, in the same months of 1945, additional studies were made in the Middle Atlantic and Pacific coast areas, at the further request of the Office of Coordinator of Fisheries in April 1945.

Over 200 cost reports, with explanatory comments concerning trends in prices, costs, and profits for individual producers and distributors concerning their operations during the years 1941-44 were compiled and forwarded to the Office of the Coordinator of Fisheries. From these and other data collected in the inquiry, the Commission prepared the reports covering the New England, Great Lakes, and Pacific coast regions. The first 2 were prepared and published during the fiscal year ended June 30, 1945.

### **RESALE PRICE MAINTENANCE**

The report of the Federal Trade Commission on resale price maintenance, transmitted to Congress on December 13, 1945, is based on the Commission's study of the operation and effects of resale price maintenance contracts in the 45 States where such a pricing system is legalized. It contains a comparison of resale price-maintained products in price-maintained and non-price-maintained territories.

The Miller-Tydings Act of 1937 amended the Sherman Act to the extent of legalizing minimum resale price maintenance agreements or contracts respecting trade-marked or otherwise identified goods sold in interstate commerce, provided that the commodities, affected were resold in any State that had legalized this type of contract or agreement with respect to resales made within its boundaries. The Miller-Tydings Act contains a specific prohibition against horizontal agreements. It also amended the Federal Trade Commission Act by providing that the making of such contracts should not constitute an unfair method of competition under section 5 of the Federal Trade Commission Act.

Minimum resale price maintenance was originally advocated by manufacturers of trade-marked, trade-named, or branded products as a means of eliminating alleged predatory price competition among retail dealers. The report points out that "leader" price competition is a form of retail price competition that may be used to eliminate weaker competitors, but, that as a corrective of the objectionable features of price competition, resale price maintenance makes no distinction between price competition that is economically sound and in the public interest and price competition that may be used to eliminate a competitor.

Both State and Federal resale price maintenance laws are entirely permissive in their



application to manufacturers, and manufacturers in many lines have not named resale prices for their products. In practice, resale price maintenance serves as a focal point for dealer

cooperative effort to bring pressure to bear on manufacturers to place products under resale price maintenance at prices yielding dealer margins satisfactory to such dealer organizations.

Manufacturers of staples generally have been reluctant to place their brands under resale price maintenance, unless competing manufacturers do likewise; manufacturers whose products sell at prices yielding narrow margins of profit also hesitate to assume the added expenses of enforcing minimum resale prices; manufacturers of branded products that are sold by different types of dealers such as chain stores, cash-and-carry and credit-and-delivery stores generally hesitate to maintain uniform minimum resale prices for all types of dealers; also, as a rule, manufacturers of such staples as flour, sugar, nails, the prices of which fluctuate with changes in the prices of raw materials, have not placed their products under resale price maintenance contracts. Other important branded manufactured products not placed under resale price contracts include radios, household electrical appliances, farm machinery, automobiles and trucks, in the sale of which a used article is often taken in trade.

Where production of staple articles is concentrated in a few manufacturers such products are often placed under minimum resale price contracts; where such manufacturers meet strongly organized trade groups of retail dealers, conditions are especially favorable to the adoption of minimum resale price maintenance contracts, and in turn the legalization of minimum resale price contracts has fostered the formation and growth of trade association groups both among manufacturers and retailers.

Placing products under minimum resale price maintenance contracts has been more extensive with drugs, toilet goods, cosmetics, liquor and sporting goods than in any other industries covered by the Commission's survey.

Records of chain stores, department stores, and certain independent merchants disclosed that they were forced to increase their prices for products when they were placed under minimum resale price maintenance contracts. Individual druggists, reporting from memory, on the other hand usually reported some price decreases in the same territories. While this was happening in the States having minimum resale price laws, the trend of prices in non-minimum-resale price-territories was downward in all types of stores. Independent drug, chain, and department stores that were required to increase prices under minimum resale price maintenance contracts, generally sold at the minimum prices named in the contracts while independent dealers who reduced prices generally reduced them towards but not to the minimums named in contracts.

In the food trade, resale price maintenance has had little use outside of Ohio, and even in that State a relatively small number of manufacturers placed one or more of their brands under minimum resale price maintenance contracts. In general, the minimum prices named in contracts were intended to limit only leader merchandising, and actually were within the range being charged by chain and department stores in Ohio. Ohio was made the test State by organized retail dealers.

In the hardware trade, resale price maintenance has made somewhat more progress than has been made in the food trade. In this



trade it is limited largely to sporting goods and trade-marked or branded specialties.

In the distilled alcoholic liquor trade many distillers and importers have been reluctant to place their brands under minimum-resale-price-maintenance contracts because of the advantage gained by competitors not naming minimum prices. Notwithstanding the urging of organized wholesalers and retailers in the tobacco trade, cigarette manufacturers refused to place their leading brands under resale price-maintenance contracts. An Ohio State court refused to enforce contracts entered into between cigarette wholesalers and retailers on the grounds that such contracts were unlawfully agreed upon, but in New Jersey similar contracts were enforced by State courts.

In the malt beverage trade, brewers of nationally advertised brands of beer and ale generally have not entered into minimum-resale-price contracts, but, in a number of instances, cooperating groups of local brewers and wholesalers entered into such contracts.

As the result of its investigations in antitrust cases, the conclusion of the United States Department of Justice is that the actual effects of resale price maintenance have been those which are to be expected from price-fixing conspiracies unregulated by public authority whether or not they enjoy the sanction of law.

The demonstrated effectiveness of purely voluntary resale price maintenance agreements led the California Legislature initially, followed by 44 other State legislatures, to make a single contract entered into between a manufacturer and a retail dealer binding upon all dealers in a State handling the manufacturer's product named in the single contract. In passing the Miller-Tydings Act, the Congress forbade competitors manufacturers, wholesalers or retailers to agree upon the minimum prices to be maintained in interstate commerce.

In its conclusions the report states, in part, that--

in the absence of effective Government supervision in the public interest, resale price maintenance, legalized to correct abuses of extreme price competition, is subject to use as a means of effecting enhancement of prices by secret agreements and restraint of competition by coercive action on the part of interested cooperating trade groups of manufacturers, wholesalers, and retailers in such ways and to such an extent as to make it economically unsound and undesirable in a competitive economy. \* \* \* The Commission believes that the consumer is not only entitled to competition between rival products but to competition between dealers of a single product.

## **PART II. GENERAL LEGAL WORK**

### **DESCRIPTION OF PROCEDURE**

A case before the Federal Trade Commission may originate in any one of several ways: through complaint by a consumer or a competitor; from Federal, State or municipal sources; or upon observation by the Commission. The Commission itself may initiate an investigation to determine whether the laws administered by it are being violated.<sup>1</sup> No formality is required in making application for complaint. A letter setting forth the facts in detail is sufficient, but it should be accompanied by all evidence in possession of the complaining party in support of the charges made.

### **INFORMAL PROCEDURE**

Upon receipt of an application for complaint, the Commission through its Legal Investigations Division or Radio and Periodical Division, as the case may be, considers the essential jurisdictional elements before deciding whether it shall be docketed. When docketed, it is assigned to an attorney for the purpose of developing all the essential facts. The general procedure is to interview the party complained against, advise him of the charges, and request such information as he may care to furnish in defense or in justification. It is the policy of the Commission not to disclose the identity of the complainant. If necessary, competitors of the respondent are interviewed to determine the effect of the practice from a competitive standpoint. Often it is desirable to interview consumers and members of the general public to obtain their assistance in determining whether the practice alleged constitutes an unfair method of competition or unfair or deceptive act or practice, and also to establish the existence of the requisite public interest.

After developing all the facts the examining attorney summarizes the evidence in a report, reviews the law applicable, and recommends the action he believes the Commission should take. The record is reviewed by the Chief Examiner or the Chief of the Radio and Periodical Division and, if found to be complete, is submitted, with a statement of facts together with his conclusions and recommendations, to the Commission for its consideration.

The Chief Examiner or the Chief of the Radio and Periodical Division may recommend to the Commission (1) that the case be closed without further action because of lack of evidence or because the practice does not violate any law administered by the Commission; (2) disposition of the application by the respondent signing a stipulation as to the facts and an agreement to cease and desist from the practices as set forth in the stipulation; or (3) issuance of formal complaint.

If the Commission decides that a formal complaint should issue, the case is referred to the Chief Trial Counsel for preparation of the

<sup>1</sup> A brief statement of the provisions of these laws appears on p.1.

complaint and trial of the case. Should the Commission permit disposition by stipulation in lieu of formal complaint, the case is referred to the Director, Division of Stipulations (formerly to the Chief Trial Examiner or to the Director of the Radio and Periodical Division) for negotiation of stipulation and submission thereof to the Commission for approval.

All proceedings prior to issuance of a formal complaint or stipulation are confidential.

### **PROCEDURE UPON FORMAL COMPLAINTS**

Only after careful consideration of the facts developed by the investigation does the Commission issue a formal complaint. The complaint and the answer of the respondent thereto and subsequent proceedings are a public record.

A formal complaint is issued in the name of the Commission acting in the public interest. It names the respondent, or respondents, alleges a violation of law, and contains a statement of the charges. The party complaining to the Commission is not a party to the formal complaint and the complaint does not seek to adjust matters between parties; rather, the prime purpose of the proceeding is to prevent, for the protection fair or dec of the public, those unfair methods of competition and un air or deceptive acts or practices forbidden by the Federal Trade Commission Act and those practices within the Commission's jurisdiction which are prohibited by the Clayton Act, as amended by the Robinson-Patman Act, the Export Trade Act, and the Wool Products Labeling Act of 1939.

The rules of practice before the Commission provide that a respondent desiring to contest the proceeding, within 20 days from service of the complaint shall file answer admitting or denying each allegation.

Where evidence is to be taken either in a contested case or in one where the respondent has failed to file answer, the matter is set down for hearing before a trial where in the United States the Commission being represented by one of its trial attorneys and the respondent having the privilege of appearing in his own behalf or by attorney.

After the submission of evidence in support of the complaint and on behalf of the respondent, the trial examiner prepares a report of the evidence for the information of the Commission, a copy being furnished counsel for the Commission and counsel for the respondent. Exceptions to the trial examiner's report may be taken by either counsel.

Briefs may be filed within a stated time after the trial examiner's report is made, and, in the discretion of the Commission, upon the written application of the attorneys for the Commission or for the respondent, oral argument may be had before the Commission. There after, the Commission reaches a decision either sustaining the charges of the complaint or dismissing the complaint, sometimes without prejudice.

If the complaint is sustained by the evidence, the Commission makes its findings as

to the facts and states its conclusion that the law has been violated, and thereupon an order is issued requiring the respondent to cease and desist from such violation. If the complaint is dismissed, an appropriate order is entered.



Up to and including the issuance of an order to cease and desist, there is no difference in procedure whether the case is under the Federal Trade Commission Act, the Clayton Act, or the Wool Products Labeling Act, but the Clayton Act provides a procedure for enforcement of cease and desist orders different from the other two acts.

Under the Federal Trade Commission Act and the Wool Products Labeling Act, an order to cease and desist becomes final 60 days after date of service upon the respondent, unless within that period the respondent petitions an appropriate United States circuit court of appeals to review the order. In case of review, the order of the Commission becomes final after affirmance by the circuit court of appeals or by the Supreme Court of the United States, if taken to that Court on certiorari. Violation of an order to cease and desist after it shall have become final and while it is in effect subjects the offender to a civil penalty of not more than \$5,000 for each violation, recoverable by the United States.

Under the Clayton Act, an order to cease and desist does not become final by lapse of time. The order must be affirmed by a United States circuit court of appeals on application for review by the respondent or upon petition of the Commission for enforcement. Thereafter, appropriate contempt proceedings may be brought in the particular court of appeals for violation of the court order.

Under all three acts, the respondent may apply to a circuit court of appeals for review of an order and the court has power to affirm, or to affirm after modification, or to set aside the order. Upon such application by the respondent and cross-application by the Commission, or upon application by the Commission for enforcement of an order under the Clayton Act, the court has power to enforce the order to the extent it is affirmed. In any event, either party may apply to the Supreme Court for review, by certiorari, of the action of the circuit court of appeals.

### **PROVISIONS OF WHEELER-LEA AMENDMENT FOR PREVENTING DISSEMINATION OF FALSE ADVERTISEMENTS**

Sections 12 to 15, inclusive, of the Federal Trade Commission Act, which were added by the Wheeler-Lea Act, approved March 21; 1938, make specific provision for the prevention of the dissemination of false advertisements of food, drugs, cosmetics, and devices (meaning devices for use in the diagnosis, prevention, or treatment of disease). The act as amended also empowers and directs the Commission to prevent advertisers of food, drugs, devices, or cosmetics which may cause injury when used under prescribed or customary conditions from disseminating advertisements that fail affirmatively to reveal that such products are dangerous or that their use under certain conditions may cause bodily injury.

In addition to the regular proceeding by way of complaint and order to cease and desist, the Commission may, in a proper case, bring suit in a United States district court to enjoin the proper case, bring such false advertisements, whenever it has reason to believe that such a proceeding would be to the interest of the public. These temporary injunctions remain in effect until an order to cease and desist has been

issued and become final, or until the Commission's complaint is dismissed by the Commission or set aside by the court on review.

Further, the dissemination of a false advertisement of a food, drug, device, or cosmetic, where the use of the commodity advertised may be injurious to health or where the act of disseminating is with intent to defraud or mislead, constitutes a misdemeanor, and conviction subjects the offender to a fine of not more than \$5,000, or imprisonment of not more than 6 months, or both. Succeeding convictions may result in a fine of not more than \$10,000, or imprisonment of not more than 1 year, or both.

### **LEGAL INVESTIGATIONS INQUIRIES PRIOR TO FORMAL COMPLAINT OR STIPULATION**

The Commission makes legal investigation of all applications for complaint preliminary to instituting formal action for the correction of unfair methods of competition or other acts or practices violative of the laws it administers.

Investigation of cases in initial stages includes the general preliminary legal investigating work of the Commission under the several acts and the continuing survey of radio and periodical advertisements with the object of correcting false and misleading representations.

Cases thus developed, unless closed without action, progress upon direction of the Commission to the status of either formal complaint or stipulation to cease and desist.

At the beginning of the fiscal year, in addition to cases pending as the result of the continuing survey of radio and periodical advertising (see pp. 61 to 64), there were pending for investigation<sup>2</sup> 96 preliminary or undocketed cases, and 243 additional applications of this character were received during the year, making a total of 339 on hand, of which 207 were investigated. Of the investigated matters, 175 were docketed for action and 32 closed without docketing because of lack of jurisdiction or other reasons. There remained 132 preliminary cases of this type pending for investigation at the end of the fiscal year.

Three hundred and seven applications for complaint which had been docketed without preliminary investigation were pending for regular investigation at the beginning of the year. Subsequently, 303 additional cases of this type were received, making a total of 610 such cases docketed for investigation. Of these, 320 were investigated and transmitted to the Commission for action, leaving 290 cases of this character pending for investigation at the close of the year.

During the year, 267 further investigations were made, including inquiries into alleged violations of cease and desist orders and stipulations, investigations for the Chief Counsel, and others of a supplemental and special nature. At the end of the year, 167 such matters awaited completion of investigation.

Thus, the staff of the Legal Investigations Division completed 794 investigations under the laws administered by the Commission, and also disposed of 10,928 pieces of incoming and outgoing mail, involving varying degrees of research and study.

<sup>2</sup> Statistics reported on pp. 61 to 64 and 24 to 28 concerning the legal investigation

work are division records and not the consolidated record of the Commission, and therefore do not coincide with the figures reported in the tabular summary of the legal work for the entire Commission appearing on pp.48 and 49.

*Price fixing and other trade restraints.*--One of the fundamental purposes behind the passage of the Federal Trade Commission Act in 1914 was the establishment of an agency to detect and eliminate illegal trade restraints in their incipiency before they had developed into monopolies. At the beginning of the fiscal year, 56 cases of this type were either awaiting investigation or being investigated. During the year, 56 new cases were instituted, making a total of 112 restraint-of-trade matters on the calendar. In the same period, 58 investigations of this type were completed for consideration and disposition by the Commission, leaving 54 pending on the active investigational calendar as of June 30, 1946.

Price fixing continues to be the most frequently recurring charge among the restraint-of-trade cases, although practically the whole category of trade restraints will be found among the charges in the cases pending before the Commission during the fiscal year. These include such practices as conspiracy to boycott or threats of boycott, coercive practices, collusive bidding, control and limitation of supply, interference with sources of supply, intimidation full-line forcing and tying contracts, various forms of basing-point, delivered-price and zoning systems designed to eliminate price competition, misuse of patents and licensing agreements for monopolistic purposes, resale price maintenance, and selling below cost for the purpose and with the effect of competitors.

The following general classifications of commodities involved convey an idea of the widespread nature of the restraint-of-trade investigations: Antifreeze solutions, baby carriages, batteries, beverages, building materials, chains, chemicals, clay sewer pipe, cleaning fluids, cosmetics cotton yarn and twine dental supplies, drugs, farm machinery, floor coverings, food products, furniture, gas, glass and glass products, human hair, lumber paints, paper and paper products, penicillin, plastic products, plumbing supplies, rubber heels, school supplies, steel, stock feed, tobacco, and yeast.

In addition to the original investigations undertaken during the year, 25 matters were completed which involved formal docketed cases. These consisted of a variety of inquiries, many requiring complete investigation to determine whether or not the terms of the Commission's cease-and-desist orders were being observed. In the event violations occurred, evidence was procured in appropriate form to support an action for enforcement of its order or for civil penalties. Investigations of this nature were as extensive as those conducted in the original development of a case and, in some instances, more difficult. At the close of the fiscal year, 3 cases of this nature were pending on the investigational calendar.

Of the 112 restraint-of-trade investigations in progress during the fiscal year, 4 resulted from applications for complaint filed by Federal, State, or municipal agencies; 2 were submitted by trade associations; 1 came from a labor union; and 29 were initiated by the Commission on its own motion. The majority, however, continued to originate as a result of complaints made by individuals and concerns whose business was being jeopardized by alleged unfair and illegal practices. The group last mentioned was responsible for 76 of these applications for complaint.

*Clayton Act, section 2, as amended by Robinson-Patman Act.*--The Robinson-Patman Act, approved June 19, 1936, amended section 2



of the Clayton Act and restated in more inclusive form the basic principles of prohibiting price discriminations which injuriously affect competition. It also prohibits per se certain classes of discrimination which may involve price only indirectly, with out regard to their competitive effects in specific cases, thus supplementing and strengthening the previous legislation.

Matters involving possible violations of the act are generally quite complicated. An effort is made by the Commission in preliminary stages of an investigation to determine not only whether the practice in question involves prima facie violation of the act but whether the defenses available under the act are present in the particular matter. This frequently necessitates the checking of competitive prices and pricing policies and undertaking cost studies in cooperation with the parties charged with violations.

Experience in the administration of the act has made it possible for the Commission, through the development of certain information by preliminary inquiry, more readily to clear up misunderstandings among complainants as to the scope of the act and its application to specific situations, as well as to make a more accurate selection for investigation of matters involving probable violation of law. The Commission has endeavored, in view of limited funds and personnel, to confine investigations, insofar as feasible, to matters of substantial importance and to eliminate the expenditure of time and money in the investigation of those which preliminary inquiry discloses possess little practical importance.

During the year the Commission instituted field investigations of alleged violations of the Robinson-Patman Act in 98 cases and completed investigations in 67. At the beginning of the year, 57 matters were on hand for investigation, and at the close of year, 88. As in previous years, the administration of the statute touched widely varied fields of industry and commerce and involved many classes of commodities. The proceedings of the Commission and the decisions of the courts in Robinson-Patman Act cases have served as useful guides for members of industries in determining their pricing and distribution policies. It is apparent that these guides have been beneficial both in effecting the voluntary elimination of unlawful or doubtful practices before they become the subjects of investigation and in discouraging the inception of such practices.

*Stock acquisitions, mergers, and consolidations.*--Section 7 of the Clayton Act declares unlawful the acquisition by one corporation engaged in commerce of the capital stock of a competing corporation similarly engaged, or the acquisition by a holding company of the capital stock of two or more competing corporations, engaged also in commerce, where the effect of such acquisition in either case may be to substantially lessen competition between the acquiring and the acquired corporations or any of them, restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce. The Commission, however, is without authority under the statute to prevent the acquisition by one corporation of the property and assets of a competing corporation or corporations.<sup>3</sup> Nor does the statute preclude the acquisition of capital stock of a competing corporation or corporations for investment purposes where the stock

3 See recommendations to Congress, p.12.

is not voted or otherwise used to bring about or attempt to bring about a substantial lessening of competition.

During the year the Commission gave consideration to two preliminary matters and three applications for complaint, the commodities involved including building materials, groceries, upholstery fabrics, evaporated milk, and magazine paper. The two preliminary matters involving the latter two commodities were under investigation or consideration at the close of the year. One application for complaint involving upholstery fabrics, and one complaint involving beer and ale, were disposed of during the year, the latter after hearings. Two applications were docketed for complaint during the year. These were pending and in the course of trial at the close of the year. One of these matters involved groceries and food products and the other building materials and fuel. The complaint in the latter matter also charged violation of section 5 of the Federal Trade Commission Act.

*Investigations involving food, drugs, devices, and cosmetics.*--The Wheeler-Lea amendment to the Federal Trade Commission Act greatly enlarged the preexisting need for medical and other scientific and expert opinion and evidence. In aid of this need the Commission established the Medical Advisory Division. In the administration of the Wheeler-Lea amendment, special attention is given to therapeutic representations made concerning, and pharmacological actions of, medicinal preparations, the use of which might be injurious, and to devices likely to be injurious to health.

Since enactment of the amendment, the Commission has completed 2,331 field investigations of alleged violations of section 12 of the Federal Trade Commission Act which relates to false advertising of food, drugs, devices, and cosmetics. Of these, 132 were completed during the fiscal year. This number includes new cases as well as old cases reinvestigated to determine whether Commission cease-and-desist orders, and stipulations executed by advertisers and accepted by the Commission, were being violated, and whether additional practices not previously prohibited were being carried on in contravention of the Act. At the close of the year, 205 applications for complaint respecting alleged false advertising of food, drugs, devices, and cosmetics were under investigation, 32 of which related to drug and cosmetic preparations and devices alleged to be injurious to health.

*Wool Products Labeling Act.*--Investigations of applications for complaint alleging violations of the Wool Products Labeling Act and of the regulations promulgated thereunder present many complex problems, particularly to identify accurately the true fiber content of wool products, the labeling of which is questioned, and to ascertain whether the false and improper labeling is willful and with intent to violate the criminal provisions of the law. In many instances the products must be traced through the various classes of traders handling them in order to determine who is primarily responsible for the alleged infractions or violations. It is also necessary in most cases to study and examine the books and records of manufacturers and others to identify accurately the various constituent fibers, and their



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weights, which actually make up the products under investigation, and frequently laboratory tests are required.

