

Annual  
Report  
of the

**FEDERAL  
TRADE  
COMMISSION**

For the Fiscal Year Ended  
June 30, 1953

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# Federal Trade Commission

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<sup>1</sup> Took office September 26, 1953.

II

## Letter of Transmittal

FEDERAL TRADE COMMISSION  
Washington, D. C.

To the Congress of the United States:

I have the honor to transmit herewith the Thirty-ninth Annual Report of the Federal Trade Commission, for the fiscal year ended June 30, 1953.

By direction of the Commission.

EDWARD F. HOWREY, Chairman

THE PRESIDENT OF THE SENATE.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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# SAFEGUARDING THE COMPETITIVE PRINCIPLE

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## INTRODUCTION

Congress established the Federal Trade Commission to protect business and the public against the inroads of unfair methods of competition in commerce, and to stop conditions which would lessen competition or tend to create monopoly. It is also to guard the consumer against unfair or deceptive trade practices.

In short the Commission was created to help protect the competitive principle as basic to our free enterprise economy.

## STATUTORY FUNCTIONS

Duties and responsibilities of the Commission, all in the fields of antitrust policy and trade regulation, arise mainly from the following briefly described acts of Congress.

Federal Trade Commission Act.—The original statute, approved September 26, 1914, authorized establishment of the Commission as a board of five Commissioners and defined its powers and duties. Congress therein provided that "unfair methods of competition in commerce are hereby declared unlawful." Amending legislation <sup>1</sup> added the words "and unfair or deceptive acts or practices in commerce" to the proscription. By definition the word "commerce" is generally confined to interstate commerce.

Such initial statute as amended is known as the Federal Trade Commission Act. As a principal function, the Federal Trade Commission is thereby authorized and directed to act in prevention of the proscribed unfair methods, acts, and practices in interstate commerce, and to enter complaint proceedings against alleged offenders when such appears to it to be in the public interest. Upon hearing of such cases the Commission may determine the question of illegality of the practices involved, and may issue orders to cease and desist from the violations of law charged and found. Cease and desist orders of the Commission are subject to review by the United States Court of Appeals upon petition of aggrieved parties, and by the Supreme Court

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<sup>1</sup> Wheeler-Lea Act approved March 21, 1938.

upon certiorari. For the performance of its duties to carry out the Act, powers of investigation, also the right to make rules and regulations, are conferred upon the Commission.

As, a further major responsibility this organic law also confers upon the Commission authority (a) to investigate from time to time the organization, business, conduct, practices and management of corporations engaged in commerce, with certain exceptions, such as, banks and common carriers; (b) upon application of the Attorney General, or on its own initiative, to investigate the manner in which antitrust decrees are being carried out; (c) upon direction of the President or Congress to investigate and report upon any alleged antitrust law violations by corporations, and upon application of the Attorney General to investigate and make recommendation for the readjustment of corporate business alleged to be functioning in violation of the antitrust acts; (d) to investigate trade conditions in and with foreign countries where associations, combinations or practices of manufacturers, merchants or traders, or other conditions may affect the foreign trade of the United States and to make reports and recommendations thereon to Congress. The Commission is also authorized by the statute to act as master in chancery upon reference by the Court, and to report appropriate form of antitrust decree.

The Clayton Act, likewise enacted in 1914, confers duties and responsibilities upon the Commission in respect to specific types of practices which are inimical to the preservation and protection of competition. Sections 2, 3, 7, and 8 are made subject to enforcement jurisdiction of the Commission. The procedure for applying corrective adjudications is specified in section 11.

Section 2 of the Clayton Act has been in operation since 1936 in the form in which it was revised and extended by the Robinson Patman Act.<sup>2</sup> The section deals with the prevention of price discrimination and related discriminatory methods in the distribution of goods in interstate commerce. Subject to specified justification and defenses, it is made illegal to discriminate in price between different purchasers of commodities of like grade and quality, sold for use, consumption or resale within the United States, where the effect of the discrimination "may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them."

Exception is specified permitting differentials which make only due allowance for difference in cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the commodities are sold or delivered. Selection of customers in bona fide

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<sup>2</sup> Approved June 19, 1936 (49 Stat. 1526).

transactions and not in restraint of trade is not to be prevented. Certain exceptions are also provided, as specified in the statute, where special situations apply, such as: sales necessitated by market changes; disposition on account of deterioration of perishable goods; obsolescence of seasonal goods; distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned A defense to a charge of discrimination is also provided in regard to sales "made in good faith to meet an equally low price of a competitor or the services or facilities furnished by a competitor."

The duty of applying the so-called quantity limit rule is likewise conferred upon the Commission by amended section 2 of the Clayton Act under which, after due investigation, and hearing of all interested parties, the Commission is empowered to fix and establish quantity limits as to particular commodities or classes of commodities "where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce."

Among further responsibilities prescribed in the Robinson-Patman Act amendment of the Clayton Act is that of preventing the payment of certain brokerages and commission, except for services rendered to the party making the payment, also that of preventing the payment by manufacturers or sellers for, or the furnishing of, services or facilities to dealers or resellers in connection with the processing, handling, sale, or offering for sale of the products or commodities sold, unless such payments or the services or facilities furnished are made available to all competing customers on proportionally equal terms.

A final subsection in the amendment of section 2 extends further the enforcement work by making it unlawful for any person in the course of commerce "knowingly to induce or receive" an illegally discriminatory price.

Section 3 of the Clayton Act deals with still another problem affecting the preservation of competition. It prohibits the use of tying or exclusive dealing contracts that are subject to the condition, agreement or understanding that the purchaser shall not use or deal in the competing products, where the effect "may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

Section 7 of the Clayton Act, in which the Commission also has a major responsibility for enforcement, constitutes the so-called antimerger law.<sup>3</sup> As revised and extended by act of December 29, 1950, corporate acquisitions or mergers are prohibited whether brought about by the direct or indirect acquisition of capital stock or assets where the effect of such acquisition or merger may be substantially to lessen competition or tend to create a monopoly in any line of commerce in any section of the country. Certain exceptions are provided

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<sup>3</sup> 64 Stat. 1125.

in the statute including cases in which the stock is purchased solely for investment and not used by voting or otherwise to bring about or attempt to bring about the substantial lessening of competition.

Section 8 of the Clayton Act deals with the prevention of interlocking directorates of certain competing corporations any one of which has capital, surplus, or undivided profits aggregating more than \$1,000,000, as provided in the section. It represents the last of the several enforcement responsibilities resting upon this Commission under that act.

The Webb-Pomerene Export Trade Act, approved April 10, 1918, is another statute conferring administrative and enforcement duties upon the Commission. This act permits competing companies to combine in a common association for the purpose of marketing their products in export trade. Such organizations of competitors, made permissible under the antitrust laws, are required to file with the Commission copies of their articles of association, bylaws and related data. The statute extends to export business the provisions of the Federal Trade Commission Act against unfair methods of competition. It likewise provides that such permissible export trade associations of competitors must operate solely for export trade and must not enter into any agreement, understanding or conspiracy or do any act "which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported," nor do any act "which substantially lessens competition within the United States or otherwise restrains trade therein." It is a duty of the Commission to maintain a check against these unlawful eventualities in the operation of such export trade associations.

Further Commission functions derive from certain special legislation in which Congress designated the Commission as the administrative and enforcement agency. These statutes are the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, approved August 8, 1951, and the new Flammable Fabrics Act, approved June 30, 1953 (effective July 1, 1954). The first two statutes are designed to prevent unfair methods of competition and unfair or deceptive acts or practices by requiring informative labeling to reveal the true composition of products which contain or purport to contain wool, and to disclose the truth as to the kind and character of fur and fur products offered for sale. Failure properly to label and make the disclosure of required information is declared by Congress to constitute a violation of the Federal Trade Commission Act. The Flammable Fabrics Act, which will not become effective until July 1, 1954, is designed to protect the public against the hazards of certain dangerously flammable fabrics and wearing apparel.

Under the Lanham Trade-Mark Act approved July 5, 1946, the Commission has the duty to bring about, through action before the

Patent Office, the cancellation of certain marks improperly registered or improperly used in competition.

Public Law 15, 79th Congress, effective July 1, 1948, provides that the Federal Trade Commission Act and the Clayton Act shall apply to the business of insurance to the extent that the business is not regulated by state law. Subject to such limitation, Public Law 15 has the effect of extending the Commission's responsibilities to this additional field of commercial enterprise.

Under the Defense Production Act of 1950 the Commission has a duty to make surveys at the request of the Attorney General for purposes of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of the act. The Chairman of the Commission, under section 708, also has the duty of reviewing in a consultative capacity voluntary industry agreements and programs which the President is authorized to utilize to further the objectives of the act. Similar consultative responsibilities rest upon the Chairman of the Commission under the Small Business Act of 1953.

Additional statutes contain provisions of direct bearing on the work of the Federal Trade Commission, such as Administrative Procedure Act, the Oleomargarine Act, the Veterans' Readjustment Act, and others. However, the legislation outlined above constitutes the substantive statutory basis of the several functions of the Commission. These form part of the mosaic of Federal law designed to safeguard the operation of competition as a vital regulative force essential to the well-being and progress of our free enterprise economy.

For performance of its duties in the fiscal year 1953 a total of \$4,178,800 was appropriated to the Commission.

## STAFF ORGANIZATION

President Eisenhower appointed Edward F. Howrey of Virginia to succeed the Honorable James M. Mead of New York as Chairman of the Federal Trade Commission. Mr. Howrey took office April 1, 1953.

At the end of the fiscal year, June 30, 1953, the membership of the Commission was as follows:

Edward F. Howrey, Chairman, of Virginia, Republican.

Lowell B. Mason, of Illinois, Republican.

James M. Mead, of New York, Democrat.

Stephen J. Spingarn,<sup>4</sup> of New York, Democrat.

Albert A. Carretta, of Virginia, Democrat.

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<sup>4</sup> Mr. Spingarn subsequently was succeeded by John W. Gwynne, of Iowa, Republican, who took office September 26, 1953.



## STAFF ORGANIZATION, JUNE 30, 1953

TOTAL PERSONNEL—642

Office of the Secretary and Executive Director: <sup>5</sup>

Bureau of Administration.

Office of the General Counsel:

Divisions:

Appeals.

Special Legal Assistants.

Compliance.

Industry Cooperation.<sup>6</sup>

Trade Marks and Insurance.<sup>6</sup>

Bureau of Antimonopoly:

Divisions:

Investigation and Litigation.

Export Trade.

Bureau of Antideceptive Practices:

Divisions:

Investigation.<sup>7</sup>

Litigation.<sup>7</sup>

Wool and Fur Labeling.

Medical and Chemical Opinions.

Bureau of Industry Cooperation:

Divisions:

Trade Practices Conferences.<sup>8</sup>

Stipulations

Bureau of Industrial Economics:

Divisions:

Economic Evidence<sup>9</sup>

Economic Reports<sup>9</sup>

Accounting

Financial Reports

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<sup>5</sup> To improve staff efficiency the duties of this office were divided August 21, 1953, as follows:

Office of the Secretary:

Bureau of Administration.

Office of the Executive Director:

Office of Personnel.

<sup>6</sup> Organizational Directive No. 12, effective August 31, 1953, abolished these two positions and created a new position of Assistant General Counsel in Charge of Special Statutory Assignments.

<sup>7</sup> Organizational Directive No. 9, effective August 31, 1953, abolished the Division of Investigation and the Division of Litigation and established the Division of Investigation and Litigation.

<sup>8</sup> Organizational Directive No. 11, effective August 31, 1953, abolished the Rule Making Branch and the Rule Administration Branch of the Division of Trade Practice Conferences. The Division of Trade Practice Conferences will perform all of the functions heretofore separately performed by the two branches.

<sup>9</sup> Organizational Directive No. 10, effective August 31, 1953, abolished the Division of Economic Evidence and the Division of Economic Reports and established the Division of Economic Evidence and Reports.





### Hearing Examiners

This force comprises nine hearing examiners to whom the Commission delegates the initial exercise of its adjudicative powers. As adjudicators, they are exempt from all direct supervision or control. They function as presiding officers in adversary proceedings for the taking of evidence and rendering of initial decisions which are subject to right of review before the Commission.

### Staff Committees

Certain committees of its professional staff are utilized by the Commission to give consideration to special subjects. These include a staff Committee on Administrative Procedure and Rules; a Planning Council; and select committees designated from time to time for temporary service as needed.

### Branch Offices

The six branch offices perform field investigational work on both antimonopoly and antideceptive matters. Attorney examiners from these offices deal at first hand with industry. In addition, field representatives are stationed at eight principal cities to assist in enforcement of the Wool and Fur Products Labeling Acts.

## FUTURE STEPS

While this report covers the Commission's activities for the fiscal year 1953, it is considered appropriate to indicate steps made during the first few weeks of the fiscal year 1954 to improve the Commission's future operations. Examples are:

1. A survey is being conducted by a management firm <sup>10</sup> in an effort to improve the Commission's organization and speed up the handling of cases.
2. Steps are under way to develop an effective compliance program. A committee set up by the Chairman has studied the problems of achieving compliance with-

4500 orders to cease and desist

8,400 stipulations to cease and desist

180 sets of trade practice rules

and has recommended to the Chairman an efficient procedure for enforcement of Commission actions.

3. An Advisory Committee <sup>11</sup> has been appointed to devise means

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<sup>10</sup> Robert Heller & Associates, Inc., Cleveland, Ohio.

<sup>11</sup> The following persons will serve as members of the Advisory Committee on Cost Justification: Prof. H. F. Taggart, Chairman; C. R. Fay; Alvin R. Jennings; E. W. Kelley; H. T. McAnly; Albert E. Sawyer; Otto F. Taylor.



to promote greater compliance with the Robinson-Patman Act, by recommending standards or methods for costing and thereby affording businessmen who wish to comply workable tools for doing so.

Other changes contemplated by the Commission include:

1. Revitalizing economic and marketing work.—Cases will be investigated and considered not only from a legal standpoint but on a practical economic and marketing basis as well.

2. Appointment of an economic and marketing advisor to the Commission.—This advisor would give guidance to the Commission on economic and marketing matters much as does the General Counsel on legal questions. This cannot be done under the existing staff organization because of the Administrative Procedure Act, which prohibits any person engaged in the investigation or prosecution of a case from engaging in any ex parte relationship with Commissioners and thus bars the latter from obtaining needed assistance on marketing matters.

3. Means to obtain more voluntary compliance.—Woodrow Wilson said that businessmen "desire something more than that the menace of legal process be made explicit and intelligible; they desire the advice, the definite guidance and information which can be supplied by an administrative body." To meet an unsatisfied need in this respect, the Commission is now in the process of expanding its services so as more effectually to act in a cooperative and consultative capacity to business, particularly small business, and to other members of the public; and to seek voluntary compliance with the laws administered by the Commission.

4. Special effort to protect small business from predatory practices.—The Chairman has recommended the establishment of a Small Business Division is in contemplation within the Commission to keep small concerns informed and to expedite their matters through the Commission.

5. Acceleration of antitrust enforcement.—Studies are being made of existing enforcement policies and procedures to ascertain how the investigation and litigation of "hard core," predatory violations of the antitrust statutes can be accelerated.

## SUMMARY OF 1953 ACTIVITIES

### In the Antimonopoly Field

The Commission issued orders against such conspiracies to fix prices and otherwise restrain competition as that of the American Surgical Trade Association and others; against price-fixing relating to zone pricing such as involved in the matter of National Lead Company and others; and against various discriminatory pricing practices and exclusive dealing arrangements. It also moved to stop alleged conspiratorial practices in connection with steel drums, commercial blot-

tiny and matrix paper, and against restrictive and discriminatory conditions in other industries. Finally, the Commission continued its investigation of monopolistic practices and its examination of industrial and commercial acquisitions and mergers.

### In the Antideceptive Field

The Commission concentrated on matters which threaten injury to competition or the consuming public.

"Cancer, heart trouble, tuberculosis, diabetes as well as leprosy and gall stones can readily be treated and cured at home". So said some of the false advertising which the Commission stopped as part of its antideceptive practices program.

Other typical practices which the Commission prohibited were:

Misbranding of poor quality sheep's wool as "Cashmere," deceptive failure to reveal foreign origin of sewing machine heads, misleading claims as to savings in food costs through purchase of a home freezer, exaggerated statements concerning effectiveness of a liquid fertilizer, and nondisclosure of potential danger in use of a household product containing radioactive material.

### In the Field of Industry Cooperation

To assist businessmen, the Commission formulated trade practice rules for the millinery, hearing aid, cedar chest manufacturing, industrial bag and cover and portrait photography industries. These rules are tailored to meet the particular needs of the respective industries. They received final approval before close of the fiscal year but reached promulgation shortly thereafter.

### In the Field of Industrial Economics

The Commission published during the fiscal year 1953:

1. In collaboration with the Securities and Exchange Commission a consolidated income and expense statement and balance sheet for manufacturing corporations—issued quarterly. These reports were requested by more than 10,000 business executives;
2. A report on the Control of Iron Ore which describes the effect of the shift of the sources of ore supply on future competition in the steel industry.

### In the Field of Trade Marks

A total of 16,041 registrations of trade-marks were given administrative scrutiny in reference to the Lanham Trade-Mark Act of 1946 and the Federal Trade Commission Act. The work respecting possible cancellation of improperly registered or used marks was ma-



terially affected by two decisions of the Commissioner of Patents to the effect that cancellation authority is restricted to registrations created under the 1946 act.

### In Respect to Insurance

In the fiscal year 1953 the Commission completed, with the cooperation of state officials, a survey of State insurance regulatory laws enacted between 1951 and 1952. This survey augments an original and supplemental study completed in 1951. Its purpose is to ascertain what laws affect the application of the Federal Trade Commission Act and the Clayton Act to insurance since under Public Law 15, Seventy-ninth Congress, these statutes apply to the business of insurance to the extent such business is not regulated by state law.

### Various Additional Phases of the Commission's Activities

These are summarized in the following chapters of the report under appropriate headings including appellate court matters; cease and desist order compliance functions; work under the Export Trade, Defense Production and Small Business Acts, and other Commission activities.





## ANTIMONOPOLY WORK

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This branch of the Commission's activities is concerned with the investigation and the administrative trial and hearing within the Commission of cases involving restraints of trade and related monopolistic practices. It is directed under the law to the objective of keeping the channels of interstate trade free from oppressive arrangements and monopolistic practices, and permitting buyers to have the widest possible freedom of choice, with prices determined by the interplay of competitive forces and offered without monopolistic control or discrimination.

During the fiscal year orders to cease and desist were issued in 24 cases; complaints were issued in 29 cases; cases dismissed or closed numbered 16; and cases in which investigations were made and completed totaled 373.

### ORDERS AGAINST MONOPOLISTIC PRACTICES

These are cease and desist orders issued by the Commission during the fiscal year in specific cases, of which the following are illustrative:

Docket 5979, American Surgical Trade Association and others. Order issued October 22, 1952

In this case two trade associations were alleged to be the instruments of a combination designed to monopolize the distribution and sale of surgical supplies, instruments, and equipment. The American Surgical Trade Association has approximately 400 member manufacturers, distributors, and dealers who account for about 90 percent of the industry's annual volume of more than \$100,000,000. Manufacturers Surgical Trade Association has a membership consisting of about 56 manufacturers, wholesalers, and importers. The products manufactured and distributed include anesthetics, hypodermic needles, bandages, scalpels, X-ray apparatus, hospital beds, diagnostic equipment and other supplies used by doctors and hospitals.

