

Annual  
Report  
of the **FEDERAL  
TRADE  
COMMISSION**

For the Fiscal Year Ended  
June 30, 1956



---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington 25, D.C., - Price 40 cents (paper cover)

## Federal Trade Commission

JOHN W. GWYNNE, Chairman  
ROBERT T. SECREST  
SIGURD ANDERSON  
WILLIAM C. KERN  
EDWARD T. TAIT

ROBERT M. PARRISH, Secretary  
ALEX AKERMAN, JR., Executive Director

EARL W. KINTNER, General Counsel  
EVERTT F. HAYCRAFT, Director of Hearing Examiners  
JOSEPH E. SHEEHY, Director  
    Bureau of Litigation  
HARRY A. BABCOCK, Director  
    Bureau of Investigation  
CHARLES E. GRANDEY, Director  
    Bureau of Consultation  
SIMON N. WHITNEY, Director  
    Bureau of Economics

## EXECUTIVE OFFICES OF THE FEDERAL TRADE COMMISSION

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

### Branch Offices

Room 102, Federal Trade Commission  
Building, Washington 25, D. C.

Room 413, Masonic Temple Building,  
New Orleans 12, La.

Room 3004, U. S. Courthouse, Foley  
Square, New York 7, N. Y.

Room 811, U. S. Courthouse, Seattle 4,  
Wash.

Room 1310, 226 West Jackson Boulevard,  
Chicago 6, Ill.

Room 1128, Standard Building, Cleveland  
13, Ohio.

Room 306, Pacific Building, San  
Francisco 3, Calif.

Room 808, Sharp Building, Kansas City,  
Mo.

### Field Offices for Wool, Fur, and Flammable Fabrics

Room 3004, U. S. Courthouse, Foley  
Square, New York 7, N. Y.

Room 1304, 1114 Commerce Street,  
Dallas 2, Tex.

Room 401, 408 Atlantic Avenue, Boston  
10, Mass.

Room 306, Pacific Building, San  
Francisco 3, Calif.

Room 1310, 226 West Jackson Boulevard,  
Chicago 6, Ill.

Room 405, 215 W. Seventh Ave., Los  
Angeles 14, Calif.

Room 1003—C, U. S. Court and Custom  
House, St. Louis 1, Mo.

Room 1128, Standard Building, Cleveland  
13, Ohio.

Room 3030—A, U. S. Courthouse,  
Philadelphia, Pa.

## Letter of Transmittal

FEDERAL TRADE COMMISSION,  
Washington, D.C.

To the Congress of the United States:

It is a pleasure to transmit herewith the Forty-second Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1956.

By direction of the Commission.

JOHN W. GWYNNE,  
Chairman.

THE PRESIDENT OF THE SENATE.  
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

V

# CONTENTS

---

Chapter	Page
1. The Year's Highlights	1
2. Scope of Authority	7
3. Administration	15
4. Investigation	20
Functions	20
Merger Investigations	21
Scientific Opinions	22
Wool, Fur, and Flammable Fabrics	23
Accounting	25
5. Litigation	25
Functions	27
Case Work in 1956	27
Antimonopoly Cases	28
Deceptive Practice Cases	29
6. Office of the General Counsel	46
Division of Special Legal Assistants	46
Division of Appeals	47
Division of Compliance	51
Administration of Webb-Pomerene Act	56
7. Economics	57
Economic Reports	57
Financial Reports	58
Assistance in Litigation	60
8. Consultation	61
Trade Practice Conferences	61
Stipulations	64
Small Business	67
9. Appropriations and Financial Obligations	69
10. Appendixes	71
FTC Commissioners (1915-56)	71
Types of Unfair Methods and Practices	72
Statutes Pertaining to the FTC	78
General Investigations by the Commission Since 1915	104

## THE YEAR'S HIGHLIGHTS

---

This report of the Federal Trade Commission's work during fiscal 1956 presents an encouraging picture of the Commission's purpose and effectiveness.

To the Congress it is an accounting which the Commission presents respectfully and with confidence it demonstrates that appropriations for its work were well spent. A secondary purpose of the report is to offer to the public and to businessmen a description of the Commission's function, its scope, and its potential for service to them.

Indeed, the better the Commission is understood, the greater service it can perform. Most of the matters handled originate with businessmen and consumers who are alert to the protection the law affords and to the Federal Trade Commission as a major law enforcement agency. Without an informed public, such evils as monopoly, restraints of trade, and false advertising might flourish for lack of being identified and timely reported. It is true that the Commission can take corrective action on its own motion, but it is a relatively small agency—641 employees on June 30, 1950—and to correct improper business practices in a \$400 billion national economy requires help from the eyes and ears of an alert public.

This public awareness of the Commission's function is dulled by the fact that the agency's actions rarely contain the dramatic elements required for popular presentation. A cease and desist order against the payment of illegal brokerage is pretty plain fare for an audience accustomed to more dramatic and less complicated policing. The result is that law violators profit from the fact that too many Americans don't know what protection the Federal Trade Commission affords.

Broadly stated, the Commission has responsibility for stopping illegal business practices which deceive the public or threaten fair competition in interstate commerce. It also acts to protect the consuming public from being deceived or misled in purchasing goods advertised and sold across State lines. It has the power not only to halt acts that result in unfair competition but also those which pose a threat to fair competition. The need for this wide power lies in

the essential role Congress intended for the Commission; namely, that of an expert referee in the business game—explaining the rules, blowing the whistle on fouls, and assuring that the consumer gets his money's worth from a competitive game played fairly.

During fiscal year 1956 the Commission issued more complaints and orders against law violators than in any year since World War II. At the year's end, 42 antitrust complaints had been issued, contrasted to 36 such complaints in fiscal 1955. Forty cease and desist orders (including three which partially disposed of cases) were handed down, compared with 30 the previous year. In the deceptive practice field, the Commission issued 150 complaints and 132 orders compared with only 125 complaints and 82 orders in fiscal 1955. The Commission's program for voluntary compliance with the laws also was speeded. More new sets of trade practice rule, (for 14 industries) were promulgated than for any of the past 16 years. In addition, the Commission negotiated 166 stipulations whereby firms agreed to stop complained of practices. This is the largest number since the Division of Stipulations was created in 1946.

While impressive, performance statistics do not tell the whole story. They do not distinguish between routine and unusual cases or between simple and complicated investigational and legal problems. This is not to say that outstanding performance requires that all cases be weighty ones. The protection of the public and of honest business demands that illegal practices be stamped out regardless of whether the particular case is complex. In short, in its case selection the Commission is guided by whether a law violation invested with sufficient public interest appears to have taken place. If the facts warrant issuance of a complaint, it is issued to halt the violation, not to build a performance record.

It so happens, however, that fiscal 1956 found the Commission tackling many cases of major complexity. Not only did the legal issues present in some cases areas of unexplored territory, but many of the respondents were among the country's largest corporations.

Examples of some of the major cases brought by the Commission during the year were five involving alleged illegal mergers. In each the charge was made that competition was being stifled by illegal concentration of power in the hands of the acquiring corporation. Complaints were brought against one of the world's largest paper companies (Scott Paper Co.), one of the nation's largest dairy companies (Foremost Dairies), a leading producer of sporting goods (A. G. Spalding & Bros., Inc.), the nation's largest producer of steel wool (Brillo Mfg. Co., Inc), and against the nation's principal maker of safety and common pins (Scovill Mfg. Co.). If the Commission finds that the challenged acquisitions are illegal, it can order corporations to divest themselves of the properties acquired.

The Commission also put an end to exclusive dealing contracts by principal manufacturers of liquefied petroleum gas, outboard motors, and industrial wiping cloths. At the same time, it proceeded against the nation's leading manufacturers of water conditioning products and tapered roller bearings. In enforcing the Robinson-Patman Act, the Commission's efforts were of direct and immediate value to business and of indirect benefit to consumers. Discrimination in prices, services, allowances, etc. tends to choke off competition with the result that consumers have fewer sources from which to buy and must therefore pay prices freed from downward competitive pressures. The small businesses victimized by violations of the Robinson-Patman Act are acutely aware of being discriminated against, but the public, lured by immediate advantage in price and service (made possible by the illegal discrimination) finds it difficult to understand that such bargains might well be a deceptive vanguard of inferior service and higher prices.

The Commission intensified its attack on Robinson-Patman Act violations by bringing complaints in 27 cases, half again as many as in fiscal 1955 and a new high for the past several years. In 23 cases the Commission issued cease and desist orders, a substantial increase over any recent year. The principal cases (see ch. 5) were in the food products, automotive parts, gasoline, book publishing, and industrial equipment fields.

Restraint of trade matters likewise received the Commission's attention. Among the major targets were price-fixing agreements in the crabmeat industry on the West Coast, and alleged restraints on competition by three major oil companies and three of the largest tire manufacturers in the sale of tires, batteries and accessories.

Also challenged were sales methods allegedly prejudicial to small business concerns. Typical was the case of a major producer of frozen dairy foods who was charged with furnishing equipment and service to retail customers on condition they buy and sell its products exclusively. This, according to the Commission's complaint, denied these retail outlets to smaller producers.

In another major restraint of trade case, the Commission charged 21 of the nation's leading paper bag manufacturers with conspiring to fix the prices of paper shipping sack such as are used to transport feed, fertilizer, sugar, flour and other bulk products.

The second major field of the Commission's work lies in stopping practices that mislead or deceive the public. Unlike the indirect benefits of antitrust activity, these efforts are of direct concern to consumers. This antideceptive work also protects honest sellers of goods and services from the unfair competition of those few who distort truth for profit.



Among the principal offenders during fiscal 1956 were 26 furriers against whom complaints were brought for violation of the Fur Products Labeling Act. Nineteen cease and desist orders were issued. The cases covered misrepresentations of the price, composition and country of origin of furs. In addition, many of the complaints charged that furs were not labeled as required by law and some complaints charged that furs were offered at spurious liquidation sales.

Action also was pressed against deception in the advertising and labeling of wool products. Seventeen orders and 11 complaints were issued against interstate sellers of such wool products as blankets, coats, battings and fabrics. The most common deception was the use of labels indicating a higher proportion of wool (or cashmere) than was the fact. Another form of deception was the failure to disclose that articles were made with used wool.

The Commission also attacked the false advertising of medicinal products and therapeutic devices, particularly those promising cures for arthritis and rheumatism. Of the latter, the deception lay in firms making extravagant claims for their products as cure-alls when, in truth, many of them could provide only temporary relief from minor aches and pains. Makers of the products were ordered to limit their advertising claims to the facts.

The advertising of household appliances and equipment proved a rich field for deception during the year, and the Commission put a stop to exaggerated claims for the merits of air conditioners, lawn mowers, electric broiler-rotisseries, sewing machines, electric sweepers, and silverware. False advertising of the low cost of radio and T-V repair services also was challenged as were misrepresentations of savings and advantages of food freezer plans.

Twelve complaints were issued against the increasingly prevalent practice of fictitious pricing, particularly in watches, cutlery, perfume, hosiery and household furnishings. Here the deception usually involved the advertising of goods as being marked down from a price higher than they were ever intended to have been sold. In several cases, the Commission found that manufacturers had aided in the deception by providing elaborately printed price tags falsely purporting to be the "regular" price.