Violations of the Wool Act generally are coupled with false advertising, misrepresentation and other unfair or deceptive acts or practices or unfair methods of competition, necessitating investigations and proceedings under both the Wool Products Labeling Act and the Federal Trade Commission Act.

Since the effective date of the act, there have been completed 219 field investigations of applications for complaint involving alleged false and improper labeling, 43 during the fiscal year.

At the close of the fiscal year, 17 such applications were in process of investigation. (For details concerning administration and enforcement of the Wool Act, see p.58.)

*Investigations under Export Trade Act.*--In line with its responsibility of administering the Export Trade (Webb-Pomerene) Act, the Commission directed the Legal Investigations Division to make periodic investigations of the organization and operation of export trade associations organized and functioning under the act, and in particular to ascertain from time to time whether the associations (*a*) are artificially or intentionally enhancing or depressing domestic prices; (*b*) are used to eliminate competition in the purchase of raw materials in the United States; (*c*) are in any way restraining trade within the United States; and (*d*) are engaging in unfair methods of competition in foreign trade.

Preliminary investigations were completed of the activities and operations of five export trade associations whose members are important producers and distributors of coated abrasives, railway tires, railway springs, lumber, and textiles. Investigation of seven other associations was pending at the close of the year. (For further details of the administration of the Export Trade Act, see p.66.)

### **DISPOSITION OF CASES BY STIPULATION**

Instead of disposing of cases by the formal complaint and trial method, the Commission under certain circumstances affords respondents the privilege of signing a statement of fact and an agreement to cease and desist from unfair methods of competition and unfair or deceptive acts or practices in commerce. The policy of the Commission with respect to stipulations of this type is set forth in its Statement of Policy, page 101.

During the fiscal year, 96 stipulations were approved by the Commission, 23 pertaining especially to false claims made in radio and periodical advertising.

### **FORMAL COMPLAINTS**

During the fiscal year the Commission issued 101 formal complaints alleging violations of the laws it administers. Of this total, 80 charged violation of the Federal Trade Commission Act; 11, violation of the Clayton Act; 4, violation of the Federal Trade Commission and Clayton Acts; and 6, violation of the Wool Products Labeling and Federal Trade Commission Acts.

**I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT**

**A. ALLEGED COMBINATIONS TO RESTRAIN TRADE AND FIX PRICES**

[Complaints referred to are identified by accompanying docket number]

In each of three complaints issued by the Commission a trade association and its members and officers were charged with combining to fix prices and restrain trade in the sale of their products. The products involved in these complaints were electrotypes, stereotypes, and multigraphs (5356); rubber heels and rubber soles (5448); and chain and chain products (4878, amended). A fourth complaint of this type (5359), directed against a price-fixing combination in paper-board products, was subsequently dismissed without prejudice. Complaint 4878 also alleged price discrimination in violation of the Robinson-Patman Act (see p.30).

The Commission also issued a complaint (5416) charging the respondent with the unlawful use of patents and so-called license agreements as means of fixing uniform zone prices for bread wrappers.

Another complaint (5449) charged a trade association and its officers and members, engaged in the sale of metal lath, with concurrent use of a zoning system of making delivered price quotations which results in substantial injury to competition.

**B. FALSE ADVERTISING AND MISREPRESENTATION**

A total of 67 complaints charged false and misleading advertising. They may be classified broadly as follows, although some involved more than one classification :

Six complaints alleged false and misleading representations with respect to the therapeutic properties of medicinal preparations, and in some cases the advertisements also were alleged to be false and misleading because they failed to reveal the potential danger from the use of the products advertised; 7 charged misrepresentations concerning the properties of cosmetics; 28, misrepresentation as to the origin, composition, condition, quality, ingredients, or price of the products advertised; 12, misrepresentation as to results to be obtained through the use of products; 3, misrepresentation as to business status; 2, disparagement of competitors' products and misrepresentation as to quality of respondents' product; 1, misrepresentation of correspondence school courses; 7, misrepresentation as to the giving of so-called "free goods"; and 1, misrepresentation as to connection with Army and Navy.

**C. MISCELLANEOUS COMPLAINTS**

Complaints issued under this heading alleged such practices as supplying and using lottery devices to promote the sale of merchandise; misrepresentations with respect to baby chicks; misrepresentation of puzzle contest to promote the sale of books; misuse of the name of a nationally known organization to promote sales; and unauthorized use of the trade-marked name "Who's Who" in the titles of publications by others than the owner of such trade-mark.

## **II. COMPLAINTS UNDER WOOL PRODUCTS LABELING ACT**

Six complaints alleged that wool products were misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and

regulations promulgated thereunder, in that they were not labeled so as to disclose the kinds and percentages of the different fibers of which the fabrics were made, including the respective percentages of wool, reprocessed wool, or reused wool, together with the identity of the manufacturer or distributor or reseller of the products. Some of these complaints also charged false and misleading advertising in violation of the Federal Trade Commission Act (5344, 5345, 5350, 5378, 5396, 5438).

### **III. COMPLAINTS UNDER CLAYTON ACT**

#### **A. ALLEGED VIOLATION OF SECTION 2 (a) OF CLAYTON ACT AS AMENDED BY**

##### **ROBINSON-PATMAN ACT**

Four complaints alleged violation of section 2 (a) which prohibits discrimination in price when it may have adverse effects on competition. The complaints involved chain and chain products (4878); millinery (5352, later dismissed) ; jewelry (5446); and replacement parts for looms (5436). (See below for that portion of complaint 5436 alleging violation of sec. 3 of the Clayton Act.)

#### **B. ALLEGED VIOLATION OF SECTION 2 (c) OF CLAYTON ACT AS AMENDED BY**

##### **ROBINSON-PATMAN ACT**

Eight complaints alleged violation of section 2 (c) which prohibits the granting or acceptance of brokerage fees except for services rendered in connection with the interstate sale or purchase of merchandise. Four of the complaints (5404, 5420, 5428 and 5432) involved sea food products; 3 (5383, 5365 and 5433), other food products; and 1 (5370), furs and fur garments.

#### **C. ALLEGED VIOLATION OF SECTION 2 (f) OF CLAYTON ACT AS AMENDED BY**

##### **ROBINSON-PATMAN ACT**

A paper manufacturing concern and its subsidiary were charged with violation of section 2 (f) of the act by knowingly inducing and receiving price discriminations from sellers of paper and paper products. The complaint alleged that the price discriminations thus received tend to give the respondents a monopoly and to destroy or prevent competition between them and their competitors and among the sellers from whom they purchase (5421).

#### **D. ALLEGED VIOLATION OF SECTION 3 OF THE CLAYTON ACT**

A manufacturer of cotton, silk, rayon and other synthetic fiber automatic looms was charged with having entered into sales contracts with purchasers of his looms whereby price discounts were allowed in consideration of an agreement by such purchasers to buy their entire requirements of loom repair and replacement parts from such

manufacturer. This practice was alleged to be a violation of section 3 of the Clayton Act, which prohibits the negotiation of exclusive-dealing contracts where the effect may be to substantially lessen competition (5436).

#### **E. ALLEGED VIOLATION OF SECTION 7 OF THE CLAYTON ACT**

Two complaints charged corporations with acquiring the capital stock of competing businesses, in violation of section 7 of the Clayton

Act, which prohibits such acquisitions where the effect may be to substantially lessen competition, restrain trade, or tend to create a monopoly of any line of commerce. One complaint involve building materials and fuels (5418); the other, grocery products (5423).

### **ORDERS TO CEASE AND DESIST**

The Commission during the fiscal year issued 89 orders to cease and desist from the use of unfair methods of competition and other violations of the laws it administers. The following cases are illustrative of the orders issued :

#### **I. ORDERS UNDER FEDERAL TRADE COMMISSION ACT**

##### **A. PRICE-FIXING AND RESTRAINT-OF-TRADE CASES**

*Ferro Enamel Corp., Cleveland, Ohio, and others.*--Five corporations, which produce and sell 96 percent of all the raw porcelain enamel manufactured in the United States, were ordered to cease and desist from entering into or continuing any conspiracy or planned common course of action to fix prices; to sell at prices calculated pursuant to any system of equalizing freight with competitors which results in identical delivered prices at any given destination; to use a classification of customers in determining prices, discounts or terms of sale; to exchange, either directly or through an agent, price or discount lists, with the effect of restraining competition; to adhere to filed or published prices; and to exchange credit information for the purpose of determining the credit allowed any customer. Stevenson Jordan & Harrison, Inc., a corporation specializing in the management of trade associations, was a respondent in the proceeding and was ordered to cease and desist from assisting or cooperating with the respondent manufacturers in any of their price-fixing practices (5155). (For that part of the order dealing with sec. 2 (a) of the Clayton Act, see p.35.)

*Dip Net Smelt Fisherman's Association, and others, Kelso, Wash.*--This association, the members of which catch approximately three-fourths of the total smelt production in the Kelso area, and three wholesale fish companies were ordered to cease and desist from entering into or carrying out any planned common course of action or agreement restricting the quantity of fish to be caught; fixing a uniform price for fish caught by the members; or continuing an agreement whereby the association or its members are enabled to monopolize the dock or warehouse facilities in Kelso for the handling of fish (5055).

*Northern Kentucky Independent Food Dealers Association, Inc., Covington, Ky., and others.*--Approximately 150 retail grocers in northern Kentucky and their trade association were ordered to cease and desist from entering into or carrying out any planned common course of action or agreement to boycott any baking company's products for the purpose of coercing such company into adopting price or distribution policies desired by the association (5140).

**B. FALSE ADVERTISING OF DRUGS, DEVICES, AND COSMETICS**

*Frederick A. Clarke, trading as Boncquet Laboratories, Glendale, Calif.*--The respondent, engaged in the sale of a preparation designated variously as Boncquet Blood Building Tablets, Boncquet Hemo-



Tab's and Bonquet Tablets, was ordered to cease and desist from representing that his preparation will regenerate or rebuild the blood, has any therapeutic value in the treatment of pernicious anemia, contains iron in therapeutic amounts, or will stimulate the bone marrow to produce red blood corpuscles. The Commission found that the value of the respondent's preparation depends upon its liver content and that the liver substance which is of value is discarded in the respondent's process of manufacture (3660).

*Charles of the Ritz Distributors Corp., New York.*--The respondent, a cosmetic distributor, was ordered to cease and desist from representing that the use of Charles of the Ritz Throat Cream will cause the throat to remain smooth, firm, or young looking (5293).

*William M. Stone, trading as Stone Manufacturing Co., Oregon City, Oreg.*--The order in this case directed the respondent to discontinue representing, in connection with the sale of ozone generating devices, that breathing of atmosphere containing ozone produces beneficial results or is conducive to health that his devices generate penetrating rays having therapeutic properties or that they have any therapeutic value; that ozone in the concentration produced by the devices under usual conditions of use is a germicide; or that the devices will destroy all odors. The Commission further ordered that the respondent cease disseminating any advertisement that fails to reveal that the concentration of ozone should not in any case be allowed to exceed one-half part of ozone to one million parts of air; that breathing near the devices should be avoided and that inhalation of excessive amounts of ozone may result in irritation of the respiratory organs; provided, however, that such advertisement need contain only the statement "CAUTION: Use and operate only as directed," if the directions for use and operation are attached to the device and contain the revelations required by this paragraph (5307).

*Standard Chemical Manufacturing Co., Omaha.*--The respondent, a distributor of poultry and livestock remedies, was ordered to cease and desist from disseminating false advertisements concerning its preparations. The order expressly forbade representations that the preparation Standard P-O constitutes a competent and effective remedy for eradication of tape worms in swine or poultry; that Standard Poultry Pills constitute a competent and effective remedy for tapeworm infestation of fowls; that use of Standard Hog Regulator will eliminate the need of worming pigs; that Standard Dairy Cow Regulator will strengthen cows for milk production or for reproduction, or will prevent Bang's disease, abortion, tuberculosis or mastitis (4912).

### **C. UNFAIR PRACTICES OTHER THAN MISREPRESENTATION OF DRUGS, DEVICES AND COSMETICS**

*Benjamin L. Fry, trading as Anti-Co-Rode Laboratories, St. Louis.*--The respondent was ordered to discontinue representing that his product Anti-Co-Rode increases the life or power of an automotive battery or prevents or dissolves the corrosion on automotive battery plates. The Commission found that the preparation contains copper and iron which tend to increase the spontaneous discharge of a lead acid storage

battery, resulting in formation of lead sulphate and actually aggravating conditions it is represented as improving. The Commission also ordered the respondent to stop using the word

“Laboratories” as part of his trade name as it tends to cause the public to erroneously believe he operates a place devoted to experimental study in connection with the preparation of his chemical compound ; and to cease using the name “Anti-Co-Rode” (5286).

*Frigid Chemical Corp., and others, Stroudsburg, Pa.*--This order prohibited the respondents from advertising that their antifreeze product is safe for use in the cooling system of internal combustion engines. The Commission found that the product is essentially a solution of calcium chloride which causes serious corrosion of the water pump, radiator, and particularly any aluminum parts such as cylinder heads (5248).

*Consumers Home Equipment Co., Detroit, and others.*--Use of a deceptive sales plan to promote the sale of household articles was prohibited by the order in this proceeding. A typical practice of the respondents was to display a sample of International Silver and represent that it was being offered at a special low price, when actually they would deliver an inferior article at a price comparable to or higher than the price usually charged for such merchandise by other retailers. When purchasers objected, the respondents would attempt to force them to accept and pay for the merchandise delivered. The Commission ordered the respondents to cease and desist from employing any sales plan which involves the use of samples of merchandise of a kind or quality different from that actually delivered; from representing that merchandise being offered at usual prices is being sold at special or reduced prices; and from attempting to coerce purchasers to accept merchandise of a kind or quality different from that ordered (5174).

*W. W. in The Western Hemisphere, Inc., and others New York.*--Use of the term “Who’s Who” in the title of biographical reference books sold by the respondents was prohibited by the order in this case. Among the publications sold by the respondents were those entitled “Who’s Who in the Clergy,” “Who’s Who in the Law,” and “Who’s Who in the Western Hemisphere.” The Commission found that a substantial number of the public believed the books were published by A. N. Marquis Co., which holds the trade-mark “Who’s Who” and has Published “Who’s Who in America” since 1899, and in that time has built up an outstanding reputation for reliability. The respondents include in their publications the biographies of many relatively unimportant persons who had responded to solicitation for the purchase of copies, while excluding many truly notable persons who should have been included had the publications been as represented. In addition they represented that the purpose of their publication “Who’s Who in the Western Hemisphere” was to advance hemisphere solidarity. The Commission found that the sale of this publication constituted merely a commercial scheme for the financial benefit of the respondents; that the respondents are not qualified or equipped to undertake an enterprise of such scope; and that their activities have been detrimental rather than helpful to a continued friendly inter-American relationship. The Commission ordered the respondents to cease and desist from using “Who’s Who” in the title of any publication and from representing that they are associated with the publisher of “Who’s Who in America” or that their books are prepared with the same accuracy, reliability, and selectivity as “Who’s Who in America”.

from representing that their publications promote inter-American relationship and from representing as an authoritative book of reference any publication where the inclusion of a biography is dependent upon the purchase of such publication (5108).

*John P. Dowd, trading as Bennettsville Mattress Factory, Bennettsville, S. C.*--Engaged in manufacturing and selling mattresses and other bedding, the respondent attached printed labels to his products stating they were made of new materials. The Commission found that the products were composed in part from the sweepings from floors of cotton mills, warehouses or factories and contained a substantial percentage of oil, dirt, or other foreign matter. The Commission ordered the respondent to cease and desist from representing that such products are composed of new materials (5024).

## II. ORDERS UNDER WOOL PRODUCTS LABELING ACT

This act and the rules and regulations promulgated thereunder provide that woolen or purported woolen merchandise shall have attached thereto a stamp, tag, label, or other means of identification showing the kinds and percentages of the different fibers of which the product is made, including the respective percentages of wool, reprocessed wool, or reused wool the maximum percentage of any nonfibrous loading or adulterating material used; the name of the manufacturer of the product, or the manufacturer's registered identification number and the name of the qualified distributor or reseller. The label or a proper substitute must be on the article when it is delivered to the consumer. The following cases are illustrative of the orders issued :

*Peggy Shops, Inc., trading as Karlton Vogue Shop, Philadelphia.*--The respondent, an operator of a women's retail clothing store, was found to have mutilated or removed labels from certain garments which were later sold to the general public. These labels been affixed to the garments by the manufacturers and showed the information required by the Wool Act and the rules and regulations promulgated thereunder. The order directed the respondent to cease and desist from such practice (5035).

*Globe Trading Co., Inc., Reading, Pa., and others.*--In this proceeding the respondents were ordered to stop misbranding hosiery they sell by failing to attach thereto labels or tags bearing the information required by the Wool Act and the rules and regulations issued thereunder. The order also directed the respondents to cease and desist from certain violations of the Federal Trade Commission Act, such as using the symbol of the American National Red Cross Society in advertising their hosiery; representing that their products are approved by the United States Government, have special health features not found in ordinary hosiery, and are of "first quality" when such is not the case (5098).

*A. Davis & Sons, Inc., New York, and others.*--Certain wearing apparel manufactured and sold by these respondents bore conflicting labels as to their fiber content, the Commission found. For example, some garments carried tags purporting to contain the information required by the Wool Act, in addition to such expressions as "New Wool" and "Pure Wool." The same garments also bore cloth labels with such terms as "Camel Fluff" or "Kenpaca." The Commission



found that the use on the same garment of a cardboard tag stating that the article is composed of wool and a cloth label implying that it is made of camel hair or alpaca hair is confusing, tends to deceive purchasers, and is a violation of the Wool Act. The Commission ordered the respondents to cease and desist from misbranding wool products by failing to label them with the information required by the act; and from representing in any manner that their products are composed of fibers or materials other than those of which they actually are made (5322).

### III. ORDERS UNDER THE CLAYTON ACT

#### A. VIOLATION OF SECTION 2 (a) OF CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT

*Standard Oil Co. (an Indiana Corporation), Chicago.*--The Commission found that the respondent discriminated in price by selling its gasoline, for resale directly and indirectly to the purchasing public, to four dealers in the Detroit area at prices substantially lower than the prices charged its other retailer-purchasers in the same area; that this discrimination could not be justified on a basis of difference of cost, and that it tended to lessen, injure and destroy competition among the gasoline retailers in the area. The Commission ordered the respondent to cease and desist from all such discriminations, provided that this inhibition shall not prevent price differences of less than one-half cent per gallon which do not tend to lessen, injure, or destroy competition among such retailers. The order also prohibited the respondent from selling gasoline to any jobber or wholesaler at a price lower than the price it charges its retailer-customers, where such jobber or wholesaler resells to any of its retail-customers at a price lower than they could obtain from the respondent directly.

On August 9, 1946, the Commission modified the order. The principal difference between the order as modified and the original order consists of the elimination of provisos which in two paragraphs of the original order excluded from their terms price differentials of less than one-half cent per gallon which did not adversely affect competition. Other changes were made so that the modified order applies more definitely and specifically to the conditions found to exist in the Detroit trade area. Still other changes were in the interest of clarity (4389). (Commissioner Mason dissented.)

*John B. Steteson Co., Philadelphia.*--This manufacturer of men's hats was found by the Commission to have discriminated in price by use of a cumulative quantity discount schedule whereby it sold to some customers at higher prices than it sold men's hats of like grade and quality to others. The discounts varied from 2 percent on annual purchases of \$5,000 to \$7,500, up to 8 percent on annual purchases of \$200,000 and over. In addition, the company also discriminated between different purchasers by granting some customers lower prices based upon the total volume of hats sold to all of their separate branches, although separate delivery was made to their several branches. The order directed discontinuance of such price discriminations (5172). (For part of the order dealing with section 2 (d) of the Clayton Act, see p.36.)

*Ferro Enamel Corp., Cleveland, Ohio, and others.*--Five distributors of raw porcelain enamel were ordered by the Commission to cease

and desist from granting varying discounts to their purchasers when the percentage of the discount allowed was calculated on dollar volume of annual purchases only (5155). (For part of order dealing with violation of the Federal Trade Commission Act, see p.31.)

**B. VIOLATION OF SECTION 2 (c) OF CLAYTON ACT AS AMENDED BY  
ROBINSON-PATMAN ACT**

Seventeen orders were directed against violations of the brokerage section of the Robinson-Patman Act, which prohibits the payment or acceptance of brokerage fees, except for services rendered, in connection with the interstate sale or purchase of merchandise.

*Food dealers paying unlawful brokerage to buyers.*--The respondents in 11 orders were directed, in connection with the interstate sale of their merchandise, to cease and desist from paying to any buyer anything of value as a commission, brokerage or other compensation, or any allowance or discount in lieu thereof, upon purchases made by such buyer for his own account. The respondents named in such orders, and the principal commodities they sell, are:

Washington Fish & Oyster Co., Inc., Seattle, sea food products (5228); Phillips Sales Co., Inc., Cambridge, Md., canned food products (5273); Carl Rubenstein, and others, Seattle, canned sea food products (5279); Parrott & Co., San Francisco, canned fruits, vegetables, and other commodities (5284); South Coast Fisheries, Inc., Terminal Island, Calif., canned sea food products (5285); Southern California Fish Corp., Terminal Island, Calif., canned sea food products (5296); Del Mar Canning Co., Monterey, Calif., canned sea food products (5297); Hovden Food Products Corp., Monterey, Calif., canned sea food products (5303); Sebastian-Stuart Fish Co., Seattle, canned and fresh fish (5365); California Lima Bean Growers Association, Oxnard, Calif., lima beans (4939); and E. H. Hamlin Co., Seattle, sea food (5189).

*Food dealers accepting unlawful brokerage from sellers.*--In eight orders the following respondents, in connection with their interstate purchases of merchandise, were directed to cease and desist from accepting from any seller anything of value as a commission, brokerage or other compensation, or any allowance or discount in lieu thereof, upon purchases made for their respective accounts :

James V. Blevins, Nashville, Tenn., and others, food products (5333); J. T. Jarrell Co., Little Rock, Ark., canned fish, fruits, vegetables (4547); C. C. Waddill Co., Inc., Norfolk, Va., canned sea food, fruits, vegetables (5270); Haas-Guthman Co., Savannah, Ga., food products (5273); Paul Pankey & Co., Birmingham, Ala., canned fish, fruits, vegetables (5282); William R Hill & Co., Richmond, Va., canned fish fruits, vegetables (5295); Charles R Allen, Charleston, S. C., and others, food products (5365); and G. B. Shelton Brokerage Co., Danville, Va., and others, food products and crystal phosphate (4585).