The order issued by the commission in effect prohibits the two trade associations and their members from engaging in any combination or

agreement to suppress competition in the industry or to maintain uniform resale prices of the products involved. It is intended to restore competition among sellers and give purchasers the benefit of genuine price competition.

The order was issued pursuant to consent settlement.

Docket 5253, National Lead Company and others. Order issued January 12, 1953

The commission's order in this case runs against a price-fixing conspiracy among seven producers and sellers of lead pigments. Lead pigments are essential to the manufacture of such commodities as paints, varnishes, ceramics, putty, agricultural insecticides, and electric storage batteries. The producers involved in this case account for practically the entire production of lead pigments in the country. These producers also account for a substantial portion of the national commerce in competing products, including lithopone, zinc oxide, and titanium, which are used as pigments in mixed paints and for other similar purposes.

In addition to prohibiting combination or conspiracy to fix prices, the order requires each respondent to stop quoting or selling lead pigments at prices calculated or determined in accordance with a zone delivered price system for the purpose or with the effect of systematically matching the delivered price quotations or the delivered prices of other sellers of lead pigments. The primary purpose of the order is to prohibit price fixing practices which prevent purchasers from finding any advantages in price in dealing with one or more sellers against another.

Docket 4307, International Salt Company and others. Order issued August 22, 1952

Section 2 (a) of the Clayton Act prohibits price discrimination by a seller in sales to customers who are in competition and where competition is adversely affected thereby.

In this case International Salt Company, one of the largest salt producers in the United States, and its wholly owned subsidiary, Eastern Salt Company, were ordered to stop discriminating in price in the interstate sale of table salt by selling to competing wholesalers or to competing retailers at different prices or by charging wholesalers higher prices than are paid by favored retailers who compete with the wholesalers' retail customers in the sale of table salt to the consuming public.

The order also directs International Salt Company to stop discriminating between its competing customers in the payment of advertising or display allowances in connection with the interstate sale of table salt in violation of section 2 (d) of the Clayton Act.



Docket 5640., Florida Citrus Canners Cooperative and others. Order issued July 14, 1952

In this case the Commission ordered the cooperative to cease and desist from unlawfully discriminating in price between competing purchasers of its canned citrus fruit juice products.

The Commission found that the recipient of the cooperative's discriminatory prices was the Great Atlantic and Pacific Tea Company, the largest purchaser and retailer of grocery products within the United States. In one canning season the A&P chain received discriminatory price benefits aggregating approximately \$600,000 on purchases of about 750,000 cases of "Donald Duck" brand citrus fruit juice products. The result, according to the Commission's findings, was to give A&P a decided sales price advantage over other retailers selling respondent's citrus fruit juice products, with consequent injury to competition.

Docket 6073, Jan-Warren Corporation and others. Order issued June 30, 1953

Section 2 (c) of the Clayton Act involved in this case is generally referred to as the "brokerage section." It deals with the abuse of the legitimate brokerage function for purposes of discriminating in favor of certain buyers.

Issued on the basis of a consent settlement, the Commission's order prohibits respondents in the case from receiving or accepting from any seller any commission, brokerage or other payment or discount in lieu thereof upon any purchase of frozen foods, frozen juices or other food products for their own account.

Docket 5797, Underwood Corporation. Order issued March 2, 1953.

Section 3 of the Clayton Act on which this case was based prohibits sellers from requiring their customers to deal exclusively in the products of such sellers where the effect may be to substantially lessen competition or tend to create a monopoly.

The Underwood Corporation manufactures billing machines and carbon rolls for use in such machines. The Commission found that Underwood used tie-in agreements with its customers relative to their use of "carbon roll bracket plates," as a result of which these customers used only carbon rolls supplied by Underwood. It also found that the use of these agreements foreclosed competitors from a substantial market for carbon rolls suitable for use in Underwood billing machines. The Commission's order prohibits such agreements and opens this substantial market to competitors.

Docket 6051, Shell Oil Company. Order issued March 23, 1953.

The Commission's order in this case is directed against violation of section 3 of the Clayton Act by Shell Oil Company. It requires

Shell to abandon a marketing plan whereby sales and contracts for sales of its kerosene and fuel oils to independent dealers were made only on the condition that they handle its kerosene and fuel oil exclusively. The Commission found that the effects of the plan may be (1) to prevent competing companies from selling kerosene and fuel oils to the independent dealers; (2) to preclude these dealers from all benefits of competition between the various oil companies; and (3) to cut off a source of supply for independent dealers who are unwilling or unable to handle Shell's products exclusively. The effect of the order should be to leave independent dealers free to choose their source of supply as well as open up to competing producers' markets which had been foreclosed to them.

A consent settlement was the basis of the order.

### Complaints Charging Monopolistic Practices

The following cases are illustrative of the 29 antimonopoly complaints issued during the fiscal year:

Docket 6078, United States Steel Corporation and others. Complaint issued January 21, 1953.

This complaint alleges that the United States Steel Corporation and other large steel companies have, by combination and agreement, used an arbitrary formula to fix, enhance, and maintain prices for steel drums. Steel drums are used in the transportation of food products, petroleum, chemicals, paint and other products.

According to the complaint, the respondent companies control at least 75 percent of the steel drum business in the United States and have the power to dominate and manipulate the market. This power has been used, the complaint says, to suppress competition and create a monopoly.

Docket 6107, The Blotting Paper Manufacturers Association and others. Complaint issued June 30, 1953.

In this proceeding, the complaint charges six manufacturers and the Blotting Paper Manufacturers Association with combination and conspiracy to fix and maintain uniform prices of commercial blotting papers of all types, absorbent papers used for industrial purposes, and matrix papers used in commercial printing. The complaint alleges that the respondents manufacture approximately 90 percent of such products produced in the United States, and are thus in a position to control the prices and terms and conditions of sale in transactions with paper merchants.

Docket 6040, Eastman Kodak Company. Complaint issued September 8, 1952.

Eastman Kodak Company, described as the leading concern in the photographic products industry in the United States, is charged with illegally fixing the retail prices of its products by entering into "fair trade" agreements with retailers who complete with its company-owned retail stores.

Docket 6047, Distillers Corporation-Seagrams, Ltd., and others. Complaint issued September 24, 1952. Docket 6048, Schenley Industries, Inc., and others. Complaint issued September 24, 1952.

In these complaints, two of the largest producers and sellers of alcoholic beverage, in the United States, together with some of their subsidiary corporations, are charged with practices having a dangerous tendency to hinder competition and to create a monopoly in the sale of alcoholic beverages in interstate commerce. These complaints name 31 corporations as respondents, having total gross sales of more than \$400 million in 1951.

Docket 6018, General Foods Corporation. Complaint issued July 29, 1952

In this case, the complaint charges General Foods Corporation with violating section 2 (a) of the Clayton Act in the sale of food and grocery products. As an example of the discriminatory pricing involved, the complaint states that the corporation charges some jobbers higher and less favorable prices than are charged competing jobbers. The effect of the discriminatory pricing may be to substantially lessen competition with, or tend to create a monopoly in General Foods Corporation, or to injure, destroy or prevent competition with it, and with its favored customers, according to the complaint.

The complaint also charges discrimination in payments for advertising and promotional services made to, and services and facilities rendered for, General Foods' customers in violation of sections 2 (d) and 2 (e) of the Clayton Act.

Docket 6008, Purex Corporation, Ltd. (Complaint issued July 14, 1952

This case involves a manufacturer of bleach used for disinfecting and bleaching clothes, whose total sales were almost \$20 million in :1951. Purex is charged with violation of section 2 (a) of the Clayton Act by charging jobbers, retailers and cooperative buying organizations higher prices for its products than it charged other customers. It is alleged that these price discriminations are such as to lessen competition with other competing manufacturers who suf-

ferred a loss of business; to tend to create a monopoly for Purex; and to injure the nonfavored jobber and retail customers of Purex.

Docket 6103, S. S. Sawyer, Inc. Complaint issued June 17, 1953. Docket 6104, Florida Planters, Inc. Complaint issued June 17, 1953.

These complaints charge violation of section 2 (c) of the Clayton Act in connection with the sale of potatoes and other vegetables.

The complaints allege that each of the firms pays brokerage fees to buyers purchasing for their own account, contrary to the statute.

### Investigations of Monopolistic Practices

Investigations pending on July 1, 1952 -----	574
Entered for investigation during the year -----	540
Completed during the year -----	373
Investigations pending on June 30, 1953 -----	741

Generally, most antimonopoly investigations are the result of complaints received from businessmen, trade groups, consumers and consumer organizations, members of Congress, congressional committees, and Federal, State, and municipal governments. Many are instituted, however, on the Commission's own initiative, particularly cases involving corporate mergers or acquisitions questioned under section 7 of the Clayton Act.

In fiscal 1953, 704 applications for complaint were received, 225 of which were docketed for field investigation.

When complaints are received from outside sources, they are first screened to determine whether the matter presented involves a violation of law within the antimonopoly jurisdiction of the Commission and whether there is sufficient public interest to warrant the time and expense involved in an investigation. On the basis of such study, an incoming complaint is either docketed for investigation or filed without further action. In many instances, even before this preliminary determination can be made, additional facts must be obtained from the complaining party either by correspondence or through an interview. In matters appearing to have sufficient public interest and significance to warrant further inquiry, steps are taken to develop the facts to permit the Commission to determine whether or not the practices questioned call for corrective action.

Under section 5 of the Federal Trade Commission Act, investigations were conducted into allegations of such "unfair" practices as price fixing by agreement, collusive bidding, boycott, conspiracy to control production and limit supplies, interference with source of supply, refusal to sell, and selling below cost with the intent and effect of injuring competition. Products involved included petroleum, dairy products, meat-cutting machinery, automobile parts, bread, and other bakery products, fish, scrap metal and other steel products,



ber, drugs, furniture, coal, clothing, chemicals, and rubber tires. During the fiscal year, 118 such matters were investigated.

Investigations of exclusive-dealing and tie-in contracts under Section 3 of the Clayton act related to such products as petroleum, propane gas, ice cream and other dairy products, ice cream cooling equipment, hearing aids, fuel oil, and automobile parts. During the fiscal year, 15 such matters were investigated.

Investigations under section 2 of the Clayton Act, as amended by the Robinson-Patman Act, covered (1) price discrimination, (2) Unlawful payment or receipt of brokerage, (3) discrimination in the payment of allowances for advertising and promotional service, and in the furnishing of services and facilities, and (4) the unlawful inducement or receipt of discriminatory prices. Among the products involved were automotive supplies and accessories, bakery products, optical supplies, petroleum products, refrigeration equipment, drugs, dairy products, copper tubing, and propane gas. During the year, 132 such investigations were completed.

The staff was engaged also in investigations under section 7 of the Clayton Act, as amended in December 1950, which provides with certain qualifications that no corporation shall acquire the capital stock or assets of another corporation where the effect may be to substantially lessen competition or to tend to create a monopoly.

Acquisitions and mergers in the industrial and commercial fields, according to listings made in the Commission, continued at a rate of more than 720 a year, and covered a wide range of industries and products. Acquisition and merger matters entered for preliminary investigations during the year totaled 303, on top of 294 such matters pending at the beginning of the year. Preliminary investigation was completed with respect to 100 during the year, leaving 497 pending at the close of the year.

Industries involved included aircraft parts, cameras, carpets, rugs, and floor coverings, chemicals, coal-mining machinery, cosmetics and pharmaceuticals, dental supplies, department stores, feed and grain, frosted foods, frozen turkeys, glass fibers, lumber, plywood, and veneer, machine tools, marble and stone products, meters, metals, milk and dairy products, motors and motor parts, oil burners, paints and enamels, paper and paper products, petroleum and petroleum products, precision instruments, pumps and pumping machinery, ranges, and furnaces, radios and electronic products, rolling mill products, rubber heels and other rubber products shoes, steel and steel products, sugar, textiles, knitwear and woolens, tanning watches, and wholesale grocers.

Five acquisition cases were docketed for field investigation during the year. These involved sulphite pulp, paper, and paper products, farm implements and machinery, flour and feed, metallic pigments

and powders, adhesives, and industrial medal finishes. Four of these cases were in the course of field investigation at the close of the year. The fifth was filed without further action upon completion of the field investigation.

Antimonopoly investigations were completed during the year in four insurance cases; three trade-mark cases; and one case involving interlocking directorates.

In both the investigation and trial of antimonopoly cases, which is a responsibility of the Commission's Bureau of Antimonopoly, the assistance of economists and accountants is provided from the Bureau of Industrial Economics. Such assistance includes the preparation of cost and price studies for use in cases arising under both the Clayton Act and the Federal Trade Commission Act, and of notification concerning proposed or consummated acquisitions, mergers and Consolidations, together with economic evaluation of data relating thereto.

The coordination of these activities between the Bureau of Industrial Economics and the Bureau of Antimonopoly facilitates the investigation and trial of Antimonopoly cases.

### EXPORT TRADE ASSOCIATIONS

The Export Trade Act gives limited exemption from the antitrust laws to "associations" engaged solely in export trade. Such groups must file copies of their organization papers, annual reports, etc., with the Commission. If the Commission believes there is law violation, it may conduct an inquiry leading to Commission "recommendations" for readjustment of the association's business. Upon failure to comply with such recommendations the Commission is authorized to report the matter to the Attorney General for such action thereon as he may deem proper.

Activities.—At the end of the fiscal year 40 associations were operating under the act, including 457 member companies throughout the United States.

The following figures show a comparison of exports reported by the associations in 1951 and 1952:

	1951	1952
Metals and metal products -----	\$49,529,368	\$32,270,831
Products of mines and wells -----	41,314,591	19,465,614
Lumber and wood products -----	16,450,567	12,095,662
Food stuffs -----	72,346,110	72,277,798
Miscellaneous ( including paper, rubber, textiles, motion pictures, pencils, scientific instruments, cerium, and typewriters) -----	569,146,841	434,565,343
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Total -----	748,146,841	570,675,248

## ANTIDECEPTIVE PRACTICES CASE WORK

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The Federal Trade Commission Act, section 5, contains the basic statutory authority for this antideceptive program. The act outlaws unfair methods of competition and unfair or deceptive acts or practices in commerce, with special provisions dealing specifically with false advertisement of food, drugs, therapeutic devices, cosmetics, and oleomargarine. Virtually all types of goods, wares, and merchandise fall within the scope of this Law.

In addition, the Wool Products Labeling Act requires truthful disclosures of the total fiber content, and other essential information on wool or purported woolen products made for or sold in commerce. The Fur Products Labeling Act (effective August 9, 1952), makes mandatory the labeling of fur articles of wearing apparel, and the truthful invoicing and advertising of furs to reveal certain facts, such as the true English name of the animal which bore the fur.

This segment of the Commission's activities embraces enforcement of such several statutes in the field of deceptive practices.

### FORMAL ENFORCEMENT CASES IN THE FISCAL YEAR

Orders to cease and desist (includes 18 consent orders) -----	82
Modified orders to cease and desist -----	4
Complaints issued -----	72
Dismissed because of discontinuance of practices or business -----	30

### Orders Against Deceptive Practices

The Commission enjoined a wide range of deceptive practices during the fiscal year. Ten orders were issued against sellers of sewing machines for failing to disclose the foreign origin of the heads; 4 orders went against manufacturers of shoes for unwarranted orthopedic claim; 8 orders were entered prohibiting the distribution and sale of lottery devices; and 7 orders enjoined the failure to properly label wool products in accordance with the provisions of the Wool Products Labeling Act.

The following cases in which orders to cease and desist were issued are of particular interest or significance:

Bethany College and Divinity School—Prohibited from use of the designation "College" and the issuance of degrees of doctor of divinity by a school which had no plant, faculty, financial resources, or resident students;

Lynch's Diathermy Company.—Prohibited from claims that its machine is a device for applying high frequency electrical currents to produce heat in body tissues in treating diseases such as arthritis, rheumatism, and neuritis, and required to disclose that the device is not safe for home use without previous medical diagnosis and adequate instruction for application;

Miracle Hearing Aid, Inc.—Ordered to discontinue representations that medical doctors have approved manufacturer's product; also to remove the words "hearing aid" as part of the trade name; and to reveal that the device may result in serious injury to the auditory canal and ear drum;

Frommes Method, Inc., and Mueller Hair Experts.—Agreed to consent order against representations that Frommes Method will cause fuzz on the scalp to develop into normal hair, will permanently eliminate dandruff or falling hair, or will prevent or cure psoriasis; and that treatment by Mueller Hair Experts will rejuvenate hair-growing functions, cause permanent elimination of dandruff and cure all scalp disorders;

Federal Coaching Institute.—A vendor of instruction courses preparing students for civil-service examinations, ordered to stop claims that it had Government connections, opportunities to place students in Federal positions, and other misleading representations;

Directory Publishing Company.—Ordered to stop clipping advertisements of business concerns from directories, pasting them on a renewal blank, and thereby leading the business concern receiving such blank into the mistaken belief that an advertisement was being renewed with the firm which had previously published it; <sup>1</sup>

Rhodes Pharmacal Company, Inc.—Manufacturer of Imdrin, enjoined from representing that the use of this product will cure or effectively treat any arthritic or rheumatic condition, afford relief of severe aches and pains of these conditions, or that Imdrin is a remarkable, amazing, sensational, or new discovery; <sup>1</sup>

Dolcin Corporation.—Ordered to stop claims that Dolcin is an effective treatment of arthritis or rheumatism or that it will arrest the progress or correct the underlying causes of these conditions; <sup>1</sup>

Brown-Cell Laboratories, Inc.—Enjoined from representing that its nationally and extensively advertised product, "Brown-Cell Matrix," is a soil or plant conditioner, which will produce organic

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<sup>1</sup> Petition for court review pending.

matter useful to plants or soil or exert any beneficial effect on crop production.

### Complaints Charging Deceptive Practices

The seventy-two complaints issued covered many industries. Practices charged were of the following type:

Misleading and improper labeling was charged in 15 cases involving wearing apparel makers and other textile merchandise. Some of these complaints added that respondent did not give appropriate warning on the flammability of merchandise. Several charged misbranding of interlining and blankets.

Nine complaints cited makers and importers of sewing machines for nondisclosure of foreign origin.

Three complaints charged that the sale of punchboards and push cards and similar equipment were used illegally to sell merchandise on the grounds that they were gaming or lottery devices.

Complaints against two concerns challenged the claim that their products were made by blind persons and for their benefit.

In a cigarette case, complaint was issued charging that Liggett & Myers Tobacco Company made false claims that Chesterfield cigarettes are always milder, better tasting, cooler smoking, and will have no adverse effect on the nose and throat.<sup>2</sup>

In the soil conditioner field, the Commission attacked claims of Henry A. Dreer, Inc., distributor of Fluffum. The company claimed that Fluffum would give renewed fertility to enormous areas of soil for a longer time and more cheaply than any other soil conditioner, etc. The distributor went into bankruptcy so the case was dismissed.

The Commission, in another case, alleged that grossly exaggerated claims were made for "RX-15," a liquid fertilizer produced by Garden Research Laboratories, Inc.