Spectacularly low prices used only as "bait" came under sharp attack by the Commission. This deception was found particularly in household appliance selling. Customers were enticed into stores by an advertised bargain that salesmen disparaged while attempting to pressure the prospective buyers into purchasing higher priced articles.

The Commission continued its drive against correspondence schools that misrepresent opportunities to be gained from taking their courses. Four orders required schools to stop implying that comple-

tion of their courses would assure civil service employment, and three others put a stop to false claims for the profits and learning ease of reweaving. Other alleged deception was challenged in cases against schools teaching motel management, radio and T-V technology, and practical nursing.

In addition to these specific areas of deception, the Commission moved against a miscellany of deceptive practices, ranging from lottery merchandising to the sale of second hand goods as new. In most cases, the respondents were comparatively small concerns, but their capacity to inflict injury on their victims and on legitimate businesses was neither small nor unimportant.

After issuance of final orders, respondents have the privilege of appealing adverse decisions to the courts. This, of course, calls for the Commission's attorneys to defend the agency's order and to participate with the Office of the Solicitor General in any Commission matters that might reach the Supreme Court. During fiscal 1956, the Commission completed litigation in 20 cases, two of which went to the Supreme Court on petition for certiorari on behalf of the Commission. At the year's end, 14 antimonopoly proceedings and 18 antideceptive practice cases were pending. Prospects for a continuation of extensive appellate work seems likely in view of the marked increase in the Commission's regulatory actions.

Even if a cease and desist order is not appealed to the courts, it continues to receive Commission attention. Without continuous surveillance, the Commission can not know whether or how its orders are being obeyed. And an unenforced order encourages more contempt for the requirements of the law than had the order never been issued. Consequently, the Commission not only continued but reinforced its efforts to assure proper compliance with outstanding orders.

Since its organization in 1915, the Commission has issued 4,770 orders to cease and desist. A substantial portion of the Compliance Division's work consists of securing compliance with current orders issued since 1947. As each current order is issued the division must study and analyze reports of compliance to insure that respondents adjust their business practices to conform to the Commission's cease and desist orders. In addition to keeping current the compliance of orders issued since 1947, the Commission has directed that all orders issued prior to 1947 be surveyed to assure that any violations might be corrected. In fiscal year 1956, nearly 600 such orders were examined and steps taken to bring compliance current in more than 300 of them. Altogether since the survey began 1,812 of the pre-1947 orders have been examined and compliance has been brought current in 744. Nearly 700 were screened out as requiring no action.

Also during 1956, a special survey of 171 Robinson-Patman Act orders issued before 1947 was completed.

To attempt to regulate business competition in so vast a national economy solely by pinpointing violations of the law would be to neglect the advantages of encouraging voluntary compliance with it. Just as motorists are more likely to observe speed laws if speed limits are posted conspicuously, so are members of an industry more circumspect if the Commission invites open discussion of their problems, then marks out a legal road for the industry and posts it plainly with trade practice rules.

These rules are not themselves law, but they embody the Commission's opinion of the law's requirements as applied to the practices of a particular industry. To violate the rules is to invite formal law enforcement action by the Commission. Moreover, the rules serve the further purpose of educating industry members on what the law is. Thus informed, they know not only how to keep their own houses in order but they are better able to detect and report illegal competition.

The result of the trade practice rules (for 160 industries as of June 30, 1956) undoubtedly has lessened the need for individual complaint proceedings and consequently reduced the cost of law enforcement. Furthermore, a not inconsiderable advantage is that widespread trade evils often can be cleaned up more equitably on an industry-wide basis than by citing a few firms as an example to the rest.

In addition to its case work and its efforts to obtain voluntary compliance with the laws it administers, the Commission undertakes broad economic investigations. They have proved most useful in providing industry and Government with factual information. Indeed, that is their primary purpose as distinguished from investigations looking to the issuance of complaints. When the economic study reveals questionable practices, the Commission acts to correct them. At the close of fiscal 1956, the Commission had launched a study of the antibiotics industry to obtain information on such things as costs, patents, research, and pricing.

In broad outline, this is the story of the Commission's purpose and the highlights of its accomplishments during fiscal 1956. With a staff of approximately 640 people and a budget of less than \$6 million the Commission is attempting to apply the many acts of Congress to a \$400 billion gross national product economy. This report indicates the extent to which the Commission has succeeded in protecting the public from illegal acts that take place in a highly competitive business world. The Commission does not presume to run the economic railroad, but it does try to see that the engineers in the business world obey the warning signals and stay on the tracks established by the laws of Congress.

## SCOPE OF AUTHORITY

### Basic Functions of the FTC

---

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

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

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

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

---

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

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

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

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

---

<sup>2</sup> Amendment contained in the Oleomargarine Act (64 Stat. 20).

<sup>3</sup> Sec. 15, Federal Trade Commission Act.

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

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

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

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

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

This antitrust law was enacted in 1914. It designates the Federal Trade Commission as an enforcing agency for the provisions of sections 2, 3, 7, and 8. Procedures are prescribed in section 11 by which,

---

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

upon complaint and due hearing, corrective action may be applied by the Commission in the form of a cease and desist order or, in merger cases, an order of divestiture.

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

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

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

Brokerages, Commissions, Proportionally Unequal Terms or Facilities.—The Robinson-Patman Act also forbids the payment of certain brokerages and commissions except for services rendered to the party making the payment, as well as forbidding the payment by manufacturers or sellers for, or the furnishing of, services or facilities to dealers or resellers in connection with the processing, handling, sale, or 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.

---

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

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

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

Anti-Merger Law.—This statute, approved December 29, 1950,<sup>6</sup> is in the form of revision and restatement of section 7 of the original Clayton Act. It is specific legislation on the subject of suppression of competition through the merger or consolidation of corporations. Such conduct is prohibited, whether brought about by the direct or indirect acquisition of either stock or assets of the acquired corporation, where the effect of the acquisition or merger may be substantially to lessen competition or tend to create a monopoly in any line of commerce in any section of the country. Certain exceptions are provided, including cases in which the stock is purchased solely for investment and not used for voting or otherwise to bring about or attempt to bring about the substantial lessening of competition. The Commission is designated as having enforcement responsibility applicable to commercial enterprises generally but not including specific businesses which are under the regulatory authority of other agencies, such as banks and common carriers.

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

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

---

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



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

This law authorizes limited cooperative activity among American exporters for the purpose of promoting export trade. Associations engaged solely in export trade are afforded exemption from the Sherman Act within certain strict boundaries set out in the act. To qualify for such exemption, an association must file with the Commission copies of its association papers or articles of incorporation and a complete description of its organizational structure, and bring this information up to date yearly. The Commission may require submission of additional information relating to the association's business activities at any time. A continuing surveillance of association activities is maintained by the Commission's Division of Export Trade.

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

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

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

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

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

---

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

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

or pieced. The country of origin of foreign fuels must likewise be disclosed.

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

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

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

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

Manufacturers and distributors may guarantee their merchandise as having passed reasonable and representative tests for flammability.

---

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

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

#### Regulation of Insurance—Public Law 15, 79th Congress <sup>10</sup>

This act was passed by Congress after the Supreme Court had ruled that the insurance business is subject to Federal jurisdiction under the commerce clause of the Constitution. <sup>11</sup>

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

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

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

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

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

---

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

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

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

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

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

## ADMINISTRATION

---

That the Commission's judgments be wise ones is the responsibility of the five Commissioners, but that they have the facts—and the basic casework—on which to base their judgments is the responsibility of the staff. Consequently, competent staff work is responsible for the number and significance of the cases the Commission needs to fulfill its function.

Fiscal 1956 revealed a high degree of coordination on the part of the staff. That its casework exceeded in every phase the production of the previous year bespeaks greater efficiency than could be accounted for by a slight increase in the size of the staff. During the fiscal year, 57 persons were added to the staff, bringing the total to 641; however, most of this increase took place in the closing months of the year.

Materially aiding in the achievement of the increase in casework was closer supervision of investigations and increased emphasis on the part of all bureau and division personnel in expediting cases from start to finish. The result was a speeding up of the handling of cases on every level of Commission activity.

Also contributing to increased staff efficiency was a formal training program for supervisory personnel. More than 60 of these, ranging from first line clerical supervisors to bureau directors, participated in 21 management training conferences. These conferences were devoted to all phases of the Commission's work, ranging from work methods, planning, and development of performance standards, to specific problems of supervision and leadership. The incentive awards program to recognize superior employee performance was greatly emphasized.

The Commission's bureaus of investigation, litigation, consultation and economics are under the operational supervision of the Commission's executive director, who also has direct supervision of the Commission's divisions of personnel, budget and finance, management and organization, and general services. The office of the general counsel reports directly to the chairman and the Commission.

## DIVISION OF PERSONNEL

The division of personnel initiates, develops, and administers personnel policies and programs in the spheres of recruitment, appointment and placement, training, position classification, efficiency ratings, employee relations, welfare, and health and recreation.

## DIVISION OF BUDGET AND FINANCE

The division of budget and finance is responsible for the preparation and administration of the Commission's budget and maintains the fiscal records of the Commission. This office maintains salary, savings bonds, tax, Social Security, retirement, and annual and sick leave records for all employees of the Commission, including the field offices. This division performs the audit, prior to payment, of all vouchers covering travel expense, communications, and supplies and equipment. The fiscal section maintains the various ledgers and records necessary to reflect the financial position of the Commission at all times, and prepares the various financial statements and reports required by the Commission, the Bureau of the Budget, the Treasury Department, the General Accounting Office, and the Congress.

## DIVISION OF MANAGEMENT AND ORGANIZATION

The division of management and organization conducts management surveys and recommends and installs organization changes, staffing patterns, management reports, and procedures which will enable the Commission to operate more efficiently.

Improvements installed during the past year include the following:

1. Continuing studies resulting in changes of procedures in order to effectively utilize personnel and reduce delay in operations.
2. Development of procedures to conduct more effectively wool and fur inspections by branch office attorney investigators.
3. Installation of shelf filing equipment in a pilot operation resulting in a saving of 85 cabinet files and reducing clerical time employed.

## DIVISION OF GENERAL SERVICES

The division of general services is a central administrative unit established for the purpose of publishing the material made public under Section 6 (f) of the Federal Trade Commission Act; for the procurement of supplies and equipment; and for supplying other services essential to the functioning of the Federal Trade Commission. The Commission's library is also located in this division.

## Publication Branch

The publication branch of the division of general services is a service established by the Commission to clear for format, economy of reproduction, and distribution, all material printed or duplicated by the Federal Trade Commission within the limitations of the laws and regulations as applicable thereto. This Branch also operates a class A printing plant established under the provisions of the regulations by the Joint Committee on Printing of the United States Congress; and provides photographic, photostat, and drafting services. These services are performed by the following sections:

The stenographic and composition section edits, for format and typography, material to be printed at the Government Printing Office or printed or duplicated in the Federal Trade Commission printing plant, and provides stenographic services when bureau pools are overburdened. During fiscal year 1956 over 5,500 pages of copy were produced by this activity for lithographic reproduction in the printing plant.