**C. VIOLATION OF SECTION 2 (d) OF CLAYTON ACT AS AMENDED BY  
ROBINSON-PATMAN ACT**

*John B. Stetson Co., Philadelphia.*--The respondent company, engaged in the manufacture and sale of hats, was ordered to cease and desist from paying anything of value to its customers for advertising





services furnished by such customers without making such allowances available to all competing customers on proportionally equal terms (5172). (For part of order dealing with sec. 2 (a) of the Clayton p. 35.)

**D. VIOLATION OF SECTION 3 OF CLAYTON ACT**

*R. B. Semler, Inc., New Canaan, Conn.--*The order against this manufacturer and distributor of Kreml Hair Tonic involved the corporation's use of exclusive-dealing contracts which resulted in substantial lessening of competition between the respondent and its competitors, in violation of section 3 of the Clayton Act. The Commission ordered the respondent to discontinue selling Kreml on the condition or agreement that customers who buy it for resale do not handle competing products. Various practices used by the respondent to enforce such exclusive-dealing arrangements were prohibited by the order. The Commission also found that certain advertisements concerning the purported beneficial effects of Kreml were false and misleading and ordered their discontinuance. The dissemination of such advertisements was held to be in violation of the Federal Trade Commission Act (4773).

**TYPES OF UNFAIR METHODS AND PRACTICES**

**TYPICAL METHODS AND PRACTICES CONDEMNED IN ORDERS TO CEASE AND DESIST**

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 specific practices outlawed by the Clayton Act and committed to the Commission's jurisdiction, namely, various forms of price discrimination, exclusive and tying-dealing arrangements, competitive stock acquisition, and certain kinds of competitive interlocking directories.

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.

4. Bribing or other employees of customers and prospective customers, without the employer's 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 of r 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 counter-display catalogs.

12. Selling rebuilt, second-hand, renovated, or old products, or articles made in whole or in part from used or second-hand materials, as 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 contacts, such as pretended puzzle-price 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 devices 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 markets to competitors; or use by trade associations of so-called standard cost systems, 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. assisting, or abetting unfair practice, misrepresentation, and deception, and furnishing means or 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 represented 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) The use of the "free goods" or service device to create the impression that something is actually being thrown in without charge, when it is fully covered by the amount exacted in the transaction as a whole, or by services to be rendered by the recipient.

(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 concerns, or of being successor thereto or connected therewith, or of being the pur-

chaser 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 services 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 a diagnostician, or a manufacturer, grower, or nursery-man, 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 patent, trade-mark, or other special and exclusive rights.

(j) ranting 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, replace-

ments, or reimbursements or special or additional advantages to the prospective purchaser 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 there-for 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 a s 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 a 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 equality 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 char ed with the duty of making such tests expertly and disinterested, 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 or 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 the letters "M. D." and the words "Red Cross" and its insignia and the 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 making 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 thought to the buyer through purchase of the offering, or otherwise misrepresenting scientific or other facts bearing on the value thereof to 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 as being connected with a Government agency, a delivery system, or in search of missing heirs

(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 name 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.

## **CASES IN FEDERAL COURTS**

### **COMMISSION ACTIONS IN THE UNITED STATES SUPREME, CIRCUIT, AND DISTRICT COURTS**

During the fiscal year there were pending in the United States courts 38 cases involving questions arising in connection with the laws administered by the Federal Trade Commission. In 21 of these cases there were rulings and decisions favorable to the Commission and in 4 the rulings and decisions were unfavorable. Eighteen of these cases were finally concluded, and at the end of the fiscal year 20 were pending.

Nine orders to cease and desist issued by the Commission were affirmed (one with a modification) by circuit courts of appeals. Two orders to cease and desist were affirmed by circuit courts of appeals which referred the cases to the Commission for further action as Special Master. Four petitions to review were dismissed and one petition for rehearing was denied in circuit courts of appeals. One motion to

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modify the decree of the circuit court of appeals affirming an order to cease and desist was denied by that court.

The United States Supreme Court granted certiorari requested by the Commission in two cases and denied certiorari requested by others in four cases. One circuit court of appeals judgment setting aside a Commission order to cease and desist was reversed by the United States Supreme Court.

Two orders to cease and desist were set aside by circuit courts of appeals. One circuit court of appeals judgment setting aside an order to cease and desist was affirmed by the United States Supreme Court. One circuit court of appeals judgment affirming an order to cease and desist was reversed by the United States Supreme Court.

In addition, five civil penalty suits were pending in United States district courts at the beginning of the fiscal year, and one additional civil penalty suit was filed during the fiscal year. None of these cases was decided.

### **PETITIONS TO REVIEW CEASE AND DESIST ORDERS**

Petitions in United States circuit courts of appeals to review cease and desist orders issued under section 5 of the Federal Trade Commission Act and sections 2 and 3 of the Clayton Act are summarized below.

(Except where otherwise indicated, cases involve violations of the Federal Trade Commission Act United States Circuit courts of appeal, are designated First Circuit (Boston), etc.)

### **CASES DECIDED BY THE COURTS**

*A. P. W. Paper Co., Albany, N. Y.*--The Supreme Court of the United States affirmed the Second Circuit (New York) in its decision reversing a Commission order forbidding the use of the Red Cross words and symbol in connection with the sale of paper products. The circuit court upheld the right of the A. P. W. Paper Co., as one that had lawfully used the Red Cross words and symbol prior to 1905, to continue such use for the same purpose and the same class of goods. The court held that while the 1905 Red Cross Act gives the company the right to continue to use the Red Cross words and symbol, the Federal Trade Commission Act empowers the Commission to prevent their use in a deceptive manner; that while the Commission may not absolutely forbid the use of the Red Cross words and symbol to pre-1905 lawful users thereof, the Commission may require them to state, so plainly as to avoid the creation of misleading inferences by such use, that the goods involved are not sponsored or approved by or in any manner connected with the American National Red Cross. (On August 12, 1946, the Commission modified its order to conform with the court's decision.)

*Elizabeth Arden, Inc., and others, New York.*--The Second Circuit (New York) dismissed a petition to review an order of the Commission prohibiting violation of section 2 (e) of the Robinson-Patman Act by discrimination in the furnishing of demonstrator services to retailers, and granted enforcement of the order.

*Associated Laboratories, Inc., Long Island City, N. Y.*--The Second Circuit (New

York) unanimously affirmed the Commission order proscribing misrepresentation of benefits to health and figure to be derived from use of “Kelp-A-Malt Tablets.”

*S. Buschsbaum & Co., Chicago.*--The Seventh Circuit (Chicago) set aside the Commission order to cease and desist from use of the

term "Elasti-Glass" in the sale of products made of "vinylite" or similar synthetic resinous compounds. The Supreme Court granted certiorari, vacated the judgment of the Seventh Circuit, and remanded the case to that court for further consideration.

*The Carlay Co. and others, Chicago.*--The Seventh Circuit (Chicago) set aside the Commission's order to cease and desist which prohibited certain representations in connection with the sale of a candy product "Ayds", for removal of excess weight. The court held that the respondent's advertising representations were justifiable as "mere puffing or dealer's talk" upon which no charge of misrepresentation could be based.

*Lemuel Firth, and others, Gloucester, Mass.*--The First Circuit (Boston), an agreement of counsel, dismissed the petition for review of the commission order proscribing restraint of competition in catching and selling fish.

*Gulf Oil Corp., Pittsburgh.*--The Fifth Circuit (New Orleans) denied a petition for rehearing on its decision affirming a Commission order forbidding misleading advertising of insecticides.

*Hastings Manufacturing Co., Hastings, Mich.*--The Sixth Circuit (Cincinnati) affirmed the Commission order forbidding various unfair practices resulting in suppression of competition in the sale of automobile piston rings. The Supreme Court denied a petition for writ of certiorari. The circuit court held that a dismissal of a proceeding "without prejudice" has been construed as a reservation of a right to reinstate it; and that ordinarily a judgment or decree without prejudice never works as an estoppel nor as a former adjudication. The court gave its approval to the holding that not only are findings of fact conclusive, if supported by evidence of facts proven or stipulated, but that this applies also to inferences to be drawn from them.

*Jack Herzog & Co., New York.*--Upon the Commission's application for enforcement of an order prohibiting practices in violation of section 2 (c) of the Robinson-Patman Act, the Second Circuit (New York) entered a decree affirming the order and referred the case for further action to the Commission as Special Master.

*Phil Howe, and others, Seattle, Wash.*--The Supreme Court denied a petition for writ of certiorari to review a decision of the Ninth Circuit (San Francisco) which affirmed an order to cease and desist from misleading use of the word "Hollywood" in connection with the sale of cosmetics.

*Manhattan Brewing Co., Chicago.*--The Seventh Circuit (Chicago), upon stipulation of counsel, dismissed a petition to review a Commission order prohibiting misleading use of the word "Canadian" in the sale of beer and ale not brewed in Canada. (On April 5, 1946, the Commission modified its order so as to permit use of the word "Canadian" in the brand name when accompanied by a conspicuous and adequate statement showing the beer was brewed in the United States. (Commissioners Ayres and Davis dissented from this action.)

*The Milk and Ice Cream Can Institute Cleveland and others* --The Seventh Circuit (Chicago) modified a Commission order forbidding a price-fixing combination, by eliminating one provision. The order as modified was affirmed.

*Samuel H. Moss, Inc., New York.*--The Second Circuit (New York) denied a motion to modify the decree which affirmed a Commission order prohibiting discrimination in the price of made-to-order rubber stamps in violation of section 2 (a) of the Robinson-Patman Act.



*Progress Tailoring Co., and others, Chicago.*--The Seventh Circuit (Chicago) unanimously affirmed the Commission , order forbidding various unfair and deceptive acts and practices in connection with the sale of men's clothing. In this case it was the opinion of the court that advertisements seeking salesmen who might later engage in furthering interstate commerce are a part of preliminary negotiations leading up to sales in interstate commerce ; that such negotiations cannot be separated from the final sale, and are themselves a part of interstate commerce. The court said that to constitute a sale it is not necessary that the price be money only ; that all interstate commerce is not the sale of goods, but that every negotiation and dealing between citizens of different States which contemplates importation into one State from another, whether it be goods or information, is a transaction in interstate commerce. In this case the salesman was required by the respondents to sell a certain number of suits or garments before he would receive a so-called "free" suit for himself.

*Savoy Manufacturing Co., New York.*--The Second Circuit (New York) unanimously affirmed a Commission order forbidding the sale of miscellaneous merchandise by means of lottery devices. The court held that the question of eliminating the word "Manufacturing" from petitioners' trade name, or whether some explanatory clause might be used, such as "distributors only", was for the Commission to determine. The Commission found that the word "Manufacturing" in the trade name had the capacity and tendency to deceive the public and ordered its use discontinued.

*Jacob Siegel Co., Philadelphia.*--The Third Circuit (Philadelphia) in 1944 affirmed a Commission order prohibiting the use of the word "Alpacuna" in connection with the sale of overcoats. The Supreme Court, on March 25, 1946, reversed the Third Circuit, holding that the Commission had not considered whether the word "Alpacuna" could be used if properly qualified, so as to satisfy the ends of the Federal Trade Commission Act and at the same time save the trade name of the petitioner. The Supreme Court remanded the case and directed further proceedings for that purpose.

*Southgate Brokerage Co., Norfolk, Va.*--The Fourth Circuit (Richmond, Va.) reviewed and affirmed a Commission order prohibiting the receipt of certain brokerage allowances in violation of section 2(c) of the Robinson-Patman Act. The Supreme Court denied a petition for writ of certiorari. The circuit court held that where a buyer receives the brokerage allowed his purchasing agent, such buyer receives an advantage, and a concealed which the buyer who purchases directly from the seller does not receive; and that it was the purpose of section 2 (c) of the act to forbid this sort of discrimination.

*Judson L Thomson Manufacturing Co., Waltham, Mass.*--The First Circuit (Boston) affirmed a Commission order forbidding violation of section 3 of the Clayton Act. The Supreme Court denied a petition for writ of certiorari. The petitioner leased rivet-setting machines on the condition that lessees should not use in such machines any rivets other than those acquired from the petitioner. The First Circuit held that the Commission properly found that the effect of such restrictive condition in the petitioner's leases "has been, is and

may be to substantially lessen competition in the sale of tubular and bifurcated rivets.”

*United States Maltsters Association, and others, Chicago.*--The Seventh Circuit (Chicago) affirmed the Commission’s modified order prohibiting fixing and maintenance of uniform delivered prices in connection with the sale of malt.

*L. E. Waterman Co., New York.*--The Second Circuit (New York) , upon stipulation of counsel, dismissed a petition to review a Commission order prohibiting false and misleading advertising in connection with the sale of fountain pens.

*David M. Weiss, New York.*--The Second Circuit (New York) affirmed a Commission order directed against violation of section 2 (c) of the Robinson-Patman Act in connection with the sale of clothing and furs, and upon the Commission’s application for enforcement of the order referred the case to the Commission as Special Master for a report as to whether the provisions of the order have been violated.

### CASES PENDING IN THE COURTS

*Acme Asbestos Covering and Flooring Co., Chicago, and others.*--Sixth Circuit (Cincinnati), price-fixing combination in insulating materials.

*Allied Paper Mills, Kalamazoo , Mich., and others.*--Seventh Circuit (Chicago), combination in restraint of trade in book print and coated paper.

*American Association of Law Book Publishers, Rochester, N. Y., and others.*--Second Circuit (New York), price-fixing combination in law books and legal publications.

*American Drug Corp., St. Louis.*---Eighth Circuit (St. Louis), false and misleading advertising of medicinal preparation “Sinasiptec” as a cure for sinus trouble.

*Nelson C. Brewer, and others, Chicago.*--Sixth Circuit (Cincinnati), sale of lottery devices in interstate commerce.

*S. Buchsbaum & Co., Chicago.*--Seventh Circuit (Chicago), misuse of term “Elasti-Glass” to designate or describe merchandise made of “vinylite” or any other similar synthetic resinous compound.

*The Cement Institute, and others, Chicago.*--Seventh Circuit (Chicago), Nation-wide combination to restrain competition in the price of Portland cement through the agreed use of a multiple basing-point delivered-price system.

*Eastman Kodak Co., Rochester, N. Y.*--Second Circuit (New York), suppression of competition by petitioner’s resale-price-maintenance policy.

*General Seafoods Corp., Boston, and others.*--First Circuit (*Boston*) advertising and selling rosefish as “Ocean Perch Fillets.” *Jack Herzog & Co New York.*--Second Circuit (New York), on application of the Commission for enforcement of an order banning price discrimination in violation of section 2 (c) of the Robinson-Patman Act in connection with the sale of furs. The case is pending before the Commission as Special Master.

*Koret, Inc., New York.*--Second Circuit (New York), false and misleading advertising in the sale of handbags and leather goods.

*Morton Salt Co., Chicago.*--Seventh Circuit (Chicago), price discrimination in violation of section 2 (a) of the Robinson-Patman Act,



*National Cree Paper Association of America, Philadelphia, and others.*--Seventh Circuit (Chicago), price-fixing combination in sale of crepe-paper.

*Ox'O-Gas Co., New York.*--Second Circuit (New York) , misrepresentation of solution designated "Ox'O", advertised and sold as capable of increasing the efficiency of automobile engines.

*Parker Pen Co., Janesville, Wis.*--Seventh Circuit (Chicago) , mis-representation of fountain pens through use of statements such as "Guaranteed For Life" and "Life Guaranteed."

*Rigid Steel Conduit Association, New York, and others.*--Seventh Circuit (Chicago), price-fixing combination.

*Scotch Woolen Mills, Chicago.*--Seventh Circuit (Chicago), misleading use of the words "Scotch" and "Mills" in trade name.

*United States Steel Corporation, American Bridge Co., Carnegie-Illinois Steel Corp., American Steel & Wire Co. of New Jersey, and Tennessee Coal, Iron & Railroad Co.*--Third Circuit (Philadelphia and Fifth Circuit (New Orleans) , use of "Pittsburgh-plus" prices for rolled-steel products in violation of the Clayton and Federal Trade Commission Acts.

*Vacu-Matic Carburetor. Co., Wauwatosa, Wis.*--Seventh Circuit (Chicago), misrepresentations concerning benefits to be derived from use of mechanical device for attachment to automobile engines.

*David M. Weiss, New York.*--Second Circuit (New York), on application by the Commission for enforcement of order directed against price discrimination in the sale of furs, in violation of section 2 (c) of the Robinson-Patman Act. The case is pending before the Commission as Special Master.

## TABLES SUMMARIZING LEGAL WORK OF THE COMMISSION AND COURT PROCEEDINGS, 1915-46

TABLE 1.--Applications for complaints

FISCAL YEAR ENDED JUNE 30, 1946		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1946	
Pending beginning of year	870	Applications docketed	20,200
Applications docketed	529	Previous action reconsidered:	
Previous action reconsidered :		To complaints	10
To complaints	0	Settled by stipulation to Cease and desist	224
Settled by stipulation to cease and desist	1	Settled by acceptance of TPC rules	6
Settled by acceptance of TPC rules	0	Consolidated with other proceedings	1
Consolidated with other proceedings	1	Dismissed	81
Dismissed	0	Closed without further proceedings 1	45
Closed without further proceedings <sup>1</sup>	0	Total for disposition	20,567
Total for disposition	1,401		
To complaints	94	To complaints	4,952
Settled by stipulation to cease and desist	85	Settled by stipulation to cease and desist	6,546



Settled by acceptance of TPC rules	0	Settled by acceptance of TPC rule	97
Consolidated with other proceedings	19	Consolidated with other proceed-	
Dismissed	0	ings	158
Closed without further proceedings <sup>1</sup>	207	Dismissed	3,863
		Closed without further proceedings	13,955
Total disposition during year	405	Total disposition	19,571
Pending end of year	996	Pending June 30, 1946	996

<sup>1</sup> This classification includes such reasons as death, business or practices discontinued, private controversy, controlling court decisions, etc.

TABLE 2.--*Complaints*

FISCAL YEAR ENDED JUNE 30, 1945		CUMULATIVE SUMMARY, 1915 TO	
Pending beginning of year	444	JUNE 30, 1946	
Complaints docketed	101	Complaints	5,450
Previous action reconsidered :		Previous action reconsidered:	
Orders to cease and desist	1	Orders to cease and desist	67
Settled by stipulation to cease and desist	0	Settled by stipulation to cease and desist	1
Dismissed	0	Dismissed	11
Closed without further proceedings <sup>1</sup>	0	Closed without further proceedings <sup>1</sup>	2
Total for disposition	546	Total for disposition	5,531
Complaints rescinded	0	Complaints rescinded	12
Orders to cease and desist	89	Orders to cease and desist	3,835
Settled by stipulation to cease and desist	2	Settled by stipulation to cease and desist	64
Settled by acceptance of TPC rules	5	Settled by acceptance of TPC rules	36
Dismissed	19	Dismissed	957
Closed without further proceedings <sup>1</sup>	8	Closed without further proceedings <sup>1</sup>	1,204
Total disposition during year	123	Total disposition	5,108
Pending end of year	423	Pending June 30, 1946	423

<sup>1</sup>This classification includes such reasons as death, business or practices discontinued, private controversy, controlling court decisions, etc.

TABLE 3.--*Court proceedings--orders to cease and desist--petitions for review to circuit courts of appeals*

FISCAL YEAR ENDED JUNE 30, 1946		Decisions for others <sup>1</sup>		100
Pending beginning of year	27	Petitions withdrawn	62	
Appealed	3	Total disposition	350	
Total for disposition	30	Pending June 30, 1946	17	
Decisions for Commission	9	10-YEAR SUMMARY, JULY 1, 1936, TO		
Decisions for others	1	JUNE 30, 1946		
Petitions withdrawn	3	Pending July 1, 1936	5	
Total disposition during year	13	Appealed	210	
Pending end of year	17	Total for disposition	215	
		Decisions for Commission	138	
CUMULATIVE SUMMARY, MAR. 16, 1915		Decisions for others	13	
TO JUNE 30, 1964		Petitions withdrawn	47	
Appealed	367	Total disposition	198	
Decisions for Commission	188	Pending June 30, 1946	17	

<sup>1</sup>This table lists a cumulative total of 100 decisions in favor of respondents in Commission cases before the United States circuit courts of appeals. However, the Grand Rapids furniture (veneer) group (with 25 different docket numbers) was in reality 1 Case, with 25 different subdivisions. It was tried briefed, and argued as 1 Case and was so decided by the court of appeals. The same held true of the curb-pump group (with 12 different subdivisions), the Royal Milling Co. group (with 6 different subdivisions), and the White Pine eases (12 subdivisions). In reality, therefore, these 55 docket numbers mean but 4 cases ; and

if cases and not docket numbers are counted, the total decisions in favor of the respondents would be 49.

NOTE : During the fiscal years 1919-1946, inclusive, 58 petitions by the Commission for enforcement of orders to cease and desist were passed upon by courts. Of these proceedings, 54 were decided in favor of the Commission : 4 in favor of adversaries. Petitions for enforcement of orders issued under the Federal Trade Commission Act were made unnecessary by amendment of the Federal Trade Commission Act (Mar.21, 1938) making orders finally effective unless review is sought by respondents with in 60 days after service of an order.