Other complaints included:

Permanent Stainless Steel, Inc.—Disparagement of competitors' products;

Lever Brothers Company.—Claims that "Oleomargarine was dairy fresh, and statements that its competitors' products were not suitable for table use; case closed by stipulation to cease and desist;

M & M Spring Company.—Failure to disclose that automobile springs sold as new were in fact made from used and old parts;

Charles S. Bernstein.—Representations that the publication "American Labor Digest" is a regularly published magazine distributed to the general public is supported by subscription and advertising revenue, etc.;

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<sup>3</sup> For temporary injunction proceedings, see page 33.

Mercantile Stores Company, Inc.; Connolly Shoe Company.—Sell "health-flex" shoes and "arch" shoes respectively, cited for representations on the therapeutic value of their products.

Several complaints dealt with medicinal preparations charging, for example:

Unitone Corporation—Representations that its "B-Amino Complex" was a new medical discovery and that it could cure deafness;

Mme. C. J. Walker Mfg. Co.—Advertisements that its hair and scalp preparations could prevent or cure dandruff, loss of hair, etc.;

Ar. Winarick Company.—Representations that its "Jeris Antiseptic Hair Tonic" can cure dandruff, itching scalp, falling hair, etc.;

Yami Yogurt Products, Inc. and International Yogurt Company.—Advertisements that Yogurt promotes digestion, builds and restores good health, has a therapeutic effect on internal diseases, and other such claims;

Gaymont laboratories.—Statements that Dr. Gaymont's Yogurt Culture helps stomach ulcers, acidity, and other intestinal disorders, or that Dr. Gaymont's Instant Whey Powder aids colitis and digestive ailments or insures sound teeth, strong bones, a glowing complexion and a trimmer figure;

Kordol Corporation of America.—Claims that Kordolin remedies the symptoms of arthritis, rheumatism, lumbago, neuritis and sciatica; or that "Alfalfa Health Seed Diet" prevents or relieves the miseries of arthritis;

VCA Laboratories.—Claims for "Rybutol" as a deterrent to old age symptoms, fatigue, loss of energy, etc.

Scientific Living, Inc.—Claims asserting that unless food is cooked in its "Adolphus Tenderizer," it is damaged and loses vitamins and minerals.

Thirty cases were dismissed where the challenged practices ceased, were not likely to be resumed, and therefore the public interest did not require corrective action.

## DECEPTIVE PRACTICES INVESTIGATIONS

Scheduled investigations completed - - - - -	1,227
Preliminary inquiries disposed of - - - - -	3,061
Complaints received from outside sources - - - - -	2,796

Investigations arise mainly from complaints received from consumers, competitors, or other outside sources; also, from the Commission's continuing spot-check of advertising<sup>3</sup> or from leads picked up by Commission investigators. The Commission makes investigations

<sup>8</sup> In its survey of advertising media during fiscal 1953, the Commission examined 550,663 advertisements.

of deceptive practices on an industry-wide basis when necessary in the public interest.

Possible violations first undergo preliminary inquiry to determine if further action is warranted. This procedure often serves to obtain prompt voluntary cessation of unlawful practices at minimum expense to the Government.

After investigation, a report is prepared for the Commission recommending proper disposition.

Charges investigated during fiscal 1953 included:

1. False and misleading advertising.
2. Misbranding.
3. Failure to disclose foreign origin.
4. Fictitious price marking.
5. Offering secondhand goods as new.
6. Simulation of competitor's trade name or product.
7. Lottery methods of sale.
8. Disparagement of competing products.
9. Failure to disclose dangers through use.

Products involved were food, drugs, therapeutic devices, oleomargarine; also, clothing, home appliances, building materials, automotive products and accessories, insecticides, sewing machines, furniture, floor coverings, correspondence courses, books, and jewelry.

Letters and affidavits of discontinuance permit disposition of many deceptive practice investigations. Voluntary abandonment of the questioned practices after investigation but before complaint sometimes indicates absence of public interest. Thus, to save needless expense to the Government and industry, investigations may be ended where satisfactory assurance is received by letter or affidavit that the practice has been discontinued without intent to resume and where it appears that such action will adequately protect the public interest. During the year, 362 deceptive practice matters were disposed of in this manner.

Particular activities thus corrected included "health" and "corrective" claims for children's shoes; representations that hearing aids could be worn without being visible; unwarranted savings claims in the sale of home freezers and food freezer plans; misuse of the term "wool" in describing imported hooked rugs; and deceptive advertising of automobile tire prices.

#### WOOL AND FUR PRODUCTS LABELING ADMINISTRATION

	Wool Act	Fur Act
Commercial establishments covered in field inspection and industry counseling work -----	5,384	2,797
Products inspected (sampling methods used on wool products) -----	8,638,822	840,774

	Wool Act	Fur Act
Number of fur advertisements examined for advertising deficiencies -----		9,373
Opinions and interpretations rendered under each act and regulations -----	1,524	2,741
Informal adjustments in which compliance was effected administratively -----	6,730	4,666
Registered identification numbers issued -----	561	2,605
Continuing guaranties file -----	1,476	939

The Wool Products Labeling Act and the Fur Products Labeling Act provide Commission statutory responsibility in such cases.

Since these "truth in fabric" and "truth in fur" laws are similar in purpose and requirements, the Commission has integrated its enforcement duties to minimize cost of administration.

The Fur Products Labeling Act became effective August 9, 1952. The Commission printed pamphlets containing the Rules and Regulations under the Fur Act and a copy of the statute. These are available upon request, together with Bulletins X, Y, and Z containing Commission suggestions for proper labeling, invoicing, and advertising under the Fur Act.

#### SCIENTIFIC OPINIONS

During fiscal 1953 the Division of Medical and Chemical Opinions prepared 297 written opinions on medical and scientific matters; rendered 698 oral opinions on advertising of food, drugs, devices, cosmetics, etc., and 414 oral opinions in cases where formal complaints were issued. Division personnel also attended 31 informal conferences and 51 formal hearings.

The Division Chief maintained dose liaison with Food and Drug Administration and the Department of Agriculture.



## COMPLIANCE ACTIVITIES

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Within the Office of the General Counsel, the Division of Compliance supervises and directs compliance with the Commission's orders to cease and desist and, in the event voluntary compliance therewith cannot be obtained, prepares complaints and assists in the trial of civil penalty suits in the various United States District Courts involving Federal Trade Commission Act orders. It also may assist, as directed, in proceedings for contempt in violation of court decrees of enforcement of Dayton Act orders.

Since the Division was established in 1947, civil penalty judgments amounting to approximately \$214,000 have been obtained. The principal objective of the Commission, however, is not so much the imposition of penalties for violations, as to obtain respect for, and obedience to, its orders. Under this phase of its operations assistance will always be extended to a willing and cooperative respondent with advice as to how he can fully comply without the necessity of further litigation.

Each order to cease and desist requires filing a report of compliance. Careful consideration of data obtained through such reports is followed, wherever necessary, by investigation to see if the respondent's practices have in fact been revised to comply with the order.

During the fiscal year 1953 attention was given to 1,153 compliance matters. "Matters" consist of (a) reports of compliance for processing; (b) complaints of alleged violation of orders; (c) conferences and opinions regarding compliance; and (d) initiating and processing preliminary inquiries into compliance.

Preliminary inquiries indicating possible violations were followed in many cases by full investigations. Staff members consulted with and advised respondents and their attorneys in 91 cases regarding compliance.

### Antimonopoly Compliance Cases

During the year there were processed reports of compliance by 556 respondents with 39 orders; involving restraint of trade, monopolistic tendencies, and discriminatory practices. Considerable work



was also done in obtaining compliance with orders issued under sections 6 of the Federal Trade Commission Act requiring financial reports.

### Antideceptive Compliance Cases

During the year there were processed 231 reports of compliance with 96 orders. Also 172 complaints of violations were reviewed and appropriate action taken. Orders relating to "skip-trace" devices, steel cookware, photographic enlargements, correspondence courses, cigarettes, lotteries, wool products, and medicinal preparations were among those so reviewed.

The Commission issued cease and desist orders against 10 distributors of imported sewing machines requiring disclosure of their Japanese origin. The plate denoting the foreign origin was often obliterated, hidden, or removed after importation because of the purchasing public's preference for sewing machines and parts made in America.

Through cooperation with the National Association of Sewing Machine Distributors, full and voluntary compliance was obtained in five of these cases during the year, and similar action as to the remainder is anticipated. Mimeographed letters, prepared by the Commission, set out in detail several alternate methods of compliance which would satisfy the orders, and these letters were disseminated by the Association to its members.

### Compliance Cases in Federal Courts

During the year civil penalty proceedings for violation of Commission cease and desist orders were filed by the Department of Justice at the request of the Commission in the following cases:

1. U. S. v. Westville Oil and Manufacturing, Inc.<sup>4</sup> (N. D. Ind., South Bend Div.). Suit for civil penalties in the amount of \$35,000 for failure to disclose that the oil sold by defendant had been previously used.

2. U. S. v. Shapiro Felt Rug Co. et al. (D.C.N. J.). Penalty suit in the amount of \$30,00 for violation of order directing defendant to disclose that certain of his products were made of previously used materials.

3. U.S. v. Edward Lowenthal (N.D. Ill.). Suit for \$10,000 in civil penalties for violation of a Commission order directed against the use of misleading "skip-trace" material for obtaining credit information about delinquent debtors.

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<sup>4</sup> Judgment for \$1,750 entered on July 24, 1953.

Civil penalty suits concluded during the year were:

1. U. S. v. Midwest Studios, Inc. (D. Oreg.). Judgment of \$14,000 for violation of a Commission order prohibiting false representations used in selling enlargements of photographs.

2. U. S. v Domestic Diathermy Co. (S.D.N.Y.). Judgment for \$20,038.20. Defendants had violated a Commission order prohibiting false representations of diathermic devices.

3. U.S. v. Gerald A. Rice, and others (W.D. Wash.). Penalty judgment for \$25,500. Defendants violated an order to stop false representations of correspondence courses for Civil Service examinations.

Besides the three civil penalty suits instituted this year, supra, the following were pending in various United States District Courts as of June 30, 1953:

1. U. S. v. Standard Education Society and others (N.D. Ill.). Violation of an order prohibiting false representations of encyclopedias.

2. U. S. v. Lady Carole Coats, Inc. and others (S.D.N.Y.). Suit for failure to keep records under the Wool Products Labeling Act.

3. U. S. v. Shelbrooke Coats, and others (S.D.N.Y.).v The same.

4. U.S. v. United Diathermy, Inc. (S.D.N.Y.). Violation of an order to stop false representations of diathermic devices.

5. U. S. v. Purofied Down Products Corp., and others (S.D.N.Y.) . Violation of an order requiring labeling disclosure of used or secondhand feathers.

6. U. S. v. National Titanium, Co. (S. D. Calif.). Violation of an order requiring proper labeling of paint containing used materials.

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## COURT PROCEEDINGS

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### ANTIMONOPOLY CASES IN FEDERAL COURTS

During the fiscal year six antimonopoly proceeding by the Commission were reviewed by Federal courts. Ten such cases were pending in the courts at the end of the fiscal year.

Three of these decisions were by the Supreme Court. Of these, one affirmed the order of the Commission, one reversed a circuit court decision affirming a Commission order, and one dismissed the petition without a decision upon the merits, the Court holding that the petition for writ of certiorari was untimely.

Of the three decisions by United States courts of appeals, two affirmed orders of the Commission, and one dismissed the proceeding pursuant to stipulation of counsel.

#### Decisions

Automotive Canteen Company of America, Chicago, Ill. The United States Court of Appeals for the Seventh Circuit (Chicago) affirmed an order of the Commission prohibiting knowingly inducing price discriminations in the purchase of confectionery products and the use of exclusive-dealing contracts in the leasing of vending machines and the purchase of products vended in such machines. The price discrimination phase of the case was reviewed and reversed by the Supreme Court, with directions for remand to the Commission.

Minneapolis-Honeywell Regulator Company, Minneapolis, Minn. Following a decision of the United States Court of Appeals for the Seventh Circuit (Chicago) which set aside Part III (prohibiting price discriminations in the sale of automatic temperature controls) of the Commission's order to cease and desist, review of this action by the Supreme Court was sought. Certiorari was granted, but with direction for briefing and arguing the timeliness of the petition for certiorari. The Supreme Court dismissed the petition for certiorari without decision on the merits, holding that the petition was filed out of time.

Motion Picture Advertising Service Company, Inc., New Orleans, La. The Commission obtained review by the Supreme Court of a decision of the United States Court of Appeals for the Fifth Circuit (New Orleans) setting aside an order of the Commission prohibiting the use of exclusive-screening contracts in the distribution of advertising films. This decision was reversed by the Supreme Court and the order of the Commission was affirmed. Petition for rehearing was denied by the Supreme Court, and the Fifth Circuit then entered judgment enforcing the Commission's order.

Independent Grocers Alliance Distributing Company et al., Chicago, Ill. An order of the Commission prohibiting payment of brokerage commissions on food products in violation of section 2 (c) of the Clayton Act, as amended, was reviewed by the United States Court of Appeals for the Seventh Circuit (Chicago). The court denied the petition to set aside and vacate the Commission's order to cease and desist, denied a motion to remand the cause to the Commission for the taking of further testimony, and affirmed the order to cease and desist.

Precision Electrotype Company, San Francisco, Calif., one of the respondents in a proceeding against International Association of Electrotypers S; Stereotypers, Inc., et al., filed in the United States Court of Appeals for the Ninth Circuit (San Francisco) a petition to review and set aside the Commission's order to cease and desist prohibiting unlawful combination and conspiracy in restraint of trade under Section 5 of the Federal Trade Commission Act. The court granted motion to withdraw the petition to review pursuant to stipulation of counsel for dismissal by the Commission as to this respondent.

United Film Service, Inc., Kansas City, Mo. Petition to review and set aside an order of the Commission prohibiting the use of exclusive-screening contracts, in the distribution of advertising films was filed in the United States Court of Appeals for the Eighth Circuit. Counsel agreed, with approval of the court, that this case would abide the result in the Motion Picture Advertising Service Company case, *supra*. After affirmance of the Commission's order in that case, a like judgement was entered by the Eight Circuit in United Film Service case.

#### Pending Antimonopoly Court Cases

Automatic Canteen Company of America, Chicago, Ill., *supra*. Pending receipt of remand.<sup>1</sup>

Chain Institute, Inc., et al., Chicago, Ill. Pending in the United States Court of Appeals for the Eighth Circuit (St. Louis) on petition to review and set aside the Commission's order to cease and desist

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<sup>1</sup> August 1, 1953, remanded to the Commission by the Seventh Circuit for such further action as is open under the Supreme Court's opinion.

prohibiting price discrimination in violation of section 2 (a) of the Clayton Act, as amended, and restraint of trade in violation of section 5 of the Federal Trade Commission Act in the sale of chain products.

Gamble-Skogmo, Inc., Minneapolis, Minn. Pending in the United States Court of Appeals for the Eighth Circuit (St. Louis) on petition to review and set aside the Commission's order to cease and desist from the use of exclusive-dealing contracts in violation of section 3 of the Clayton Act and unfair methods of competition in violation of the Federal Trade Commission Act in the sale of general merchandise.

Independent Grocers Alliance Distributing Company, et al., Chicago, Ill., supra. Pending expiration of period within which petition for certiorari may be filed.<sup>2</sup>

The Commission issued an order against National Lead Company, Eagle-Picher Company, Eagle-Picher Sales Company, Anaconda Copper Mining Company, International Smelting & Refining Company, Sherwin-Williams Company, and the Glidden Company prohibiting a price-fixing conspiracy; prohibiting each of these companies individually from discriminating in price; and prohibiting National Lead Company acquiring the stock or assets of any competitor; all with respect to lead pigments. Separate petitions to review and set aside the order as applicable to each have been filed in the United States Court of Appeals for the Seventh Circuit (Chicago) as follows:

(a) National Lead Company, New York, N.Y.;

(b) Anaconda Copper Mining Company and International Smelting & Refining Company, New York, N. Y.;

(c) Eagle-Picher Company and Eagle-Picher Sales Company, Cincinnati, Ohio;

(d) The Sherwin-Williams Company, Cleveland, Ohio.

Standard Oil Company of Indiana, Chicago, Ill. Pending in the United States Court of Appeals for the Seventh Circuit for review of modified findings made pursuant to remand to the Commission by the Supreme Court. This proceeding involves the question of whether certain price discriminations were made in good faith to meet the equally low price of competitors.

Whitney & Company, Seattle, Wash. Pending in the United States Court of Appeals for the Ninth Circuit (San Francisco) on the Commission's application for enforcement of its order prohibiting the payment of brokerage in violation of section 2 (c) of the Clayton Act. The court affirmed the Commission's order but remanded the case to the Commission to act as special master to take evidence on the question of violation and report to the court.

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<sup>2</sup> Period had expired.



Quantity-Limit Case. In addition to the antimonopoly proceedings for review of Commission orders, consolidated proceedings involving the Commission's Quantity-Limit Rule were also before the Federal Courts. Twenty separate petitions filed in the United States District Court for the District of Columbia by B. F. Goodrich Co. and 19 other companies, including the principal manufacturers of automotive tires, for injunctions to restrain enforcement by the Commission of its Quantity-Limit Rule 203-1, were dismissed. Such Rule fixed the maximum quantity of replacement rubber tires and tubes upon which cost justification under section 2 (a) of the Robinson-Patman Act amendments of the Dayton Act may be based. The petitions also sought declaratory judgments. Upon dismissal of the petitions by the District Court, plaintiffs appealed to the United States Court of Appeals for the District of Columbia Circuit, where the suits remained pending at the close of the fiscal year.<sup>3</sup>

### ANTIDECEPTIVE PRACTICE CASES IN FEDERAL COURTS

During the fiscal year the Supreme Court denied petitions for certiorari in 4 cases, in each of which the Commission's order had been affirmed by a United States Court of Appeals, and 2 such petitions were pending at the close of the year. Two of the denials of certiorari (Jacob Colon, et al., New York, N. Y., and Leo Lichtenstein et al., Chicago, Ill.) were in cases decided by the lower courts during the previous fiscal year. Both involved the sale of merchandise by lottery, and the latter included the additional question of the sale of devices for conducting merchandise lotteries.

Petitions to review and set aside Commission orders prohibiting unfair or deceptive practices were disposed of during the fiscal year in 19 cases. Of these, 14 orders were affirmed and enforced without change by the United States Court of Appeals in which the petition was filed, 1 was modified and affirmed, 1 was set aside, and 3 were withdrawn or dismissed upon motion of the petitioners.

#### Decisions

Cases in which the Commission's antideceptive practice orders were affirmed without change:

Bee Jay Products, Inc., et al., Chicago, Ill. Tenth Circuit<sup>4</sup> (Denver). Sale of merchandise lottery devices in interstate commerce.<sup>5</sup>

Bernice Feitler et al. (Gardner & Company), Chicago, Ill. Ninth Circuit (San Francisco). Sale of merchandise lottery devices in interstate commerce. A petition for rehearing was denied.<sup>6</sup>

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<sup>3</sup> Reversed by the United States Court of Appeals for the District of Columbia Circuit July 16, 1953, and remanded to the District Court for trial.

<sup>4</sup> Designation of circuit means U.S. Court of Appeals for the respective circuit designated.

<sup>5</sup> See also footnote 7, page 34.

Book-of-the-Month-Club, Inc. New York, N.Y. Second Circuit (New York). Misleading and deceptive use of the word "free" in the sale of books.<sup>6</sup>

Consolidated Manufacturing Company, Chicago, Ill. Fourth Circuit (Richmond). Sale of merchandise lottery devices in interstate commerce.