The photographic section provides the Commission with photographic and photostat services for use in connection with the Commission's legal proceedings and economic reports. Production reports for this section show that over 128,000 photographic and photostat prints were produced during fiscal year 1956.

Functions of the printing plant are the printing of the Commission's orders, press releases, legal and economic reports, speeches, trade practice rules, pamphlets, forms, letters, etc. Production during the fiscal year 1956 was more than 10 million lithographed impressions.

## Library

The Federal Trade Commission library contains approximately 100,000 bound volumes and about 25,000 pamphlets, documents, and loose issues of periodicals of a technical and legal nature pertinent to the work of the Commission. The card catalog maintained in the library contains approximately 150,000 cards under 6,200 subject headings. During the fiscal year 1956 approximately 45,000 reference questions were received by letter, in person, and by telephone, and approximately 54,000 books, periodicals, and newspapers were circulated. The use of the library has been extended to three other agencies located in the building.

## Procurement and Services Branch

The procurement and services branch of the division of general services is responsible for providing services and controls in the necessary housekeeping functions as follows: procurement and maintenance

of supplies, equipment, furniture, etc.; space control and building maintenance; and communications including mail, telephone and telegraph, and messenger.

## OFFICE OF THE SECRETARY

The secretary and his immediate office receive and handle mail on all phases of the Commission's work. He signs all orders and certain other official papers. He is also responsible for liaison with the Congress and Government agencies and for decisions on informal cases not submitted to the Commission.

The assistant secretary for minutes attends, takes the minutes of, and records the executive meetings of the Commission, prepares directives for the signature of the Secretary, and keeps the calendar of pending matters.

### Office of Information

This office is the central source of information on Commission activities for the public and the press. It also arranges interviews between members of the press and Commission officials. It prepares press releases on complaints, answers by respondents, initial decisions, newsworthy interlocutory actions, orders, and miscellaneous Commission announcements. In fiscal 1956 the office issued 873 press releases.

### Office of Legal and Public Records

This office is responsible for the publication of the volumes of the "Federal Trade Commission Decision" and its "Statutes and Decisions," the latter including court decisions in Commission cases; for the codification and editorial preparation of various Commission material published in the Federal Register; and for the collection and dissemination of relevant court decisions.

The docket section is responsible for the legal records of the Commission.

Information and assistance are furnished to the public and to the staff of the Commission in relation to public, legal, and court proceedings. Commission publications, forms, and other material are distributed by this office to the staff and the public.

FEDERAL TRADE COMMISSION  
ORGANIZATION OF STAFF FUNCTIONS  
ORGANIZATIONAL CHART - SEE IMAGE



## INVESTIGATION

---

The Bureau of Investigation conducts all investigations of alleged violations of the statutes administered by the Commission, as well as investigations of how respondents are complying with stipulations and orders to cease and desist.

Its work falls into two broad categories: (a) general investigative functions performed by project attorneys and professional branch office personnel and (b) specialized investigative or advisory functions performed by the division of wool, fur, and flammable fabrics, the division of accounting, and the division of scientific opinions. The work of the latter group will be discussed separately.

### GENERAL INVESTIGATIVE FUNCTIONS

Since July 1, 1954, the legal investigational work has been performed under the general supervision of the director, bureau of investigation, and under the guidance of the chief project attorney and his staff of 28 project attorneys. Each of the latter has a primary and continuing responsibility for the progress of a case from its inception to its final disposition.

Matters for investigation arise principally through complaints from businessmen or consumers alleging injury from unlawful trade practices. In the initial screening of such matters, the project attorney carefully considers both the nature and probable effect of the alleged practice to the end that only those matters will be entered for investigation which appear to involve violation of law and which appear to have substantial importance from the public's standpoint. Upon determination that an investigation should be initiated, it is the responsibility of the project attorney to outline the general nature and scope of the investigation. He is thereafter responsible for its progress. Investigations are normally conducted through one or more of the branch offices, but correspondence inquiry is utilized by the project attorney in deceptive practice matters where feasible. Upon completion of field investigation, the project attorney is responsible for determining the adequacy of the investigation and whether the recommended disposition is proper. He also specifies what, if any, additional work is necessary before the matter can be submitted for litigation or other action.

Investigations conducted pursuant to the Commissioners integrated compliance program require special care and attention because there, if an order violation is involved, the evidence must be assembled in such form as to support civil penalty or contempt proceedings. Investigations to support compliance with stipulations and trade practice rules are no less important in commanding respect for the Commission's voluntary cooperative procedures of effecting wide-scale law observance at minimum cost.

Incoming applications for complaint numbered 2,811 during fiscal year 1956, including 590 antimonopoly matters and 2,221 deceptive practice matters.

Applications for corrective action received in fiscal 1956 represented an increase of 298 over those received during the previous year. This increase was not unexpected in view of the nation's expanding economy and the various circumstances which give rise to the submission of complaints to the Commission. Issuance of an order prohibiting certain practices by one member of an industry frequently results in numerous complaints from other members of the industry who had previously been unaware of the illegality of such practices or indifferent to their existence. The increasing publicity which has been given to Commission proceedings in the press and trade publications has a tendency, therefore, to generate additional work. This is particularly true of industries composed of numerous small independent business entities selling staple commodities in a keenly competitive market.

## MERGER INVESTIGATIONS

During fiscal 1956 the Bureau of Investigation was assigned full responsibility for examining all reported corporate mergers and acquisitions, identifying those which appear to be of economic significance, and conducting investigations to determine whether they may be in contravention of section 7 of the Clayton Act as amended.

There is no requirement in the existing law that the Commission be notified of corporate mergers or acquisitions either before or after consummation. Except in rare instances, where the parties concerned request pre-merger clearance or where a complaint with respect to a particular merger is received, the Commission must rely on financial newspapers, trade journals, manuals of investments, and the like for information that a merger has occurred or is contemplated. An information sheet containing such information as is readily available from press reports and recognized reference manuals is prepared for each merger. In fiscal 1956 more than 1,000 of these information sheets on reported mergers were prepared. The information sheets are referred to project attorneys who, after examining the readily available information and consulting with economists and other experts

with respect to each merger, make a determination as to whether it is one likely to have the adverse effects proscribed by the statute.

If the preliminary review indicates the merger is one which may have adverse effects on competition, a more comprehensive investigation is undertaken. This investigation may be initiated by letters requesting the parties to submit detailed information concerning the companies and industry or industries involved, or by sending the matter to one of the branch offices for interview with officials of the merging companies. The data obtained from the companies concerned are in most instances supplemented by data obtained from other sources, including competitors, suppliers, and customers of the merging companies, trade associations, and Government agencies. Investigations of this type, requiring as they do considerable economic and marketing work, are more complicated and time-consuming than most other types of investigations conducted by the Bureau.

A total of 65 comprehensive merger investigations was undertaken during fiscal 1956. On July 1, 1955, there were 172, and on June 30, 1956, 135 such investigations in progress.

### DIVISION OF SCIENTIFIC OPINIONS

The division of scientific opinions furnishes the Commission's legal staff with scientific facts and opinions concerning the composition and efficacy of foods, drugs, medical devices, cosmetics, and related commodities where questions of science arise in regard to advertising claims. It arranges for analyses or other tests of products under investigation and gathers information on their composition, nature, effectiveness, and safety. The division provides scientific opinions and information needed in (1) considering matters under investigation, (2) negotiating stipulations, and (3) preparing complaints. It also assists the Commission's legal staff in preparing for hearings involving questions of science and secures the services of expert scientific witnesses.

Fiscal Year Ended June 30, 1956

Number of written opinions rendered	317
Number of oral opinions rendered	705
Number of analyses and tests	23
Number of hearings attended	21
Number of stipulation conferences attended	12
Number of expert witnesses secured	15

The written opinions rendered involved the following:

Foods	30
Drugs	141
Cosmetics	15
Devices	56
Economic poisons	37
Miscellaneous	38

These written opinions dealt with a variety of human foods, livestock and poultry feeds, vitamin and mineral supplements, cough and cold remedies, treatments for acne and other skin diseases, hay fever and asthma remedies, veterinary remedies and vaccines, skin creams, hand lotions, sunburn preventives, hair dyes and dressings, shampoos, deodorants, depilatories, air filters, trusses, contact lenses, hearing aids, eyeglasses, shoes for which health claims were made, health books, health garments, cooking utensils, insecticides, disinfectants and other economic poisons, detergents, bleaches, cigarettes, fertilizers, and a number of other types of preparations and devices.

A very considerable amount of time was spend on the investigation and litigation of cases involving preparations offered for the treatment of arthritis, rheumatism, severe headaches and other painful conditions, preparations offered for the prevention and treatment of baldness, and preparations offered for the treatment of piles. In 14 of these cases the division made arrangements with physicians connected with large hospitals and clinics to perform clinical tests needed to resolve the scientific and medical questions raised by the advertising claims. It is becoming increasingly necessary to have such tests made to determine the virtues and limitations of the products.

## WOOL, FUR, AND FLAMMABLE FABRICS

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

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

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

The Flammable Fabrics Act seeks to protect the public against hazards incurred in the use of dangerously flammable fabrics in wearing apparel.

Each of the three acts provides for the filing of continuing guaranties with the Federal Trade Commission. A public register for such documents is maintained by the division. Registered identification numbers for use on required labels also are issued by the division upon proper application. Substantive rules and regulations which amplify and explain the basic statutes have been promulgated under each of the three acts. These rules and regulations, which have the force and effect of law, are necessarily complex and technical. Continuing economic and technological advances require amendments and new rules whenever necessary in the public interest. Copies of the acts and the rules and regulations promulgated thereunder, as well as copies of informative bulletins concerning methods of meeting compliance with the statutes, are available upon request to the Commission.

Approximately 70 industries manufacture products subject to the Wool Act, involving some 25,000 manufacturers and 260,000 distributors. Subject to the Fur Act are approximately 7,500 manufacturers of fur products which are distributed through some 175,000 distributors.

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

Proper administration of the Wool, Fur, and Flammable Fabrics Acts necessitates policing and compliance investigations which are conducted regularly among manufacturers and distributors on a nationwide basis during peak seasons of the year.

During fiscal 1956 there was a continued consumer demand for fabrics made from specialty fibers such as cashmere, vicuna, camel hair, etc., as well as fabrics made from a blend of wool and fur fibers such as mink, beaver, and guanaco. These fibers have been in short supply with a consequence of high prices and increasing instances

where importers and manufacturers have attempted to pass off substitute fibers. Because of the current demand for mink furs, there have been increased instances where poor quality mink has been tip-dyed without disclosing such fact and thereafter passed off as natural mink.

Eleven complaints and 17 orders to cease and desist were issued in the enforcement of the Wool Products Labeling Act during the fiscal year 1956. Two preliminary injunctions were obtained in United States District Courts in aid of two of the complaints issued. Stipulations to cease and desist were accepted in 11 cases.

The respondents in one case (Joseph Carmel, Inc., et al., Docket 6406) were prosecuted criminally under section 10 of the Wool Act.