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TABLE 4.--*Court proceedings--orders to cease and desist--petitions for review to the Supreme Court of the United States*

FISCAL YEAR ENDED JUNE 30, 1946		Decisions for others	15
		Petitions withdrawn by Commission	2
Pending beginning of year	0	Certiorari denied Commission	9
Appealed by Commission	1	Certiorari denied others	44
Appealed by others	6	Total disposition	99
Total for disposition	7	Pending June 30, 1946	0
Decisions for Commission	0	10-YEAR SUMMARY, JULY 1, 1936, TO	
Decisions for others	2	JUNE 30, 1946	
Petitions withdrawn by Commission	0	Pending July 1, 1936	1
Certiorari denied Commission	0	Appealed by Commission	5
Certiorari denied others	5	Appealed by others	35
Total disposition during year	7	Total for disposition	41
Pending end of year	0	Decisions for Commission	5
CUMULATIVE SUMMARY MAR.16, 1915, to		Decisions for others	3
JUNE 30, 1946		Certiorari denied Commission	1
Appealed by Commission	48	Certiorari denied others	32
Appealed by others	51	Total disposition	41
Total for disposition	99	Pending June 30, 1946	0
Decisions for Commission	29		

TABLE 5.--*Court proceedings--mandamus, injunction, etc.--district courts and circuit courts of appeals*

FISCAL YEAR ENDED JUNE 30, 1946		Decisions for others	18
Pending beginning of year	1	Petitions withdrawn by Commission	5
Instituted by Commission	0	Petitions withdrawn by others	7
Instituted by others	0	Total disposition	112
Total for disposition	1	Pending June 30, 1946	1
Decisions for Commission	0	10-YEAR SUMMARY, JULY 1, 1936, TO	
Decisions for others	0	JUNE 30, 1946	
Petitions withdrawn by Commission	0	Pending July 1, 1936	1
Petitions withdrawn by others	0	Instituted by others	20
Instituted by Commission	51	Total for disposition	72
Total disposition during year	0	Decisions for Commission	59
Pending end of year	1	Decisions for others	7
CUMULATIVE SUMMARY, MAR.16, 1915, TO		Petitions withdrawn by Commission	1
JUNE 30, 1946		Petitions withdrawn by others	4
Instituted by Commission	72	Total disposition	71
Instituted by others	41	Pending June 30, 1946	1
Total for disposition	113		
Decisions for Commission	82		

TABLE 6.--*Court proceedings--mandamus, injunction, etc.--Supreme Court of the United States*

FISCAL YEAR ENDED JUNE 30, 1946		Decisions for Commission	3
		Decisions for others	5
Pending beginning of year	0	Certiorari denied Commission	1
Appealed by Commission	1	Certiorari denied others	4
Appealed by others	0	Total disposition	13
Total for disposition	1	Pending June 30, 1946	0
Decisions for Commission	1		

Decisions for others	0	10-YEAR SUMMARY, JULY 1, 1936, TO	
Certiorari denied Commission	0	JUNE 30, 1946	
Certiorari denied others	0	Pending July 1, 1936	0
Total disposition during year	1	Appealed by Commission	2
Pending end of year	0	Appealed by others	2
		Total for disposition	4
CUMULATIVE SUMMARY, MAR. 16, 1915, TO		Decisions for Commission	2
JUNE 30, 1946		Decisions for others	0
Appealed by Commission	9	Certiorari denied others	2
Appealed by others	4	Total disposition	4
Total for disposition	13	Pending June 30.1946	0

## **PART III. TRADE PRACTICE CONFERENCES**

### **ESTABLISHMENT OF TRADE PRACTICE RULES FOR INDUSTRIES**

An effective and economical method of preventing unfair competitive practices and the growth of monopolistic restraints and abuses in industry is provided by the Commission's trade practice conference procedure. Under this procedure the cooperation of industry is enlisted and utilized in the public interest to eliminate such unfair practices and abuses through the establishment of appropriate trade practice rules. Since industry is dealt with as a unit, industry members are thereby placed on an equally fair competitive basis.

Trade practice rules are established through conferences of the members of an industry and upon due hearing and collaboration of the various parties in interest, including representatives of the purchasing public. The rules, when promulgated, bring to scrupulous business and the purchasing and consuming public relief and protection from the harmful practices against which such rules are directed. Utilization of this cooperative method also results in substantial saving to Government and industry by avoiding the expense which otherwise might necessarily be incurred in instituting a multiplicity of compulsory legal proceedings against individual offenders

*Trade practice conference procedure.*--The procedural steps and requirements applicable to industry proceedings for the establishment of trade practice rules are covered in the Commission's Rules of Practice (see p. 85). Trade practice conference proceedings may be instituted by the Commission upon its own motion or upon application therefor whenever such proceedings appear to the Commission to be in the interest of the public. Any interested party or group in an industry, large or small, may apply to the Commission for the institution of such proceedings. Prior to the beginning of proceedings and during the course thereof, members of the Commission's staff are available to afford guidance and assistance to industry in working out constructive solutions of the various competitive problems. As a part of such proceedings, industry-wide conferences are held and, before the Commission finally approves rules, public hearings on proposed rules are had to afford all interested or affected parties opportunity to present their views, suggestions, or objections, and to appear and be heard.

## GROUP I AND GROUP II RULES EXPLAINED

Trade practice rules appropriate for approval or acceptance by the Commission may include not only provisions for the elimination of practices which are illegal per se or are conducive to unfair competitive conditions in industry, but also provisions for fostering and promoting fair competition in the public interest. The rules as finally promulgated are classified by the Commission as Group I and Group II rules, respectively :

*Group I rules.*--The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

*Group II rules.*--These rules embrace the wholly voluntary or recommended industry practices as distinguished from mandatory requirements. No such industry rule is received by the Commission unless the provision is in harmony with law and the public interest, and is constructively in support of the maintenance of fair competitive conditions in the industry.

## TRADE PRACTICE CONFERENCE ACTIVITIES DURING YEAR

Trade practice conference work during the fiscal year included the establishment of additional sets of rules, the advancement of pending and newly instituted proceedings, and the administration of the large body of existing rules.

*New rules approved during fiscal year.*--Trade practice conference proceedings completed during the fiscal year resulted in the establishment of rules for the following industries: (1) Artificial limb industry ; (2) construction equipment distributing industry; (3) piston ring industry; and (4) wholesale confectionery industry (Philadelphia trade area)<sup>1</sup> These four industries have an estimated annual volume of business of over \$700,000,000 in the aggregate. The rules established for such industries are of the utmost importance from the standpoint of broad public interest.

*Rules for artificial limb industry.*--The artificial limb industry rules have as their principal purpose the aiding of some 16,000 members of the American armed forces who suffered loss of legs or arms in the service of their country during World War II, as well as some 600,000 other physically handicapped persons in the United States who use artificial limbs or devices. Rehabilitation of persons who have undergone amputations, with resulting restoration to a self-supporting and normal way of life, is largely dependent upon the safety of the industry's prosthetic devices and upon their proper fit, alignment, and appearance when put to actual use.

Protection of physically handicapped persons from deceptive trade methods and monopolistic practices in their purchases of such products

<sup>1</sup> With respect to the last three industries named, the rules were not promulgated

until shortly after the close of the fiscal year.

is the primary objective of the rules. Various practices which are deceptive or otherwise unfair or harmful are defined in the rules and provision is made for their elimination and prevention.

Proceedings to establish rules were instituted by the Commission at the suggestion of the House Sub-Committee on Aid to the Physically Handicapped and in cooperation with members of the industry.

The rules for this industry were of material aid to the court in making disposition of an antitrust case in which 71 members of the industry were found guilty of violating the Sherman Act and were assessed fines ranging from \$200 to \$1,500 each. These fines were suspended in part, and the defendants placed on a year's probation and made subject to the special condition that they "conform to the Trade Practice Rules promulgated by the Federal Trade Commission on April 16, 1946."

The judgment and order of probation constitute judicial action or recognition of special significance in support of the value of the trade practice conference work as an industry-wide means of curbing the growth monopolistic and unfair competitive methods of business. Likewise, the case concretely illustrates the fact that such rules, framed through industry conferences, may aid the courts in the framing of orders against restraints of trade.

The Commission's administrative and compliance work under the artificial limb rules will be directed with due regard to the requirements of the probationary order and with the view of submitting to the court such reports as may be necessary from time to time respect-in g compliance or violations by the several defendants.

*Rules for construction equipment distributing industry.*--The trade practice rules promulgated for the construction equipment distributing industry are also of considerable public interest. This industry distributes construction machinery and equipment used in all types of construction work, such as in the building, maintenance, repair, or demolition of structures buildings, industrial works, pipe lines, transmission lines, reservoirs, dams, harbor installations, roads, streets, sewers, air fields, canals, grades, and excavations. Included among such machinery are power shovels, bulldozers, air compressors, concrete mixers, rock crushers, graders, pile drivers, excavators, pavers, pumps and conveyors. The industry is most essential to postwar construction. The rules are directed to the maintenance of high standards of ethical competition and to the prevention of unfair trade practices, to the end that the industry and the public may be more adequately protected in harmony with the requirements of law.

*Rules for piston ring industry.*--Another important industry for which rules were approved during the fiscal year is the piston ring industry. Piston rings are an essential part of internal combustion engines, steam engines, compressors, etc., and the industry's progressiveness in making rings conforming to the requirements of newly designed motors was not only a material factor in producing superior fighting equipment during the war but is aiding in the promotion of industrial recovery in the postwar era. In the rules various unfair methods of competition, unfair or deceptive acts or practices, and other trade evils are listed and proscribed, such as the misuse of premiums, misbranding, false advertising, exclusive deals with a monopolistic



tendency, commercial bribery, and discriminations in price, service, or facilities.

*Wholesale confectionery industry (Philadelphia trade area)*--The rules for this industry have as their purpose the prevention of unfair trade practices and the maintenance of fair competitive conditions in the interest of protecting the trade and the purchasing public. To this end various practices which are deceptive or otherwise unfair are defined in the rules and provision made therein for their elimination. The rules cover such practices as misrepresentation in various forms, misbranding, commercial bribery, inducing breach of contract, defamation of competitors or disparagement of their products, selling below cost with a monopolistic tendency, discriminations in price, service, or facilities, and other unfair or harmful practices.

*Pending trade practice proceedings.*--Trade practice proceedings were likewise undertaken for other industries and were pending in various stages of progress at the close of the fiscal year. Concerning some of these, the general industry conferences had been assembled and held for the purpose of considering and formulating proposed rules. In some instances the proposed rules had been released by the Commission and public hearings held thereon. In other cases where the proceedings were less advanced, the necessary preliminary study and consideration had been undertaken preparatory to further action. In addition, contacts were established with a number of other industry groups looking toward the institution of trade practice conference proceedings.

### INDUSTRY RULES AND THEIR ADMINISTRATION

*Administration of rules.*--This work covers the necessary compliance activities, interpretation of rules, and their application to specific situations arising in various industries. It relates not only to rules established during the fiscal year, but also to those promulgated in prior years and still in effect.<sup>2</sup> The codified provisions aggregate many hundreds of rules.

During the fiscal year compliance activities were undertaken to the extent possible with the limited personnel available for this work.

Correspondence relating to existing rules was conducted, particularly as to effecting compliance with the provisions and, generally, in affording assistance to industry members in the proper observance of rules. Members of industries and other interested parties or groups also conferred with representatives of the Commission in connection with the operation of rules. In most instances correction or adjustment of alleged objectionable practices contrary to the rules was effected through cooperative effort. Results obtained demonstrated a primary objective of the trade practice procedure; namely, the wholesale elimination of unfair competitive methods or unfair or deceptive acts or practices, in lieu of the more expensive method of litigation in individual cases. In the few cases where compulsory proceedings were deemed necessary to bring about correction, appropriate action was taken.

<sup>2</sup> Rules when promulgated for an industry are issued in pamphlet form and are available to interested parties upon request to the Commission.

## **TYPES OF PRACTICES COVERED IN PROMULGATED RULES**

Following are illustrations of the variety of subjects covered by trade practice rules now in effect:

Misbranding; misrepresentation in various forms, including false or misleading advertising; deceptive packaging ; defamation of competitors or disparagement of their products; commercial bribery in purchasing or selling supplies ; inducing breach of competitor's contract; false invoicing; imitation of competitor's trade-marks, trade names, etc.; substituting inferior products for those ordered ; deceptive use of so-called "free goods" deals lottery schemes; use of consignment distribution to close competitors' trade outlets; use of deceptive types of containers simulating standard and generally recognized types; use of deceptive depictions (photographs, engravings, cuts, etc.) in describing industry products; unlawful discriminations in price service, or facilities.

Other subjects embraced in the rules are: Enticing away employees of a competitor; giving "push money," "gratuities," etc., under circumstances involving commercial bribery, deception, or restraint of trade; use of deceptive or misleading guarantees, warranties, price quotations, price lists, terms of sale , etc., deception in use of competitors' containers; full-line forcing as a monopolistic weapon combination or conspiracy to fix prices, suppress competition, or restrain trade; unfair bidding methods; misrepresentation as to possible earnings or opportunities afforded on completion of correspondence school courses, or as to Government connection with, or endorsement of, any school, or respecting any training or services offered by such school; falsely representing offers as "special" or "limited"; deceptive sales of regular lines as "closeouts" to induce belief bargains are available representing products as conforming to recognized industry standards when such is not the fact; misuse of such words or terms as "perfect," "perfect cut," "commercially perfect," "real," "natural," etc., in describing precious stones or their imitations; misuse of term "Crookes" as applied to sun glasses; misrepresenting kind, quality, thickness, or backing of mirrors; use of fictitious animal designations in descriptions of furs ; misrepresenting character, extent or type of business engaged in ; representing retail prices as wholesale; use of false or deceptive testimonials; use of "blind" advertisements in such manner as to mislead or deceive.

Subjects covered in other rules include: Misuse of terms "pullorum tested," "blood tested," etc., as applied to baby chicks ; deceptive use of the terms "waterproof," "water repellent," " dust proof," or "warp-proof," as applied to luggage or related products. false representations respecting tube capacity of radio sets and their range or receptivity; misuse of such terms as "all-wave," "world-wave," "world-wide wave," etc.; misuse of words "bristle," "pure bristle," etc., in sale of toilet brushes; representing domestic products as imported, or imported products as domestic; use of misleading or deceptive representations in procuring sales representatives; use of deceptive titles or names in selling books under the subscription plan; misusing terms relating to types of construction or weave of textiles; misuse of terms

“extra fancy,” “extra select,” “extra quality,” “de luxe,” “choice,” etc., to describe tuna fish products; misuse of words “lisle cotton,” “cotton lisle,” etc., to describe hosiery products; deceptive use of terms “hand woven,” “hand loomed,” “hand painted,” and “hand embroidered,” in describing linen products; and aiding or abetting another in the use of an unfair trade practice.

Other rules provide for disclosure of fiber content and proper marking of textile merchandise made of rayon, silk, or linen, or of two or more fibers containing either rayon, silk, or linen; disclosure as to remaining shrinkage in so-called preshrunk merchandise; disclosure of fact that apparently new products are not new, but are second-hand, rebuilt, or renovated disclosure that products are artificial or imitations and not real or genuine; disclosure of country of origin of imported products; prevention of marketing of substandard or imitation products as and for the standard or genuine, and the specification of minimum requirements for standard or genuine products; proper nomenclature for industry products is closure as to true composition of paint and varnish brushes, as to imperfect or defective merchandise, as to use of adulterant or substitute or linseed oil in respect to putty products, as to presence of metallic weighting in silk or silk products, as to minimum yardage of ribbons, as to true functions of radio parts and accessories, as to quality, quantity, and size of ripe olives packed in cans and other opaque containers, and as to latent defects in artificial limbs or devices.

### INFORMATIVE LABELING

Informative labeling constitutes an important subject of trade practice rules promulgated by the Commission. It is also a primary objective of the Wool Products Labeling Act (see p.58) Fiber identification, or what is generally referred to as Truth in Fabrics, enters extensively into such informative labeling work. While consumer goods containing or purporting to contain wool are subject to Act labeling, similar fiber identification of other textiles, and informative labeling of various lines of merchandise outside the field of textiles, are covered by trade practice rules.

The object of informative labeling is twofold: (1) To aid intelligent purchasing and to prevent deception by informing consumers what they are to receive for their money, thus enabling them to be in a better position to judge quality and to buy according to their needs or preferences; and (2) to protect business from the unfair commercial practices attendant upon the sale of competing articles under conditions of misleading representations or deceptive concealment of the facts.

Products containing rayon in whole or in part are covered by the rules for the rayon industry, promulgated October 26, 1937. Those containing silk in whole or in part are covered by the rules for the silk industry, issued November 4, 1938. Corresponding rules for linen and part-linen merchandise were promulgated February 1, 1941. Informative labeling for all types of hosiery is the subject of trade practice rules for the hosiery industry, issued May 15, 1941. Similar rules covering fur garments and fur products generally were promulgated June 17, 1938. Informative labeling provisions on the subject of shrinkage of woven cotton merchandise were put into



effect On June 80, 1938. Other textile provisions are found in the rules promulgated for the infants' and children's knitted outerwear industry, June 28, 1939; uniform industry, May 18, 1940; and ribbon industry, June 30 1942.

Provisions on the subject of informative labeling are also contained in the sets of rules promulgated for the following industries on the dates mentioned : Rubber tire, October 17, 1936; toilet brush manufacturing, December 31, 1937; wholesale jewelry, March 18, 1938; paint and varnish brush manufacturing, January 14, 1939; putty manufacturing, June 30, 1939; mirror manufacturing, July 19, 1939; curled hair, January 12, 1 940; luggage and related products, September 17,1941; sun glasses, December 23 1941; razor and razor blade, June 19, 1945; wood-cased lead pencil, June 29, 1945; and artificial limb, April 16, 1946.

Rules providing for informative disclosure in advertising and selling also have been issued for such industries as macaroni, noodles, and related products, July 7, 1938; tomato paste manufacture, September 3, 1938; sardine, March 5, 1940; and tuna (revised and extended rules), June 23, 1945.

## **PART IV. WOOL PRODUCTS LABELING ACT**

### **INFORMATIVE LABELING FOR PROTECTION OF INDUSTRY AND THE PUBLIC**

The Wool Products Labeling Act of 1939 provides, in substance, that purchasers shall be informed as to the true content of articles which are made or appear to be made in whole or in part of woolen fiber, and that producers, manufacturers, merchants and the public generally shall be safeguarded against the deception and unscrupulous competition arising from misbranding and nondisclosure of content. The act, approved by the President October 14 1940 and effective July 14, 1941, is enforced and administered by the Federal Trade Commission.

The fiber content of articles containing, purporting to contain, or represented as containing "wool," "reprocessed wool," or "reused wool" is required by the act to be disclosed by appropriate stamp, tag, label, or other means of identification. The act applies to such articles when manufactured for, or marketed in, "commerce" as defined by section 2, excepting carpets, rugs, mats, and upholsteries exempted by section 14.

The act requires that the label affixed to the wool product disclose the kind and percentage of each different fiber contained in such product including the respective percentages of "wool," "reprocessed wool," and "reused wool." Disclosure of the maximum percentage of loading and adulterating material, if any, and the name of the manufacturer of the wool product or the name of the qualified distributor or reseller, is also to be made on the label. The label, or a proper substitute specified by the statute, is to remain and be on the merchandise when it is delivered to the consumer.

Products covered by the act include in general all articles of clothing or wearing apparel, blankets, etc., made or purporting to be made in whole or in part of wool; also the yarns and fabrics of the wool textile industry and the products of manufacturing industries using such yarns and fabrics. These products come from approximately 70 industries and are marketed through distributor and dealer outlets estimated to number in excess of 250,000.

*Rules and regulations under Wool Act.*--The act authorizes and directs the Commission to make such rules and regulations as may be necessary and proper for its administration and enforcement. Comprehensive rules and regulations were issued by the Commission, effective July 15, 1941. They are published in booklet form and are available to all concerned. They afford instruction and guidance as to how manufacturers, distributors, dealers, and others may proceed in various situations and assure themselves of being within the requirements of the law in its application to merchandise covered by

the act.<sup>1</sup> Collaboration of industry members and other interested parties was invited in the preparation of the rules and regulations. Hearings were held and all concerned were afforded opportunity to contribute their views and suggestions in arriving at rules which would be of maximum assistance to business and consonant with law, and would also afford full protection of the public interest. The cooperation of members of industry and others was of material assistance to the Commission.

*Manufacturers' registered identification numbers*--Under rule 4 of the regulations the Commission affords manufacturers of wool products residing in the United States Opportunity to have assigned to them manufacturers' registered identification numbers. Such a number may be used upon the manufacturer's label in lieu of his name as a means of identifying the manufacturer when the label carries the name of the dealer or reseller. At the close of the fiscal year, 5,780 registered identification numbers had been assigned to manufacturers pursuant to their applications filed under this rule. Numbers may be canceled when the firm goes out of business or changes its form of organization or for other sufficient reasons. Up to the close of the fiscal year, a total of 1,327 manufacturers' registered identification numbers had been canceled.

*Continuing guaranties*.--For the purpose of protecting distributors, dealers, and other resellers from the charge of misbranding when relying in good faith upon the manufacturer's statement of content, provision is made in section 9 of the act whereby such protection may be afforded by a guaranty on the part of the supplier. It may be either (1) a separate guaranty specifically designating the wool product guaranteed, or (2) a continuing guaranty filed with the Commission applicable to all products handled by a guarantor and in such form as the Commission may prescribe. The form prescribed by the Commission is set forth in rule 33 of the rules and regulations. This rule also provides for renewal of the continuing guaranties annually and whenever any change in ownership or management of the guarantor is made. At the close of the fiscal year, 6,770 continuing guaranties had been properly filed with the Commission. These have been duly recorded and are maintained as documents open to public inspection.

*Enforcement*.--In cases of alleged violation requiring corrective action by formal proceedings, the use of the cease and desist order procedure under the Federal Trade Commission Act, which is authorized by the Wool Act, has been utilized and proven adequate and effective without resorting to the supporting preemptory remedies specifically provided by the Wool Act. Such preemptory remedies are available when needed and, in cases of deliberate or willful violation, misdemeanor proceedings may be applied.

Administrative compliance work includes inspections, examinations, and correction of labeling practices of specific concerns. Inspections of labeling and related matters during the year concerned over 5,500 manufacturers, distributors, and other marketers in 172

<sup>1</sup> The Commission has issued a publication (W-31) setting forth illustrations, with explanatory text, of certain forms of labels and tags which are acceptable under the act. Manufacturers, distributors, dealers and other interested parties may obtain the leaflet upon request to the Commission.





cities. Field inspections covered in excess of 10 million articles. Compliance in cases of improper labeling under the act was effected for the most part through cooperative effort and voluntary action on the part of the respective concerns involved, thus avoiding the necessity of resorting to compulsory remedy to protect the public interest. Relatively few cases have arisen in which voluntary cooperative action has not been sufficient to effect correction and where it has been necessary to invoke mandatory processes.<sup>2</sup> The administrative compliance work proved both effective and economical in the large volume of instances arising.

<sup>2</sup> For complaints alleging violations of the Wool Products Labeling Act. see p.29 ; for Commission orders directed against such violations, see p.34.

## **PART V. RADIO AND PERIODICAL ADVERTISING**

### **SPECIAL PROCEDURE PROVIDES CONTINUOUS SURVEY OF PUBLISHED AND BROADCAST MATTER**

The Commission maintains its Radio and Periodical Division to provide a direct and expeditious handling of certain cases involving false and misleading advertising, violative of the provisions of the Federal Trade Commission Act.

The survey of advertising was inaugurated by the Commission in 1929 and limited to magazines and newspapers. Expanded in 1934 to cover radio commercial continuities, it also has included, since 1939, mail-order catalogs, almanacs and foreign-language newspapers. Questioned advertisements noted in these surveys form the bases of prospective cases not previously investigated and also provide a means of determining whether advertisers are complying with orders and stipulations to discontinue false and misleading representations.

Where the advertising is determined by the Commission to be false or misleading, and circumstances warrant, the advertisers are extended the privilege of disposing of the matters through an informal procedure, more fully explained on page 101, which permits their executing stipulations to cease and desist from the use of the acts and practices involved. A large majority of the cases re adjusted in this manner.

In certain cases involving drugs, devices, and cosmetics, the Commission negotiates stipulations inhibiting the publication of advertisements which do not disclose the potential harmful effects which may be experienced from the use of the products. In lieu of the publication in the advertising of a full statement of such harmful effects, these stipulations generally permit the publication of the statement, "CAUTION : Use Only As Directed," if and when the directions for use which appear on the label or in the labeling carry an adequate disclosure of the probable harm.