Consumers Sales Corporation et al., New York, N. Y. Second Circuit (New York). Deceptive practices in the sale of kitchenware and tableware. The Supreme Court denied certiorari.

Container Manufacturing Company, St. Louis, Mo. Fourth Circuit (Richmond). Sale of merchandise lottery devices in interstate commerce.

David Bernstein (Affiliated Credit Exchange ), Los Angeles, Calif. Ninth Circuit (San Francisco). Unfair and deceptive practices in the conduct of a business for the location of delinquent debtors.

Dejay Stores, Inc., New York. Second Circuit (New York). Unfair and deceptive practices in the location of delinquent debtors.

Gay Games, Inc., et al. (Noel's Gay Games), Muncie, Ind. Tenth Circuit (Denver). Sale of merchandise lottery devices in interstate commerce. Petition for rehearing was denied.

Robert O. Bennett, et al. (National Service Bureau), Washington, D.C. District of Columbia Circuit. Unfair and deceptive practices in the conduct of a business for the location of delinquent debtors.

Lester Rothschild (Gen-O-Pak Company), Chicago, Ill. Seventh Circuit (Chicago). Unfair and deceptive practices in the conduct of a business for the location of delinquent debtors. The Supreme Court denied certiorari.

Superior Products, Inc, Chicago, Ill. Fourth Circuit (Richmond). Sale of merchandise lottery devices in interstate commerce.

United States Navy Weekly, Inc., et al., Washington, D.C. District of Columbia Circuit. Misrepresentation of business status and connection with Government.

Esther Zitserman (J. M. Howard Company), Newark:, N.J. Eighth Circuit (St. Louis). Sale of merchandise lottery devices in interstate commerce. Petition for rehearing was denied.

The Commission's order was modified by the United States Court of Appeals for the District of Columbia Circuit in U.S. Printing & Novelty Co., Inc., New York, N.Y., involving the sale of merchandise lottery devices in interstate commerce, by substituting the words "which are designed or intended to be used" for "which are to be used, or which, due to their design are suitable for use," and as thus modified it was affirmed.

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<sup>6</sup> See also footnotes 8 and 9 page 34.

Petition for review was dismissed or withdrawn in three proceedings:

Maurice J. Lenett (Lenco Springs Company), Worcester, Mass. District of Columbia Circuit. Unfair competition and deceptive practices in the sale of automobile springs containing used parts but having the appearance of new springs. This matter was dismissed pursuant to stipulation because petitioner wished to withdraw his petition.

National Toilet Company, Paris, Tenn. Seventh Circuit (Chicago). False advertising in the sale of cosmetics. Petitioner filed motion to withdraw his petition to review after filing report of compliance with the Commission's order.

Radio-Television Training School, Los Angeles, Calif. District of Columbia Circuit. Unfair and deceptive claims in the sale of correspondence courses in radio and television training. This matter was dismissed pursuant to stipulation after the Commission modified its findings and order.

The Commission's order was set aside in one proceeding. In Carter Products, Inc., New York, N.Y., the Ninth Circuit (San Francisco) set aside an order prohibiting various claims and representations respecting "Carter's Little Liver Pills." The court held that petitioner had not received a fair and impartial hearing because rulings of the hearing examiner had unduly restricted the cross-examination of certain witnesses. A petition for rehearing was denied.<sup>6</sup>

#### Other Court Matters

In addition to the 19 petitions for review in which decisions were landed down, 5 other matters were disposed of by the courts.

During the year the Commission unsuccessfully sought temporary injunctions against certain cigarette advertising. The United States District Court for the Southern District of New York denied an injunction against Liggett & Myers Tobacco Company, New York, N.Y., and on appeal to the Second Circuit this decision was affirmed.

In Philip Morris & Co., Ltd., Inc., New York, N.Y., following the filing of petition in the Court of Appeals for the District of Columbia Circuit to review and set aside an order by the Commission prohibiting certain representations respecting Philip Morris cigarettes, the Commission filed a motion for an injunction pendente lite, which was denied by the court.

During the course of an administrative proceeding against Dr. A. Posner Shoes, Inc., New York, N.Y., charging false claims respecting so-called orthopedic shoes, an injunction against continuation of the proceeding by the Commission was sought in the United States District Court for the Southern District of New York. This suit

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<sup>6</sup> See also footnote 11, page 34.

was transferred to the United States District Court for the District of Columbia, and was dismissed by it upon motion by the Commission. This decision was appealed to the United States Court of Appeals for the District of Columbia Circuit, which affirmed the judgment of the lower court and dismissed the proceeding.

Ken Whitmore, Inc., Pittsfield, Mass., United States District Court (Boston). Injunction pendente lite granted January 12, 1953, against misbranding of products under Wool Products Labeling Act.

National Health Aids, Inc., Baltimore, Md., United States District Court (Baltimore). Injunction pendente lite granted November 12, 1953, in case involving alleged false advertising of NHA Complex, a preparation ordered as a competent and effective treatment for arthritis and a number of other diseases.

### Pending Antideceptive Practice Court Cases

Bee Jay Products, Inc., Chicago, Ill. Tenth Circuit (Denver), supra. Pending expiration of period within which petition for certiorari may be filed.<sup>7</sup>

Bernice Feitler et al. (Gardner & Company), Chicago, Ill. Ninth Circuit (San Francisco), supra. Petition for writ of certiorari pending in the Supreme Court.<sup>8</sup>

Book-of-the-Month Club, Inc., New York, N.Y. Second Circuit (New York), supra. Pending expiration of period within which petition for certiorari may be filed.<sup>9</sup>

Bostwick Laboratories, Inc., Bridgeport, Conn., Second Circuit (New York). False and misleading advertising of insecticides.<sup>10</sup>

Carter Products, Inc., New York, N. Y. Ninth Circuit (San Francisco), supra. Petition for writ of certiorari pending in the Supreme Court.<sup>11</sup>

Directory Publishing Corporation et al., New York, N.Y. Second Circuit (New York). False and misleading representations in the sale of a classified business directory service.

Dolcin Corporation et al, New York, N. Y. District of Columbia Circuit. False and misleading advertisements of "Dolcin," a medicinal product.

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<sup>7</sup> Certiorari denied, October 19, 1953; rehearing denied November 30, 1953.

<sup>8</sup> Certiorari denied October 12, 1953; rehearing denied November 9, 1953

<sup>9</sup> Petition for certiorari dismissed November 16, 1953, at request of petitioners, remanded to Commission, December 11, 1953, by Second Circuit for reconsideration in connection with changed policy regarding "free" offers.

<sup>10</sup> Petition For review dismissed December 3, 1953, for lack of prosecution.

<sup>11</sup> On October 12, 1953, the Supreme Court granted certiorari, vacated the Judgment of the Ninth Circuit, and remanded the case to that Court with directions "to reinstate Its prior judgment and order after amending it so that it specifically authorizes the Federal Trade Commission to open this proceeding for further evidence and a new order consistent with the Court of Appeals opinion herein." Case remanded to the Commission by the Ninth Circuit on November 18, 1953.

Fred Schambach, New York, N. Y. District of Columbia Circuit. Sale of merchandise by means of a lottery device in interstate commerce and misleading use of the word "free."<sup>12</sup>

Gay Games, Inc., et al. (Noel's Gay Games), Muncie, Ind. Tenth Circuit (Denver), supra. Pending expiration of period within which petition for certiorari may be filed.<sup>13</sup>

Harry Augen (Graphited Lubricants Company), Brooklyn, N. Y. Second Circuit (New York). Unfair and deceptive practices in the sale of ignition points.

Livingston Automotive Supply Company, Inc., et al., Brooklyn, N. Y. Second Circuit (New York). Unfair and deceptive practices in the sale of ignition points;

The New American Library of World Literature, Inc., et al., New York, N.Y. Second Circuit (New York). Misrepresentations in connection with the sale of reprints and condensations of books through failure to disclose the original title or that the reprints are abridged.

Philip Morris & Co., Ltd., Inc., New York, N.Y. District of Columbia Circuit, supra.<sup>14</sup>

Prima Products, Inc., et al., New York, N.Y. Second Circuit (New York). False and misleading advertising and deceptive practices in the sale of "Aquella," a product offered for waterproofing purposes.

Rhodes Pharmacal Co., Chicago, Ill. Seventh Circuit (Chicago). False and misleading advertisements of "Imdrin," a medicinal product.<sup>15</sup>

Standard Distributors, Inc., Chicago, Ill. Second Circuit (New York). Misrepresentation as to prices, quality as compared to samples, and "new" encyclopedia.

United States Navy Weekly, Inc., et al., Washington, D. C. District of Columbia Circuit, supra. Pending expiration of period within which petition for certiorari may be filed.<sup>16</sup>

U. S. Printing & Novelty Co., Inc., New York, N.Y. District of Columbia Circuit, supra. Pending expiration of period within which petition for certiorari may be filed.<sup>16a</sup>

William F. Koch et al., Grosse Point Park, Mich. Sixth Circuit (Cincinnati). False and misleading advertising of medicinal products as a cure for cancer and other serious diseases.<sup>17</sup>

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<sup>12</sup> Order modified and affirmed, September 15, 1953.

<sup>13</sup> Period has expired.

<sup>14</sup> Order set aside and case remanded to Commission for reconsideration, August 28, 1953, on request of Commission.

<sup>15</sup> Order modified and affirmed, November 3, 1953.

<sup>16</sup> Period has expired.

<sup>16a</sup> Certiorari denied, October 12, 1953.

<sup>17</sup> Order affirmed, July 8, 1953.

Elip Distributing Corporation, Baldwin, Long Island, filed in the United States District Court for the Eastern District of New York suit for declaratory judgment against the Commission and the Federal Security Agency. This matter involves the advertising of "Elip," a medicinal product sold as a remedy for piles and hemorrhoids.<sup>18</sup>

NOTE.—For suits brought by the United States to assess civil penalties for violation of Federal Trade Commission cease and desist orders, see compliance matters on pages 26, 27.

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<sup>18</sup> Dismissed for lack of jurisdiction, July 29, 1953.

INDUSTRY COOPERATION





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## VOLUNTARY ADHERENCE TO LAW

Programs for maintaining observance of laws administered by the Commission through voluntary action on the part of business itself are provided by the Commission in the trade practice conference and stipulation procedures. Securing law observance by industry-wide conference proceedings, and by stipulation agreements, means economy for the Government

and business by elimination of long and expensive formal legal actions.

Trade practice rules are helpful standards for complying with the laws that bear on them. They provide orderly abandonment of unfair or deceptive practices in an entire industry without giving unfair competitive advantage to any individual member or group. The Commission maintains continuing and cooperative liaison with industry to help it achieve voluntary compliance and prevention of the inception of bad practices. When trade practice rules are published, industry members are informed of the legal requirements applicable to their particular trade or business. Unwitting violations are thus substantially reduced.

## TRADE PRACTICE CONFERENCES

Trade practice conferences can be applied for by any interested person, party or group, or the Commission may initiate proceedings on its own. In authorizing a conference the Commission considers whether it can:

- (a) advance the best interests of the industry on sound competitive principles;
- (b) bring better observance of laws over which the Commission has jurisdiction;
- (c) otherwise protect the public interest;

(d) help clarify the laws administered by the Commission as applied to practices in the industry.

When authorized, a conference is scheduled at a place convenient to most of the industry, and members are invited. At the conference,

participants discuss fully and openly the unfair practices which exist or could exist in the industry. Individual members or groups propose rules to inhibit such practices. After the conference, the Commission releases proposed rules and schedules a public hearing to discuss them, inviting industry members and all interested people, including consumers.

After full consideration, the Commission approves and promulgates final rules for the industry. These rules are published in the Federal Register and become effective 30 days after publication, or when specified by the Commission.

Each industry member receives a copy of the rules and an acceptance form to signify his intent to observe them. Thereafter, the Commission maintains close liaison with industry members and gives immediate attention to any information indicating noncompliance. Where necessary, the Commission proceeds formally against the rule-breaker.

### Classification of Rules

Trade practice rules are classified as group 1 and group 2. Group 1 rules include trade practices which the Commission considers illegal. These rules, therefore, are mandatory upon all regardless of whether some industry members may have failed to take part in the conference. Group 2 rules are wholly voluntary. They are recommended usages and restrictions which the industry itself considers to be good business ethics and fair competition.

The Commission will not accept or promulgate a group 2 rule that allows a practice contrary to law or which may aid or abet illegal conduct.

### Conference Proceedings

Number pending July 1, 1952 .....	27
New proceedings instituted .....	13
	———
Total pending proceedings .....	40
	———
Disposition effected (July 1,1952, to July 1,1953):	
Closed .....	5
Trade Practice Rules approved for promulgation .....	5
	———
Total proceedings disposed of .....	10
Trade Practice Conference proceedings pending June 30,1953 .....	30
Formal Trade Practice Conferences held .....	11
Formal Public Hearing held .....	8
Informal Conferences held .....	430

During fiscal 1953 the Commission approved sets of trade practice rules for 5 industries, 2 of which were revisions of previous rules. While the rules received official approval during the fiscal year

their actual promulgation in the Federal Register took place shortly after the close of the year.

Here are some of the problems which these and other rules were devised to correct:

Hearing Aid Industry had suffered from "bait" advertising, false and misleading guarantees, deceptive claims as to the visibility of products when worn, failure to disclose the use of used parts, and deceptive claims as to acceptance or approval by medical authorities;

Cedar Chest Manufacturing Industry includes makers and sellers of chests, wardrobes, and similar storage containers composed in part or whole of cedar wood. This industry had suffered from false and misleading guarantees, deceptive substitution of products, commercial bribery, and price discrimination;

Portrait Photography Industry.—The rules prohibit deception of consumers by such terms as "Oil Painting," "Gold Tone," "Platinum," "Etching," and "Silk" in describing portraits offered for sale. The rules also condemn deceptive pricing practices and sale of products through the use of lottery or game of chance;

Masonry Waterproofing Industry.—The Commission has reduced much misrepresentation on water impermeability of various products. One successful method was to contact new members in the waterproofing field and educate them on the industry rules before they started advertising;

Baby Chick Industry. —Cooperative compliance here has ended deceptive claims as to the trade, character, quality, productivity, etc., of poultry and baby chicks;

Canvas Cover Industry.—By administrative action the Commission has reduced the misuse of terms such as "Fireproof," "Waterproof," "Sunproof," and "Mildewproof";

Pearl, Cultured Pearl, and Imitation Pearl Industry.—The Commission caused disclosure of foreign origin, or that particular pearls are not genuine;

Hosiery Industry.—The industry cooperatively curbed many deceptive claims on hosiery quality;

Luggage and Related Products Industry.—The industry voluntarily corrected many of its false advertising claims, misbranding and other deceptive practices; viz many plastic products were being sold as leather;

Fountain Pen and Mechanical Pencil Industry.—The Commission curtailed the marking of pen and pencil sets with exaggerated or fictitious prices; also deception as to the gold content of pens and mechanical pencils;

Industrial Bag and Cover Industry.—Makes and sells paper and paperboard bags, covers and linings for use as containers or covers of products \* \* \* it suffered from-pricing problems;

Millinery Industry. —Here hat bodies were deceptively marked. For example, the consumers were ordered as new hats on which the hat bodies had been renovated from former consumer use.

### Pending Conference Proceedings

Further work was done in initiating and advancing trade practice conferences for many additional industries. These included the Floor Wax and Floor Polish Industry; Television Industry; Textile Water Repellent Fabrics Industry; Watch Attachment Industry; Athletic Goods Industry; Costume Jewelry Industry; Tobacco Smoking Pipe and Holder Industry; and the Photoengraving Industry. The Commission also studied other industries including those making Refined Lubricating Oil, Chlorophyl Content Product's, Button, Nursery, Shoe, and Plastics.

### Push Money Rule

In June the Commission approved a new "push money" rule for future sets of rules in industries where members pay a sales person to promote the sale of their own product at the retail level. The new rule says that pushing of one manufacturer's product over that of another is a matter for determination by the clerk's employer, and that "disclosure as to special interest provision" in the old rule was beyond the Commission's; authority.

### Rule Administration

Cases pending July 1, 1952 -----	173
New cases started during year -----	743
	-----
Total for disposition -----	916
Cases disposed of during year -----	713
	-----
Cases pending July 30, 1953 -----	203
Informal conferences -----	133

The Commission considered 916 cases of which 713 were ironed out through cooperative compliance activities. This left 203 cases for attention in fiscal 1954.

In addition the Commission gave special attention to several industries such as:

Cosmetic and Toilet Preparations Industry.—In a survey of promotional practices of this industry the Commission considered 228 promotional plans and found 75 did not violate the rules; most of the balance are still under consideration.

Lipstick Survey.—After studying the validity of various claims made for a never dye type of lipstick the Commission and the cos-

metic industry worked out a satisfactory agreement on terms advertising this type of product.

Bedding Manufacturing and Wholesale Distributing Industry.—The Commission helped end false claims on the therapeutic value of bedding products and fictitious pricing. The industry has voluntarily curbed the false use of such terms as "Orthopedic," "Health," "Custom Built," "Custom Made," "Posturized" etc., in describing mattress and springs.

Seam Binding Industry.—This industry has cooperatively corrected such violations as delivering short yardage.

## STIPULATIONS

Stipulations provide informal pre-complaint settlement of cases by voluntary action. The businesses concerned in such cases have an opportunity to present informally information pertinent to the matters in question, and to enter an agreement to discontinue those practices shown by the facts to be unlawful. The statutory objective is thus achieved by voluntary, cooperative effort without the necessity of resorting to formal, compulsory proceedings.

### How Stipulations Are Made

The Commission notifies the persons whose practices have been investigated that certain of them have been challenged as unlawful. The person who receives such notice may reply by letter and submit for consideration any pertinent information or explanation he may care to present, or he may confer in person with a Commission representative. During the year, 152 such conferences were held.

A stipulation agreement before becoming effective for purposes of disposing of file must be approved by the Commission.

### Settlement of Informal Cases by Stipulation in Fiscal 1953

Accepted executed stipulations, including 3 amendment or substitute stipulations	121
Closed without prejudice	20
Directed issuance of complaint	9
Referred for further investigation	5
Placed on suspense	1
Rejected stipulation	2
Rescinded stipulations	1
Total . . .	159

The Commission accepted stipulations during fiscal 1953 in a wide range of cases. For example:

Two manufacturers of instant coffee.—Stipulated that they would disclose in future advertising the exact proportions of soluble coffee and other substances contained in their products.



Four detergent makers.—To end claims that their products wash clothes without rinsing as clean as soap does with rinsing.

Five "orthopedic shoes" makers.—To stop claims that such shoes keep the feet healthy and prevent foot troubles, cause good posture, etc.

Two weight reducer manufactures.—To stop advertising that their products are effective without dieting.

Five manufactures of skin preparations.—To stop claims that their products can cure or remedy pimples, acne, or certain other skin conditions..

Four wool products marketers.—To label such products accurately on the percentages of wool and other constituent fibers.

A contour chair maker.—To discontinue claims that his product relieves kidney ailments or helps posture.

A mail order seller of Japanese binoculars.—To disclose in his advertising the Japanese origin of his product.

An electrical devices advertiser.—To change claims that such devices can relieve arthritis, neuritis, rheumatism, neuralgia, etc.