There were 26 complaints and 19 orders to cease and desist issued under the Fur Products Labeling Act in safeguarding the public against misbranding and false advertising and invoicing of furs and fur products. Stipulations to cease and desist were also accepted from 47 furriers under this act.

There were nine complaints and nine orders to cease and desist issued for violating the Flammable Fabrics Act. These cases involved very light-weight silk scarfs imported from Japan for sale in this country.

Workload Statistics for Fiscal Year 1956

	Wool Act	Fur Act	Flammable Fabrics Act
Commercial establishments covered in industry compliance investigations -----	2,895	783	2,435
Products examined for compliance (Sampling methods used in wool products) -----	5,074,088	51,081	9,541,508
Fur advertisements examined for deficiencies -----		22,815	
Matters involving questionable practices which were disposed of by the acceptance of assurances for discontinuance -----	6,006	1,597	
Opinions and interpretations rendered under the respective acts and regulations -----	1,637	1,166	621
Registered identification numbers issued -----	495	184	
Continuing guaranties accepted for public register -----	1,137	666	204
Number of matters investigated and referred for complaint or stipulation -----	32	98	6
Compliance investigations of concerns under cease and desist orders or stipulations -----	16	7	

## ACCOUNTING

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

The Division's work consists of accounting analyses and studies of the pricing policies of respondents or proposed respondents to: (1) establish evidence of alleged price discrimination under Section 2 of the Clayton Act as amended by the Robinson-Patman Act; (2) evaluate cost data submitted by respondents in justification of alleged price discrimination under the Robinson-Patman Act; (3) establish evidence of alleged price-fixing in cases rising under Section 5 of the

Federal Trade Commission Act; (4) establish evidence of sales below cost in violation of Section 5 of the Federal Trade Commission Act; (5) compile production and sales statistics and analyze financial data of companies and their competitors involved in mergers, in cases arising under Section 7 of the Clayton Act; and (6) compile statistics concerning costs, prices, and profits, and the financial position of companies under Section 6 of the Federal Trade Commission Act.

During the year accounting services were furnished in connection with 57 legal cases and investigations. These included 30 Robinson-Patman cases, 4 other Clayton Act cases, and 23 Section 5 Federal Trade Commission Act cases.

## LITIGATION

---

### FUNCTIONS

The Bureau of Litigation consists of attorneys who prepare and try all types of cases brought under the trade regulation statutes administered by the Commission. The cases they handle involve practices ranging from false advertising by a single firm to cases against price-fixing conspiracies involving entire industries.

The cases may be grouped in three major classifications:

1. Monopolistic and other anti-competitive practices alleged to violate section 5 of the Federal Trade Commission Act or sections 2, 3, 7, or 8 of the Clayton Antitrust Act, as amended by the Robinson-Patman Act.

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

3. Misbranding of wool or fur products, in violation of the Wool Products Labeling Act or the Fur Products Labeling Act, and sale of dangerously flammable wearing apparel in violation of the Flammable Fabrics Act.

The Bureau's work includes all phases of the litigation process in prosecuting such cases. In addition, the Bureau may be called on to participate in proceedings under the Export Trade Act, as well as under certain provisions of the Lanham Trade-Mark Act. Its attorneys also may represent the Commission in certain court proceedings.

When a case developed by the Bureau of Investigation is forwarded to the Bureau of Litigation with a recommendation for complaint, it is assigned to a trial attorney—or to more than one in some instances. The trial attorneys study the investigational files and research the applicable law. Then they prepare a report to the Commission summarizing and analyzing the evidence, measuring it against the appropriate statutory provisions, and recommending disposition of the case. The recommendation may be for issuance of a complaint, negotiation of an informal stipulation, further investigation, or closing.



When issuance of a complaint is proposed, a draft is prepared for the Commission's consideration.

On the issuance of a complaint by the Commission, Bureau attorneys handle the trial of the case before a hearing examiner and in appeal proceedings before the Commission. This function includes the usual duties of any trial lawyer, such as legal research; preparation of a comprehensive trial brief and of necessary legal documents; participation in conferences with parties, witnesses, and attorneys; participation in settlement negotiations and other pretrial procedures; the conduct of hearings; preparation of briefs; and presentation of oral argument;. The conduct of hearings involves, of course, the examination of witnesses for the purpose of presenting oral testimony and the introduction of documentary evidence, the cross-examination of defense witnesses, and the presentation of rebuttal evidence. Other duties are the preparation of applications for subpoenas duces tecum and other compulsory process, as well as the necessary steps to enforce them, and the preparation and filing of answers to defense motions, petitions, and appeals.

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

The Bureau is headed by a director who exercises general supervision over its work, assisted by an assistant director and an assistant to the director. As of June 30, 1956, the Bureau consisted of 42 trial attorneys and a secretarial, stenographic, and administrative staff of 18. The trial staff includes five legal advisers—three who are specialists in the field of antimonopoly law and two who are specialists in the field of law dealing with misrepresentation and other deceptive practices.

## CASE WORK IN 1956

### Statistical Summary

Both the case load and the output of the bureau's staff showed increases in fiscal 1956 over fiscal 1955, as reflected in the following table:

	Antimonopoly		Antideceptive practices		Totals	
	1955	1956	1955	1956	1955	1956
Complaints issued _____						
Orders to cease and desist _____	36	42	125	150	161	192
Complaints dismissed _____	30	<sup>1</sup> 37	82	<sup>2</sup> 132	112	169
Hearings held (days) _____	8	3	5	5	13	8
Final arguments _____	272	365	339	305	611	670
Briefs, motions, appeals, etc. _____	9	15	17	11	26	26
	148	214	301	415	449	629

<sup>1</sup> In addition, there were three orders partially disposing of cases.

<sup>2</sup> In addition, there was one order partially disposing of a case.

Indicative as these figures are of the increase in the bureau's volume of work, they take on increased significance in the light of the content of the cases. Accordingly, a review of the cases will serve to illustrate the great variety of practices which the Commission is undertaking to halt as prejudicial to the public interest, either because they restrain competition or tend to mislead or deceive the consuming public.

## ANTIMONOPOLY CASES

In the antimonopoly field there were marked increases in the number of complaints and orders issued during the year. The 42 antimonopoly complaints issued compare with 36 in fiscal 1955, while the antimonopoly orders rose from 30 in fiscal 1955 to 37 in fiscal 1956. Both figures were also substantially above the average for the ten-year period 1944-1953.

### Merger Cases

In its stepped-up drive against mergers and consolidations in unlawful restraint of trade, the Commission issued five new complaints and one order under section 7 of the Clayton Act. This section is directed against mergers, acquisitions, and consolidations which may substantially lessen competition or tend to monopoly.

The order issued in 1956 was designed to prevent restriction of competition in the paper products industry. In an action brought under sections 7 and 8 of the Clayton Act, as well as section 5 of the Federal Trade Commission Act, the order limits the amount of stock Union Bag & Paper Co. may hold in Hankins Container Co., a competing manufacturer of paper products. A Commission complaint had charged that acquisition by Union Bag of Hankins stock, together with other agreements, threatened competition between the two as well as in the industry generally.

The two companies have a combined business, principally east of the Mississippi, of over \$124 million in the sale of corrugated boxes and sheets and raw materials for these products.

The order is designed to prohibit Union Bag from controlling Hankins, either through stock ownership, interlocking directorates, or any agreements restricting Hankins' rights to buy and sell paper products.

In another section 7 case, a hearing examiner ruled that the June 1955 acquisition by Farm Journal, Inc., of the Curtis publication "Country Gentleman-Better Farming" violated the antimerger law. His initial decision (affirmed by the Commission after the close of the fiscal year) ordered Farm Journal to divest itself of the names "Better Farming" and "Country Gentleman" and to divest itself also of the domestic subscription lists of the acquired magazine and the list of Country Gentleman advertisers.

The order was based on findings that the acquisition eliminated one of only two "substantial" nation-wide general farm magazines and resulted in a substantial lessening of competition and a tendency toward monopoly.

New cases brought under section 7 of the Clayton Act include the following:

Docket 6478—A. G. Spalding & Bros., Inc.

The Commission's complaint charges that Spalding violated the antimerger law by its acquisition of Rawlings Manufacturing Co. Alleging that these firms constitute two of the four leading manufacturers and distributors of athletic goods in the United States, the complaint says the elimination of Rawlings from the competitive picture may lessen competition or tend to create a monopoly. Spalding sales in 1954, according to the complaint, amounted to \$23,350,000 while those of Rawlings during the same period totaled \$10,500,000.

Docket 6495—Foremost Dairies, Inc.

This corporation, described in the complaint as one of the four largest dairy firms in the United States, is charged with violating the antimerger law as a result of the overall impact on competition of its acquisitions of other dairy companies since 1951. According to the complaint, Foremost has acquired 39 companies producing dairy products. The Commission's complaint charges, in effect, that Foremost's pattern of acquisitions injures free competition in the purchase and sale of dairy products and thus violates both section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act.

Docket 6527—Scovill Manufacturing Co.

In this case the nation's largest manufacturer of safety and common pins is charged with acquiring a principal competitor in violation of section 7.

Docket 6557—Brillo Manufacturing Co., Inc.

This case involves charges that the nation's largest producer of steel wool acquired a competitor in violation of the antimerger law. The Commission's complaint alleges that Brillo's acquisition of The Williams Co. may substantially lessen competition or tend to monopoly.

Docket 6559—Scott Paper Co.

Three acquisitions in the paper industry are alleged to violate the antimerger law. The Commission's complaint identifies Scott as the dominant manufacturer of certain sanitary paper products (toilet

tissues and towels) and a leader in the manufacture of facial tissues and household waxed papers. In acquiring three other pulp and paper companies, Scott has increased its timber resources, pulp mills, and converter facilities, which, because of Scott's dominant position in the industry, is alleged to constitute a violation both of section 7 of the Clayton Act and section of the Federal Trade Commission Act.

In addition to these cases, three other merger cases remained pending at the close of fiscal 1956. Respondents in these cases include Pillsbury Mills, Inc., the second largest flour milling company in the United States; Crown Zellerbach Corp., one of the largest manufacturers of pulp and paper in the world; and Luria Brothers & Co., Inc., one of the nation's leading scrap brokers.

In both the Pillsbury and Crown proceedings, the case-in-chief in support of the complaint had been concluded, and the presentation of the defense was under way.

### Exclusive Dealing Cases

Competition-stifling exclusive dealing contracts and arrangements violating section 3 of the Clayton Act were prohibited in four cases during the fiscal year 1956.

Fuelgas Corp., which sells liquefied petroleum gas and related equipment, was ordered to stop making exclusive dealing contracts with its dealers and also to refrain from the use of any coercion to assure exclusive dealing in the absence of contracts. The order was based on a complaint charging the company with selling or leasing various "Homgas" products to approximately 90 distributors on condition that they should not deal in competitors' products.

Another order prohibits the nation's largest manufacturer of industrial wiping cloths from making exclusive dealing contracts in the sale of this commodity. The order was issued against Callaway Mills Co. The company sells industrial wiping cloths to more than 100 large industrial laundries, which in turn rent them to industrial firms for wiping grease, dirt, ink, dust, etc., from machinery and tools. The company was described as the dominant manufacturer in this rapidly growing industry, with annual sales reaching \$8 million in 1953.