In cases where advertising agencies have prepared or participated in the preparation of advertisements found to be false and misleading, they are included as parties to the stipulation.

The only objective of the Commission's continuous survey of advertising is to prevent false and misleading advertisements. It does not undertake to dictate what an advertiser shall say, but merely indicates what he may not say under the law.

*Newspaper and magazine advertising.*--It has been found advisable in examining advertisements in current publications to call for some newspapers and magazines on a continuous basis due to the persistently questionable character of the advertisements published. However, as to publications generally, of which there are more than 19,000, it is physically impossible to survey continuously all advertisements of a doubtful nature. Also it has been found unnecessary to examine

all the issues of publications of recognized high ethical standard whose publishers carefully censor copy before acceptance.

Copies of current magazines and newspapers generally are procured on a staggered monthly basis, at an average rate of three times yearly for each publication, the frequency of the calls for each publication depending upon its circulation and the character of its advertisements.

Through such systematic calls during the fiscal year ended June 30, 1946, the Commission procured 1,667 editions of representative newspapers of established general circulation and 1,033 editions of magazines and farm and trade journals of interstate distribution. These periodicals included 216 issues of farm journals, 116 issues of trade journals and specialty publications, and 28 issues of domestic foreign-language publications.

In these newspapers, magazines, and farm and trade journals, 360,198 advertisements were examined, of which 19,476 were noted as containing representations that appeared to warrant investigation as to the facts.

*Mail-order advertising.*--The Commission procured mail-order catalogs and circulars containing an aggregate of 11,731 pages, examination of which resulted in 384 advertisements being marked as containing possibly false and misleading representations. Of the 82 mail-order houses included in the survey, 5 had combined annual sales in excess of \$1,831,160,920.

*Radio advertising.*--The Commission issues calls twice yearly for commercial continuities from each individual radio station. National and regional networks respond on a continuous weekly basis, submitting copies of the commercial advertising parts of all programs wherein linked hook-ups are used involving two or more stations. Producers of electrical transcription recordings each month submit typed copies of the commercial portions of all recordings produced by them for radio broadcast. This material is supplemented by periodic reports from individual stations listing the identities of recorded commercial transcriptions and related data.

The Commission received copies of 564,408 commercial radio broadcast continuities and examined 518,061. The continuities received amounted to 1,255,245 typewriter pages and those examined totaled 1,186,724 pages, consisting of 470,980 pages of network script, 697,144 pages of individual station script, and some 18,600 pages of script representing the built-in advertising portions of transcription recording productions desired for radio broadcast through distribution of multiple pressings of such recordings to individual stations. An average of 4,547 pages of radio script was read each working day. From this material 8,399 advertising broadcast statements were marked for further study as containing representations that might be false or misleading.

*Cooperation of radio and publishing industries.*--In general, the Commission has received the cooperation of the 4 nation-wide network chains, 19 regional network groups, and transcription producers engaged preparing commercial radio recordings; and of 868 commercial radio stations, 503 newspaper publishers, and 544 publishers of magazines, farm journals, and trade publications. It has observed



a desire on the part of these broadcasters and publishers to aid in the elimination of false and misleading advertising.

*Sources of radio and periodical cases.*--During the fiscal year, 91.5 percent of the cases handled in the Radio and Periodical Division resulted from the continuous survey of advertising material as described above and 8.5 percent from complaints by or information received from other Government agencies, competitors, and members of the public.

*Analysis of questioned advertising.*--Analysis of the questioned advertisements, which were assembled into 915 cases and given legal review, discloses that they pertained to 952 commodities in the proportions indicated below :

CLASSIFICATION OF PRODUCTS	
<i>Commodity</i>	<i>Percent</i>
Food, drugs, devices, cosmetics :	
Food (human)	2.2
Food (animal)	1.4
Drugs	65.5
Cosmetics	14.4
Devices	1.8
85.3	
Other products :	
Specialty and novelty goods	1.3
Automobile, radio, refrigerator, and other equipment	3.7
Home study courses	.4
Tobacco products	.2
Miscellaneous, including apparel, fuels, house furnishings, building materials	9.1
14.7	
Total	100.0

Because of the war emergency, attention at the beginning of the fiscal year was directed principally to the advertising of food, drugs, , devices, cosmetics and rationed commodities. Upon the termination of hostilities in August 1945, normal activities were resumed.

*Number of cases handled.*--During the fiscal year contact letters were sent to advertisers in 221 cases, and the Commission accepted 23 stipulations involving radio and periodical advertising, of which 3 were supplemental and 1 amended.

Cases disposed of by various methods of procedure totaled 122. Of this number 50 were considered settled upon receipt of reports or other evidence showing compliance with previously negotiated stipulations; 58 were closed without prejudice to the right of the Commission to reopen if warranted by the facts, 30 of them for lack of jurisdiction or lack of evidence sufficient to establish a violation of law, 20 because of discontinued practices or insufficient public interest, 7 because of corrective action by the Post Office Department and 1 because the proposed respondent was not responsible for the advertising; 2 were referred to the Chief Counsel and 1 to the Chief Trial

Examiner for such consideration as was deemed appropriate in connection with pending cases; and in 11 cases the Commission directed issuance of complaint, 8 because the advertisers had failed to avail themselves of the privilege of stipulation, and 3 because of violation of previous stipulations. Field investigations were ordered in 10 cases.

The Commission filed without action 13 applications for complaint, referred 3 to the Chief Examiner for field investigation and 4 to the Post Office Department.

At the close of the year 787 cases were pending as compared with 688 at the close of the previous fiscal year.

*Procedure in advertising cases.*--If it appears to the Commission that a published advertisement may be misleading, a contact letter is sent to the advertiser and request is made for a sample of the product advertised, if this is practicable, and the quantitative formula if the product is a compound. Representative specimens of all advertising copy containing all claims made for the product during a 6-month period also are requested.

Upon receipt of these data, scientific opinions are obtained based upon the sample and formula. Then a list of the claims that appear to be false or misleading is sent to the advertiser, together with a statement based upon the scientific opinion theretofore obtained. The advertiser is invited to submit informally by letter, or in person, or by counsel any evidence he chooses in support of his claims.

If, after a consideration of all available evidence, including that furnished by the advertiser, the questioned claims appear not to be false or misleading, the division reports the matter to the Commission with the recommendation that the case be closed. If it appears from the weight of the evidence in the investigational files that the advertising is false and misleading, the matter is referred to the Commission with recommendation either that complaint issue or that negotiation of an appropriate stipulation be authorized, provided the advertiser should desire to dispose of it by such voluntary agreement to cease and desist from the use of the acts and practices involved.



## **PART VI. MEDICAL AND SCIENTIFIC OPINIONS**

### **DATA IS UTILIZED BY COMMISSION IN CASES RELATING TO FOOD, DRUGS, DEVICES, AND COSMETICS**

The Medical Advisory Division furnishes the Commission with scientific facts and opinions concerning the composition of and the advertising claims made for food, drugs, curative devices, and cosmetics. It arranges for analyses of samples of such products under investigation and gathers information with respect to their nature.

The division provides medical opinions and scientific information needed in the preparation of complaints issued and stipulations to cease and desist accepted by the Commission. During the fiscal year it prepared 228 written medical opinions and in addition rendered many verbal opinions of the same character. Also, a substantial amount of time was devoted to assisting the Commission's legal staff in its preparation for hearings involving questions of science.

Another duty of the division is to obtain expert witnesses to testify at hearings. Because of the wide, direct influence of advertising on the public health, many outstanding experts in the medical sciences are interested in the advertising claims made for food, drugs, curative devices, and cosmetics. During the year, 35 such experts served without compensation as Commission witnesses at hearings, their testimony being essential to a determination of the scientific facts involved.

Through the Director of the Medical Advisory Division the Commission maintains contact with other Governmental agencies concerned with food, drugs, curative devices, and cosmetics. Included among these are the Food and Drug Administration, the National Bureau of Standards, the United States Public Health Service, the Bureau of Animal Industry, and the Agricultural Marketing Service. The Commission extends cooperation to and receives effective cooperation from these agencies, as well as from nongovernment clinics, hospitals, and laboratories.

## PART VII. FOREIGN TRADE WORK

### EXPORT TRADE ACT

Under the Export Trade Act (Webb-Pomerene Law) of 1918, cooperative associations are formed under supervision of the Federal Trade Commission, filing organization papers and periodic reports covering their operation in export trade.

The law provides that such an association shall be entered into for the sole purpose of engaging in export trade and must actually so engage; and that there shall be no restraint of the trade of domestic competitors, artificial or intentional enhancement or depression of domestic prices, substantial lessening of competition or other restraint of trade within the United States. Under these conditions, the associations shall not be deemed in violation of the antitrust laws.

### CURRENT LIST OF ASSOCIATIONS

Forty-nine export associations were on file with the Federal Trade Commission at the close of the fiscal year on June 30, 1946. They were :

American Box Shook Export  
Association,  
308 Barr Building,  
Washington, D.C.

American Hardwood Exporters, Inc.  
901 Carondelet Building,  
New Orleans.

AMTEA Corp. (American Machine Tool  
Export Association) ,  
Empire State Building, New York.

American Provisions Export Co.,  
% Armour & Co.,  
Foreign Sales Department,  
Union Stock Yards,  
Chicago.

American Soda Pulp Export  
Association,  
230 Park Avenue,  
New York.

American Spring Manufacturers  
Export Association,  
30 Church Street,  
New York.

American Tire Manufacturers  
Export Association,  
30 Church Street,  
New York.

California Dried Fruit Export  
Association,  
1 Drumm Street,  
San Francisco.

California Prune Export  
Association,  
1 Drumm Street,  
San Francisco.

California Raisin Export  
Association,  
1 Drumm Street,  
San Francisco.

Carbon Black Export, Inc.,  
500 Fifth Avenue,  
New York.

Copper Exporters, Inc.,  
50 Broadway,  
New York.

Door Export Co.,  
1212 Washington Building,  
Tacoma, Wash.

Douglas Fir Export Co.,  
530 Henry Building,  
Seattle, Wash.

Durex Abrasives Corp.,  
63 Wall Street,

California Alkali Export  
Association,  
608 Latham Square Building,  
Oakland, Calif.

66

New York.

Easco Lumber Association,  
216 Pine Street,  
San Francisco.

Electrical Apparatus Export  
Association,  
70 Pine Street,  
New York.

Electrical Export Corp.,  
122 East Fifty-First Street,  
New York.

Export Screw Association of the  
United States,  
23 Acorn Street,  
Providence, R. I.

Flints Export Agency,  
Broad Street,  
New York.

Florida Hard Rock Phosphate  
Export Association ,  
318 East Main Street,  
Lakeland, Fla.

Flour Millers Export Association,  
859 National Press Building,  
Washington, D. C.

Friction Materials Export  
Association, Inc.,  
22 East Fortieth Street,  
New York.

General Milk Co., Inc., Association,  
19 Rector Street,  
New York.

Goodyear Tire & Rubber Export  
Co., The,  
1144 East Market Street,  
Akron, Ohio.

Metal Lath Export Association, The,  
Room 1504,  
205 East Forty-Second Street,  
New York.

Motion Picture Export  
Association, Inc.,  
25 West Forty-Third Street,  
New York.

Pacific Forest Industries,  
1219 Washington Building,  
Tacoma, Wash.

Pacific Fresh Fruit Export  
Association,  
333 Pine Street,  
San Francisco.

Pencil Industry Export  
Association,  
167 Wayne Street,  
Jersey City, N. J.

Pipe Fittings & Valve Export

Railway Car Export Corp.  
of America,  
30 Church Street,  
New York.

Redwood Export Co.,  
405 Montgomery Street,  
San Francisco.

Rubber Export Association, The,  
1185 East Market Street,  
Akron, Ohio.

Steam Locomotive Export  
Association, Inc.,  
Room 1624,  
30 Church Street,  
New York.

Sulphur Export Corp.,  
420 Lexington Avenue,  
New York.

Texas Rice Export Association,  
407 Jensen Drive,  
Houston, Tex.

Textile Export Association of  
the United States,  
320 Broadway,  
New York.

Typewriter Manufacturers Export  
1611 Forty-Fourth Street,  
Washington, D. C.

United States Alkali Export  
Association, Inc.,  
11 Broadway,  
New York.

United States International Book  
Association, Inc.,  
27 East Sixty-Seventh Street,  
New York.

Universal Dairy Products Co.  
80 East Jackson Boulevard,  
Chicago.

Walnut Export Sales Co., Inc.,  
540 Postal Station Building,  
Indianapolis.  
Washington Evaporated Apple  
Export Association,  
709 First Avenue, North,  
Yakima, Wash.

Wescosa Lumber Association,  
Room 500,  
2 Pine Street,  
San Francisco.

Wine & Brandy Export Association  
of California,  
717 Market Street,

Association, The,  
347 Madison Avenue,  
New York.

Potash Export Association, Inc.,  
420 Lexington Avenue,  
New York.

San Francisco.

Wire Rope Export Trade  
Association, The,  
c/o Wm. P. Laseter, Chairman,  
Room 2006, 19 Rector Street,  
New York.

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## EXPORTS IN 1945 TOTAL \$94,172,483

Exports by the associations during the calendar year 1945 show a slight increase in money value over the year before :

	<i>1944</i>	<i>1945</i>
Metals and metal products	\$19,445, 263	\$16,303,330
Products of mines and wells	11,582,586	20,003,356
Lumber and wood products	10,071,372	8,207,702
Foodstuffs	5,381,425	9,450,482
Miscellaneous	29,257,770	40,207,613
Total	75,738,416	94,172,483

The largest increase is found in miscellaneous products, which include chemicals, abrasives, textiles, rubber products, flints, friction materials, typewriters, books, and pencils.

## NEW ASSOCIATIONS

The Universal Dairy Products Co., Chicago, filed papers with the Commission in November 1945. It was formed by 11 companies producing dried milk, most of which are located in the Middle West. Membership has more than doubled since organization of the group, and several of the members are cooperatives representing a number of producers.

The Motion Picture Export Association, New York, filed papers in January 1946. This group includes eight motion picture producers.

The Railway Car Export Corp. of America, New York and Washington, D. C., filed papers in June 1946 for the purpose of exporting freight cars and parts, equipment, and accessories. The association represents seven manufacturers.

## INVESTIGATIONS

Several inquiries as to operation of export associations were in progress during the year, under section 5 of the Export Trade Act.

Summonses and bills of particulars were issued to the Export Screw Association of the United States on January 3, 1946 (Docket 202-8), and The Pipe Fittings & Valve Export Association on May 3, 1946 (Docket 202-9).

Hearings were held involving operation of the carbon black, milk, and sulphur associations (Docket s 202-5, 202-6 and 202-7, respectively) but final reports had not been made at the close of the year. The electrical apparatus inquiry (Docket 202-4 also was pending.

The Commission issued its final report, conclusions, and recommendations for readjustment of the business of Phosphate Export Association (Docket 202-3) on March 6, 1946. The recommendations provide:

1. That Phosphate Export Association withdraw from and rescind the following agreements requiring that deductions be made from the quota of American shipments of Florida land pebble phosphate, stipulated for in said agreements, for shipments of Florida land pebble phosphate from the United States made by or through American producers who are not members of the association, to wit:

(a) Agreement between Phosphate Export Association and the North African Group, formed by the Comptoir des Phosphates d'Algerie et de Tunisie and the office Cherifien des Phosphates;

(b) Agreement between Phosphate Export Association and the Florida Hard Rock Phosphate Export Association and said North African Group ;

(c) Agreement between Phosphate Export Association and the Florida Hard Rock Phosphate Export Association, said North African Group, and Curacao (Mijnmaatschaapij Curacao)

(d) Agreement between Phosphate Export Association and said North African Group and Societa Egiziana per L'Estrazione ed il Commercio del Fosfati, of Alexandria, Egypt (commonly known as Kosseir), and Egyptian Phosphate Co., of London, England (commonly known as Safaga).

2. That Phosphate Export Association withdraw from and rescind any and every understanding reached in connection with or relating to the agreements specified In paragraph 1 above, and any other agreement, which is designed to or intended to have the effect of deterring, forestalling or preventing the importation of phosphate rock into the United States from foreign sources, and that said Association refrain from entering into like or similar understandings in the future.

3. That Phosphate Export Association rescind and cancel any and every inter-member bylaw, rule, contract or agreement discriminating as between members in their right to withdrawn or resign from the Association, or restricting or limiting the right of withdrawal or resignation of any member by requiring that such member's export trade, after such resignation or withdrawal, must be handled by or through the Association.

4. That Phosphate Export Association in future cease and desist from selling, handling, marketing or disposing of Florida pebble land phosphate for the account of or belonging to any producer who is not a regularly admitted and recognized member of the Association.

5. That Phosphate Export Association rescind and cancel any and every inter-member bylaw, rule, contract or agreement restricting or limiting, or attempting to restrict or limit, the disposal or alienation of mineral deposits used or useful for the production of Florida land pebble phosphate, by requiring any member disposing of or alienating such deposits to make effective arrangements to impose upon his assignee or successor in ownership the condition that the latter shall carry out and perform the covenants and agreements of such member with the Association.

6. That Phosphate Export Association rescind and cancel any and every agreement or understanding restricting or attempting to restrict the use or licensing of any patent designed for or useful in connection with the mining or processing of Florida land pebble phosphate to the members of the Association, or fixing or agreeing upon the terms and conditions upon which licenses for the use of any such patent are granted by the patent holder to the members of said Association ; and that the said Phosphate Export Association cease and desist in the future from entering into any negotiations, discussions, or arrangements with reference to the patents or agreements or licenses relating thereto, above mentioned.

7. That Phosphate Export association cease and desist in the future from discussing, negotiating concerning, or agreeing upon any plan, arrangement, scheme, understanding or agreement whereby the production of Florida land pebble phosphate by any American producer or potential producer, or the sale or marketing thereof In domestic trade is affected, deterred, forestalled or prevented, or where the purpose or intent is to accomplish any of said results.

8. That Phosphate Export Association in the future deny membership to any and every applicant who or which is a foreign purchaser of or foreign customer for Florida land pebble phosphate for foreign consumption or resale, and any representative, agent, affiliate or subsidiary of any such purchaser or customer, whether such representative, agent, affiliate or subsidiary is a nonnational of the United States, or otherwise.

9. That Phosphate Export Association cease and desist in the future from discussing, negotiating concerning, or agreeing with Florida Hard Rock Phosphate Export Association upon any plan, arrangement, scheme, understanding or agreement whereby said Florida Hard Rock

Phosphate Export Association confines or restricts solely to its members the use of the Fernandina Terminal, Fernandina, Fla., for the processing or shipping of hard rock phosphates.

10. That Phosphate Export Association cease and desist in the future from discussing, negotiating concerning or agreeing upon the terms or provisions incorporated into or to be incorporated into the domestic sales contracts with purchasers used or effectuated by any of its members in domestic trade in phosphate rock in the United States or any of its possessions.

11. That Phosphate Export Association, in the future, seasonably file with the Commission all information required by the Export Trade Act to be filed annually, and furnish all information and documentary evidence requested or required



by the Commission, pursuant to said act, whether called for by report forms, by questionnaires or communications, by personal visitation or otherwise.

It is ordered by the Commission that Phosphate Export Association file with the Commission within 30 days hereof a report stating whether it has elected to comply with the above recommendations, and if so, the manner in which it has complied.

#### **REPORT FOR SENATE SMALL BUSINESS COMMITTEE**

In addition to a more detailed report prepared for the Subcommittee on Foreign Trade of the Senate Small Business Committee in June 1945 the Commission presented a supplemental report to the subcommittee in April 1946, which summarized, as follows, benefits obtained by small business under the Export Trade Act (Webb-Pomerene law):

The benefits afforded by the act are available, of course, to all business, large or small, but some are of especial value to small business concerns desiring to engage in export trade. These potential benefits flow principally from a sharing of the costs of engaging in foreign trade, from a pooling of resources, and from the ability to present a solid front in export markets.

Through Webb Act associations members may maintain joint sales agencies in export markets, share the cost of advertising in and developing such markets, and effect substantial savings in warehousing, in shipping costs, and in the handling of credits and collections. Such associations may also obtain substantial savings through long-term arrangements for cargo space and in the placing of insurance and the settlement of claims. They may more effectively handle settlements under the shifting conditions of foreign exchange and blocked accounts. There are definite benefits to be derived through the formulation and use of uniform contracts, terms, and conditions of sale in export markets and in the cooperative pricing of products in such markets on a basis which eliminates the possibility of foreign purchasers playing one American supplier against another.

A group of exporters can probably offer through a centralized sales agency a more varied and complete line of products than a single business unit and also be able to secure and handle larger orders than a single member might find it practicable to undertake. In numerous commodities special packaging or processing is needed in export trade, and an association may be able to maintain special plants for these purposes at strategic locations.

The production of certain types of export goods or the availability of that production for export purposes is sometimes of a seasonal nature, and the export associations may be able to warehouse and distribute the products in foreign markets throughout the year and thus alleviate the pressure of seasonal sales on export prices. The percentage of a member's production which goes into export channels might well serve as a cushion in times of domestic distress or aid in maintaining more even production schedules.

The cooperation of association members in the standardization of their products intended for export, in the adoption and use of a common brand name or trade-mark, and in the maintenance of an inspection service may be of substantial value in reducing the possibility of claims, in creating good will, and in aiding the efforts of their sales representatives. Similarly, the joint collection and use of current trade information from foreign markets, together with the detailed information concerning foreign trade laws and customs and the preferences of foreign buyers, may be of substantial advantage to the small exporter.

The cooperative action thus permitted to American exporters improves their bargaining position in foreign trade and enables them to cope more successfully with foreign cartels. In the

conduct of foreign trade it needs to be recognized that the elements of distance and differences in business customs, practices, and national laws all tend to prevent an individual American producer from dealing face to face with foreign customers in a manner comparable with his dealings in domestic trade. In the absence of a solid cooperative front among American exporters of a particular product, this handicap applies to both large and small concerns, but is felt most by the small concern which has no sales personnel experienced in foreign trade or representatives abroad to care for its interests.

**TRADE REGULATION AND UNFAIR COMPETITION ABROAD**

A few of the more important measures regulating trade and industry abroad may be briefly noted :

*Argentina.*--Presidential Decree No.19288, August 22, 1945, directed the National Postwar Council to provide a program for adequate production and distribution of materials, development of transportation, and decentralization of industry. Decree No 21748, September 14, 1945, established new wholesale and retail prices on certain necessary products, to correspond with changes in wages. Presidential Decree No.18290 of 1945 prescribed a 20-percent reduction in agricultural rents. Decree Law No.8503, March 25, 1946, nationalized the Central Bank ; and Decree Law No. 12596, May 8, 1946, centralized foreign exchange control in the Bank.