Antacid preparation maker.—To discontinue claims that his product helps gastric hyperacidity except for temporary symptomatic relief.

An antihistamine manufacturer.—To stop saying that his product can afford more than symptomatic relief of colds.

A dandruff lotion maker.—To cease claims that his product frees the hair or scalp from bacteria or insures the health of hair or scalp.

A hair wave preparation manufacturer.—To cease claims that his product prevents discoloration of the hair or damage to the hair or skin.

A denture cushions advertiser.—To stop claims that his product stops infection from sore gums.

A cough drop maker. —To refrain from advertising that his product contains more menthol than other cough drop products.

A tulip bulb seller.—To stop saying that his immature bulbs would produce blooms the following season.

A vitamin preparation advertiser.—To discontinue representing that his product builds up resistance toward conditions resulting from cold or damp weather.

A bed board manufacturer.—To end allegations that its bed boards benefit sacroiliac strain unless such condition is aggravated by a soft mattress or sagging springs.

### Compliance With Stipulations

During the year 167 reports showing observance of stipulations were submitted to the Commission.

## FINANCIAL AND ECONOMIC REPORTS

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### CONTROL OF IRON ORE

A major economic report was issued during fiscal year 1953, entitled "Report of the Federal Trade Commission to the Antitrust Subcommittee of the Judiciary Committee of the House of Representatives on the Control of Iron Ore." The report is primarily concerned with the effect of the shift in the sources of ore supply on future competition in the steel industry. The report begins with an analysis of the iron ore consumed in 1948 and the sources of this ore. Estimates are made of the iron ore reserves held by the nine major steel companies; and the uses and users of iron ore in steel making are analyzed. Other sections of the report discuss the small users of iron ore, the ore merchants, the relation of iron ore reserves to the future of competition, and the competitive potentialities of new technologies.

The report points out that the high rate of steel production during the last decade has resulted in the rapid depletion of the ore reserves of many companies. The approaching exhaustion of the high-grade, low-cost ores in the Lake Superior region has confronted the steel industry with the necessity of obtaining high-grade ores from foreign sources or of developing low-grade domestic ores known as taconites. The report indicates that the large investment required in the development of either of these sources makes it possible for only the largest companies to exploit them. Thus the ability of the steel companies to satisfy their long-run requirements for iron ore depends upon whether they are successful in importing ore, principally from Venezuela and Labrador, and whether taconite beneficiation can be developed on a commercial basis. In either case the effect on competition will be "the maintenance of the general pattern of concentration in ore ownership and control which now exists."

According to the report, the positions of the nine large steel companies, as well as those of the independent furnace companies vary as to (1) degree of self-sufficiency in iron ore; (2) intimacy of relationship with ore merchants, and (3) the extent of participation in ownership or iron-mining companies.

In regard to the smaller users of iron ore, the report states, "In general, the iron ore supply situation of the smaller integrated steel companies and of the merchant pig iron producers is not encouraging." "To a considerable extent the smaller users of iron ore exist by sufferance; they are hardly in a position to be a vital element in competition."

The report states that the major ore merchants had by 1948 "virtually become appendages to the large steel companies," through partnership arrangements developed between the ore merchants and the steel companies for the exploitation of ore properties and through long-term contracts between them for supplies of ore. Thus the ore merchants offered little hope of providing more iron ore for smaller users or of assuring a competitive market for ore, and "the spot market, so far as sales by the ore merchants are concerned, is virtually non-existent."

The report also directs attention to new technological developments which, if introduced on a broad scale, might reduce the present level of concentration in the steel industry. Among the more promising developments are the electric smelting furnace, the direct reduction smelting process (including sponge iron), the turbohearth, and continuous casting. Many of these new technologies appear to be of capital-saving or decentralizing character which would permit additional steel capacity to be provided with smaller investment and enable smaller units to operate with reasonable efficiency on local supplies of unexploited ore, scrap, and other metallics. However, the new technologies are far from commercial realities. The report points out that "Under present circumstances wide-spread use of the hitherto unexploited small and scattered deposits of high-grade domestic ore \* \* \* can be expected to take place only in the indefinite future."

## FINANCIAL REPORTS

The financial reporting program, a continuation of statistical and economic studies made by the Commission for a number of years, is the only source of current information available anywhere about the financial characteristics of different groups of industries and of different corporate size classes. To eliminate duplication of Government reports, the Federal Trade Commission, in collaboration, with the Securities and Exchange Commission, was designated in 1946 to collect, on behalf of the entire Federal Government, quarterly figures, not otherwise available, setting forth the main items of a consolidated income statement and consolidated balance sheet for manufacturing corporations. It is not practicable for trade associations, commercial banks, or other private enterprises to obtain this kind of information since many firms refuse to supply detailed reports to credit agencies

or trade associations for fear that identified facts about their companies will become available to their competitors.

Such data are needed as a basis for administrative decisions and the formulation of policy by the executive and legislative branches of the Federal Government and by business, labor, agricultural, and other interests. The data are used by the Department of Commerce as the basis for estimating the corporate segment of the national income and gross national product, by the Board of Governors of the Federal Reserve System in developing credit policies, by the Congressional Joint Committee on Internal Revenue Taxation in formulating corporate tax policy, by the Senate Select Committee on Small Business in determining the current financial status of small business and by other congressional committees and Federal agencies for a variety of purposes.

The data are also used extensively by accountants, attorneys, bankers, insurance companies, investors, manufacturers, private research organizations, schools of business, trade associations, and the like.

The published reports provide quarterly estimates for 46 items of income, expense, assets, liabilities, and stockholders equity for all American manufacturing corporations, for 7 asset sizes of manufacturing corporations, and for 23 groups of manufacturing industries. They are requested regularly by more than 10,000 executives, who use the published reports:

1. As a tool of internal management to improve operating performance by comparing a company's operating results with the average results of corporations of comparable size or in the same line of business, in order to indicate points at which costs may be reduced and profits increased.

2. As a standard of comparison with the operating results of particular corporate applicants for loans or credit.

3. To determine the comparative profitability of other types of business activity than those currently performed, in order to determine whether or not it is profitable to expand by entering new lines of business.

4. To determine the most profitable industries in which institutional and industrial investors, as well as private persons, may participate.

5. As a guide to the relative movement of sales and profits in order to reduce controversies in wage negotiation as to the ability of employers to pay wage increases or current rates of wages.

6. As a guide to appropriate levels of expenditure in undertaking new programs recommended by advertising agencies, industrial engineers, public accountants, attorneys, and economic consultants.

With the publication of the Quarterly Financial Report for United States Manufacturing Corporations for the second quarter of 1952, a new series on the financial experience of manufacturing corporations was presented, covering data for the third and fourth quarters of 1951 and the first and second quarters of 1952. The earlier series terminated with the report for the fourth quarter of 1951. To provide continuity for users of time series in these financial statistics, data for the first and second quarters of 1951 in the earlier series were revised.

Quarterly estimates of the income statements and balance sheets for the total operations of retail and merchant wholesale corporations were made available, for the first time, in the form of a published report which covered the year 1950 and each of the four quarters of calendar year 1951. The collection and analysis of the data were financed by the Office of Price Stabilization. This trade program, the first of its kind, was replaced by one less than one-tenth the size of the original, financed jointly by the Board of Governors of the Federal Reserve System and the Economic Stabilization Agency, resulting in published reports containing estimates for each of the four quarters of calendar year 1952. Necessary retrenchment prevented continuance of this trade program and consequently figures for the calendar year 1953 were not collected.

## SPECIAL STATUTORY ASSIGNMENTS

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### DEFENSE PRODUCTION ACT

As originally enacted in 1950 and as extended by subsequent amendatory legislation, section 708 of the Defense Production Act provides that the President is authorized to consult with representatives of industry, business, financing, agriculture, labor, and other interests, with a view to encouraging the making by such persons, with the approval of the President, of voluntary agreements and programs to further the objectives of the act. It further provides that no act, or omission to act, if requested by the President pursuant to a voluntary agreement or program approved thereunder and found by the President to be in the public interest as contributing to the national defense, shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act. Copies of such requests must be furnished to the Attorney General and the Chairman of the Federal Trade

Commission. In authorizing the President to delegate to certain officials his authority under section 708 (b) relating to exemptions from the antitrust Laws and the Federal Trade Commission Act, the statute provides that such officials must consult with the Attorney General and the Chairman of the Federal Trade Commission before making any request or finding under the exemption proviso. It provides further, in effect, that such exemptions become effective only with the approval of the Attorney General.

As defense agencies have matters coming within the scope of section 708 of the Defense Production Act, copies of the respective proposals are submitted through the appropriate liaison officers to the Attorney General and the Chairman of the Federal Trade Commission. Through interagency staff consultation, the matters involved are explored and a basis is established for the clearance provided in the act. Before such clearance is granted, the matters are examined with the view of minimizing, so far as possible, with out interference with the defense effort, factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power.

Up to the close of the fiscal year, 68 industry programs and agreements were acted upon through the consultation process in pursuance of section 708 of the Defense Production Act.

### SMALL BUSINESS ACT OF 1953

Production pools of small business and voluntary industry agreements and programs are subject to similar requirements for consultation and clearance with the Chairman of the Federal Trade Commission under section 217 of this act. All small business pools and voluntary agreements coming within the scope of such section are promptly processed and cleared as presented to the Chairman by the Small Business Administration.

### TRADE-MARKS

The Trade-Mark Act of 1946 conferred upon the Commission authority to enter proceedings in the Patent Office to cancel the registration of marks on the principal register where the mark has become the common descriptive name of an article on which the patent has expired, or where the mark has been assigned and is used so as to misrepresent the source of the goods, or where the registration has been obtained fraudulently or contrary to certain prohibitory provisions of the law. The Commission is also authorized to institute cancellation proceedings in the case of certification marks in instances (1) where the registrant does not control the use of such mark; (2) where the registrant is engaged in the production or marketing of goods upon which the certification mark is applied; (3) where the registrant permits use of the mark for other purposes than as a certification mark; or (4) where the registrant discriminately refuses to certify or to continue to certify the goods of any person who maintains the standards or conditions which the mark certifies.

Two cases involving basic consideration of the jurisdiction of the Commission over marks registered pursuant to statutes which preceded the Trade-Mark Act of 1946 have been decided by the Commissioner of Patents and the effect of these decisions is to confine the Commission's cancellation authority to registrations granted under the 1946 act.

During the fiscal year 16,041 registered trade-marks were given administrative scrutiny in performance of the Commission's duties under the Lanham Trade Mark Act and the Federal Trade Commission Act.

### INSURANCE

Under Public Law 15, Seventy-ninth Congress, effective June 30, 1948, the Commission's corrective powers were made applicable to



the business of insurance "to the extent that such business is not regulated by State law." Proper and efficient functioning of this law requires coordination of activities and cooperation between the Commission and the insurance regulatory authorities of the several States. Through arrangements with such State officials a plan of systematic cooperation and liaison is functioning. Conferences and special meetings between representatives of the Commission and State officials have been held and many problems of concern to both State and Federal agencies have been dealt with; overlapping and conflict of effort have been forestalled in the application of Federal and State laws concerning regulation of the business of insurance. A pattern was followed during the fiscal year for handling enforcement matters involving practices which were indicative of violation of the acts administered by the Commission and at the same time involve matters of concern to the State regulatory authorities. It was contemplated that the State authorities, if they found they had sufficient power to act, would act to effect the needed correction, and the Commission would cooperate with the States in efforts to effect fully such remedy as might be needed in the interest of the public.

During the past fiscal year there was completed, with the cooperation of State officials, survey of State insurance regulatory laws enacted during the 1901-1952 period which augments an original and a supplemental survey completed in the fiscal year 1951. The purpose of this survey work is that of ascertaining the existence of laws and regulations which might affect the application of the Federal Trade Commission Act and the Clayton Act with respect to insurance. Since such State laws and regulations are constantly changing and being added to, their collection and coordination are necessarily a continuing work which has been greatly facilitated by the cooperation of State insurance officials.

## APPROPRIATIONS AND FINANCIAL OBLIGATIONS

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### FUNDS AVAILABLE FOR FISCAL YEAR

Funds appropriated to the Commission for fiscal year 1953 amounted to \$4,053,300. In addition the Supplemental Appropriation Act, 1953 (Pub. 547, 82d Cong.), approved July 15, 1952, provided \$125,000 making a total available of \$4,178,800.

The Commission also received by transfer the following amounts: from the Economic Stabilization Agency the sum of \$15,000; and from the Board of Governors, Federal Reserve System the sum of \$8,500; for the program of financial reports.

### OBLIGATIONS BY ACTIVITIES, FISCAL YEAR 1953

1. Antimonopoly:		
Investigation and litigation	-----	\$1,710,703
Economic and financial reports	-----	268,366
2. Antideceptive practices:		
Investigation and litigation	-----	1,084,256
Trade practice conferences	-----	213,101
Wool and fur trade act administration	-----	273,029
Lanham Act and insurance	-----	30,705
3. Executive Direction and management	-----	311,075
4. Administration	-----	285,999

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Total ----- 4,177,234

OBLIGATIONS BY OBJECTS, FISCAL YEAR 1953

Personal services -----	\$3,886,238
Travel -----	144,733
Transportation of thing -----	778
Communication services -----	27,675
Rents and utility services -----	13,408
Printing and reproduction -----	27,746
Other contractual services -----	35,094
Supplies and materials -----	35,039
Equipment -----	6,478
Refunds, awards, and indemnities -----	45

Total ----- 4,177,234

## SETTLEMENTS MADE UNDER FEDERAL TORT CLAIMS ACT

In reference to section 404 of the Federal Tort Claims Act, the following report is made:  
 During the fiscal year 1953 the Commission paid no claims nor were any claims pending.

### APPROPRIATIONS AND OBLIGATIONS

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

Year	Number of Employers	Nature of appropriations	Appropriations	Obligations	Balance
1951	684	Lump sum including printing and binding) -----	\$3,891,695	3,770,773.09	\$120,921.91
1952	672	Lump sum including printing and binding) -----	4,314,400	4,307,672.34	6,727.66
1953	642	Lump sum including printing and binding) -----	4,178,800	4,177,233.57	1,566.43

## APPENDIXES

### Federal Trade Commissioners- 1915-53

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

James M. Mead  
Stephen J. Spingarn  
Albert A. Carretta  
Edward F. Howrey  
John W. Gwynne

New York  
New York  
Virginia  
Virginia  
Iowa

Nov. 16, 1949-  
Oct. 25, 1950-Sept. 25, 1953.  
June 18, 1952-  
April 1, 1953-  
Sept. 26, 1953-.

## Statutes Pertaining to the Federal Trade Commission

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

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated below.
2. Clayton Act, sections 2, 3, 7, 8 and 11, approved October 15, 1914 (38 Stat. 730, 731, 732), amended as indicated below.
3. Webb-Pomerene Export Trade Act, approved April 10, 1918 (40 Stat. 516).
4. Wheeler-Lea Act, approved March 21, 1938 (52 Stat. 111), amending the Federal Trade Commission Act.
5. Robinson-Patman Act, approved June 19, 1936, and amendment thereto approved May 26, 1938 (49 Stat. 1526; 52 Stat. 446), revising and extending section 2 of the Clayton Act.
6. Wool Products Labeling Act of 1939, approved October 14, 1940 (54 Stat. 1128).
7. Public Law 15, 79th Congress, approved March 9, 1945, "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" (59 Stat. 33).
8. Lanham Trade Mark Act, approved July 5, 1946 (60 Stat. 427).
9. Oleomargarine Act, approved March 16, 1950, amending Section 5 of the Federal Trade Commission Act respecting civil penalties, and section 15 respecting misleading advertisement of oleomargarine or margarine (64 Stat. 20).
10. Public Law 899, 81st Congress, approved December 29, 1950, the so-called antimerger legislation, amending and extending section 7 of the Clayton Act. (64 Stat. 1125)
11. Fur Products Labeling Act, approved August 8, 1951 (65 Stat. 175).
12. Flammable Fabrics Act, approved June 30, 1953 (67 Stat. 111).

### Federal Trade Commission Act\*

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

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

SEC. 1. Be it enacted by the Senate and House of Representatives of the United States of America in

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

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\*Published as last amended by the Federal Trade, or McGuire, Act, approved July 14, 1952. (See footnote 5 on page 57.)



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 Commissioner shall choose a chairman from its own membership.<sup>1</sup> No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the Commission shall not impair the right of the remaining commissioners to exercise all the powers of the Commission.

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

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

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the Commission may from time to time 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>4</sup>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 400 (b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

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

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

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

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

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

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

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

(f) Complaints, orders, and other processes of the Commission under this section may be served by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or 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 or subsection (b); or

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

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

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

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

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

(j) If the Supreme Court orders a rehearing; or if the case is remanded by the circuit court of appeals to the Commission for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision 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 to the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of no more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of such an order shall be a, separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.<sup>7</sup>

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

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

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

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

(D) Upon the direction of the President or either <sup>8</sup> House of Congress to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

(b) Whenever it appears to the satisfaction of the court in the case of a newspaper, 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

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

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

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

SEC. 14<sup>9</sup>(a) Any person, partnership, or corporation who violates any provision of section 12 (a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than six months, or by both such fine and imprisonment; except that if the condition 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 or advertising, except the manufacturer, packer, distributor, or seller of the commodity to which the false advertisement relates, shall be liable under this section by reason of the dissemination by him of any false advertisement, unless he has refused on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the United States, who caused him to disseminate such advertisement. No advertising agency shall be liable under this section by reason of the causing by it of the dissemination of any false advertisement, unless it has refused, on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, or seller, residing in the United States, who caused it to cause the dissemination of such advertisement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Original act approved September 26, 1914.

Amended act approved March 21, 1938.

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<sup>10</sup> This subsection added by sec. 4 (a) of Public law 459, 81st Cong., approved March 16, 1950, and effective July 1, 1950.

# Clayton Act <sup>1</sup>

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

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

[H.R. 15657]

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

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

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

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

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

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<sup>1</sup> The Robinson-Patman Act Approved June 19, 1936, 49 Stat. 1526; 15 U. S. C., Sec. 13 (see footnote 2). See also footnote 4 on page 71 and footnote 8 on page 76, with respect to the repeal of Section 9, Section 17 in part, Sections 18 and 19, and Section 21 - 23, inclusive by two acts of June 25 1948, namely, C. 645 (62 Stat. 683) and C. 646 (62 Stat. 896): footnotes on page s 69 and 72 concerning the amendment of sections 7 and 11 by act of Dec. 29 1950, C. 1184 (64 Stat. 1125).

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

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

Public No. 550 75th Congress approved May 26, 1938, to amend the said Robinson-Patman Act, further provides

that nothing therein "shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit"

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

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

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

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

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

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

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

Sec. 4 That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant re-

sides, or is found, or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

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

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

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

SEC. 7.<sup>3</sup> That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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





provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

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

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

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

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

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

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

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

If any common carrier shall violate this section it shall be fined not exceeding \$25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$5000, or confined in jail not exceeding one year, or both in the discretion of the court.

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



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

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

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

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<sup>5</sup> Section 11, also section 7, of the Clayton Act appear here in the form into which they were amended by Act of Dec. 29, 1350 (P. L. 899; 64 Stat. 1125; 15 U. S. C. 21).



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

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

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

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

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

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

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

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

SEC. 10. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties as against threatened loss or damage by a violation of the antitrust laws, including sections two, three, seven, and eight of this Act, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: Provided, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit in equity for injunctive relief against any common carrier subject to the provisions of the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, in respect of any matter subject to the regulation, supervision, or other jurisdiction of the Interstate Commerce Commission.