Hearing aids were the subject matter of another section 3 order. Beltone Hearing Aid Co. was prohibited from making contracts with its distributors under which they must agree not to sell competitive hearing aids. Beltone is one of the country's leading hearing aid manufacturers.

The fourth order was directed against Outboard, Marine & Manufacturing Co., producer of the "Johnson Sea Horse," "Evinrude," and "Buccaneer" outboard motors. The Commission held that the company's requirement that its market outlets sell no competing products foreclosed competitors from a substantial and highly desirable

portion of the outboard motor market, with resultant injury to competition.

In addition, the Commission issued a complaint charging The Timken Roller Bearing Co. with requiring its distributors and jobbers not to handle competing products. Timken, identified in the complaint as the nation's "dominant" manufacturer of tapered roller bearings, sold over \$178 million worth of such products in 1953. The complaint challenges the company's "consistent policy" of requiring its distributors and jobbers to discontinue handling "like or similar" products of competitors.

### Robinson-Patman Act Cases

A large percentage of the Commission's antimonopoly cases involves discriminatory practices in violation of section 2 of the Clayton Act as amended by the Robinson-Patman Act. This section of the Clayton Act is designed to safeguard the competitive order against the effects of a seller's unjustified discriminatory prices. It also prohibits a seller from discriminating in the payment for or the furnishing of services or facilities, such as advertising or promotional aids, as between competing buyers, and forbids the payment or receipt of brokerage fees or commissions under certain conditions. One subsection runs against knowing inducement and receipt by a buyer of discriminatory prices.

Violation of section 2 was alleged in 27 cases during fiscal 1956—50 percent more than the 18 cases brought during the preceding year, and a new high for the past several years. Similarly, the 23 cases in which cease and desist orders were issued was a substantial increase over any recent year.

The automotive parts field and the food products field accounted for several orders issued during the year. P & D Manufacturing Co., Inc., and P. Sorensen Manufacturing Co., Inc., were ordered to stop charging substantially higher prices to some jobbers or whole-saler-customers than to other customers competing in the resale of automotive products to garages, filling stations, and repair shops dealing with the consuming public. These cases represented a continuation of corrective action taken in the important multi-million dollar automotive replacement parts field.

In the food products field, orders were issued against Sunshine Biscuits, Inc., General Foods Corp., Fruitvale Canning Co., and Maryland Baking Co.

Three well-known book publishers were also made subject to orders against price discrimination. They are Doubleday & Co., Inc., Thomas Y. Crowell Co., and Harper & Bros.

In the industrial field, the Commission issued price discrimination orders against American Brake Shoe Co., one of the Nation's largest

manufacturers of railroad car journal bearings, and against Magnesium Co. of America, Inc., East Chicago, Ill., a seller of materials handling equipment, such as magnesium dockboards, loading ramps, and hand trucks.

Illustrative of the new complaints issued under section 2 (a) is one charging Stephen F. Whitman & Sons, Inc., with price discrimination in the sale of Whitman Sampler and other candies. The complaint challenges a quantity discount plan resulting in lower prices to favored customers. The complaint alleges, among other things, that the discount schedule unfairly favors chain stores over independent outlets.

Increased emphasis on the enforcement of the Robinson-Patman Act's requirement that a supplier give proportionally equal advertising and promotional aids to all competing customers resulted in the issuance of a large number of cases under sections 2 (d) and 2 (e) during the past year. Complaints charging violations of these sections were accompanied in some instances by complaints charging knowing inducement of such violations was an unfair practice under section 5 of the Federal Trade Commission Act.

Thus, in this area of the law, the Commission moved on several fronts during fiscal 1956 to prevent chain stores from receiving favored treatment from their suppliers.

In the grocery field, the Commission issued complaints against two major food chains—Giant Food Shopping Center, Inc., and Food Fair Stores, Inc.—and eleven manufacturers of well-known food products, charging that sales promotion arrangements between the chains and the manufacturers resulted in discrimination against competing retail grocers. The manufacturers were charged with giving special allowances to the chains to promote special anniversary sales without making such allowances available to competing customers on proportionally equal terms. Giant and Food Fair are charged with knowingly inducing the special allowances in violation of section 5 of the Federal Trade Commission Act. The suppliers named in the complaint are: Crosse & Blackwell Co., Pompeian Olive Oil Corp., McCormick Co., Inc., Minute Maid Corp., Jos. Martinson Co., J. H. Filbert, Inc., The Sweets Co. of America, Tetley Tea Co., Reed Candy Co., Chestnut Farms Chevy Chase Dairy, and Atalanta Trading Corp.

The Commission also issued a similar series of complaints involving a large retail drug chain and its suppliers. The drug chain involved was United Cigar-Whelan Stores Corp., and the suppliers included the following manufacturers of medicinal or cosmetic products: Johnson & Johnson, Anahist Co., Inc., Serutan Co., and Bymart-Tintair, Inc.

Unfair discrimination in the granting of sales promotion aid was also charged in complaints against five of the Nation's leading cosmetic

manufacturers. The respondents were Hudnut Sales Company, Inc., Helena Rubinstein, Inc., Yardley of London, Inc., Elmo, Inc., and Revlon Products Corporation. Four of the cases were settled through the issuance of consent orders.

An apparently widespread practice of discriminating in the granting of promotional allowances in the wearing apparel field was proceeded against in a case against Henry Rosenfeld, Inc., a prominent New York City merchandiser of women's clothes. An order was issued requiring that the promotional allowances be made available to competing customers on proportionally equal terms.

Discrimination in the granting of advertising allowances and promotional aids also is alleged in a complaint against O'Cedar Corp., one of the four largest manufacturers of household mops, wax, and polish. A similar complaint was issued against Dolcin Corp., which sells arthritic and rheumatic pain relievers.

The Dolcin complaint also alleges that the company has violated section 5 of the Federal Trade Commission Act by entering into agreements with certain customers restricting their right to negotiate freely with Dolcin's competitors.

Violation of Section 2 (c) of the Clayton Act was prohibited in five orders issued during the year. This section of the statute prohibits payment or receipt of brokerage fees or commissions in transactions between a seller and buyers purchasing on their own account for resale. Two of the cases in which orders were issued involved wholesaler organizations in the drug and grocery fields.

#### Other Antimonopoly Cases

A variety of practices restricting and restraining competition in various areas of the economy was proceeded against during the year under section 5 of the Federal Trade Commission Act, which outlaws "unfair methods of competition" and other "unfair" acts and practices. Several of the cases were in the important food industry.

Agreements to fix the price of Alaskan king crab and crab meat are challenged, for example, in a proceeding involving three canning companies, a fisherman's union, and a fisherman's association. Two of the canners consented to entry of an order against the questioned price-fixing arrangements.

In a similar proceeding, fishermen and canners in the Cordova, Alaska, area were barred from fixing the prices of Dungeness crab and crab meat. The complaint in this case charged that contracts between the fishermen's union and three canning firms representing a substantial part of the industry restrained competition and tended to "unduly enhance" the price the public pays for the product. The

contracts in question fixed minimum prices which the canners paid the fishermen.

Another proceeding concerns the Puget Sound salmon industry, alleging the existence of a price-fixing conspiracy between canners, vessel owners, and a fishermen's union. The 13 canners consented to entry of an order prohibiting any conspiracy to fix salmon prices.

Boycott of a cooperative representing tomato growers in the Ohio area was prohibited in an order issued against 11 canners of tomato products. The companies cited were H. J. Heinz Co., Campbell Soup Co. and its purchasing agent, Joseph Campbell Co., Stokely VanCamp, Inc., Bauer Cannery, Inc., Foster Canning, Inc., Hirzel Canning Co., Hunt Foods of Ohio, Inc., Lake Erie Canning Co., J. Weller Co., and Winorr Canning Co. They are forbidden to combine or conspire to refuse to grant recognition of, or to negotiate with, the cooperative as a bargaining agent for its grower members or to refuse to purchase tomatoes from members of the co-op.

Two other restraints of trade cases resulting in cease and desist orders involved rope, cordage, and twine used on farms and in a variety of industrial plants.

Cordage Institute and 18 manufacturers of hard fiber rope, cordage, and twine are required to refrain from any combination or conspiracy to maintain uniform geographical price zones or zone price differentials in the sale of these products. Collusive matching of delivered prices was charged in the complaint.

Conspiracy to monopolize and control the importation and sale of Mexican twine was prohibited in a case involving 14 importers and the industry trade association, Cordage Importers Assn., Inc. The order runs against fixing prices and terms of sale, the classification of customers for the purpose of maintaining prices, the prevention of sale of Mexican twine to cooperatives, and the cutting off of the sources of supply to any purchaser.

The term "Mexican twine" includes agricultural baler and binder twine, commercial wrapping twine, and rope.

Practices designed to restrict competition in the food brokerage industry were outlawed in an order issued against the National Food Brokers Assn. and its 1,750 food broker members. An order agreed to by the respondents prohibits various methods allegedly used to assure that food brokers will not compete among themselves in soliciting the business of food processors and sellers already represented by another food broker.

Six cease and desist orders issued in fiscal 1956 prohibited discrimination against retail book dealers in their competition with book clubs. The orders were issued against Doubleday & Co., Inc., Houghton Mifflin Co., Little Brown Co., Inc., Random House, Inc., Simon &



Schuster, Inc., and Harper & Bros. These publishing houses were ordered to refrain from entering into or continuing contracts with book clubs which require resale price maintenance by retailers while the clubs competing with them are exempted from any such responsibility in the sale of their own licensed issues of the same book.

Restraint of trade cases initiated by the Commission during fiscal 1956 were headed by complaints charging three of the nation's leading tire manufacturers and three major oil producers with restraining competition in the sale of tires, batteries, and accessories. Dual respondents were named in each of the three complaints as follows:

B. F. Goodrich Co. and The Texas Co. (Docket 6485).

Goodyear Tire and Rubber Co. and The Atlantic Refining Co. (Docket 6486).

Firestone Tire and Rubber Co. and Shell Oil Co. (Docket 6487).

The gist of the complaints is that the oil producers contract to influence unduly their controlled service stations and distributors to buy tires, batteries, and accessories sold by the tire manufacturers and that in return the oil companies receive from the manufacturers "overriding" commissions on all net sales.

Each complaint alleges that competitors of the tire manufacturers are thus foreclosed from the service station markets involved, station operators and distributors are deprived of freedom of choice, and the public is deprived of the benefits of free competition. Accordingly, each of the companies is charged with violating section 5 of the Federal Trade Commission Act.

Sales methods prejudicial to competing small business concerns are challenged in a pending complaint against one of the country's largest producers of frozen dairy foods. H. P. Hood & Sons, Inc., furnishes equipment and service to retail customers, according to the complaint, with the effect that these retailers buy and sell Hood products exclusively. Smaller producers without the resources to make the same offers cannot sell their products and either go bankrupt or merge with larger concerns, the complaint alleges, with resulting injury to competition and threat of monopoly.

Similar cases are pending against eight other major ice cream manufacturers.