*Brazil.*--Antitrust Decree Law No.7666 was passed on June 22, 1945, and provided penalties for a list of offenses against the public interest. The Office of Economic Coordination created in 1942 was abolished January 1, 1946, its duties being assigned to other Government agencies. A Central Price Commission was created and prices frozen at the level of February 15, 1946. An excess-profits decree law was published on April 11, 1946.

*Canada.*--The Combines Investigation Commission was transfer-red from the Department of Labor to the Department of Justice b an Order-in-Council P. C. 6206, September 25, 1945. The Commission issued a report on Canada and International Cartels October 10, 1945, with recommendations for a cartel policy. A bill, No.193, to amend the Combines Investigation Act, was introduced June 5, 1946, the amendments relating to investigations and court procedure. The National Emergency Transitional Powers Act passed in December 1945 declared the war at an end and terminated wartime powers assumed by the Government in 1939 under the War Measures Act of 1914; but emergency powers were continued to deal with problems of reconversion.

*China.*--A Revised Company Act was passed April 12, 1946, and a new set of direct tax laws on the same date. A supreme economic council has been created to direct and promote reconstruction and development of China. The council established an import planning committee to promote foreign trade and direct the distribution and marketing of imported goods.

*Colombia.*--Presidential Decree No.2010, August 18, 1945, abolished the National Price Control Office, but authorized the Department of Commerce and Industries to adopt measures necessary to control articles of prime necessity. Three decrees issued March 17, 1946, established further control over prices, distribution, rents, and foreign trade.

*Cuba.*--Measures taken by the Government in 1945 to stimulate utilization of national resources included waiver of import duties on machinery and other equipment and tax exemptions for new industries in proportion to the amount of native raw materials used.

*Czechoslovakia.*--Nationalization of mines and other key industries, the food industries, joint stock banks, and private insurance companies, was provided in four

decrees on October 24, 1945. Decree No. 109, October 27, 1945, authorized the Ministry of Industry to direct

production supply and sales of certain basic commodities. Decree No. 118, October 27, 1945, gave to the Minister of Food authority to regulate and control all matters concerning nourishment of the people.

*France.*--Law No 46-827, April 26, 1946, abolished the Central Office for Allotment of Industrial Products and established temporary control "preceding the return of economic freedom." Reorganization of the Direction of Economic Control was provided in decree No. 46-845, April 29, 1946.

*Great Britain.*--The Distribution of Industry Act, June 15, 1945, gave to the Board of Trade wide powers over industrial development. The Department of Overseas Trade (Dissolution) Order, March 20, 1946 created an Export Promotion Department within the Board of Trade to take over functions of the former Department of Overseas Trade. The Board established regional export trade offices throughout Britain, and in April and May 1946 published a list of 264 "export groups" organized for overseas trade.

*Guatemala.*--The Price and Supply Coordination Office was abolished on February 18, 1946, and in its place a new Office of Economic Stabilization was created under the Ministry of Economy to administer the Law of Economic Emergency, decree No.90 of 1945.

*Haiti.*--In order to encourage establishment of new industries to prepare agricultural products for export, decree law No.589, December 2, 1945, granted import and export duty exemptions. A Small Industries Control Office was established within the Department of Commerce and National Economy by decree law No.548, October 5, 1945.

*Mexico.*--A congressional decree, October 1, 1945, restored constitutional rights and annulled legislation enacted under special emergency powers granted to the Chief Executive under the War Powers Decree of June 1, 1942. A law to encourage the development of manufacturing industries, December 31, 1945, provided broad exemption from import duties and from income, stamp and other Federal taxes, for periods from 5 to 10 years.

*Paraguay.*--Decree law No.9926, August 16, 1945, continued in effect with certain amendments provisions of the war measures law, No.282 of 1939. Decree law No. 11602, January 10, 1946, had much the same purpose as the Mexican law of December 31, 1945, to encourage development of new industries, especially to utilize domestic raw materials.

*Peru.*--A National Food and Nutrition Board was established in December 1945 by law No.10325, to formulate a national plan to achieve maximum production of foodstuffs needed for domestic consumption.

*Salvador.*--Decree No.97, June 11, 1945, authorized the Executive to take steps necessary to prevent the cornering of foodstuffs and other articles of prime necessity, and consequent rise in prices. The Committee on Economic Coordination was abolished by legislative decree No.275, December 20, 1945, but the Ministry of Economy still has authority to superintend the equitable distribution of certain articles.

## PART VIII. FISCAL AFFAIRS

### APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation Act, 1946 (Public Law 49, 79th Cong.), approved May 3, 1945, provided funds for the fiscal year 1946 for the Federal Trade Commission as follows :

#### FEDERAL TRADE COMMISSION

For salaries and expenses of the Federal Trade Commission, including personal services in the District of Columbia; contract stenographic reporting services; supplies and equipment, lawbooks, books of reference, periodicals, garage rentals; traveling expenses; newspapers not to exceed \$500, foreign postage; not to exceed \$4,500 for deposit in the general fund of the Treasury for cost of penalty mail as required by section 2 of the act of June 28, 1944 (Public Law 364); and witness fees and mileage in accordance with section 9 of the Federal Trade Commission Act; \$1,897,833, of which not less than \$171,673 shall be available for the enforcement of the Wool Products Labeling Act: *Provided*, That no part of the funds appropriated herein for the Federal Trade Commission shall be expended upon any investigation hereafter provided by concurrent resolution of the Congress until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such investigation.

For all printing and binding for the Federal Trade Commission, \$44,000.

In addition to this sum there was appropriated in House Joint Resolution 342, "Making additional appropriations for the fiscal year 1946 to pay increased compensation authorized by law to officers and employees of sundry Federal and other agencies" (Public Law 349, 79th Cong.), for the Federal Trade Commission : "Salaries and expenses," \$232,000.

#### APPROPRIATIONS FOR FISCAL YEAR

Appropriations available to the Commission for the fiscal year 1946 under the acts cited above amounted to \$2,173,833. This sum was made up of two items : (1) \$2,129,833 for the general work of the Commission, and (2) \$44,000 for printing and binding.

*Appropriations, allotments, expenditures, liabilities, and balances for the fiscal year ended June 30, 1946*

	Amount available	Amount expended	Liabilities	Expenditures and liabilities
Balances				
Federal Trade Commission, 1946				
salaries, Commissioners and all				
other authorized expenses	\$2,119,833.00	\$2,076,217.87	\$43,244.60	\$2,119,462.47
Printing and binding, Federal Trade				
Commission, 1946	44,000.00	7,394.77	27,163.20	34,557.97
Total fiscal year 1946	2,173,833.00	2,083,612.64	70,407.80	2,154,020.44
19,812.56				

Unexpended balances:

Federal Trade Commission 1945 - -	104,607.63	47,838.17	5,067.85	52,906.02	51,701.61
Printing and binding, Federal Trade Commission, 1945	35,298.62	7,708.17	27,519.78	35,237.95	60.67
Working fund, Federal Trade Commission 1945	3,921.30	1,196.99		1,196.99	2,724.31
Federal Trade Commission, 1944	70,268.12	483.64		483.64	
69,784.48					
Printing and binding, Federal Trade Commission, 1944	10,325.74	8,232.64		8,232.64	208.10
Working fund, Federal Trade Commission, 1944	55,728.72				55,728.72
Federal Trade Commission, 1941	4.30				4.30
Total	2,453,987.43	2,149,072.25	103,005.43	2,252,077.68	201,909.75

*Detailed statement of costs for the fiscal year ended June 30, 1946*

	Salary	Travel	Other	Total
Commissioners	\$48,730.08	\$560.60	\$9.39	\$49,300.07
Office of Commissioners	48,352.17			48,352.17
Office of the Secretary	37,762.56			37,762.56
Total	134,844.81	560.60	9.39	135,414.80
Administration:				
Budget and finance	20,721.59			20,721.59
Legal research and compiling	13,289.31			13,289.31
Library	15,203.70			15,203.70
Mail and files	23,199.68			23,199.68
Personnel supervision and management	28,536.23			28,536.23
Information service	18,711.63			18,711.63
Publication and procurement	69,662.37			69,662.37
Records	46,309.37			46,309.37
Stenographic	65,000.34			65,000.34
Communications			15,668.41	15,668.41
Contract services			9,955.10	9,955.10
Equipment			17,283.39	17,283.39
Rents			6,496.86	6,496.86
Supplies			11,833.15	11,833.15
Transportation of things			394.45	394.45
Travel expense		110.00		110.00
Total	300,634.22	110.00	61,631.36	362,375.58
Legal:				
Preliminary inquiries	129,163.47	5,631.40	182.12	134,976.99
Application for complaints	380,661.48	24,799.36	969.02	406,429.86
Complaints	670,003.97	38,788.94	17,656.37	726,449.28
Export trade associations	26,261.59	971.33	5.91	27,238.83
Trade practice conferences	24,602.64	1,445.00	10.18	26,057.82
Wool Products Labeling Act	147,065.96	19,946.74	116.63	167,129.33
Legal aids to commission	26,709.23			26,709.23
Total	1,404,468.34	91,582.77	18,940.23	1,514,991.34
General investigations:				
Resale price maintenance	7,630.90			7,630.90
Export trade study	36,411.88	47.46		36,459.34
Cigarette inquiry		16.28		16.28
Survey of mergers	20,794.73	28.37		20,823.10
Wholesale bread baking industry	34,836.42	3,470.03	14.35	38,320.80
Special reports for President	3,923.43			3,923.43
House Agriculture Committee	595.52			595.52
Senate Committee on Agriculture	3,013.90	239.01	.95	3,253.86
Total	107,206.78	3,801.15	15.30	111,023.23
Printing and binding	23,335.58			23,335.58
Work for other agencies	1,931.72			1,931.72
Summary:				
Commissioners and Secretary	134,844.81	560.60	9.39	135,414.80
Administration	300,634.22	110.00	61,631.36	362,375.58
Legal	1,404,468.34	91,582.77	18,940.23	1,514,991.34
General investigations	107,206.78	3,801.15	15.30	111,023.23
Work for other agencies	1,931.72			1,931.72
Printing and binding			23,335.58	23,335.58
Total	1,949,085.87	96,054.52	103,931.86	2,149,072.25

## RECAPITULATION OF COSTS BY DIVISIONS

Commissioners and Secretary	\$139,707.91	\$875.17	\$10.57	\$140,593.65
Chief counsel	317,898.81	19,668.27	5,813.49	413,380.57
Accounts, statistics and economic investigations.	156,385.05	4,799.25	27.20	161,211.50
Chief examiner	493,566.55	37,947.44	1,186.88	532,700.87
Trial examiner	122,377.54	10,863.25	6.06	133,246.85



Radio and periodical	123,335.00			123,335.00
Medical advisory	25,147.09	600.87	1,795.09	27,543.05
Trade practice conferences	162,252.23	21,190.27	125.63	183,568.13
Legal aids to commission	28,640.95			28,640.95
Administrative	309,774.74	110.00	71,631.36	381,516.10
Printing and binding			23,335.58	23,335.58
Total	1,949,085.87	96,054.52	103,931.86	2,149,072.25

**APPROPRIATIONS AND EXPENDITURES, 1915-46**

Appropriations available to the Commission since its organization and expenditures for the same period, together with the unexpended balances, are :

Year	Nature of appropriations	Appropriations and liabilities	Expenditures	Balance
1915	Lump sum	\$184,016.23	\$90,442.05	\$93,574.18
	Printing and binding	12,386.76	9,504.10	2,882.60
1916	Lump sum	430,964.08	379,927.41	51,636.67
	Printing and binding	15,000.00	14,997.55	2.45
1917	Lump sum	542,025.92	448,890.66	93,135.26
	Printing and binding	25,000.00	23,610.54	1,389.48
1918	Lump sum	1,578,865.92	1,412,280.19	166,585.73
	Printing and binding	30,000.00	11,114.06	18,885.94
1919	Lump sum	1,693,622.18	1,491,637.39	201,984.97
	Printing and binding	14,934.21	14,934.21	0
1920	Lump sum	1,206,587.42	1,007,593.30	198,994.12
	Printing and binding	28,348.97	28,348.97	0
1921	Lump sum	938,609.94	842,991.24	95,618.70
	Printing and binding	37,182.56	37,182.56	0
1922	Lump sum	952,505.45	878,120.24	74,385.21
	Printing and binding	22,801.73	22,801.73	0
1923	Lump sum	952,020.11	948,293.07	3,727.04
	Printing and binding	22,460.21	22,400.21	0
1924	Lump sum	990,000.00	900,020.93	29,979.07
	Printing and binding	20,000.00	19,419.25	580.75
1925	Lump sum	990,000.00	988,082.37	1,917.63
	Printing and binding	20,000.00	19,866.14	133.86
1926	Lump sum	990,000.00	976,957.02	13,042.98
	Printing and binding	18,000.00	18,000.00	0
1927	Lump sum	980,000.00	943,881.99	36,118.01
	Printing and binding	17,000.00	17,000.00	0
1928	Lump sum	967,850.00	951,965.15	15,884.85
	Printing and binding	16,500.00	16,500.90	0
1929	Lump sum	1,135,414.83	1,131,521.47	3,893.36
	Printing and binding	27,777.69	27,777.69	0
1930	Lump sum	1,440,971.82	1,430,084.17	10,887.65
	Printing and binding	35,363.58	35,363.58	0
1931	Lump sum	1,932,857.81	1,808,463.35	124,454.46
	Printing and binding	39,858.73	39,858.73	0
1932	Lump sum	1,808,097.19	1,749,484.00	58,612.59
	Printing and binding	30,000.00	30,000.00	0
1933	Lump sum	1,421,714.70	1,378,973.14	42,741.56
	Printing and binding	30,000.00	20,000.00	10,000.00
1934	Lump sum	1,273,763.49	1,273,006.38	157.11
	Printing and binding	40,250.00	40,250.00	0
1935	Lump sum	2,063,398.01	1,922,313.34	141,084.67
	Printing and binding	34,000.00	34,000.00	0
1936	Lump sum	1,998,665.58	1,788,729.76	209,935.82
	Printing and binding	36,800.00	32,996.05	3,803.95
1937	Lump sum	1,895,571.94	1,850,673.82	44,898.12
	Printing and binding	43,353.95	43,353.95	0
1938	Lump sum	1,950,000.00	1,895,519.47	54,480.35
	Printing and binding	46,000.00	46,000.00	0
1939	Lump sum	2,236,795.00	2,150,474.40	86,320.60
	Printing and binding	46,700.00	46,709.00	0
1940	Lump sum	2,285,500.00	2,214,889.07	70,610.93
	Printing and binding	60,000.00	60,000.00	0
1941	Lump sum	2,240,000.00	2,167,256.24	72,743.76
	Printing and binding	60,000.00	59,000.00	1,000.00
1942	Lump sum	2,373,822.00	2,296,921.13	76,900.87
	Printing and binding	60,000.00	42,000.00	18,000.00
1943	Lump sum	2,237,705.00	2,100,783.09	138,921.91
	Printing and binding	50,250.00	32,210.75	18,039.25
1944	Lump sum	2,040,050.00	1,917,307.50	122,742.50
	Printing and binding	43,000.00	39,848.47	3,151.55

1945	Lump sum	2,016,070.00	1,957,818.31	58,251.69
	Printing and binding	43,000.00	39,728.72	3,271.23
1946	Lump sum	2,129,833.00	2,118,404.77	11,428.28
	Printing and binding	44,000.00	33,044.88	10,955.12

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## APPENDIXES

### 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, 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 his 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. 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, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint secretary who shall receive a salary of \$5,000 a year, 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 be from time to time 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 find 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 paid 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>2</sup>

<sup>1</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>2</sup> Auditing of accounts was made a duty of the General Accounting Office by the Act of June 10, 1921, 42 Stat. 24.

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 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) Unfair methods of competition in commerce, and unfair or deceptive acts

or practices in commerce, are hereby declared unlawful.

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, <sup>3</sup> 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

<sup>3</sup> By subsection (f), Section 1107 of the "Civil Aeronautics Act of 1938," approved June 23, 1938, Public No.706, 75th Congress, Ch. 601, 3d Sess., S. 3845, 52 Stat. 1028, Section 5 (a) of the Federal Trade Commission Act was amended by inserting before the words "and persons" (and following the words "to regulate commerce"), the following: "air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1918."

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>4</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

4 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.

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.

(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 any wise 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 a 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 of 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 of 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 of 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.

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 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 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

<sup>s</sup> See footnote on p. 2

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 Untied 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 willfully 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 purposes 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. 6 (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 purposes of section 12, 13, and 14--

(a) 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.

(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,

6 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."

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 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.

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.

### **OTHER ACTS ADMINISTERED BY THE COMMISSION**

In addition to the Federal Trade Commission Act, the Commission also administers section 2 of the Clayton Act (15 U.S. C., sec. 13), as amended by the Robinson-Patman Anti-discrimination Act, and sections 3, 7, and 8 of the Clayton Act (15 U.S. C., secs. 14, 18, and 19); the Export Trade Act (15 U.S. C., secs. 61-65) ; the Wool Products Labeling Act (15 U. S. C., sec. 68); and certain sections of the Trade-Mark Act of 1946 (15 U.S. C., secs. 1051-1072, 1091-1096, and 1111-1127).

## **RULES OF PRACTICE**

### **RULE I. THE COMMISSION <sup>1</sup>**

*Offices.*--The principal office of the Commission is at Washington, D. C.

All communications to the Commission must be addressed to Federal Trade Commission, Washington 25, D. C., unless otherwise specifically directed.

Branch Offices are maintained at New York, Chicago, San Francisco, Seattle, and New Orleans.

Their addresses are : Federal Trade Commission, Room 501, 45 Broadway, New York , N. Y.; Federal Trade Commission, 1118 New Post Office Building, 433 West Van Buren Street, Chicago, Ill.; Federal Trade Commission, Federal Office Building, Room 133, Civic Center, San Francisco, Calif.; Federal Trade Commission, 447 Federal Office Building, Seattle, Wash.; Federal Trade Commission, Room 652, Federal Office Building, 600 South Street, New Orleans, La.

*Hours.*--Offices are open on each business day from 8: 30 a. m. to 5 p. m.

*Sessions.*--The Commission may meet and exercise all its powers at any place, and 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.

Sessions of the Commission for hearings will be held as ordered by the Commission.

Sessions of the Commission for the purpose of making orders and for transaction of other business unless otherwise ordered will be held at the principal office of the Commission at Pennsylvania Avenue at Sixth Street, Washington, D. C., on each business day at 10 a. m.

*Quorum.*--A majority of the members of the Commission shall constitute a quorum for the transaction of business.

*Public information.*--All requests, whether for information or otherwise, and submittals shall be addressed to the principal office of the Commission.

### **RULE II. THE SECRETARY**

The Secretary is the executive officer of the Commission and shall have the legal custody of its seal, papers, records, and property; and all orders of the Commission shall be signed by the Secretary or such other person as may be authorized by the Commission.

### **RULE III. HEARINGS ON INVESTIGATIONAL**

Hearings on investigations other than those arising from formal complaints issued by the Commission may be referred to a Commis-

<sup>1</sup> A separate statement as to the organization and the formation of the various divisions of the Federal Trade Commission and as to the general course and method by which those functions are channeled and determined, in compliance with section 3 (a) of the Administrative Procedure Act, was published in the Federal Register on

September 11, 1946.

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sioner or other designated representative of the commission for conducting conferences or hearings on submitted subjects, giving timely and reasonable notice of time and place thereof, and making such reports thereon as the Commission may direct.

Every person compelled to submit data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript of thereof, except that in a non-public investigatory proceeding the witness may for good cause be limited to inspection of the official of his testimony.

#### **RULE IV. APPLICATIONS FOR COMPLAINT**

Any person, partnership, corporation, or association may apply to the Commission to institute a proceeding in respect to any violation of law over which the Commission has jurisdiction.

Such application for complaint shall be in writing, signed by or in behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation of law and the name and address of the applicant and of the party complained of.

#### **RULE V. COMPLAINTS**

Whenever the Commission shall have reason to believe that there is a violation of law over which the Commission has jurisdiction, and in case of violation of the Federal Trade Commission Act, if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, the Commission shall issue and serve upon the proper parties a complaint stating its charges and containing a notice of a hearing upon a day and at the place therein fixed, at least thirty (30) days after the service of said complaint.

#### **RULE VI. SERVICE**

Complaints, orders, and other processes of the Commission, and briefs in support of the Complaint, will be served by the secretary of the Commission by registered mail, except when service by other method shall be specifically ordered by the Commission, by registering and mailing a copy thereof addressed to the person, partnership, or corporation to be served at his or its principal office or place of business. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

When service is not accomplished by registered mail complaints, orders, or other processes of the Commission, and briefs in support of the complaint may be served by anyone duly authorized by the Commission, or by any examiner of the Commission,

(a) By delivering a copy of the document 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, partnership, or corporation. When proceeding under the Federal Trade

Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

The return post-office receipt for said complaint, order, or other process or brief registered and mailed as aforesaid, or the verified return by the person serving such complaint, order, or other process or brief, setting forth the manner of said service, shall be proof of the service of the document.

### **RULE VII. APPEARANCE**

Any individual or member of a partnership which is a party to any proceeding before the Commission may appear for himself, or such partnership upon adequate identification, and a corporation or association may be represented by a bona fide officer of such corporation or association upon a showing of adequate authorization therefor.

A party may also appear by an attorney at law possessing the requisite qualifications, as hereinafter set forth, to practice before the Commission.

Attorneys at law who are admitted to practice before the Supreme Court of the United States, or the highest court of any State or Territory of the United States, or the United States Court of Appeals for the District of Columbia, or the District Court of the United States for the District of Columbia, may practice before the Commission.

No register of attorneys who may practice before the Commission is maintained. No application for admission to practice before the Commission is required. A written notice of appearance on behalf of a specific party or parties in the particular proceeding should be submitted by attorneys desiring to appear for such specific party or parties, which notice shall contain a statement that the attorney is eligible under the provisions of this rule. Any attorney practicing before the Commission or desiring so to practice may, for good cause shown, be disbarred or suspended from practicing before the Commission, but only after he has been afforded an opportunity to be heard in the matter.

No former officer, examiner, attorney, clerk, or other former employee of this Commission shall appear as attorney or counsel for or represent any party in any proceeding resulting from any investigation, the files of which came to the personal attention of such former officer, examiner, attorney, clerk, or other former employee during the term of his service or employment with the Commission.

### **RULE VIII. ANSWERS**

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Ten (10) copies of answers shall be furnished. The original of all answers shall be signed in ink, by the respondent or by his attorney at law. Corporations or associations shall file answers through a bona fide officer or by an attorney at law. Answers shall show the office and post-office address of the signer.

Failure of the respondent to file answer within the time above provided and failure



to appear at the time and place fixed for hearing

shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true.

Contemporaneously with the filing of such answer the respondent may give notice in writing that he desires to be heard on the question may give notice in writing that he desires to be heard on the question as to whether the admitted facts constitute the violation of law charged in the complaint. Pursuant to such notice, the respondent may file a brief, directed solely to that question, in accordance with the rule XXIV.