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

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

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

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

SEC. 18.<sup>7</sup> That, except as otherwise provided in section 16 of this Act, no restraining order or interlocutory order of injunction shall issue, except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

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

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

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<sup>6</sup> See second paragraph of footnote 8 on page 76

<sup>7</sup> See second paragraph of footnote 8 on page 76

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

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

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

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

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

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

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<sup>7</sup> See footnote 8 on page 76





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

SEC. 23.<sup>8</sup> That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

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

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

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

Approved, October 15, 1914.

## Flammable Fabrics Act

(Approved June 30, 1953; 67 Stat. 111; 15 U. S. C. Sec. 1191)  
[PUBLIC—NO. 88 - 83D CONGRESS, CH. 164—1ST SESS.]

[H. R. 5069]

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

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

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

### DEFINITIONS

SEC. 2. As used in this Act—

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

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

The Act of June 25, 1948, c. 646 (62 Stat. 896), which revised, codified, and enacted into law Title 28 of the Code (Judicial Code and Judiciary), repealed the first, second, and fourth paragraphs of Section 17, and repealed Sections 18 and 19, in view of Rule 65, Federal Rules of Civil Procedure, which covers the substance of the matter involved.

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

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

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

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

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

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

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

#### PROHIBITED TRANSACTIONS

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

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

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

#### STANDARD OF FLAMMABILITY

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



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

#### ADMINISTRATION AND ENFORCEMENT

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

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

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

(d) The Commission is authorized to—

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

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

#### INJUNCTION AND CONDEMNATION PROCEEDINGS

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

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

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

(d) If such articles of bearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of bearing apparel or fabrics will not be disposed of for wearing

apparel purposes until properly and adequately treated or processed so as to render them unlawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

#### PENALTIES

SEC.. 7. Any person who willfully violates section 3 or 8 (b) of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: Provided, That nothing herein shall limit other provisions of this Act.

#### GUARANTY

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

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

#### SHIPMENTS FROM FOREIGN COUNTRIES

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

#### INTERPRETATION AND SEPARABILITY

SEC.. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

#### EXCLUSIONS

SEC.. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in perform-

ing a contract or commission service for the account of a person subject to the provisions of this Act: Provided, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this Act, as to be dangerous When worn by individuals,

#### EFFECTIVE DATE

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

#### AUTHORIZATION OF NECESSARY APPROPRIATIONS

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

Approved June 30,1953.





## Types of Unfair Methods and Practices

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

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

2. Describing various symptoms and falsely representing that they indicate the presence of diseases and abnormal conditions which the product advertised bill 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 buyers or other employees of customers and prospective customers, without employers' knowledge or consent, to obtain or hold patronage.

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

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

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

8. Widespread threats to the trade of suits for patent infringement arising from the sale by competitors

of alleged infringing products, not in good faith, but for the purpose of intimidating the trade and hindering or stifling competition, and claiming, without justification, exclusive rights in public names of unpatented products.

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

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

11. Passing off goods for products of competitors through appropriation or simulation of such competitors' trade names, labels, dress of goods, or 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 contracts, such as pretended puzzle-prize contests purportedly offering opportunities to win handsome prizes, but which are in fact mere "come-on" schemes and devices in which the sellers 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' source of supply, or to close market to competitors; or use by trade associations of so-called standard cost system, price lists, or guides, or exchange of trade information calculated to bring about these ends, or otherwise restrain or hinder free competition.

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

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

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

(a) Sales plans in which the seller's usual price is falsely 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) False or misleading use of the word "Free" in advertising.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23. Giving products misleading names so as to give them 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 the quality of such products, or are of national reputation; or

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

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

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

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

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

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

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

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

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

26. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

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

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

(a) Misrepresenting, through salesmen or otherwise, products' composition, nature, quantities, 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 brought 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 to be a delivery system, an organization in search of missing heirs, or one connected with a Government agency.

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

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

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

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.



## Description of Procedure

Cases before the Commission may originate in one of several ways: Through complaint by a consumer or a competitor; from other governmental agencies, Federal, State, or municipal; or upon observation by the Commission. The Commission itself may initiate an investigation to determine whether the laws administered by it are being violated. 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. It is the policy of the Commission not to disclose the identity of the complainant.

Upon receipt of an application for complaint, the Commission through its Bureau of Antimonopoly or its Bureau of Antideceptive Practices, considers the essential jurisdictional elements before deciding whether it shall be docketed for investigation if it is a case involving restraint of trade or alleged violation of the Clayton Antitrust Act, it is assigned to the chief, Division of Investigation and Litigation, Bureau of Antimonopoly. Other types of cases, including those involving deceptive practices, are referred to the investigation division in the Bureau of Antideceptive Practices.

In either Bureau, after preliminary processing, cases are then assigned to attorney-examiners for the purpose of developing all the essential facts. In matters requiring field investigation, 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. Where necessary, competitors of the respondent are interviewed to determine the effect of the practice from a competitive standpoint. It is often desirable also to interview consumers and members of the general public to obtain their assistance in determining whether the practice in question constitutes an unfair method of competition or an unfair or deceptive practice, as well as to establish the existence of the requisite public interest.

After developing all the facts, the examining attorney files a report summarizing the evidence, reviewing the applicable law, and recommending the action he believes the Commission should take. The record is then reviewed by his division chief, who submits the file to the Commission through the Bureau Director, accompanied by a statement setting forth the facts as well as his conclusions and recommendations.

Recommendations thus made to the Commission may be for (1) issuance of a formal complaint; (2) negotiation of a stipulation-agreement in which the respondent agrees to cease and desist from the practices challenged as unlawful; or (3) closing of the case. When issuance of a complaint is recommended, a draft of the complaint—prepared by the litigation unit in either the Bureau of Antimonopoly or the Bureau of Antideceptive practices—accompanies the file.

If the Commission decides that a formal complaint should issue, the case is referred to the appropriate division for trial of the case. Should the Commission permit disposition by stipulation, the case is referred to the Division of Stipulations in the Bureau of Industry Cooperation.

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

## Statement, Consent Settlement and Default Orders

The consent settlement rule became effective on August 4, 1951, 30 days after publication in the Federal Register. It provides that at any time after the issuance of complaint and prior to the commencement of the taking of evidence, all respondents in any case may jointly move the hearing examiner to suspend proceedings before him for a reasonable time to permit negotiations by counsel upon a consent settlement dispositive of the proceeding. Such suspension, and the time thereof, is in the discretion of the hearing examiner, after considering representations of counsel for both sides and the reasonable probability of an agreement being reached that would result in a substantial saving in time and expense.

This rule is not invoked after the Commission has begun to present the evidence necessary to prove its case.

A motion to suspend the proceedings for the purpose of negotiating a consent settlement must be made to the hearing examiner, and whether or not the motion is granted is in his discretion. The time allowed for such negotiations is also controlled by the hearing examiner. Unless the hearing examiner believes that the reasonable probability of an agreement being reached that would result in a substantial saving of time and expense exists, the motion is not granted. Negotiations under the rule are handled by the Commission's trial attorney, but responsibility for seeing that the case is not unduly delayed remains with the hearing examiner.

The rule further provides that in the event a consent settlement is agreed upon by counsel, it shall be submitted to the Commission through the hearing examiner, who transmits with such proposal any comment thereon he deems appropriate and the record in the proceeding in which the settlement is tendered. This avoids the entry of an initial decision by the hearing examiner and he neither accepts nor rejects the proposal. It assures that each proposal will go direct to the Commission informally and off the record, and gives the Commission free access to all available information in the investigational files and elsewhere in considering the adequacy of the proposal.

In the event the proposal is rejected by the Commission, the case is returned to the hearing examiner to proceed in regular course and the proposal does not become a part of the record. In the event a consent settlement is accepted, the case is concluded by the entry therein by the Commission of an order and other matters included in such settlement in accordance with its terms which constitute final disposition of the proceeding.

In another of a series of moves designed to expedite the disposition of cases, the Commission amended its Rules of Practice to provide for the entry of "default orders" in uncontested cases. The revised default order procedure became effective in the Commission on August 4, 1951, 30 days after publication in the Federal Register.

Under the former rule, the Commission's practice was to hold hearings for the reception of evidence supporting the allegations of the complaint even though the respondent failed to answer and to appear for hearing. Under the revised rule, no hearings will be necessary in such uncontested cases.

## Contested Proceedings

Formal complaints are issued by the Commission only after careful consideration of the facts developed by the investigation. The complaint and the

answer of the respondent, together with subsequent proceedings, are matters of public record. Formal complaints are issued in the name of the Commission acting in the public interest. They name the respondents, allege a violation of law, and contain a statement of the charges. The party complaining to the Commission is not a party to the formal complaint, and the proceeding does not seek to adjust matters between parties. On the contrary, the purpose of a Commission proceeding is to prevent, for the protection of the public, those unfair methods of competition and unfair or deceptive practices forbidden by the Federal Trade Commission Act and those practices within the Commission's jurisdiction which are prohibited by the Clayton Antitrust Act, as amended by the Robinson-Patman Act; the Export Trade Act; and the Wool and Fur Labeling Acts.

The Commission's rule of practice provides that a respondent desiring to contest the proceeding shall file an answer admitting, denying, or explaining each allegation within 20 days from service of the complaint. In addition, any respondent is afforded an opportunity to submit offers of settlement where time, the nature of the proceeding, and the public interest permit.

Where evidence is to be taken in a contested case, the matter is set down for hearing before a hearing examiner. Such hearings, with due regard to the convenience and necessity of all parties, may be held anywhere in the United States. The Commission's complaint is supported by one or more of its hearing attorneys, and the respondent has the privilege of appearing in his own behalf or by attorney.

In these hearings, respondents have the right to present evidence and to cross-examine witnesses, as well as other rights fundamental to judicial proceedings. Counsel supporting the complaint has the general burden of proof.

After the submission of evidence in support of the complaint and in behalf of the respondent, and after the parties have otherwise been duly heard and their contentions considered, the hearing examiner, within 30 days after closing the record, prepares and files an initial decision. This decision becomes a Commission decision 30 days after service unless the parties appeal to the Commission or unless the Commission, on its own initiative, docket the case for review.

Filing of initial decisions by hearing examiners is a procedure authorized by the Commission, pursuant to the Administrative Procedure Act. Formerly, hearing examiners made recommended decisions, with the initial decision being made by the Commission.

Initial decisions include a statement of findings and conclusions, with the reasons or bases therefor, upon all the material issues of fact, law, or discretion presented on the record, and an appropriate order. All findings, conclusions, and orders made and issued by the hearing examiner must be based upon the whole record and supported by reliable, probative, and substantial evidence.

In the event a respondent or counsel supporting the complaint desires to appeal, a notice of intention to appeal must be filed within 10 days after service of the initial decision. An appeal brief must be filed within 30 days after the service of the initial decision, with the brief of the party opposing appeal due within 20 days after service of the appeal brief. Oral argument may be heard by the Commission on request of either party.

On appeal or review, the Commission may exercise all the powers it would have exercised had it made the initial decision.

Under the Commission's rules, hearing examiners are charged with the duty of conducting a fair and impartial hearing and may perform no duties inconsistent with their duties and responsibilities as such. The rules specifically provide that they shall not be responsible to, or subject to the supervision or direction, any office, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission.

If the allegations of the complaint are sustained by the evidence, the hearing examiner (or the Commission on appeal or review ) makes findings as to the facts and conclusions of law, and an order is then issued requiring the respondent to cease and desist from the practice found to be violative of law. If the complaint is dismissed or the case closed, an appropriate order is likewise 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 and Fur Products Labeling Acts, but the Clayton Act provides a procedure for enforcement of cease-and-desist orders different from that specified by the other two acts.

Under the Federal Trade Commission Act and the Wool and Fur Products Labeling Acts, 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 court of appeals to review the order. In case of review, the order of the Commission becomes final after affirmance by the 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 becomes final subjects the offender to suit by the Government in a United States district court for recovery of a civil penalty of not more than \$5,000 for each violation.

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 court of appeals on application for review by the respondent or upon petition of the Commission for enforcement. Where affirmance is accompanied by a decree of enforcement, appropriate contempt proceedings may thereafter be brought in the particular court of appeals for violation of the order.

Under all four acts, the respondent may apply to a court of appeals for review of an order and the court has power to affirm, or 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 court of appeals.

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 dissemination of advertisements of food, drugs, cosmetics, and devices intended for use in the diagnosis, prevention, or treatment of disease, 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 has become final, or until the Commission 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. The statute provides that the Commission shall certify this type of case to the Attorney General for institution of appropriate court proceedings.

## General Investigations by the Commission since 1915

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

Reports 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. Investigations, the results of which have been published, are listed below. Following this listing are unpublished investigations conducted by the Commission.

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

Accounting Systems.—See *Distribution Cost Accounting*.

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

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

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

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<sup>1</sup> The wartime cost-finding inquiries, 1917-18 (p. 162), 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 8, p. 61.

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

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

Agricultural Prices.—See Price Deflation.

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

Bakeries and Bread.—See under Food.

Beet Sugar.—See under Food—Sugar.

Building Materials.—See Distribution Methods and Costs.

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

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

Cement (Senate).—Inquiry into the cement industry's competitive conditions and distributing processes (S. Res. 448, 71st, 2/16/31) showed that rigid application of the multiple basing-point price system<sup>6</sup> tended to lessen price competition and destroy the value of 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., o. p., 6/9/33).

Chain Stores (Senate).—Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/12/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors 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. )

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<sup>4</sup> Conditions With Respect to the Sale and Distribution of Milk and Dairy Products (H. Doc. 94, 75th, 1/4/37), p. 38; Report of the F.T.C. on Agricultural Income Inquiry, Part I (3/2/37), p. 26; Agricultural Implement and Machinery Industry (H. Doc. 702, 75th, 6/6/39), p. 1038; The Present Trend of Corporate Mergers and Acquisitions 3/7/47); The Merger Movement: A Summary Report (1948); and F.T.C. Annual Reports: 1938, pp. 19 and 29; 1939, p. 14; 1940, p. 12; 1941, p. 19; 1942, p. 9; 1943, p. 9; 1944, p. 7; 1945, p. 8; 1946, p. 12; 1947, p. 12; and 1948, p. 11.

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

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

In the Final Report on the Chain-Store Investigation (S. Doc. 4, 74th, 110 p., o. p., 12/14/34), legal remedies available to combat monopolistic tendencies in chain-store development were discussed.<sup>7</sup> The Commission's recommendations pointed the way to subsequent enactment of the Robinson-Patman Act (1936) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

Cigarette Shortage (F.T.C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944-45.—In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that it was not attributable to violations of laws administered by the Commission; but that certain undesirable practices such as hoarding and tie-in sales had developed. (Report of the F.T.C. on the Cigarette Shortage, 33 pages, processed, 2/13/45.)

Coal (Congress and F.T.C.), Wartime, :1917-18, Etc.—From 1916 through the First World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were: Anthracite Coal Prices, preliminary (S. Doc. 19, 65th, 4 p., o. p., 5/4/17); Preliminary Report by the F.T.C. on the Production and Distribution of Bituminous Coal (H. Doc. 152, 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 2/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1/17; Washington, D. C., Retail Coal Situation (5 p., release, processed, o. p., 8/11/17)—pursuant to F.T.C. motion; Investment and Profit in Soft-Coal Mining (two parts, 5/31/22 and 7/6/22, 218 p., o. p., S. Doc. 207, 65th)—pursuant to F.T.C. motion; and Report of the F.T.C. on Premium Prices of Anthracite (97 p., o. p., 7/6/25)—pursuant to F.T.C. motion.

Coal, Cost of Production (F.T.C. ), Wartime, 1917-18.—President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U. S. Fuel Administration in continuing price control, the Commission compiled monthly cost production reports, collecting cost records for 1917-18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (Cost 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., o. p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p., o. p.; (5) Ohio, Indiana, and Michigan, bituminous, 288 p., o. p.; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p., o. p.; and (7) trans-Mississippi States, bituminous, 459 p., o. p.).

Coal, Current Monthly Reports (F.T.C.).—The Commission (December 1919) initiated a system of current monthly returns from the soft Coal industry similar to those compiled during the World War, 1917-18 (Coal—Monthly Report,, 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 7 years later) led to their abandonment.

Combed Cotton Yarns.—See Textiles.

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<sup>7</sup> See footnote 4 p.92.

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, 65th, 7 p., o. p., 3/18/20).

Concentration of Productive Facilities (F. T. C.).—In a study of the extent of concentration of economic power, the Commission reported that 46 percent of the total net capital assets of all manufacturing corporations in the United States in 1947 was concentrated in the 113 largest manufacturers. The report is entitled The Concentration of Productive Facilities, 1947—Total Manufacturing and 26 Selected Industries (96 p.). See also Divergence between Plant and Company Concentration.

Control of Iron Ore (F.T.C.).—A study of the concentration of iron ore supplies covers the sources and consumption of iron ore in 1948, an estimate of reserves available to major companies and an analysis of effect of possible shortage on big and small companies. The Control of Iron Ore (1952).

Cooperation in American Export Trade.—See Foreign Trade.

Cooperation in Foreign Countries (F.T.C.).—Inquiries made by the Commission regarding the cooperative movement in 15 European countries resulted in a report, Cooperation in Foreign Countries (S. Doc. 171, 68th, 202 p., o. p., 11/29/24), recommending further development of cooperation in the United States.

Cooperative Marketing (Senate).—This inquiry (S. Res. 34, 69th, 3/17/25) covered the development of the cooperative movement in the U. S. and illegal interferences with the formation and operation of cooperatives; and a comparative study of costs, prices, and marketing methods (Cooperative Marketing, S. Doc. 95, 70th, 721 p., o. p., 4/30/28).

Copper.—See Wartime Cost Finding, 1917-18.

Copper Industry (F.T.C.).—The Commission's report on The Copper Industry, transmitted to Congress (3/11/47), was in two parts: Part I—The Copper Industry of the United States and International Copper Cartels, and Part II—(Concentration and Control By the Three Dominant Companies. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the ore reserves and of the productive capacity, but also because the domestic supply is inadequate to meet the demands of high level national production and employment. Furthermore, the production of foreign copper, on which the United States will become increasingly dependent, is likewise dominated by a few corporate groups which in the past have operated cooperatively in cartels to regulate production and prices."

Corporation Reports.—See Quarterly Financial Reports.

Corporate Mergers and Acquisitions (F.T.C.).—To determine the impact on the Nation's economy of corporate mergers and Acquisitions, the Commission made a study of the merger movement for the years 1940-46, inclusive. The results of the study were transmitted to Congress in a report entitled The Present Trend of Corporate Mergers and Acquisitions (23 p., o. p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or Acquisitions, and that more than one-third of the total number of Acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel—all predominantly "small business" fields. (See also Mergers.)

Cost Accounting.—See Accounting Systems.

Cost of Living (President), Wartime, 1917-18.—Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal



Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See Foods (President), Wartime, 1917-18, herein.] Proceedings of the conference were published (High Cost of Living, 119 p., o. p.).

Cotton Industry.—See Textiles.