In another restraint of trade case, the Commission charged 21 of the Nation's leading paper bag manufacturers with conspiring to fix the prices of multi-wall paper shipping sacks. The complaint says that these firms, accounting for substantially all the \$200 million yearly sales of this commodity, use the same pricing formula in order to quote the same delivered price to their customers. By agreement, according to the complaint, delivered price is the only price and is the same at any given point regardless of freight costs.

Multi-wall paper slipping sacks are used to transport and store feed, fertilizer, cement, sugar, flour, and other bulk products.

Another complaint charges 20 members of the Asheville, N. C., tobacco board of trade with monopolizing the tobacco auction warehouse industry in that area.

## DECEPTIVE PRACTICE CASES

From a numerical standpoint, deceptive practice cases account for the largest percentage of the Commission's work. In fiscal 1956, for example, complaints alleging deceptive practices totaled 150, and orders to cease and desist numbered 133.

The record shows a substantial increase in case work in the deceptive practices field. The 150 complaints issued represent a jump of 25 over the 1955 total and an increase of 80% over the 1944-to-1953 average of 83. The 133 deceptive practice orders compare with 82 in the previous year and a 10-year average of 75 during the period 1944-1953.

The cases in this field cover a variety of practices and products. The Commission's proceedings are designed to protect not only the public's health but also its pocketbook. Their objective is to bring about truth in labeling and truth in advertising.

The summary that follows highlights how this responsibility was discharged.

### Fur Act Cases

The relatively new Fur Products Labeling Act accounted for considerable litigation during the year. Twenty-six complaints charging violation of this statute were issued, and 19 cases were successfully terminated with orders to cease and desist. The practices covered in these cases included failure to disclose the true name of the animal from which the fur was derived; failure to disclose the presence of bleached, dyed, or otherwise artificially colored furs; failure to disclose the country of origin; and misrepresentation of price. Fictitious pricing was a prevalent practice and included such devices as advertising spurious liquidation sales. The sale of used furs as new was also involved in several cases.

Illustrative of cases in which orders were issued is that against Jacques DeGorter and Suze C. DeGorter, trading as Pelta Furs (Docket 6297). Here violations related to misbranding and false and deceptive invoicing and advertising of fur garments, which included advertising fur garments with false comparative pricing claims.

Another was against Buckspan's et al. (Docket 6514). The violations covered misbranding and false and deceptive invoicing and advertising of fur garments and included failure to disclose on labels and in advertisements that fur garments are dyed when such is the fact.

## Wool Act Cases

The Wool Products Labeling Act likewise accounted for a substantial number of cases during the year. Seventeen orders to cease and desist were issued under this statute, and 11 new complaints were issued. The products involved included all kinds of wool products, such as coats, caps, blankets, comforters, battings, and fabrics. Illustrative of the practices challenged was the use of the word "cashmere" to describe a fabric consisting of wool, rabbit hair, and some cashmere. The Commission ordered the seller to stop using the word "cashmere" to describe products made only in part of cashmere unless the other fibers are named "in letters of at least equal size and conspicuousness." Several cases involved misrepresentation of the nature and amount of fur fibers contained in wool products.

Illustrative of Wool Act cases are the following:

Luxurious Woollens, Inc., et al. (Docket 6518). The Commission issued a cease and desist order against this firm, a manufacturer of woolen fabrics containing beaver hair, for misbranding under the Wool Products Labeling Act and for misrepresenting the fiber content of the goods on invoices under the Federal Trade Commission Act. Pending the decision of the Commission, the respondents were enjoined from shipping the misbranded goods by the U. S. District Court for the Southern District of New York.

Joseph Carmel et al. (Docket 6406). This was an instance where a coat manufacturer labeled ladies' coats as containing large percentages of guanaco hair when such was not the case. A cease and desist order was issued restraining the respondents from misbranding the garments under the Wool Products Labeling Act. In addition, this matter was forwarded to the Department of Justice for a criminal penalty suit under section 10 of the Wool Products Labeling Act.

## Flammable Fabrics Act Enforcement

The Commission was active also in the enforcement of the Flammable Fabrics Act of 1953, which became effective in 1954. Cease and desist orders under this statute numbered nine, and the total of new complaints issued was also nine. Cases under the Flammable Fabrics Act are designed to prevent the sale of wearing apparel that is so highly flammable as to be dangerous when worn. The cases involved primarily Japanese and Indian silk scarves.

## Medicinal Preparations and Therapeutic Devices

In the area of medicinal products and therapeutic devices, the Commission moved to halt false and exaggerated claims concerning so-called cures or remedies for ailments from head to toe

Claims for products or courses of treatment which promise to eliminate dandruff, stop excessive hair fall, prevent or overcome baldness, or induce the growth of new hair were ordered discontinued in several cases and challenged in additional cases which remain pending. It was found on the basis of scientific evidence that in 90 to 95 percent of all cases of baldness, there is "no cure known to medical science."

As for the pedal extremity, the Commission issued an order against misrepresentation of "Fairyfoot" bunion plaster. Under the order, the product may not be advertised as sensational or a scientific achievement, and various claims for its effectiveness must be discontinued. Other proceedings barred false therapeutic claims for shoes.

More significantly, the Commission proceeded against so-called arthritis and rheumatism medicines advertised as cure-alls. In several cases products advertised as effective treatments for arthritis and rheumatism, or the pains that accompany them, were found to give only temporary relief from minor aches and pains. Makers of the products were ordered to limit their advertising claims to the facts.

In several other cases the Commission ordered an end to sweeping claims for vitamin-mineral products and tonics. LeBlanc Medicine Co., Inc., for example, is prohibited from claiming that its vitamin-mineral supplement "Kary-On" is of any value in treating ailments such as convulsions, rheumatism, typhoid fever, heart trouble, diabetes, ulcers, epilepsy, or asthma.

Another order forbids a Chicago firm, with branches in major cities, to misrepresent the contact lenses it sells.

A Pennsylvania firm was barred by a Commission order from claiming that an air filter device guards against colds and other respiratory infections. Advertisements for the device, known as the "Trion Electronic Air Cleaner," had represented that the device will remove "over 90 percent of airborne bacteria and virus" and result in "fewer colds and other diseases." The order specifically prohibits claims that the device "will afford protection from or will effectively prevent the spread of colds or similar respiratory infections."

A pending complaint challenges claims that "K & K" cold medicine will cure colds and generally clear up the accompanying symptoms. The complaint charges that the value of the product is limited to affording temporary relief of coughs due to colds and of minor throat irritations.

## Household Products and Services

Deceptive practices relating to a variety of household products and services were prohibited or challenged in numerous cases. For example, two companies were ordered to stop making false claims for their stainless steel cooking utensils all to stop disparaging

competing aluminum products. The Commission found it necessary to ban as completely false the persistent canard that cooking food in aluminum utensils causes the formation of poisons. At the same time, the sellers must also refrain from claiming that eating food cooked in their stainless steel utensils will help overcome a variety of diseases and ailments ranging from diseased tonsils and heartburn to heart disease and diabetes.

Misrepresentation in connection with the sale or repair of television sets accounted for several cases.

The Admiral Corp. of Chicago was ordered to stop falsely comparing the screen area of its TV sets to those of its competitors. The order was based on a Commission complaint charging as false the claim that Admiral's "Giant 21-inch picture tube" gives 20 percent more screen area than other 21-inch sets.

A Washington, D. C., firm was also prohibited from using false advertising to sell television sets. The order prohibits such practices as misrepresenting that television sets are models of a certain year; that used television sets are new; or that television sets used other than for demonstration purposes are floor samples. The order also is directed against the use of deceptive representations concerning the nature and extent of the guarantee covering merchandise.

Two Washington, D. C., television repair service firms were placed under orders against misrepresenting the charges made for servicing and repairing TV sets in the home. Both firms advertised that service calls in the home were approximately \$1 when the actual charges were substantially higher.

Other cases in which orders against misrepresentation were issued related to such products as sewing machines, silverware, and aluminum storm windows, doors, and awnings.

Among the new complaints issued during the year were two alleging misrepresentation of the savings and advantages of food freezer plans. The complaints challenge, among others, claims that subscribers get food at "nearly wholesale prices" and that savings in food costs range from 25 to 50 percent.

## Insurance Cases

The litigation docket during fiscal 1956 was also featured by the trial of numerous cases alleging false advertising of accident and health insurance. Thirteen new complaints were issued in this field during the year, and five cases were terminated by the issuance of orders to cease and desist.

The insurance cases grew out of an investigation of the accident and health insurance industry in 1953-54. Forty-one cases have been brought alleging that the companies deceive the public by stressing

maximum benefits in advertising without adequately disclosing the restrictions contained in the policies. The cases involve misrepresentation of such matters as the duration of the policies, the health status of prospective policyholders, the number of illnesses covered, and the extent of benefits payable.

### Correspondence Courses

Exploitation of persons seeking to advance their education or to obtain better employment opportunities through the medium of correspondence courses was the subject matter of several proceedings during the year.

Leading the list were three cases involving correspondence courses designed to prepare individuals for Civil Service examinations. The sellers of these courses must stop representing that they are connected with the Government, that they can guarantee Civil Service jobs to graduates, or that their courses must be taken in order to obtain Civil Service positions. Other claims prohibited relate to the number of Civil Service vacancies, the specific openings available, and the salary range.

Two similar cases in which complaints were issued during the year remain pending.

Three cases involved misrepresentation of correspondence courses in reweaving. The orders issued in these cases run against misrepresentation of the nature of the business, the ease of learning the process, and the profits to be earned.

In another case, the so-called Oklahoma College of Audiometry was found to be a one-man business rather than an accredited college, and its operator was ordered to stop using in his trade name the word "college" or any other terms implying that his enterprise is an institution of higher learning. Neither may he represent that his course offers the latest scientific methods of testing, treating, fitting, or rehabilitating persons suffering from hearing loss. He must also stop representing that the degree of "Doctor of Audiometry" is an accepted and recognized degree or that his so-called school is a nonprofit educational institution.

Another outfit was ordered to stop misrepresenting a mail order course in motel management, including the exaggeration of opportunities available to graduates.

Three new complaints are directed against misrepresentation of correspondence courses in practical nursing. Operators of these correspondence schools are charged with, among other things, misrepresenting the qualifications necessary to be a practical nurse and the benefits and opportunities available to graduates.

## Fictitious Pricing

An increasing number of cases related to fictitious pricing. The practice was found and prohibited in a variety of commodity areas, including watches, wearing apparel, cutlery and flatware, perfume, hosiery, and household furnishings.

The practice involves both the use in advertising of a represented retail price actually greater than the usual and regular price, and also the use of tickets attached to merchandise similarly misrepresenting the regular price. In several cases the Commission condemned the latter practice on the part of manufacturers or other distributors as placing in the hands of retailers a means or instrumentality by which they may mislead the public.

In one case, for example, a perfume manufactured in Newark, New Jersey, which ordinarily sold for \$3 or less, was advertised as a French perfume retailing for \$25.

In a pending case, watches selling for \$19.75 were advertised as "Originally \$33.85 to \$100." These so-called original prices are fictitious, the complaint alleges, and are "greatly in excess of the usual and regular retail price."