### **RULE IX. INTERVENTION**

So far as the responsible conduct of public business shall permit, any interested person, after leave granted, may appear before the Commission, or its delegated responsible officer, for the presentation, adjustment, or determination of any issue, request, or controversy in any proceeding or in connection with any function of the Commission.

Any person, partnership, corporation, or association desiring to intervene In a contested proceeding shall make application in writing, setting out the grounds on which lie or it claims to be interested

The Commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem proper.

### **RULE X. MOTIONS**

Motions before the Commission or the trial examiner shall state briefly the purpose thereof and all supporting affidavits, records, and other papers, except such as have been previously filed, shall be filed with such motions and clearly referred to therein.

Motions in any proceeding before a trial examiner which relate to the introduction or striking of evidence, to matters of procedure, or to any other matters coming within the scope of the trial examiner's authority shall be made to the trial examiner and shall be ruled on by him. All other motions in any proceeding, except as otherwise provided in these rules, shall be addressed to and shall be ruled on by the Commission, but in the case of motions to dismiss for alleged failure of proof based upon testimony taken before a trial examiner, the motion will be referred to the trial examiner for report and recommendation before a ruling is made by the Commission.

Ten (10) copies of all written motions shall be filed with the Commission.

Prompt notice shall be given of the granting or denial, in whole or in part, of any written application, petition, or other request of any interested person made in connection with any formal proceeding. Except in affirming a prior denial or where the denial is self-explanatory, such notice shall be accompanied by a simple statement of grounds.



**RULE XI. CONTINUANCE AND EXTENSION OF TIME**

Except as otherwise expressly provided by law, the Commission, for cause shown, may extend any time limits prescribed in these rules. A hearing before a trial examiner shall begin at the course of the hearing shall be regulated by the trial examiner subject to the provisions of Rule XX.

Applications for continuances and extensions of time should be made prior to the expiration of time prescribed by these rules.

**RULE XII. DOCUMENTS**

*Filing.*--All documents required to be filed with the Commission in any proceeding shall be filed with the Secretary of the Commission.

*Title.*--Documents shall clearly show the docket number and title of the proceeding.

*Copies.*--Documents, other than correspondence, shall be filed *in triplicate*, except as otherwise specifically required by these rules.

*Form.*--Documents not printed shall be typewritten, on one side of paper only; letter size, eight (8) inches by ten and one-half (10 ½) inches; left margin, one and one-half (1 1/2) inches; right margin, one (1) inch.

Documents may be printed, in ten (10) or twelve (12) point type, on good, unglazed paper, of the dimensions and with the margins above specified.

Documents shall be bound at *left side only*.

The originals of all answers, briefs, motions, and other documents shall be signed in ink, by the respondent or his duly authorized attorney. Where the respondent is an individual or a partnership, the originals of said documents shall be signed by said individual or by one of the partners, or by his or its attorney. Where the respondent is a corporation, the originals of said documents shall be signed under the corporate name by a duly authorized official of such corporation, or by its attorney. Where the respondent is an association, the originals of said documents shall be signed under the association name for said association by a duly authorized official of such association, or by its attorney.

One copy of a brief or other document required to be printed shall be signed as the original.

**RULE XIII. ADMISSION AS TO FACTS AND DOCUMENTS**

At any time after answer has been filed counsel or parties In any controversy may serve upon the opposing side a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request or the admission of the truth of any relevant matters of fact set forth in such documents.

Copies of the documents shall be delivered with the request unless copies have already been furnished. Each of the matters on which an admission is so requested shall be deemed admitted unless, within a period designated within the request, not less than ten days after service thereof or within such further time as the Commission or

the trial examiner may allow on motion and notice, the party so served serves upon the party making the request, a sworn statement either denying specifically the matters of which an admission is requested, or setting forth in detail the reasons why he can neither truthfully admit nor deny those, matters. Service required hereunder may be made upon a respondent either by registering and mailing or by delivering a copy of the documents to be served to the respondent or his attorney, or by leaving a copy at the principal office or place of business of either. Service upon the attorney supporting the complaint may be either by registering and mailing or by delivering a copy of the documents to be served to such attorney.

#### **RULE XIV. TRIAL EXAMINERS**

All hearings pursuant to formal complaints shall be presided over by the Commission, a member of the Commission, or by a trial examiner appointed by the Commission and duly qualified as an examiner or hearing officer within the meaning of the Administrative Procedure Act. So far as practicable trial examiners shall be assigned to cases in rotation.

Subject to the published rules of the Commission and within Its authority, officers presiding at hearings shall have the following powers and duties In all cases to which they are assigned by the Commission, to wit:

- (1) To administer oaths and affirmations.
- (2) To rule upon offers of proof and receive relevant evidence.
- (3) To regulate the course of the hearings.
- (4) To hold conferences for the settlement or simplification of the Issues by consent of the parties.
- (5) To dispose of procedural requests or similar matters.
- (6) Within his discretion or upon the direction of the Commission to certify any question of the Commission for its consideration and disposition
- (7) To submit to the Commission his recommended findings, conclusions and form of order in accordance with rule XXII.
- (8) To take any other action authorized consistent with the law and the rules of the Commission.

Trial examiners shall perform no duties inconsistent with their duties and responsibilities as such. Save to the extent required for the disposition of *ex parte* matters as authorized by law, no trial examiner shall consult any person or party as to any fact in issue unless upon notice and opportunity for all parties to participate.

Trial examiners shall not be responsible to, or subject to the supervision or direction of, any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission.

The trial examiner is charged with the duty of conducting a fair and impartial hearing and of maintaining order in form and manner consistent with the dignity of the Commission. He will note on the record any disregard by counsel of his rulings on matters of order and procedure and where he deems it necessary shall make special written report thereof to the Commission. In the event that counsel supporting the complaint or counsel for any respondent shall be guilty of disrespectful, disorderly, or contumacious language or conduct in connection with any hearing, the trial examiner may suspend the proceeding and submit to the Commission his report thereon, together with his recommendations as to whether any rule should be issued to show cause why such counsel should not be suspended or disbarred pursuant to Rule VII or subjected

to other appropriate action in re-

spect thereto. A copy of such trial examiner's report shall be furnished to any counsel upon whose language or conduct such report is made, and the Commission will take disciplinary action only after an opportunity for hearing has been accorded such counsel.

### **RULE XV. HEARINGS IN ADVERSARY PROCEEDINGS**

All hearings pursuant to formal complaint shall be public unless otherwise ordered by the Commission, and such hearings shall be subject to the following conditions and requirements

(a) Every party respondent shall have the right of due notice, cross-examination, presentation of evidence, objection, exception, motion, argument, appeal and all other fundamental rights.

(b) The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay.

(c) Not less than five (5) days notice of the time and place of any indefinitely postponed hearing shall be given to counsel of record or to parties, but In appointing such hearing due regard shall be had for the convenience and necessity of all parties or their representatives.

(d) The trial examiner may withdraw from a case when he deems himself disqualified, or he may be withdrawn by the Commission after timely affidavits alleging personal bias or other disqualification have been filed and the matter has been heard by the Commission or by a trial examiner whom It has delegated to Investigate and report.

(e) Hearings shall be stenographically reported by the official reporter of the Commission under supervision of the presiding trial examiner. A transcript of said report shall be a part of the record and the sole official transcript of the proceeding. Transcripts will be supplied to respondents and to the public by the official reporter at rates not to exceed the maximum rates fixed by contract between the Commission and the reporter.

(f) All matters officially noticed by the presiding trial examiner shall appear on the record.

(g) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made in or upon the official record or copies thereof in the custody of the Commission. Lists of changes agreed to in writing by opposing counsel may be incorporated into the record, if and when approved by the trial examiner, at the close of evidence in support of the complaint, or at the final hearing before the trial examiner, or at any time thereafter before he files his report, and at no other times. If any changes are ordered by the trial examiner without such written agreement between opposing counsel they shall be subject to objection and exception.

### **RULE XVI. SUBPOENAS**

Subpoenas requiring the attendance of witnesses from any place in the United States, at any designated place of hearing, may be issued by the presiding trial examiner or a member of the Commission. Application therefor may be made either to the Secretary or to the presiding trial examiner.



Subpoenas for the production of the documentary evidence will be issued only upon application in writing to the Commission. The application must specify, as exactly as possible the documents desired, and show their competence, relevancy, and materiality. The application by a respondent shall be verified by oath or affirmation.

#### **RULE XVII. WITNESSES**

Witnesses at formal hearings shall be examined orally. Witnesses summoned in support of the complaint shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

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

Witness fees and mileage, and fees for depositions, shall be paid by the party at whose instance witnesses appear.

#### **RULE XVIII. EVIDENCE**

*In general.*--Counsel supporting the complaint shall have the general burden of proof and the proponent of any factual proposition shall be required to sustain the burden of proof with reference thereto. All findings, conclusions, and recommendations by Trial Examiners shall be based on the greater weight of the evidence. (The Commission also bases its findings and decisions on the greater weight of the evidence.) The trial examiner, subject to appeal to the Commission as provided in Rule XX, shall admit relevant, material and competent evidence, but shall exclude irrelevant, immaterial and unduly repetitious evidence.

*Documentary.*--Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be put in evidence, such immaterial or irrelevant parts shall be excluded, and shall be segregated insofar as practicable.

*Official notices of facts.*--Where any recommended decision of the trial examiner or any decision of the Commission, or part thereof, rests upon the taking of official notice of a material fact not appearing in the evidence in the record, any party shall, upon timely motion, be afforded an opportunity to show the contrary.

*Objections.*--Objections to evidence shall be in short form, stating the grounds relied upon, and the transcript shall not include argument or debate thereon except as ordered by the presiding officer. Rulings on such objections shall appear in the record.

#### **RULE XIX. DEPOSITIONS**

The Commission may order evidence to be taken by deposition in any proceeding or investigation pending at any stage of such proceed-

ing or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths.

Unless notice be waived, no deposition shall be taken except after at least five (5) days' notice to the parties within the United States, and fifteen (15) days' notice when deposition is to be taken elsewhere.

Any party desiring to take the deposition of a witness shall make application in writing, setting out the reasons why such deposition should be taken, and stating the time when, the place where and the name and post-office address of the person before whom it is desired the deposition be taken, the name and post-office address of the witness, and the subject matter or matters concerning which the witness is expected to testify. If good cause be shown, the Commission will make and serve upon the parties, or their attorneys, an order wherein the Commission shall name the witness whose deposition is to be taken and specify the time when, the place where, and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is to be taken, so specified in the Commission's order, may or may not be the same as those named in said application to the Commission.

The testimony of the witness shall be reduced to writing by the officer before whom the deposition is taken, or under his direction after which the deposition shall be subscribed by the witness and certified in usual form by the officer. After the deposition has been so certified, it shall, together with three additional copies thereof made by such officer or under his direction, be forwarded by such officer under seal in an envelope addressed to the Commission at its office in Washington, D. C. Such deposition, unless otherwise ordered by the Commission for good cause shown, shall be filed in the record in said proceeding and a copy thereof supplied to the party upon whose application said deposition was taken, or his attorney.

Depositions shall be typewritten, on one side of paper only; letter size, eight (8) inches by ten and one-half (10 1/2) inches; left margin, one and one-half (1 1/2) inches; right margin, one (1) inch.

Depositions shall be bound at left side only.

## **RULE XX. APPEALS TO THE COMMISSION FROM RULINGS OF TRIAL EXAMINERS**

Parties shall not have the right to prosecute appeals from rulings of trial examiners during the course of hearings unless it be shown that the prompt decision of such appeal is necessary to prevent undue expenditure of time and expense in the event the examiner's rulings were later reversed, or for similar good cause. In all other situations appeals may be taken to the Commission only as follows:

At the close of the taking of the evidence in any proceeding any party may notify the trial examiner that he will move the Commission to reverse or modify one or more of the trial examiner's rulings to which timely exception has been taken. In such event the hearings for the reception of evidence in any such case shall not be deemed to have been concluded until, either the reception of further evidence under direction of the Commission shall have been completed, or the Commission shall have communicated its decision that no further evidence shall be taken. If any party shall elect to make such motion or motions, the same shall be filed within ten (10) days after the tran-

script of the entire record shall be filed. In such motions each exception shall be separately set out, with exact citations to each portion of the record involved and references to the principle authorities relied upon. Any matters not thus laid before the Commission shall be deemed waived.

### **RULE XXI. ARGUMENTS BEFORE TRIAL EXAMINERS AND COUNSEL'S SUGGESTIONS FOR FINDINGS AND ORDERS**

When, in the opinion of the trial examiner presiding in any proceeding upon complaint issued by the Commission, the size of the transcript or the complication or importance of the issues involved warrants, he may, either of his own motion or at the request of a party, announce at or before the close of the taking of testimony that he requests the presentation of, oral argument at a time stated.

Whether oral argument be heard by the trial examiner or not the parties, within such time not exceeding fifteen (15) days after the closing of the taking of the evidence, as may be fixed by the trial examiner, shall if they desire, present statements in writing to the trial examiner setting forth, in concise outline such forms of proposed findings and conclusions and, if desired, the reasons therefor, and such proposed forms of order as they may deem requisite in view of the facts, the law and the public interest.

Neither waivers of the right to submit said statements nor the election to file them shall change the' time prescribed in rule XXII for the filing of report by the trial examiner. A copy of any such statement of proposed findings, conclusions, and order shall be furnished to all other parties by each party submitting the same, shall be certified to the Commission by the trial examiner, and shall be included in the record certified to the Commission.

### **RULE XXII. TRIAL EXAMINER'S REPORT**

The trial examiner, as soon as practicable and not later than thirty (30) days after receipt by him of the complete stenographic transcript of all testimony and all exhibits in the proceeding, shall make and file his report, consisting of his report upon the facts, conclusions of fact, conclusions of law, and his recommended order. All such reports shall be advisory only as the Commission reserves to itself the decision in all cases brought before it.

Except where he shall have become unavailable to the Commission, the said report shall be made by the trial examiner who presided at the hearing.

No officer, employee or agent, engaged in the performance of investigative or prosecuting functions for the Commission in any case shall, in that or a factually related case, participate or advise as to the findings, conclusions or order to be recommended by the trial examiner, except as a witness or as counsel in public proceedings.

The trial examiners' reports shall become a part of the record.

The trial examiner shall recommend only such findings as he shall deem supported by the weight of the evidence (including facts of which he may take official notice

pursuant to rule XVIII), and he shall recommend no finding which is not supported by relevant, reliable, and probative evidence.

A copy of the trial examiner's report shall be served upon each party, legal counsel or other representative, who has appeared pursuant to rule VII.

### **RULE XXIII. EXCEPTIONS**

Any party may, within ten (10) days after receipt of a copy of the trial examiner's report, file his exceptions thereto. Exceptions to the trial examiner's recommended findings as to the facts and to his recommended conclusions of fact shall specify the particular statements or parts thereof to which exception is taken; shall designate, by specific references, the portions of the record relied upon in support of such exceptions; shall set out specific findings and conclusions of fact proposed in lieu thereof and may propose findings and conclusions of fact additional to those recommended by the trial examiner. Exceptions to the trial examiner's recommended conclusions of law shall be specific, shall briefly cite the statutory provisions or the principal authorities relied upon, shall set forth conclusions suggested in lieu thereof and may propose additional conclusions. Exceptions both to recommended findings and recommended conclusions may if desired include the reasons therefor. Exceptions to the trial examiner's recommended form of order shall specify the portions thereof excepted to and set forth a form of order suggested in lieu of that recommended by the trial examiner.

Ten (10) copies of the exceptions, signed, in ink, shall be filed. A copy of such exceptions shall forthwith be served upon each of the other attorneys and respondents who were served with a copy of the trial examiner's report.

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits.

### **RULE XXIV. BRIEFS AND ORAL ARGUMENTS BEFORE THE COMMISSION**

#### **A. QUESTIONS FOR PRESENTATION**

Questions which may be considered and decided by the Commission and presented include the following:

(1) "Whether the findings and conclusions of fact recommended by the trial examiner are relevant to the issues and are supported by substantial probative evidence and by a preponderance of evidence;

(2) Whether additional findings, not recommended by the trial examiner, should be made either with or without sending the case back to the trial examiner for the reception of further evidence ;

(3) Whether the trial examiner was justified in having taken official notice of any fact under Rule VIII and whether the Commission should take official notice of any other fact ;

(4) Whether due process was observed and whether parties are estopped from urging

any irregularity in procedure ;

(5) Whether the facts show a violation of law and of the public interest lawfully amenable to redress by the Commission and what conclusions of law are justified a site in the premises; and

(6) Whether an order to cease and desist an order of dismissal, or other order, should be entered amid issued, and the substance and form thereof.

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## B. BRIEFS

*Filing.*--Any party to a proceeding may file a brief with the Secretary of the Commission, in support of his contentions, within the time limits fixed by these rules.

Briefs not filed on or before the time fixed in the rules will be received only by special permission of the Commission.

Appearance of additional counsel in a case will not constitute grounds for extending time for filing briefs.

*Time.*--Opening brief shall be filed by the attorney supporting the complaint within twenty (20) days after service upon him of a copy of the report of the trial examiner.

Brief on behalf of respondent shall be filed within twenty (20) days after service upon respondent or respondent's attorney of copy of brief in support of the complaint.

Where respondent shall have filed an answer admitting all material allegations of fact, the time so limited shall begin to run at the time of filing such answer.

In the event permission is granted for filing reply brief in support of the complaint, it shall be filed within ten (10) days after filing of brief on behalf of respondent. No further reply brief on behalf of respondent shall be filed.

*Number.*--Twenty (20) copies of each brief shall be filed.

*Contents.*--Briefs, except the reply brief in support of the complaint, shall contain, in the following order:

(a) A concise abstract or statement of the case.

(b) A brief of the argument, exhibiting a clear statements of the points of fact or law to be discussed, with references to the pages of the record and the authorities relied upon in support of each point.

(c) The exceptions, if any, to the report of the trial examiner.

*Index.*-- Briefs comprising more than ten (10) pages shall contain on their top fly leaves a subject index with page references. The subject index shall be supplemented by an alphabetical list of all cases referred to, with references to pages where references are cited.

*Form.*--Briefs shall be printed, multigraphed, or otherwise neatly processed on good unglazed white paper in type not smaller than ten (10) point double leaded, citations and quotations single leaded; footnotes not less than eight (8) point leaded. Type page shall not be more than twenty-nine: (29) picas wide by approximately forty-eight (48) picas deep and trimmed page shall be seven (7) inches by ten (10) inches, with an inside margin of not less than one (1) inch.

*Signing.*--At least one copy of each brief shall be signed in ink, by the respondent or his duly authorized attorney, as prescribed in Rule XII.

## C. ORAL ARGUMENTS

Oral arguments before the Commission shall be had as ordered, on written application of the chief trial counsel of the Commission, or of the respondent, or of attorney for respondent, filed within fifteen (15) days after filing of brief on behalf of respondent.

Appearance of additional counsel in a case will not constitute grounds for enlarging time for oral argument.

Oral arguments before the Commission shall be reported stenographically unless otherwise ordered by the Commission.



**RULE XXV. REPORTS SHOWING COMPLIANCE WITH ORDERS AND WITH STIPULATIONS**

In every case where an order to cease and desist is issued by the Commission for the purpose of preventing violations of law and in every instance where the Commission approves and accepts a stipulation in which a party agrees to cease and desist from the unlawful methods, acts, or practices involved, the respondents named in such orders and the parties so stipulating shall file with the Commission, within sixty days of the service of such order and within sixty days of the approval of such stipulation, a report, in writing, setting forth in detail the manner and form in which they have complied with said order or with said stipulation; provided, however, that if within the said sixty (60) day period respondent shall file petition for review in a circuit court of appeals, the time for filing report of compliance will begin to run *de novo* from the final judicial determination; and provided further, that where the order prevents the use of a false advertisement of a food, drug, device, or cosmetic, which may be injurious to health because of results from such use under the conditions prescribed in the advertisement, or under such conditions as are customary or usual, or if the use of such advertisement is with intent to defraud or mislead, an interim report stating whether and how respondents intend to comply shall be filed within ten days.

Within its sound discretion, the Commission require any respondent upon whom such order has been served may and any party entering into such stipulation, to file with the Commission, from time to time thereafter, further reports in writing, setting forth in detail the manner and form in which they are complying with said order or with said stipulation.

Reports of compliance shall be signed in ink by respondents or by the parties stipulating.

**RULE XXVL REOPENING PROCEEDINGS**

In any case where an order to cease and desist or an order dismissing a proceeding has been issued by the Commission, the Commission may (a) in the case of an order to cease and desist, at anytime until the transcript of the record in the proceeding has been filed in a circuit court of appeals of the United States upon a petition for review or enforcement, or after the expiration of the statutory time for filing of a petition for review where no such petition has been filed, or (b) in the case of an order dismissing a proceeding at any time thereafter, give reasonable notice to all respondents and to all intervenors, if any, of a hearing as to whether the said proceeding should be reopened. If after said hearing the Commission shall have reason to believe that conditions of fact or of law have so changed since the said order was made as to require, or that the public interest requires, the reopening of such proceeding, the Commission will issue an order for the reopening of the same.

**RULE XXVII. TRADE PRACTICE CONFERENCE PROCEDURE**

(a) *Purpose.*--The trade practice conference procedure has for its purpose the establishment, by the Commission, of trade practice rules in the interest of industry

and the purchasing. public. This pro-

cedure affords opportunity for voluntary participation by industry groups or other interested parties in the formulation of rules to provide for elimination or prevention of unfair methods of competition, unfair or deceptive acts or practices and other illegal trade practices. They may also include provisions to foster and promote fair competitive conditions and to establish standards of ethical business practices in harmony with public policy. No provision or rule, however, may be approved by the Commission which sanctions a practice contrary to law or which may aid or abet a practice contrary to law.

(1) *When authorized.*--Trade practice conference proceedings may be authorized by the Commission upon its own motion or upon application therefor whenever such proceedings appear to the Commission to be in the interest of the public. In authorizing proceedings, the Commission may consider whether such proceedings appear to have possibilities (1) of constructively advancing the best interests of industry on sound competitive principles in consonance with public policy, or (2) of bringing about more adequate or equitable observance of laws under which the Commission has jurisdiction, or (3) of otherwise protecting or advancing the public interest.

(c) *Application.*--Application for a trade practice conference may be filed with the Commission by any interested person, party or group. Such application shall be in writing and be signed by the applicant or the duly authorized representative of the applicant or group desiring such conference. The following information, to the extent known to the applicant, shall be furnished with such application or in a supplement thereto:

- (1) A brief description of the industry, trade, or subject to be treated.
- (2) The kind and character of the products involved.
- (3) The size or extent and the divisions of the industry or trade groups concerned.
- (4) The estimated total annual volume of production or sales of the commodities involved.
- (5) List of membership of the industry or trade groups concerned in the matter.
- (6) A brief statement of the acts, practices, methods of competition or other trade practices desired to be considered, or drafts of suggested trade practice rules.