Cottonseed Industry (House).—Investigating alleged price fixing (H. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refineries had fixed prices in violation of the antitrust laws (Cottonseed Industry, II. 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 Cotton seed Industry, preliminary report, S. Doc. 91, 71st, 4 p., o. p., 2/28/30, and final report, 207 p., o. p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

Distribution Cost Accounting (F. T. C.).—To provide a guide for current legislation and determine ways for improving accounting methods, the Commission studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection (Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling, H. Doc. 287, 77th, 215 p., o. p., 6/23/41).

Distribution.—See Millinery Distribution.

Distribution of Steel Consumption.— study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers. (1949-1960) The results of the study were transmitted to the Subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) 3/31/52.

Distribution Methods and Costs (F.T.C.).—This inquiry into methods and costs of distributing important consumer commodities (F. T. C. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F. T. C. Act. Eight parts of the F. T. C. Report on Distribution Methods and Costs were transmitted to Congress and published under the sub-titles: Part I, Important Food products (11/11/43, 223 p., o. p.); Part III, Building Materials—Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o. p.); Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements (3/2/44, 189 p., o. p.); Part V, Advertising as a Factor in Distribution (10/30/44, 50 p.); Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p.); Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area (6/30/45, 59 p.); Part VIII, (Cost of Production and Distribution of Fish in New England (6/30/45, 118 p.); and Part IX, Cost of Production and Distribution of Fish on the Pacific Coast (7/25/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

Divergence Between Plant and Company Concentration (F.T.C.).—In this 1950 report, the Commission measured the divergence between plant and company concentration for each of 340 manufacturing industries. The Divergence between Plant and Company Concentration, 1947 (162 p). See also Concentration of Productive Facilities.

Du Pont Investments (F. T. C.).—The Report of the F. T. C. on Du Pont Investment (F.T.C. motion 7/29/27; report, 46 p., o. p. processed, 2/1/29) discussed reported acquisition by E. I. du Pont de Nemours & Co. of U. S. Steel Corp. stock, together with previously reported holdings in General Motors Corp.

Electric and Gas Utilities, and Electric Power.—See Power. together with previously reported holdings in General Motors Corp.

Farm Implements (Senate), Wartime, 1917-18.—The Report of the F. T. C. on the Causes of High Prices of Farm Implement, (inquiry under S. Res. 223, 65th, 5/13/18; report, 713 p., o. p., 5/4/20) disclosed numerous trade combinations for advancing prices and declared the consent decree for dissolution of International Harvester Co. to be inadequate. The Commission recommended revision of the decree and the Department of Justice proceeded to that end.

Farm Implements (F. T. C.).—A 1948 report on the Manufacture and Distribution of Farm Implements (160 p., also 8 p. processed summary) concerns the production and distribution policies of large manufacturers of farm machinery. The report includes information respecting important developments and trends in the industry.

Feeds, Commercial (Senate).—Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Commission found that although some association activities were in restraint of trade, there were no substantial antitrust violations (Report of the F.T.C. on Commercial Feed, 206 p., o. p., 3/29/21).

Fertilizer (Senate).—Begun by the Commissioner of Corporations <sup>8</sup> (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 (F. T. C.).—The Commission's 1949 report on The Fertilizer Industry (100 p.) is concerned primarily with restrictions and wastes which interfere with the supply of plant food materials in the quantities needed and at prices low enough to facilitate maintenance of soil fertility. The Nation's resources of nitrogen, phosphate, and potash are discussed, and the inter-relationships of producers and mixers are reviewed. The report also summarizes available information concerning cartel control of nitrogen, phosphates, and potash.

Fish.—See Distribution Methods and Costs.

Flags (Senate), Wartime, 1917-18.—Unprecedented increases in the prices of U. S. Flags in 1917, due to wartime demand, were investigated (S. Res. 35, 65th, 4/16/17). The inquiry was reported in Prices of American Flags (S. Doc. 82, 65th, 6 p o. p., 7/26/17).

Flour Milling.—See Food, below.

Food (President), Wartime, 1917-18.—President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs" and "to ascertain the facts bearing on alleged violations

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<sup>8</sup> The Commission was created September 26, 1914, upon passage of the Federal Trade Commission Act, sec. 3 of which provided that "all pending investigations and proceedings of the Bureau Of Corporations (of the Department of Commerce) shall be continued by the Commission."

of the antitrust acts." Two major series of reports related to meat packing and the grain trade with separate inquiries into flour milling, canned vegetables and fruits, canned salmon, and related matters, as listed below.

Food (President) Continued—Meat Packing.—Food Investigation—Report of the F. T. C. on the Meat-Packing Industry was published in six parts: I. Extent and Growth of Power of the Five Packers in Meat and Other Industries (6/24/19, 574 p., o. p.); II. Evidence of Combination Among Packers (11/25/18, 294 p., o. p.); III. Methods of the Five Packers in Controlling the Meat-Packing Industry (6/28/19, 325 p., o. p.); IV. The Five Large Packers in Produce and Grocery Foods (6/30/19, 390 p., o. p.); V. Profits of the Packers (6/28/19, 110 p., o. p.); VI. Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Livestock (6/30/19, 183 p., o. p.); and summary (H. Doc. 1297, 65th, 51 p., o. p., 7/3/18).

The reports first led to antitrust proceedings against the Big Five Packers, resulting in a consent decree (Supreme Court of the D. C., 2/27/20),<sup>9</sup> which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, 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 Limitation, p 150. )

Food (President) Continued—Grain Trade.—Covering the industry from country elevator to central market, the Report of the F. T. C. on the Grain Trade was published in seven parts: I. Country Grain Marketing (9/15/20, 350 p., o. p.); II. Terminal grain Markets and 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.); VI. Prices of Grain and Grain Futures (9/10/24, 374 p., o. p.); and VII. Effects of Future Trading (6/25/26, 419 p., o. p.). The investigation as reported in vol. V, and testimony by members of the Commission's staff (U. S. Congress House Committee on Agriculture, Future Trading, 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, Grain Exporters, and Grain Wheat Prices, p. 149.)

Food (President) Continued—Bakeries and Flour Milling. —One F. T. C. report was published by the Food Administration (U. S. Food Administration, Report of the F. T. C. on Bakery Business in United States, pp. 5-13, o. p., 1133/17). Other reports were: Food Investigation, Report of the F. T. C. on Flour Milling and Jobbing (4/4/18, 27 p., o. p.) and Commercial Wheat Flour Milling (9/15/20, 118 p., o. p.).

Food (President) Continued—Canned Foods,<sup>10</sup> Private Car Lines, Wholesale Food Marketing.—Under the general title Food Investigation were published Report of the F. T. C. on Canned Foods—General Report and Canned Vegetables and Fruit (5/18/18, 83 p., o. p.); Report of the F. T. C. on Canned Foods— Canned Salmon (12/27/18, 83 p., o. p.); Report of the F. T. C. On Private Car lines, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p, o. p.; and Report of the F. T. C. on Wholesale Marketing of Food (6/30/19, 268 p., o. p.), which recommended that a wholesale dealer in perishable food

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<sup>9</sup> The legal history of the consent decree and a summary of divergent economic interests involved in the question of packers participation in unrelated lines of food products were set forth by the Commission in Packer Consent Decree (S. Doc. 219, 68th, 44 p. o. p., 2/20/25), prepared pursuant to S. Res. 278, 68th, 12/8/24.

<sup>10</sup> In connection with its wartime cost finding inquiries, 1917-18, p. 109 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).

products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930) .

Food—Bread and Flour (Senate).—"Reports on this inquiry (S. Res. 163, 68th, 2/26/24) were: Competitive Conditions in Flour 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., o. p., 1/11/28); and Conditions in the Flour Milling Business, supplementary (S. Doc. 96, 72d, 26 p., o. p., 5/28/32).

Food—Wholesale Baking Industry (F. T. C.).—This inquiry (F. T. C. Res., 8/31/45) resulted in two reports to Congress: Wholesale Baking Industry, Part I—Waste in the Distribution of Bread (4/22/46, Processed, 29 p.) and Wholesale Baking Industry, Part II—Costs, Prices and Profits (8/7/46, 137 p.). Part I developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products It was found that, although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days, or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread baking industry."

Part II presents information concerning prices and pricing practices in the industry, profits earned, and unit costs of production and distribution. It compares the details of production and distribution costs for bread and rolls, other bakery products, and for all bakery products for two operating periods in 1945, March and September. Comparisons of costs are also made for these two periods for plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by size groups of wholesale bakeries.

Food—Fish.—See Distribution Methods and Costs.

Food—Flour Milling (Senate).—This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in Wheat Flour Milling Industry (S. Doc. 130, 68th, 130 p., o. p., 5/6/24).

Food—Flour-Milling Industry, Growth and Concentration in (F. T. C.).—The Commission's study showed that there has been a progressive increase in the size of flour-mill operations and a progressive decrease in the number of flour-milling establishments. Nevertheless, the Commission reported, there is a lesser degree of concentration in the flour-milling industry than in many other important industries. The results of the study were presented to Congress in a report on the Growth and Concentration in the Flour-Milling Industry (6/2/47).

Food—Grain Elevators (F. T. C.), Wartime, 1917-18.—In view of certain bills pending before Congress with reference to regulation of the grain trade, the Commission, in a preliminary report, 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., 387 P.,, o. p., 5/16/22 and 6/18/23).

Food—Grain, 'Wheat Prices (President).—An extraordinary decline of wheat prices was investigated (President Wilson's directive 10/12/20) and found to be due chiefly to abnormal market conditions (Report of the F. T. C. on Wheat Prices for the 1920 Crop, 91 p., o. p., 12/13/20).

Food—Important Food Products.—See Distribution Methods and Costs.

Food—Meat Packing Profit Limitation (Senate), Wartime, 1917-18.—Following an inquiry ( S. Res. 177, 66th, 9/3/19) involving wartime control of this business as established by the U. S Food Administration in 1917-18, the Commission recommended greater control and lower maximum profits ( Maximum Profit Limitation on Meat Packing Industry, S. Doc. 110, 66th, 179 p., o. p. 9/25/19)

Food—Milk.—See Distribution Methods and Costs.

Food—Milk and Milk Products (Senate), Wartime, 1917-18.—Covering an inquiry (S. Res. 431, 65th, 3/3/19) into fairness of milk prices to producers and of canned-milk prices to consumers, the Report of the F.T.C. on Milk and Milk Products 1914-18 (6/6/21, 234 p, o. p.) showed a marked concentration of control and questionable practices many of which later were recognized by the industry as being unfair.

Food—Milk and Dairy Products (House).—Competitive conditions in different milk-producing areas were investigated ( El. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: Report of the F. T. C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds (H. Doc. 152, 74th, 901 p., o. p., 4/5/35); Report of the F. T. C. on the Sale and Distribution of Milk and Milk Products, Connecticut and Philadelphia milksheds, interim report, H. Doc. 387, 74th, 125 p., o. p., 12/31/35); Chicago Sales Area (H. Doc. 451, 74th, 103 p., o. p., 4/15/36); Boston, Baltimore, Cincinnati, St. Louis, (H. Doc. 501, 74th, 243 p., o. p., 6/4/36); Twin City Sales Area (H. Doc. 506, 74th, 71 p., o. p., 6/13/.36); and New York Milk Sales Area (H. Doc 95, 75th, 138 p., o. p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (Summary report on Conditions with respect to the Sale and Distribution of Milk and Dairy Products, H. Doc. 94 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food—Peanut Prices (Senate). —An alleged price-fixing combination of peanut crushers and mills was investigated (S. Res. 139, 71st, 10/22/29). The Commission found that an industry-wide decline in prices of farmers' stock peanuts during the business depression was not due to such a combination, although pricing practices of certain mills tended to impede advancing and to accelerate declining prices (Prices and Competition Among Peanut Mills, S. Doc. 132, 72d, 78 p.,o. p., 6/30/32).

Food—Raisin Combination (Attorney General).—Investigating allegations of a combination among California raisin growers (referred to F. T. C. 9/30/19), the Commission found the enterprise not only organized in restraint of trade but conducted in a manner threatening financial disaster to the growers. The Commission recommended changes which the growers adopted (California Associated Raisin Co., 26 p., processed, o. p., 6/8/20).

Food—Southern Livestock Prices (Senate).—Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination was being practiced,

a Commission investigation (S. Res. 133, 66th, 7/25/19) revealed the alleged discrimination did not appear to exist (Southern Livestock Price, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

Food—Sugar (House).—An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (Report of the F. T. C. on sugar supply and Prices, 205 p., o. p., 11/15/20).

Food—Sugar, Beet (F. T. C.).—Initiated by the Commissioner of Corporations<sup>11</sup> but completed by the F. T. C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (Report on the Beet Sugar Industry in the U. S., H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

Foreign Trade—Antidumping Legislation (F. T. C.).—To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (Antidumping Legislation and Other Import Regulation in the United States and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report; 111 p., o. p., processed, 6/27/38).

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 America, Export Trade, 2 vols., 984 p., o. p., 6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions 1916. 14 p., o. p. ).

Foreign Trade—Cotton Growing Corporation (Senate).—The report of an inquiry (S. Res. 317, 68th, 1/27/25) concerning the development of this British company, Empire Cotton Growing Corporation, (S. Doc. 226, 68th, 30 p., o. p., 2/28/25), showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

Gasoline.—See Petroleum.

Grain. —See Food.

Grain Exchange Actions (F. T. C. and Chairman of Senate Committee on Agriculture and Forestry)—The Commission's report on Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946 (85 p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1946, for insures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act and the U. S. Warehouse Act "should be so amplified and coordinated, or ,even combined, as to make effective the type and scope of regulation over futures trading contemplated by the Congress in enacting the Commodity Exchange Act."

Guarantee Against Price Decline (F. T. C.).—Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in Digest of Replies in Response to an Inquiry of the F. T. C. Relative to the Practice of Giving Guarantee Against Price Decline (68 p., o. p., 5/27/20).

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<sup>11</sup> See footnote 8, p. 96.

Housefurnishings (Senate).—This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (Report of the F. T. C. on Housefurnishing Industries, 1018 p., o. p., 1/17/23, 10/1/23, and 10/6/24).

Independent Harvester Co. (Senate), Wartime, 1917-18.—After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the F. T. C. Report to the Senate on the Independent Harvester Co. (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and insufficient capital.

Interlocking Directorates (F. T. C.).—This 1950 report on Interlocking Directorates summarizes the interlocking relationships among directors of the 1,000 largest manufacturing corporations. It also covers the interlocking directorates between these corporations and a selected list of banks, investment trusts, insurance companies, railroads, public utilities, and distributive enterprises.

International Alkali Cartels (F. T. C.).—In a report (1950) on International Cartels in the Alkali Industry, the Commission discussed the nature, extent and effect of international agreements concerning baking soda, soda ash, and caustic soda to which organized groups of American and European alkali producers were parties from 1924 until 1946.

International Electrical Equipment Cartel (F. T. C.).—In its 1948 report on this subject (107 p., also 10 p. processed summary) the Commission points out the high degree of economic concentration in the electrical equipment industry which exists in each of the important industrial nations.

International Petroleum Cartel.—A staff study of the activities of the seven major oil companies in relation to control over the international oil industry. Staff Report to the Federal Trade Commission submitted to the Subcommittee on Monopoly of the Select Committee on Small Business, U. S. Senate Committee print No. 6, 82d Cong.—2d sess. 378 p., 1952.

International Phosphate Cartels (F. T. C.).—The F. T. C. Report on International Phosphate Cartels (F. T. C. Res. 9/19/44) developed facts with respect to the practices, arrangements 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.

International Steel Cartels (F. T. C.).—A report to Congress concerning numerous cartel agreements relating to steel which were adopted between World War I and World War II. Certain American companies participated in these agreements, which were both national and international in scope. The international agreements allotted quotas to the different national groups, fixed prices in the export trade, and established reserved and unreserved areas. (International Steel Cartels (1948), 115 p., also 12 p. processed summary.)

Iron Ore.—See Control of Iron Ore.

Large Manufacturing Companies (F. T. C.).—This 1951 report, entitled A List of 1,000 Large Manufacturing Companies, Their Subsidiaries and Affiliates, 1948, shows for each of the 1,000 largest manufacturing corporations which publish financial statements the percentage of stock interest held by the corporation in each of its subsidiaries and affiliates. The parent corporations are grouped in 21 major industries and ranked as to size on the basis of their total assets in 1948, 223 p., 6/1/51.

Leather and Shoes (F. T. C. and House), Wartime, 1917-18.—General complaint regarding high prices of shoes led to this inquiry, which is reported in Hide and Leather Situation, preliminary report (H. Doc. 857, 65th, 5 p., o. p., 1/23/18), and Report on Leather and Shoe Industries (180 p., o. p., 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the Report of the F. T. C. on Shoe and Leather Costs and Prices (212 p., o. p., 6/10/21).

Lumber—Costs.—See Wartime Cost Finding, 1917-18.

Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers' associations (referred to F. T. C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the F.T.C. 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., o. p., 1/24/23), also known as Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountains and Mississippi Valley Territory ( S. Doc. 203, 67th, o. p. ); and Report of the F.T.C. on Northern Hemlock and Hardwood Manufactures Association (52 p., o. p., 5/7/23).

Lumber Trade Association (F. T. C.).—Activities of five large associations are investigated in connection with the Open-Price Associations inquiry to bring down to late the 1919 lumber association inquiry (Chap. VIII of Open-Price Trade Associations, S. Doc. 226, 70th, 516 p., o. p., 2/13/29 ).

Meat-Packing Profit Limitations.—See Food.

Mergers (F. T. C.).—In its 1948 report entitled *The Merger Movement: A Summary Report* (1:34 p., o. p., also 7 p. processed summary) the legal history of the antimerger provisions of the Clayton Act is reviewed. The report called attention to the loophole in the Clayton Act which permitted corporations to purchase the assets rather than (or in addition to) the stock of competing firms, thereby evading the original intent of Congress "to arrest the creation of . . . monopolies in their incipency." (See also *Corporate Mergers*.)

Milk.—See Food.

Millinery Distribution (President).—This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for 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).

Monopolistic Practices and Small Business.—A study by the staff of the Commission on the effect of certain monopolistic practices on small business, requested by the Subcommittee on Monopoly of the Senate Select Committee on Small Business. The results were transmitted to the Subcommittee and published as a committee print by Select Committee on Small Business, U. S. Senate, 82d Cong. (88 p. 3/31/52).

Motor Vehicles (Congress).—Investigating (Public Res. 87, 75th, 4/13/38) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and strong competition; that many local dealers' associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition; that inequities existed in dealer agreements and in certain manufacturers treatment of some dealers; and that some companies' car finance plans developed serious abuses (Motor Vehicle Industry, H. Doc. 468, 76th, 1077 p., o. p., 6/5/39). The 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) ].

Open-Price Associations (Senate).—An investigation ( S. Res. 28, 69th, 3/17/25) to ascertain the number and names of so-called open-price associations, their importance in industry and the extent to which members maintained uniform prices, was reported in Open-Price Trade Associations (S. Doc. 226, 70th, 516 p., o. p., 2/13/29).

Packer Consent Decree.—See Food (President) Continued—Meat Packing.

Paper—Book (Senate), Wartime, 1917-18.—This inquiry ( S. Res. 269, 64th, 9/7/16) 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—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 Newsprint Paper Industry (S. Doc. 49, 65th) 162 p., o. 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., o. p., 6/30/30).

Petroleum.—See International Petroleum Cartel.