## Bait Advertising

A related practice which continued to occupy the attention of the Commission and its staff was that of bait advertising. This is the practice of advertising famous-make merchandise, particularly household appliances, at a sensationally low price as a "bait" to attract prospective customers. When members of the public undertake to buy the advertised merchandise, it is disparaged or said to be unavailable, or the customer is otherwise discouraged from buying it and then pressured into buying some other much higher-priced product. The practice was found and prohibited in cases involving vacuum cleaners, sewing machines, and hearing aids.

## Oleomargarine Cases

In its continuing enforcement of the 1950 amendment to the Federal Trade Commission Act specifically outlawing the misrepresentation of oleomargarine as a dairy product, the Commission issued two cease and desist orders during fiscal 1956. One was against The Best Foods, Inc., the manufacturer of Nucoa Margarine. The second case involved Food Town, Inc., which operates a chain of supermarkets.

A third case against Armour & Co., in connection with Cloverbloom "99" oleomargarine, was dismissed when the Commission held that it lacked jurisdiction over Armour by virtue of the Packers and Stockyards Act. Armour, as a meat packer, is subject exclusively to the Packers and Stockyards Act even as to activities other than meat

processing, the Commission held. The matter was accordingly referred to the Department of Agriculture, which administers the Packers and Stockyard Act.

### Wearing Apparel

In addition to cases brought under the Wool Products Labeling Act, the Fur Products Labeling Act, and the Flammable Fabrics Act, the Commission's docket also included several wearing apparel cases under section 5 of its organic act. In one case the Commission prohibited claims that domestically manufactured clothing was designed and made in London, England. Another case involving rainwear and outdoor jackets was directed against misrepresentation of the seller as the manufacturer of the garments.

Therapeutic claims for shoes were also proceeded against as deceptive. The maker of "Jumping-Jacks" juvenile shoes, for example, was prohibited from claiming that they are beneficial to the health of children. The order specifically prohibits claims to the effect that the shoes will cause the arch or toes to stay strong or healthy; help bones or muscles to grow straight or strong; or have any significant beneficial effect on the growth or development of the feet.

### Used or Secondhand Commodities

Misrepresentation of used commodities as new, either by affirmative representations or by failure to disclose the fact that advertised articles were secondhand, was the subject matter of numerous proceedings involving a variety of products

The growing practice of selling reclaimed motor oil as new was challenged in four complaints issued during the fiscal year 1956. A typical complaint alleged that the respondent sold reprocessed or reclaimed oil obtained from drainings of motor crankcases, or other sources, in the same containers used for new oil without indicating the used nature of the product. The complaint alleged that, in the absence of a disclosure that the oil is used, reclaimed, or reprocessed, the general understanding of dealers and the public is that the oil is new.

The maker of Schick electric razors was charged with selling used razors as new. The complaint alleges that razors returned after free home trials offered by Schick dealers are reconditioned and then reoffered for sale as new and unused products. The same thing is true, according to the complaint, of salesmen's samples and display and demonstration razors.

A retail firm in Philadelphia was charged with selling used pianos as new. The complaint said the firm rents pianos to individuals, with an option to buy. Pianos returned after termination of the rental



agreements are reconditioned and then reoffered for sale as new, according to the complaint.

In another proceeding, a New York mail order firm was accused of advertising that the used wearing apparel it sells is new.

### Photographs and Photographic Albums

Promotional schemes relating to photographs and photographic albums were also a fertile source of litigation. The cases involved, among other things, sham contests to get people to buy photographs.

In one case, a photographic studio advertised that parents might enter their children free of charge in a "cutest child contest" sponsored by a magazine. The complaint alleged that there was no contest, no prizes, no magazine, and no free portraits. The company consented to an order prohibiting these and other deceptive representations.

Sellers of photographic albums were ordered to stop representing that the albums are given "free" to "selected" persons buying, certificates entitling them to have photographs made at specified studios. The cases also involved false claims as to special, reduced, or promotional prices.

### "Skip Tracer" Cases

The use of misleading "skip-tracing" forms was prohibited by the Commission in several cases. The fact that the forms may be used to collect just debts, the Commission ruled, does not legalize their deceptive nature. In undertaking to trace delinquent debtors for creditors, the collection agencies proceeded against used forms creating the false impression that the information was requested (1) by the United States Government, (2) in connection with consumer surveys, or (3) in an effort to send the debtor money due him. Such deceptive practices were barred as violating the Federal Trade Commission Act.

### Lottery Merchandising

Lottery merchandising is a hardy perennial in the Commission's case work. Despite the fact that by Commission orders and court affirmances the practice has been clearly condemned as an unfair practice contrary to public policy, it persists in connection with the sale of a variety of merchandise. This necessitates continuing attention to the practice, and the fiscal year 1956 was no exception.

Orders to cease and desist were issued in five cases. Most of the cases involved the use of the conventional pushcards, punchboards, or pullcards, and the merchandise thus sold included watches, wallets, electric percolators, jewelry, cookware, and silverware. In addition, a flour

manufacturer was charged with inviting shoppers to buy a sack of flour and "pick a number" to win another sack. The practice was prohibited as a game of chance, gift enterprise, or lottery.

### Miscellaneous Cases

Other deceptive practice cases resulting in the issuance of cease and desist orders included the following:

A manufacturer of phonographic needles was ordered to stop misrepresenting that the needles have sapphire, ruby, or other jeweled tips without disclosing that they are synthetic. Home gardeners were protected through the issuance of an order prohibiting a nursery from misrepresenting the size, variety, age, rate of growth, production, condition, or blooming time of bushes, shrubs, and other nursery stock. The "Gadget-of-the-Month Club" was ordered to stop representing the total retail price of merchandise sent to club members as greater than the subscription price.

A furniture company was ordered to stop representing that it is a wholesaler or that its prices are wholesale prices. Several cases involving watches were directed against false claims that they are "jeweled" watches. Another order ran against misrepresenting the quality and price of paints and the terms of their sale.

Deceptive practices in the sale of fur fibers were prohibited in two cases. Fur fibers represented as natural guanaco were not 100 percent guanaco but a blend composed in large part of other fibers. Similarly, fur fibers described as "mink fur blend" were not composed predominantly of that fiber. So-called beaver fur fibers were likewise composed largely of other fibers, according to Commission complaints.

Still other orders prohibited various forms of misrepresentation in connection with cotton fabrics, home fire alarm systems, perfumes, trophies, medals, jewelry, watchcases, fly traps, disinfectants, food vending equipment, artificial flowers, and chamois.

## OFFICE OF THE GENERAL COUNSEL

---

As the Commission's chief law officer, the general counsel is principal legal adviser to the Commission and its staff. His office:

Handles all the Commission's appellate and court work;

Obtains compliance with its cease and desist orders, including initiation of penalty suits;

Integrates cease and desist order compliance with programs for securing compliance with voluntary stipulations and trade practice rules;

Analyzes new legislation and represents the Commission before Congressional committees;

Supervises the work of special legal assistants to the Commission;

Advises the chairman of the Commission on clearance of voluntary industry agreements sponsored by other agencies in carrying out the Defense Production Act and the Small Business Act of 1953, as amended;

Administers the Webb-Pomerene Export Trade Act;

Reviews trade practice rules;

Advises businessmen informally on trade regulation matters; and

Prepares legal manuals and studies for staff use.

### DIVISION OF SPECIAL LEGAL ASSISTANTS

The principal work of this division is to prepare documents needed to implement Commission decisions. The work also includes examining formal records and reporting on them to the Commission or to a particular Commissioner.

Division attorneys consult with Commissioners and staff members on questions of law, policy, and procedure in connection with all phases of the Commission's work. They then prepare reports and recommendations on a wide variety of subjects, including questions of substantive law, proposed trade practice rules, and proposed reports to the public.

## DIVISION OF APPEALS

A principal function of the division of appeals is to defend or prosecute proceedings instituted in Federal courts in which the Commission is a party. Any party against whom a cease and desist order is issued may obtain a review of that order by filing a petition for its review in a United States court of appeals and any person aggrieved by any final action taken by the Commission for which review is not specifically provided by statute may challenge that action by appropriate proceedings in a United States district court. In cases under the Clayton Act, if the Commission's order to cease and desist is violated, the Commission may seek affirmance and enforcement of the order in a United States court of appeals. This Division handles all phases of such litigation as well as appeals arising from other types of proceedings instituted in Federal district courts, including the briefing and argument of such cases before the courts. It also participates with the Office of the Solicitor General on such of these matters as may reach the Supreme Court of the United States on petition for writ of certiorari.

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

During the 1956 fiscal year this division completed litigation in 20 cases, 9 of which were antimonopoly cases, and 10 antideceptive practice cases, and one was a case involving employment rights. During the year 2 of these cases went to the Supreme Court on petition for certiorari on behalf of the Commission, in one of which the petition has been granted and the case is now pending in that court on the merits and the other in which petition for certiorari has been filed but not yet acted upon.

At the close of the fiscal year the work load consisted of the 2 cases mentioned as pending in the Supreme Court, 28 proceedings pending in United States Courts of Appeals and 2 on remand to the Commission. Of the 32 pending cases, 14 are antimonopoly proceedings and 18 are antideceptive practice cases. The division prepared 16 briefs on the merits, participated in 2 petitions for certiorari in the Supreme Court, and handled 132 interlocutory matters in pending cases.

During this fiscal year the division prepared draft reports upon 68 legislative proposals.

## ANTIMONOPOLY CASES IN FEDERAL COURTS

### In the Supreme Court

The petition for rehearing of petition for certiorari filed by Dictograph Products, Inc., pending at the beginning of the fiscal year, was denied October 10, 1955. In two cases petitions for certiorari were filed on behalf of the Commission. In the first, American Crayon Co., the Supreme Court granted the petition seeking review of a portion of the decision of the court of appeals adverse to the Commission, and reversed the judgment. The court of appeals, however, reversed its entire order, including the part favorable to the Commission, and a second petition for certiorari has been filed. In the second case, National Lead Co., et al., petition for certiorari to review a portion of the decision of the court of appeals was granted and the case is pending.

### Decisions

National Lead Co., New York, N. Y.; Anaconda Copper Mining Co. and International Smelting and Refining Co., New York, N. Y.; Eagle-Picher Co. and Eagle-Picher Sales Co., Cincinnati, Ohio; The Sherwin-Williams Co., Cleveland, Ohio (Seventh Circuit). Price discrimination and combination in restraint of trade. The Commission's order to cease and desist was modified and affirmed.

Standard Oil Co., Chicago, Ill. (Seventh Circuit). Discrimination in price in the sale of gasoline. Commission's order was set aside.

Stenographic Machines, Inc., Chicago, Ill. (Seventh Circuit). Agreements in restraint of trade in mechanical shorthand machines. Commission's order was set aside.

Petitions to review orders to cease and desist dismissed because petitioners did not desire to proceed, as follows:

Bradner Smith & Co., New York, N. Y. (Seventh Circuit); Nackie Paper Co., New York, N. Y. (Seventh Circuit); National Paper Trade Assn., New York, N. Y. (Second Circuit). Agreements in restraint of trade in the sale of paper and paper products.