(d) *Informal discussions with members of the Commission's staff.*--Any interested person or group may, upon request, be granted opportunity to confer in respect to any proposed trade practice conference with the Commission's trade practice conference division, either prior or subsequent to the filing of any such application. They may also submit any pertinent data or information which they desire to have considered. Such submission shall be made during such period of time as the Commission or its duly authorized official may designate.

(e) *Industry conferences.*--Reasonable public notice of the time and place of any such authorized conference shall be issued by the Commission. A member of the Commission or of its staff shall have charge of the conference and shall conduct the conference pursuant to direction of the Commission and in such manner as will facilitate the proceeding and afford appropriate consideration of matters properly coming before the conference. A transcript of the conference pro-

ceedings shall be made, which, together with all rules resolutions, modifications, amendments or other matters offered, shall be filed in the office of the Commission and submitted for its consideration.

(I) *Public hearing on proposed rules.*--Before final approval by the Commission of rules for an industry, and upon such reasonable public notice as to the Commission seems appropriate, further opportunity shall be afforded by the Commission to all interested persons, corporations or other organizations, including consumers, to submit in writing relevant suggestions or objections and to appear and be heard at a designated time and place.

(g) *Promulgation of rules.*--When trade practice rules shall have been finally approved and received by the Commission, they shall be promulgated by official order of the Commission and published, pursuant to law, in the Federal Register. Said rules shall become operative thirty (30) days from date of promulgation or at such other time as may be specified by the Commission. Copies of the final rules shall be made available at the office of the Commission. Under the procedure of the Commission a copy of the trade practice rules as promulgated by the Commission is sent to each member of the industry whose name and address is available, together with an acceptance form providing opportunity to such member to signify his intention to observe the rules in the conduct of his business.

(h) *Violations.*--Complaints as to the use, by any person, corporation or other organization, of any act, practice or method inhibited by the rules may be made to the Commission by any person having information thereof. Such complaints, if warranted by the facts and the law, will receive the attention of the Commission in accordance with the law. In addition, the Commission may act upon its own motion in proceeding against the use of any act, practice or method contrary to law.

## **RULE XXVIII. PUBLIC INFORMATION**

The Rules of Practice of the Commission, and such amendments as may be made thereto, shall be published in the Federal Register and may be obtained from the Commission upon application.

The findings, conclusions of law, and final orders of the Commission in respective formal proceedings and a digest of accepted stipulations to desist from unlawful practices shall be published in the official reports of the Commission.

Trade Practice Conference Rules for respective industries, issued under rule XXVII hereto, may be obtained upon application to the Commission and shall be published in the Federal Register.

Information concerning the activities of the Commission will be released from time to time under the direction or pursuant to the authority of the Commission.

In proceedings instituted by the issuance of formal complaint, the pleadings, transcript of testimony, exhibits, and all documents received in evidence or made a part of the record therein shall be available for inspection and copying by the public at the convenience of the Commission.

Documents, records, and reports made public by the Commission, including stipulations to cease and desist, certain trade practice conference records, and certain papers filed under the Wool Products



Labeling Act shall be available for inspection and copying at the convenience of the Commission.

The records and figures of the Commission, and all documents, memoranda, correspondence, exhibits, and information of whatever nature, other than the documentary matters above described, coming into the possession or within the knowledge of the Commission or any of its officers or employees in the discharge of their official duties, are confidential, and none of such material or information may be disclosed, divulged; or produced for inspection or copying except under the following circumstances:

Upon good cause shown, the Commission may by order direct that certain records, files, papers, or information be disclosed to a particular applicant.

(a) Application by a member of the public for such disclosure shall be in writing, under oath, setting forth (1) the interest of the applicant in the subject matter; (2) a description of the specific information, files, documents, or other material inspection of which is requested; (3) whether copies are desired; and (4) the purpose for which the information or material, or copies, will be used if the application is granted. Upon receipt of such an application the Commission will take such action thereupon as it shall deem expedient in the public interest.

(b) In the event that confidential material is desired for inspection, copying, or use by some agency of the Federal or a State Government, a request therefor may be made by the administrative head of such agency. Such requests shall be in writing, and shall describe the information or material desired its relevancy to the work and function of such agency and, if the production of documents or records or the taking of copies thereof is asked, the use which is intended to be made of them. The Commission will consider and act upon such requests, having due regard to the public interest and questions of expediency.

In cases in which an officer or employee of the Commission has been lawfully served with a subpoena duces tecum, material designated herein as confidential shall be produced only when and as authorized, by the Commission. Services of such a subpoena shall immediately be reported to the Commission with a statement of all relevant facts. The Commission will thereupon enter such order or give such instructions as it shall deem advisable in the premises. If the officer or employee so served has not received instructions from the Commission prior to the return date of the subpoena, he shall appear in response thereto and respectfully decline to produce the documents or records subpoenaed (pointing out that he is not permitted to do so under this rule) , and request a continuance pending action by or instructions from the Commission. If, notwithstanding, the court or other body orders the production of any of the material subpoenaed, the officer or employee shall immediately report the facts to the Commission.

## **STATEMENT OF POLICY**

### **STATUS OF APPLICANT OR COMPLAINANT**

The so-called “applicant” or complaining party has never been regarded as a party in the strict sense. The Commission acts only in the public interest. It has always been and now is the rule not to publish or divulge the name of an applicant or complaining party, and such party has no legal status before the Commission except where allowed to intervene as provided by the statute.

### **POLICY AS TO PRIVATE CONTROVERSIES**

It is the policy of the Commission not to institute proceedings against alleged unfair methods of competition or unfair or deceptive acts or practices where the alleged violation of law is a private controversy redressable in the courts, except where said practices tend to affect the public. In cases where the alleged injury is one to a competitor only and is redressable in the courts by an action by the aggrieved competitor and the interest of the public is not involved, the proceeding will not be entertained.

### **SETTLEMENT OF CASES BY TRADE PRACTICE CONFERENCE AND STIPULATION AGREEMENTS**

Whenever the Commission shall have reason to believe that any person has been or is using unfair methods of competition or unfair or deceptive acts or practices in commerce, and that the interest of the public will be served by so doing, it may withhold service of complaint and extend to the person opportunity to execute a stipulation satisfactory to the Commission, in which the person, after admitting the material facts, promises and agrees to cease and desist from and not to resume such unfair methods of competition or unfair or deceptive acts or practices. All such stipulations shall be matters of public record, and shall be admissible as evidence of prior use of the unfair methods of competition or unfair or deceptive acts or practices involved in any subsequent proceeding against such person before the Commission. It is not the policy of the Commission to thus dispose of matters involving intent to defraud or mislead; false advertisement of food, drugs, devices or cosmetics which are inherently dangerous or where injury is probable; suppression or restraint of competition through conspiracy or monopolistic practices; violations of the Clayton Act; violations of the Wool Products Labeling act of 1939 or the rules promulgated thereunder; or where the Commission is of the opinion that such procedure will not be effective in preventing

continued use of the unlawful method, act, or practice. The Commission reserves the right in all cases, for any reasons which it regards as sufficient, to withhold this privilege.

### **REPORTS OF TRIAL EXAMINERS**

The policy of the Commission is that reports of trial examiners on the evidence shall not be open to public inspection or to publication until after the publication of the Commission's decisions in the cases in which such reports are made. During this time they are open only to the Commission, to counsel, and to parties respondent in such cases.

### **WOOL PRODUCTS LABELING ACT**

In the handling of cases arising under this Act, the practice and procedure of the Commission will be as provided in cases arising under the Federal Trade Commission Act.



## INVESTIGATIONS BY THE COMMISSION, 1915-46

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 on 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 below. For wartime inquiries, 1917-18 and 1941-45, see paragraphs headed "Wartime."

**Accounting Systems (F. T. C.)**--Pointing the way to a general improvement in accounting practices, the Commission published *Fundamentals of a Cost System for Manufacturers* (H. Doc. 1356, 64th, 31 p., 7/1/16) and *A System of Accounts for Retail Merchants* (19 p., o. P., 7115110).

**Accounting Systems**--See Distribution Cost Accounting, and Production 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 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. 01, 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

<sup>1</sup> The wartime cost-finding inquiries, 1917-1918 (p. 119), 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. For further explanation, see footnote on p.2.

<sup>4</sup> F. T. C. recommendations that section 7 of the Clayton Act be amended to declare unlawful the acquisition of corporate assets under the same conditions that acquisition of corporate stock has been unlawful since 1914, are discussed in *Chain Stores--Final Report on the Chain Store Investigation* (S. Doc. 4, 74th, 12/14/34), p.96 ; *Summary Report on 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; and F. T. C. Annual Reports : 1938, pp.19 and 29; 1939, p.14; 1940, p. 12; 1941. p. 19; 1942, p.9; 1943, p.9; 1944, p.7; 1945, p. S; 1946, p.12.

<sup>5</sup> See footnote 4, above.

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, Vegetables, 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, **Agricultural Prices.**--See Price Deflation.

**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 L-258 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.

**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., 3/3/23).

**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 operated to secure capital equipment or whether orders that had been operated had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

**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 tended to lessen price competition and destroy the value of sealed 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., 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 in selected cities. (For subtitles of 33 reports published 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.

**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

<sup>6</sup> Basing-point systems are also discussed in the published reports listed under "Price Bases," "Steel Code," and "Steel Sheet Piling" herein.

<sup>7</sup> See footnote 4, p.103.

Amendment No. 2 to P B. General Preference Order No. m-18-a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

**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 the 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, 65th, 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, 6/22/16; 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., S. Doc. 207, 67th)--pursuant to F. T. C. motion; and *Report of the F. T. C. on Premium Prices of Anthracite* (97 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 Reports 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. ; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p.; (5) Ohio, Indiana, and Michigan, bituminous, 288 p.; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p. ; and (7) trans-Mississippi States, bituminous, 459 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-Monthly Reports on Cost of Production*, 4/20/20 to 10/30/20, Nos. 1 to 6, and two quarterly reports with revised costs, 8/25/20 and 12/6/20, processed, o. p.). An injunction to prevent the calling for the monthly reports (denied about seven years later) led to their abandonment.

**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., 5/15/18),

recommending legislation striking at this practice ; *Commercial Bribery* (S. Doc. unnumbered, 65th, 36 p., o. p., 8/22/18); and *Commercial Bribery* (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

**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 stocks of critical materials involved in the operation of major plants devoting their efforts to war production were 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.

**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 U.S.

**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 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).

**Corporation Reports.**--See Industrial Corporation Reports.

**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.).

**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 confidential 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.

**Cotton Industry.**--See Textiles.

**Cottonseed Industry (House).**--Investigating alleged price fixing (H. Res. 439, 69th, 3/2/27) the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refiners 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. 91, 71st, 4 p., o. p., 2/28/30, and final report, 207 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., 6/23/41).

**Distribution.**--See Foods--Mass Foods Distributors.

**Distribution.**--See Millinery Distribution.

**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 Costs* were transmitted to Congress and published under the subtitles ; *Part I. Important Food Products* (11/11/43, 223 p.); *Part III. Building Materials--Lumber, Paints and Varnishes and Portland Cement* (2/19/44, 50 p.); *Part IV. Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements* (3/2/44, 189 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 Dept. 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. (See p. 17 for summary of *Part IX.*)

**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., processed, 2/1/29) discussed reported acquisitions 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.

**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.

**Electrical Household Appliances.**--See Distribution Methods and Costs.

**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.

**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 law violations (*Report of the F. T. C. on Commercial Feeds*, 206 p., 3/29/21).

**Fertilizer (Senate).**--Begun by the Commissioner of Corporations § (S Res. 487, 62d, 3/1/13), this inquiry disclosed extensive use of bogus 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 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.

**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).

<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."

**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 facts 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, 2574, 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, 825 p., o. p.); *IV The Five Large Packers in Produce and Grocery Foods* (6/80/19, 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 Live stock* (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, 9 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, Congress 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 Limitations, p.110).

**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 Exchanges* (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.); *VL Prices of Grain and Grain Futures* (9/10/24, 374 p.); and *VII. Effects of Future Trading* (6/25/26, 419 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, hearings, 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, p.109; Grain Exporters, p. 109; and Grain, Wheat Prices, p. 110.)

**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 U.S., pp. 5-13, o. p., 11/3/17*). 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, 103 p., o. p.): *Report of the F. T. C on Canned Foods--Canned Salmon* (12/27/18, 83p., 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--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

<sup>9</sup> The legal history of the consent decree and a summary of divergent economic interests involved in the question of packer 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.

<sup>10</sup> In connection with its wartime cost finding inquiries, 1917-18 p. 119 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).

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 was 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--Bread and Flour (Senate).**--Reports on this inquiry (S. Res. 163, 68th, 2/26/24) were: *Competitive Conditions in Flour Milling* (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., 1/11/28); and *Conditions in the Flour Milling Business, supplementary* (S. Doc. 96, 72d, 26 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.) and *Wholesale Baking Industry, Part II--Costs, Prices and Profits* (8/7/46). *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 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 86 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, 180 p., o. p., 5 /16/24).

**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.

**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, *Profits 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., 887 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., 12/13/20).

**Food--Important Food Products.**--See Distribution Methods and Costs.

**Food--Mass Foods Distributors (F. T. C.).**--The system of delivering foods to large chain store warehouses and the older system of delivery to individual retail stores were compared from an economic viewpoint (F. T. C., Res., 4/20/41).

**Food--Meat Packing Profit Limitations (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.) 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 Milk-sheds* (H. Doc. 152, 74th, 901 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., 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., 6/4/36); *Twin City Sales Area* (H. Doc. 506, 74th, 71 p., 6/18/36); 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 only be dealt with 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., 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 was being practiced, a Commission investigation (S. Res. 183, 66th, 7/25/19) 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., 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

<sup>11</sup> See footnote 8, p.107.



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, 73rd, 100 p., 1/11/34 ; supplemental report, 111 p., processed, 6/27/38).

**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.

**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 shippers, 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.

**Gasoline**--See Petroleum.

**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.

**Grain**--See Food.

**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., 5/27/20).

**House furnishings (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 House furnishing Industries*, 1018 p., 1/17/23, 10/1/23, and 10/6/24).

**Household Furniture (O. P. A.), Wartime, 1941-42.**--Costs, prices, and profits of 67 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.

**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.

**Industrial Corporation Reports (F. T. C.), Wartime, 1941-43.**--The Commission obtained corporation financial reports for 1939 and 1940. It published in combined form significant economic facts developed in the 1939 series relating to 76 industries which embraced 780 corporations (*Industrial Corporation Reports*, 77 vols., incl. summary, 10/15/40 to 6/30/41, approximately 1,500 pp., processed ; titles listed in F. T. O. Annual Report, 1941, p.24). In 1939 these corporations had an average total investment (after deduction of reported appreciation of assets) of more than \$28,000,000,000. The 1940 series, coordinated with wartime work for other Government agencies, was expanded to cover 4,500 corporations representing consolidated operations of more than 7,000 corporations operating in 86 principal strategic materials industries and to provide O. P. A. with approximately 12,000 annual reports of earlier years and quarterly reports of subsequent operations. The 1940 series was prepared for the confidential use of war and other agencies of the Government. Subsequently the reports were made public.

**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.

**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 and agreements 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.

**Jewel Bearings, Consumers of (W. P. B.), Wartime, 1942-43.**--For 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.

**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, s p., o. p., 1/23/18), and *Report on Leather and Shoe Industries* (180 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., 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 1/10/21, 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., 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., 5/7/23).

**Lumber Trade Associations (F. T. C.).**--Activities of five large associations were investigated in connection with the Open-Price Associations inquiry (p.113) to bring down to date the 1919 lumber association inquiry (Chap. VIII of *Open-Price Trade Associations*, S. Doc. 220, 70th, 516 p., 2/13/29).

**Mass Foods Distributors.**--See Food.

**Meat-Packing Profit Limitations.**--See Food.

**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.

**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, 11/21/39).

**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 re-strict 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., 6/5/89). The leading 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).]

**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.

**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., 2/13/29).

**Packer Consent Decree.--**See Food (President) Continued-Meat Packing.

**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. allocation 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-Book (Senate), Wartime, 1917-18.--**This inquiry (S. Res. 269, 64th, 9/7/16)

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 newsprint 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 News print, Paper Industry* (S. Doc. 49, 65th, 162 p., 6/13/17); and *Newsprint 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., 6/30/30).

**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.

**Peanut Prices.**--See Food.

**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 dis-cussed 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., 6/1/20) --pursuant to H. Res. 501, 66th, 4/5/20, In which report the Com mission made constructive proposals to conserve the oil supply ; *Letter of Submittal and Summary of Report on: Gasoline Prices in 1024* (24 p. processed, 6/4/24, and Gong. Record, 2/28/25, p.5158) --pursuant to request of President Coolidge, 2/7/24 ; *Petroleum Industry--Prices, Profits and Competition* (S. Doc. 61, 70th, 360 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 *Gasolines Prices* (S. Doc. 178, 73d, 22 p., 5/10/34) --pursuant to S. Res. 166, 73d, 2/2/34.

**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 (4/2/87) to the Attorney General.

**Petroleum--Foreign Ownership (Senate).**--Inquiry was made (S Res. 311, 67th, 6/29/22) into acquisition of extensive 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 Owners hip 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 pipe-line companies which were unfair to small producers (*Report on Pipe-Line Trans p oration of Petroleum*, 467 p., o. p., 2/28/16), 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.)--pursuant to 5. 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., 7/13/22)--pursuant to F. T. C. motion, in which report legislation to remedy existing conditions was recommended ; and *Report of the F. T. C. on Panhandle Crude Petroleum* (Texas) (19 p., 2/3/28)--pursuant to F. T. C. motion, 10/6/26 (in response to requests of producers of crude petroleum).

**Potomac Electric Power Co. (Procurement Director, United States Treasury).**-- A study (2/29/44) of the financial history and operations of this corporation for the years 1896-1943 was made at the request of the Director of Procurement, 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 (S. Res. 329, 68th, 2/9/25) resulted in two reports, the first of which, *Electric Power Industry--Control of Power Companies* (S. Doc. 213, 69th, 272 p., 2/21/27, dealt with the organization,

<sup>12</sup> See footnote 8 p. 107.

<sup>13</sup> See footnote 8, p.107. Conditions in one of the mid-continent fields were discussed by the Bureau of Corporations in *Conditions in the Healdton Oil Field* (Oklahoma) (116 p., 3/15/15).



control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in superposing 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., 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, 11/8/29) 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., 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*, 8. Doc. 92, 70th) comprised 95 volumes. <sup>14</sup>

**Price Bases (F. T. C.)**--More than 3,500 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 <sup>15</sup> was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-haul 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., 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 Range Boiler Industry*, 5 p., processed, 3/80/36, a summary based on the complete report which was submitted to Congress but not printed).

**Price Deflation (President)**--To an inquiry (3/21/21) of President Harding, the Commission made prompt reply (undated) presenting its views of the causes of a disproportional decline of agricultural prices compared with consumers' prices (*Letter of the F. T. C. to the President of the U. S.*, 8 p., o. p.).

**Priorities (W. P. B.), Wartime, 1941-45.**--Pursuant to Executive orders (January 1942) , 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, Manufacturers of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufac-

<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 Report, 1941, p.221 ; and for lists of companies investigated, see F. T. C. Annual Reports, 1935, p.21, and 1930, 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.

turers; 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

**Production Cost Accounting (F. T. C.), Wartime, 1941-42.**--This investigation covered production cost accounting methods and systems used in the bread baking, paperboard, steel and other industries during wartime.

**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., 6/29/18).

**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.

**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., 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.

**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., 6/30/19, and *Resale Price Maintenance* (F.T.C. motion, 7/25/27 ; reports, Part I, H. Doc. 546, 70th, 141 p., o. p., 1/30/29, and Part II, 215 p., 6/22/31).

**Resale Price Maintenance (F. T. C.).**--The *Report of the F. T. C. on Resale Price Maintenance* (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, non-price-maintained categories.

**Rubber Tires and Tubes.**--See Distribution Methods and Costs.

**Salaries (Senate).**--The Commission investigated (S. Res. 75, 73rd, 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 New York stock or curb exchanges. The *Report of the F. T. C. on Compensation of Officers and Directors of Certain Corporations* (15 p., processed, 2/26/34) explained the results of the inquiry. 16 The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

**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, all as amended.

**Silver ware 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 e, 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.

**Southern Livestock Prices.**--See Food.

<sup>16</sup> The salary lists do not appear in the report but are available for inspection.

**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, 73rd, 79 p., 8/19/34) 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. o. 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., 11/30/34) <sup>17</sup> The Commission recommended important code revisions.

**Steel Companies, Proposed Merger (Senate).**--An inquiry (S. Res. 286, 67th, 5/12/22) 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 Coats and Profits (O. P. A.), Wartime, 1942-43.**--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, 1941-42.**--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.

**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) 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 questionable as a business policy (*Stock Dividends*, S. Doc. 26, 70th, 273 p., 12/5/27).

**Sugar.**--See Food.

**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.

**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

**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. (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.; Parts II and III, o. p. (Part IV, processed, 21 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 Manu-*

<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, 15 p. 115

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*factured During 1933 and 1934*, 3/24/36, 48 p., processed, o. p.; *Textile Industries manufactured in the First Half of 1935*, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed; *Textile Industries in the Last Half of 1935*, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed; and *Textile Industries in the First Half of 1936*, Parts I to III, 1/21/37. to 2/11/37, 163 p., processed.

**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 Cotton Yarn's*, 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 alley late existing conditions (*Cotton Merchandising Practices*, 5. Doc. 194, 68th, 38 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,, 1/31/28), 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, 5. 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, 1917-18, at the request of the, War Industries Board, for its use in regulating the prices of woolen rags employed in the manufacture of clothing.

**Tin Consumers (W. P. B.), Wartime, 1942-43.**--The principal consumers of tin were investigated at the in stance 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.

**Tobacco (Senate).**--Inquiry (S. Res. 329, 68th, 2/9/25) 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.*, 5. Doc. 34, 69th, 129 p., o. p., 12/23/25).

**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., 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 (S. 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*, S. 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, May 24-29, 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, Chile, Bolivia, and Peru* (246 p., o. p., 6/30/16).

**Twine.**--See Sisal Hemp and Textiles.

**Utilities.**--See Power.

**War Material 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 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* (94 p., o. p., 5/1/22); and *Report of the F. T. C. on Wartime Profits and Costs of the Steel Industry* (138 p., 2/18/25). 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 billions of dollars by checking unjustifiable price advances.

**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.

**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 Corporation Reports; Metal-Working Machines; Paperboard; Priorities; Production Cost Accounting; Steel Costs and Profits; and War Material Contracts.

<sup>19</sup> See footnote 10, p. 108.

<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).



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