Petroleum Products.—See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).—At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: Investigation. of the Price of Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and Report on the Price of Gasoline in 1915 (H. Doc. 74, 65th, 224 p., o. p., 4/11/17—both pursuant to S. Res. 109, 63d, 6/18/13 <sup>12</sup> and S. Res. 457, 63d, 9/28/14, which reports discussed high prices and the Standard Oil Companies' division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; Advance in the Prices of Petroleum Products (H. Doc. 801, 66th, 57 p., o. p., 6/1/20)—pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; Letter of Submittal and Summary of Report on Gasoline Prices in 1924 (24 p. processed, 6/4/24, and Cong. Rec., 2/28/25, p. 5158)—pursuant to request of President Coolidge, 2/7/24; Petroleum Industry—Prices, Profits and Competitions (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)—pursuant to S. Res. 31, 69th, 6/3/36; Importation of Foreign Gasoline at Detroit, Mich., (S. Doc. 206, 72d, 3 p., o. p., 2/27/33)—pursuant to S. Res. 274, 72d, 7/16/32; and Gasoline Prices (S. Doc. 178, 73d, 22 p., o. p., 5/10/34)—pursuant to S. Res. 166, 73d, 2/2/34.

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<sup>13</sup> See footnote 8, p. 96.

Petroleum—Foreign Ownership (Senate).—Inquiry was made ( S. Res. 311, 67th, 6/29/22) into acquisition of extension oil interests in the U. S. by the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American interests (Report of the F. T. C. on Foreign Ownership in the Petroleum Industry, 152 p., o. p., 2/12/23).

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations, <sup>18</sup>this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipeline companies which were unfair to small producers (Report on Pipe-Line Transportation of Petroleum, 467 p., o. p., 2/28/16), 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., o. p.)— pursuant to S. Res. 138, 66th, 7/31/19; Reports of the F. T. C. on the Petroleum Industry of Wyoming (54 p., o. p., 1/3/21)—pursuant to F. T. C. motion; Petroleum Trade in Wyoming and Montana, (S. Doc. 233, 67th, 4 p., o. p., 7/13/22)— pursuant to 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., o. 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., o. p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in superimposing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power—Utility Corps., below. Supply of Electrical Equipment and Competitive Conditions (S. Doc. 46, 70th, 282 p., o. p., 1/12/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

Power—Interstate Transmission (Senate).—Investigation (S. Res. 151, 71st, 11/8/29) 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., o. p., 12/20/30).

Power—Utility Corporations (Electric and Gas Utilities) (Senate).—This extensive inquiry ( S. Res. 83, 70th, 2/15/28; Public Res. 46, 73d, 6/1 /34; and F. T. C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commission's reports and recommendations, focusing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial

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<sup>18</sup> See footnote 8, p. 96. Conditions is one of the midcontinent fields were discussed by the Bureau of Corporations in Conditions in the Healdton Oil Field (Oklahoma) (116 p., 3/15/15).

legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938),

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants, and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets; 70 subholding companies with \$5,685,463,201 total assets; and 278 operating companies with \$7,245,106,464 total assets. The testimony, exhibits, and final reports (Utility Corporations, S. Doc. 92, 70th) comprised 95 volumes.<sup>14</sup>

Price Bases (F. T. C.).—More! than 3,500 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-hauling or cross-freighting to be an economic evil (Report of the F. T. C. On Price Bases Inquiry, Basing-Point Formula, and Cement Prices, 218 p., o. p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N. R. A. code (Study of Zone-Price Formula in Range Boiler industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

Price 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.).

Profiteering (Senate), Wartime, 1917-18.—Current conditions of profiteering (S. Res. 255, 65th, 6/10/18) as disclosed by various Commission investigations were reported in Profiteering (S. Doc. 248, 65th, 20 p., o. p., 6/29/18).

Quarterly Financial Reports United States Manufacturing Corporations (F. T. C. and S. E. C.).—This (1947-52) series of reports is intended to meet the general needs of the Government and the public for current reliable corporation financial data. The reports show the aggregate estimates for American manufacturing corporations as derived from reports collected by the Federal Trade Commission and the Securities and Exchange Commission. This work is based upon resumption by F. T. C. of its prewar financial reporting function and continuation by S. E. C. of its current responsibilities for collection of financial information from corporations with securities registered on a national exchange. F. T. C. obtains comparable information from a carefully selected sample of small, medium size and large nonregistered corporations. The sample has been designed so that the two sets of data can be combined to provide estimates for 21 major industry groups (increased to 23 major groups in 1951) as well as the aggregate for all manufacturing corporations. The Quarterly Financial Reports formerly were known as Industrial corporation Reports.

Quarterly Financial Report, United States Retail and Wholesale Corporation.—This presents estimates of the income statements and balance sheets for the total operations of United States wholesale trade corporations (merchant wholesalers only) and retail trade corporations, for various industrial segments of

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<sup>14</sup> Final reports were published in 1935; a general index in 1937. Some of the volumes are out of print. For report titles, see F. T. C. Annual Report, 1941, p. 221; and for lists of companies investigated, see F. T. C. Annual Reports, 1935, p. 21, and 1936, p. 36.

<sup>15</sup> Basing-point systems are also discussed in the published reports listed under "Cement," "Steel Code," and "Steel Sheet Pilling" herein.

retailing and merchant wholesaling, and for different sizes of business in retailing and merchant wholesaling. These estimates are for the year 1950 and each of the four quarters of 1951. They were compiled from financial statements received from individual corporations.

Quarterly Financial Report, Five Manufacturing Industries, 1947-51.—This presents averages of the quarterly income statements and balance sheets for the total operations of representative samples of manufacturing corporations (with average annual sales within a specified range) in specific industries and in a specific geographical region.

Radio (House).—A comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23); Report of the F. T. C. on the Radio Industry, 347 p., o. p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended, 11/2/35).

Rags, Woolen.—See Textiles.

Raisin Combination.—See Food.

Range Boilers.—See Price Bases.

Rates of Return in Selected Industries (F. T. C.).—A comparison of the prewar (World War II) and postwar rates of return on stockholders' investments after taxes for more than 500 identical manufacturing corporations. The present report, published annually, covers the years 1940 and 1947-51, includes 25 selected manufacturing industries.

Resale Price Maintenance (F. T. C.).—The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led to the first inquiry, resulting in a report, Resale Price Maintenance (H. Doc. 1480, 65th, 3 p., o. p., 12/2/18). Other reports were: A Report on Resale Price Maintenance (H. Doc. 145, 66th, 3 p., o. p., 6/30/19) and Resale Price Maintenance (F. T. C. motion, 7/25/27; reports, Part I, H. Doc. 546, 70th, 141 p., o. p., 1/30/29, and Part II, 215 p., o. p., 6/22/31). The Report of the F. T. C. on Resale Price Maintenance, o. p., (F. T. C. Res., 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities in both the price-maintained and non-price-maintained categories.

Rubber Tires and Tubes.—See Distribution Methods and Costs.

Salaries (Senate).—The Commission investigated (S. Res. 75, 73d, 5/29/33) salaries of executives and directors of corporations (other than public utilities) engaged in interstate commerce, such corporations having more than \$1,000,000 capital and assets and having their securities listed on the 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.<sup>16</sup> The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

Southern Livestock Prices.—See Food.

Steel Code and Steel Code as Amended (Senate and President).—The Commission investigated (S. Res. 166; 73d, 2/2/34) price fixing, price increases, and other matters (Practices of the Steel Industry Under the Code, S. Doc. 153, 73d, 79 p., o. p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (Report of the F. T. C. to the President in Response to Executive Order of May 30, 1934, With Respect to

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<sup>16</sup> The salary lists do not appear in the report but are available for inspection.

the Basing-point System in the Steel Industry, 125 p., o p., 11/30/34).<sup>17</sup> The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).—An inquiry (S. Res. 286, 67th 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 Sheet Piling—Collusive Bidding (President).—Steel sheet piling prices on certain Government contracts in New York, North Carolina, and Florida were investigated (inquiry referred to F. T. C. 11/20/35). The F. T. C. Report to the President on Steel Sheet Piling (42 p., processed, 6/10/36 o. p.) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system<sup>18</sup> and provisions of the steel industry's code.

Stock Dividends (Senate).—The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same information for an equal period prior to the decision was also requested. The Commission submitted a List of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (Stock Dividends, S. Doc. 26, 70th, 273 p., o. p., 12/5/27).

Sugar. —See :Food.

Sulphur Industry (F. T. C.).—In its report to Congress on The Sulphur Industry and International Cartels (6/16/47), the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.—See National Wealth and Income.

Temporary National Economic Committee, Studies of the F. T. C.—See F. T. C. Annual Report, 1941, p. 218, for titles.

Textiles (President).—President Roosevelt (Executive Order of 9/26/34) directed an inquiry into the textile industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. Reports covering the cotton, wooden and worsted, silk and rayon, and thread, cordage and twine industries were: Report of the F. T. C. on Textile Industries, Parts I to VI, 12/31/34 to 6/20/35, 174 p., o. p. (Part VI financial tabulations processed 42 p., o. p.); Report of the F. T. C. on the Textile Industries in 1933 and 1934, Parts I to IV, 8/1/35 to 12/5/35, 129 p., o. p.; Parts II and III, o. p. (Part IV, processed, 21 p., o. p.; accompanying tables, processed, 72 p., o. p.); Cotton Spinning Companies Grouped by Types of Yarn Goods Manufactured during 1933 and 1934, 1/31/36, 20 p., processed, o. p.; Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934, 3/24/36, 48 p., processed, o. p.; Textile industries, in the First half of 1935, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed, o. p.; Textile Industries in the Last Half of 1935, Parts I to III,

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<sup>17</sup> As of the same date, the N. R. A. published its Report of the National Recovery administration on the Operation of the Basing-Point System in the Iron and Steel Industry (175 p., processed). The basing-point system is also discussed in published reports listed under "Cement" and "Price Bases" herein.,

<sup>18</sup> See footnote 15, p. 105.

1/20/36 to 1/6/37, 155 p., processed, o. p.; and Textile Industries in the First Half of 1936, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed, o. p.

Textiles—Combed Cotton Yarns.—High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (Report of the F. T. C. on Combed Yarn, 94 p., o. p., 4/14/21).

Textiles—Cotton Growing Corporation.—See Foreign Trade.

Textiles—Cotton Merchandising (Senate).—Investigating abuses in handling consigned cotton (S. Res. 252, 68th, 6/7/24), the Commission made recommendations designed to correct or alleviate existing conditions ( Cotton Merchandising Practices, S. Doc. 194, 68th, 38p., o. p., 1/20/25).

Textiles—Cotton Trade (Senate).—Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920-22, as reported in Preliminary Report of the F. T. C. on the Cotton Trade (S. Doc 311, 67th, 28 p., o. P., 2/26/23). After a second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practice and particularly in permitting Southern delivery of cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, 68th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but before any law was enacted, the New York Cotton Exchange adopted Southern delivery on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations

Textiles—Woolen Rag Trade (F. T. C.), Wartime, 1917-18.—The Report on the Woolen Rag Trade (90 p., o. p., 6/30/19) contains information gathered during the World War, 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.

Tobacco (Senate).—Inquiry ( S. Res. 329, 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., S. Doc. 34, 69th, 129 p., o. p., 12/25/25).

Tobacco Marketing—Leaf (F.T.C.).—Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and improvement of marketing processes and cooperative relations (Report on Marketing of Leaf Tobacco in the Flue-Cured Districts of the States of North Carolina and Georgia, 54 p., o. p., processed, 5/23/31).

Tobacco Prices (Congress).—Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533, 66th, 6/3/20) and low tobacco prices as compared with high prices of manufactured tobacco products (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, China, Bolivia, and Peru (246 p., o. p., 6/30/16).

Twine.—See Sisal Hemp and Textiles.

Utilities.—See Power.

Wartime Cost Finding (President), 1917-18.—President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in approximately 370 wartime cost investigations. At later dates reports on a few of them were published,<sup>19</sup> including: Cost Reports of the F. T. C.—Cooper (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. of Wartime Profits and Costs of the Steel Industry (138 p., o. 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 Costs and Profits (F. T. C.).—Cost and profit information for 4,107 identical companies for the period 1941-45 is contained in a Commission report on Wartime Cost and Profit, for Manufacturing Corporation, 1941 to 1945 (30 p., processed, with 10 p. appendix). Compilation of the information contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-18, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flax, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper—Book, Paper—Newsprint, Profiteering, and Textiles—Woolen Rag Trade.

The following are unpublished investigations by the Commission for the use of other government agencies:

Aluminum Foundries (W. P. B.), Wartime, 1942-43.—Details were obtained for the War Production Board, at its request, from aluminum foundries throughout the U. S. covering their operations for May 1942 and their compliance with W. P. B. Supplementary Orders m-1-d, M-1-c, and M-1-f.

Antifreeze Solutions, Manufacturers of (W. P. B.), Wartime, 1943-44.—War Production Board Order 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.

Capital Equipment (W. P. B.), Wartime, 1942-43.—For the War Production Board, a survey was made in connection with Priorities Regulation No. 12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had

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<sup>19</sup> See footnote 10, p. 97.

<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).

been rerated had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Chromium Processors (W. P. B.), Wartime, 1942-43.—For the War Production Board, the Commission investigated the transactions of the major chromium processors to determine the extent to which they were complying with Amendment No. 2 to W. P. B. General Preference Order No. m-18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W. P. B.) Wartime, 1942-43.—The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W. P. B. Limitation Orders L-182 and L-182 as amended 3/2/43; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No. 1.

Contractors, Prime, Forward Buying Practices of (W. P. B.), Wartime, 1942-43.—The matter of procurement, use, and inventory of stocks of critical materials involved in the operation of major plants devoting their efforts to war production was inquired into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

Copper Base Alloy Ingot Makers (W. P. B.), Wartime, 1942-43.—This investigation was designed to ascertain the operations, shipments, and inventories of copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M-9-a and b, and M-9-c.

Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.—A survey and inspection of a specified List of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Cost of Living (President).—President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1943-44.—Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M-38, M-11, M-11-b, M-126, L-81, L-131, and L-131--a, all as amended.

Electric Lamp Manufacturers (W. P. B.), Wartime, 1942-43.—At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W. P. B. Limitation and Conservation Orders L-33 and m-9-c.

Fertilizer and Related Products (O. P. A.), Wartime, 1942-43.—At the request of O. P. A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to



obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942

Food—Biscuits and Crackers (O. P. A.), Wartime, 1942-43.—As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food—Bread Baking (O. E. S.), Wartime, 1942-43.—This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O. E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O. P. A.

Food—Bread Baking (O. P. A.), Wartime, 1941-42.—In the interest of the low income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O. P. A. (Jan. 1942) in an unpublished report.

Food—Flour Milling (O. E. S.), Wartime, 1942-43.—Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices. The report was made to O. E. S. an more detailed report was prepared for O. P. A.

Fruit Growers and Shippers (W. P. B.), Wartime, 1943-44.—This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape 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.

Glycerin, Users of (W. P. B.), Wartime, 1942-43.—At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Household Furniture (O. P. A.), Wartime, 1941-42.—Costs, prices, and profits of 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.

Insignia Manufacturers (W. P. B.), Wartime, 1944-45.—Preliminary studies made by the War Production Board disclosed the probability that certain insignia manufacturers had acquired larger quantities of foreign silver than necessary to fill legitimate orders and diverted the balance to unauthorized uses. In response to W. P. B.'s request the Commission surveyed the acquisition and use of foreign silver by such manufacturers to determine the degree of their compliance with Order M-199 and checked the receipt and use of both domestic and treasury silver, as well as the manufacture of insignia, as controlled by Orders L-131 and M-9-c.

Jewel Bearings, Consumers of (W. P. B.), Wartime, 1942-43.—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.

Metal-Working Machines, Invoicing and Distribution of (W. P. B.), Wartime, 1942-43.—For the War Production Board an inquiry was made to obtain complete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all nonportable power-driven shears, presses, hammers, bending machines, and other machines for cutting, trimming, bending, forging, pressing and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Nickel Processors (W. P. B.), Wartime, 1942-43.—The Commission was designated by the War Production Board to investigate the transactions of some 600 nickel processors for the purpose of determining the extent to which they were complying with W. P. B. Preference Order No. M-6-a, issued 9/3/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

Paint, Varnish, and Lacquer Manufacturers (W. P. B.), Wartime, 1943-44.—The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M-139, M-150, M-159, M-246, and M-327 in their acquisition and use of certain chemicals, all subject to W. P. B. allocations, used in the manufacture of paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

Paperboard (O. P. A.), Wartime, 1941-42.—Costs, profits, and other financial data regarding operations of 68 paperboard mills (O. P. A. request, 11/12/41) for use in connection with price stabilization work, were transmitted to O. P. A. in a confidential report (May 1942).

Paper—Newsprint (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U. S. District Court, Southern District of New York.

Petroleum Decree (Attorney General).—The Commission investigated (Inquiry referred to F. T. C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

Priorities (W. P. B.), Wartime, 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, Manufactures of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufacturers; Jewel Bearings, Consumers of; Metal-working Machines, Invoicing and Distribution of; Nickel, Processors of; Paint, Varnish, and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and Silver Suppliers; Steel Industry; Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W. P. B.

Quinine, Manufacturers and Wholesalers of (W. P. B.), Wartime, 1942-43.—At the instance of the War Production Board, investigation was made to determine whether requirements of its Conservation Order No. M-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Silverware Manufacturers (W. P. B.), Wartime, 1942-43.—Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the copper orders, that is, W. P. B. General Preference Order No. M-9-a, Supplemental Order No. M-9-b, and Conservation Order m-9-c, as amended.

Silverware Manufacturers and Silver Suppliers (W. P. B.), Wartime, 1942-43.—The activities of silverware manufacturers and silver suppliers under W. P. B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L-140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).—The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised how certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (Mexican Sisal Hemp, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Steel Costs and Profits (O. P. A.), Wartime, 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.

Textile Mills, Cotton (W. P. B.), Wartime, 1943-44.—For the War Production Board the Commission conducted a compliance investigation of manufacturers of cotton yarns, cordage, and twine to ascertain whether they were in violation of Priorities Regulation 1, as amended, by their failure to fill higher rated orders at the time they filled lower rated orders.

Tin Consumers (W. P. B.), Wartime, 1942-43.—The principal consumers of tin were investigated at the instance of the War Production Board to determine the degree of their compliance with Conservation Order m-43-a, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories, distribution, and use of the tin supply in the U. S.

War Materials Contracts (House), Wartime, 1941-42.—At the request of the House Committee on Naval Affairs, the Commission assigned economic and legal examiners to assist in the Committee's inquiry into progress of the national defense program (H. Res. 162, 77th, 4/2/41). The Commission's examiners were active in field investigations covering aircraft manufacturers' cost records and operation, naval air station construction, materials purchased for use on Government contracts, and industry expansion financing programs.

Wartime Inquiries, 1941- 45.—To aid in the 1941-45 war program, F. T. C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal, accounting, statistical and other services in conducting investigations. It made cost, price, and profit studies; compiled industrial corporation financial data; investigated compliance by basic industries with W. P. B. priority orders; and studied methods and costs of distributing important commodities. The 1941-45 wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; Cigarette Shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food—Biscuits and Crackers; Food—Bread Baking; Food—Fish; Food—Flour Milling; Household Furniture; Industrial Financial Reports; Metal-Working Machines; Paperboard; Priorities; Steel Costs and Profits; and War Material Contracts.