LaSalle Extension University, Chicago, Ill. (Seventh Circuit). Agreements in restraint of trade in the sale of mechanical shorthand machines.

### Pending Cases

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

Harlem Paper Products Corp., et al., Bronx, N. Y.; Metropolitan Bag & Paper Distributors Assn., Inc., New York, N. Y.; Robins Paper Co. of Baltimore City, Baltimore, Md. (All Second Circuit). Peti-

tions for review of order prohibiting price-fixing and other restraints of trade in the sale of paper and paper products.

Standard Oil Co., Chicago, Ill. (Seventh Circuit). Discrimination in price in the sale of gasoline. Petition for certiorari being prepared.

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

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

Petitions for review of five orders to cease and desist prohibiting price discrimination in the sale of automotive parts, as follows:

Whitaker Cable Corp., North Kansas City, Mo. (Seventh Circuit); E. Edelmann & Co., Chicago, Ill. (Seventh Circuit); Moog Industries, Inc., St. Louis, Mo. (Eighth Circuit); C. E. Niehoff & Co., Chicago, Ill. (Seventh Circuit); and P. & D. Manufacturing Co., Inc., Long Island City, N. Y. (Seventh Circuit).

## DECEPTIVE PRACTICE CASES IN FEDERAL COURTS

### In the Supreme Court

Petition for certiorari was filed during the year by Tractor Training Service, et al., Portland, Ore. The petition was denied and petition for rehearing was also filed and denied.

### In the United States Courts of Appeals

There were 9 deceptive practice cases pending in the courts of appeals at the beginning of the fiscal year. Nineteen new petitions to review Commission orders were filed and 10 cases were completed. Of those decided, 6 Commission orders were affirmed and enforced without change, and 2 orders were modified on motion of the Commission, and as modified were affirmed. In 2 cases petitions to review were dismissed on motion of the Commission, and in 3 cases the petitions to review were dismissed because petitioners did not desire to proceed.

### Decisions

Cases in which the Commission's orders were affirmed and enforced without change are: Trade Union Courier Publishing Corp., New York, N. Y. (Third Circuit). Deceptive practices in falsely claiming endorsement by A. F. of L. and placing advertisements without authorization.

Tractor Training Service, et al., Portland, Ore. (Ninth Circuit). False advertisements of correspondence study course.

N. Sumergrade & Sons, New York, N. Y. (Third Circuit). False representations of feather content of pillows.

Northern Feather Works, Inc., New York, N. Y. (Third Circuit). False representation of feather content of pillows.

New American Library of World Literature, Inc., New York, N. Y. (Second Circuit). Misrepresentation of book reprints and condensations.

Marshall Maltz, Chicago, Ill. (Seventh Circuit). Lottery device. Cases in which Commission orders to cease and desist were modified on motion of the Commission and affirmed are:

Standard Distributors, Inc., Chicago, Ill. (Second Circuit). Misrepresentation of an encyclopedia.

Reddi-Spred Corporation, Philadelphia, Pa. (Third Circuit). Deceptive practices in the sale of oleomargarine.

Three petitions to review were dismissed because the petitioners did not desire to proceed, as follows:

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

Standard Sewing Equipment Corp., et al., New York, N. Y. (Second Circuit). Unfair practices in use of trade name.

U. S. Industries, Chicago, Ill. (Fifth Circuit). False representations and unfair practices in the sale of cookware.

Two petitions to review were dismissed on motion of the Commission, as follows:

The Salisbury Co., et al., Minneapolis, Minn. (Eighth Circuit). False representations of feather content of pillows.

National Educators, Inc., et al., Scranton, Pa. (District of Columbia Circuit). Deceptive practices in the sale of an encyclopedia. This petition was for review of the Commission's order denying petition for modification of order to cease and desist.

## Pending Cases

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

E. F. Drew & Company, Inc., New York, N. Y. (Second Circuit). Deceptive practices in the sale of oleomargarine.

Trade Union Courier Publishing Corporation, New York, N. Y. (Third Circuit). Deceptive practices in falsely claiming endorsement by A.F. of L. and placing advertisements without authorization.

The L. Buchman Co., Brooklyn, N. Y. (Second Circuit); Louis Buchwalter t/a National Feather & Downs Co., Brooklyn, N. Y. (Second Circuit); Sanitary Feather & Down Co., Brooklyn, N. Y. (Second Circuit); Burton-Dixie Corp, et al., Chicago, Ill. (Seventh Circuit); Buryl J. Lazar t/a Globe Feather & Down Co., Chicago, Ill.

(Seventh Circuit); Northern Feather Works, Inc., Newark, N. J. (Third Circuit); N. Sumergrade & Sons, New York, N. Y. (Third Circuit); Barclay Home Products, Inc., Cohoes, N. Y. (District of Columbia Circuit), misrepresentation of feather content of pillows.

James F. Crafts (Fireman's Fund Indemnity Company), San Francisco, Calif. (Ninth Circuit). Appeal from order of district court enforcing subpoena.

General Products, Chicago, Ill. (Seventh Circuit). Unfair competition in sale and distribution of photograph albums and certificates for photographs.

Carl Drath (Broadway Gift Co.), Washington, D. C. District of Columbia Circuit). Merchandise lottery.

The American Hospital and Life Insurance Co., San Antonio, Tex. (Fifth Circuit). Misrepresentation of insurance policies.

Abel Allan Goodman (Weavers Guild), Hollywood, Calif. (Ninth Circuit). Deceptive practices in sale and distribution of home study course.

#### Pending on Remand to the Commission

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

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

#### In the United States District Courts

A suit for declaratory judgment to determine employment rights was pending in the United States District Court for the District of Columbia at the beginning of the fiscal year. The Commission's motion for summary judgment was granted and the complaint dismissed.

#### Contempt Proceedings in Federal Courts

The Commission filed petition for prosecution of Dolcin Corp., New York, N. Y., for criminal contempt for violation of court decree commanding obedience to the Commission's order and at the end of the fiscal year the case was pending on order to show cause issued by the Court.

### DIVISION OF COMPLIANCE

This division obtains and maintains compliance with the Commission's cease and desist orders past and current. Without continuous surveillance, the Commission is unable to know whether or how its orders are being obeyed.

Each respondent is required to report how he is complying with these orders and intends to do so in the future. The division evaluates



these reports and augments them where necessary by conferences, supplemental reports, or by investigation immediately following the entry of an order. Other principal duties of the division are:

To request and analyze results of investigations of complaints of violation of orders.

To represent the Commission in collaboration with district attorneys in U. S. District Courts in civil penalty suits, preparing the complaints and trial memoranda, taking necessary depositions and participating throughout the litigation.

To work out acceptable voluntary compliance programs.

To screen advertising to detect violations of cease and desist orders, stipulations, and trade practice conference rules, as well as new violations of law.

### Civil Penalty Suits

To discover violations and speed prosecution of the penalty provision of the Federal Trade Commission Act are imperative in the public interest. It is obviously a waste of time and money to keep grinding out new orders without obtaining obedience to them.

Violation of an Federal Trade Commission Act order makes a respondent liable to civil penalty up to \$5,000 for each violation. Where the violation continues, each day of its continuance is a separate offense. This is particularly applicable to continuing conspiracies in restraint of trade. Penalty proceedings during fiscal 1956 were as follows:

Pending July 1, 1955	11
Filed during year	6
Total for disposition	17
Disposed of during year	9
Pending June 30, 1956	8
Certified, not yet filed	3
Complaints being prepared, including 1 on suspense at direction of Commission and 1 pending with Commission	27

Since the division's creation in 1947 the summary of civil penalty suits is:

Fiscal year	Total judgments and settlements	Number of suits certified to the attorney general	Fiscal year	Total judgments and settlements	Number of suits certified to the attorney general
1947	\$38,000.00	1	1953	\$59,538.20	3
1948		0	1954	8,950.00	2
1949	16,900.00	0	1955	40,132.69	11
1950	7,000.00	9	1956	19,342.70	9
1951	<sup>1</sup> 80,000.00	1			
1952	11,600.00	5		281,463.59	

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

In all civil penalty cases the division prepares for transmission with the certification to the attorney general, for filing in the U. S. District Court, all the necessary pleadings and a trial memorandum, and offers full aid of its attorneys in prosecution and trial of the case. Usually the offer is accepted and the division attorneys not only fully participate but often solely conduct the trials. They also prepare all necessary further pleadings and briefs for filing with the court, which include requests for admissions, interrogatories, objections, motions, and court findings, and personally arrange and take all necessary oral depositions of those witnesses who cannot be subpoenaed to appear personally.

The primary objective is to obtain compliance with orders rather than to exact a large number of civil penalty judgments. This cannot be achieved without prompt application of civil penalty procedures when compliance apparently cannot be obtained otherwise.

Experience shows that a respondent may be in compliance today and in violation 3 or 4 years hence, and that without the reasonable and continued surveillance approximately 70 percent of such orders would have no meaning or effect. In at least 70 percent of the compliance cases handled, it is necessary to do much more than analyze and file reports. In about two-thirds of the cases which involve continued work, they do so because the original reports of compliance prove unsatisfactory.

#### Difference Between Deceptive-Practices Orders and Orders Involving Restraint of Trade and the Clayton Act

In cases involving deceptive practices there is some reason to assume that, in the absence of a complaint by a competitor or the public, either the order is being obeyed or there is no public interest in pursuing the case. But the same considerations do not apply to orders prohibiting price-fixing or other conspiracy and monopolistic practices because those ordinarily affected do not have sufficient information to enable them to file a complaint, and the general public feels the results of, but does not understand, the matter.

#### (a) Legal Differences

Most orders involving restraints of trade are issued under the Clayton Act and have no finality until enforced by decree of the U. S. Court of Appeals after proof of violation, and proof of a further violation is necessary for a fine in criminal contempt. Since 1947 there have been no such fines, and throughout the Commission's 40-year existence enforcement of antimonopoly orders has been notoriously weak. Only three judgments have been recovered, one in 1937, one in 1940, and one in 1945.

During fiscal 1956 this division initiated two formal investigational hearings looking toward enforcement of antimonopoly orders (Champion Spark Plug, D. 3777, and National Assn. of Sanitary Milk Bottle Closure Manufacturers, D. 4565), as well as one appellate court contempt proceeding clinging in a false and misleading advertising matter (Dolcin, D. 5692). Work on these cases continues.

During the year the reports of 79 respondents in the Commission's 1948 cement case were supplemented and the results analyzed, completed, and forwarded to the Commission.

Also, full supplemental reports of compliance in the case of American Iron & Steel Institute, D. 5508, order issued in 1951 involving originally 89 respondents, were directed by the Commission to be filed as satisfactory.

The division has initiated and has outstanding 18 full investigations of compliance with orders issued under the Clayton Act.

#### (b) Procedural Differences

In cases involving restraints of trade and Clayton Act violations, price-fixing conspiracies, and other complicated problems, many involve more than a hundred respondents. In these cases the Compliance Division must ascertain that each respondent is in compliance. To do so, it must obtain from each respondent:

1. In conspiracy cases, information and evidence on current practices, e. g., price lists, pricing systems, terms and conditions of sale, discounts and allowances, rebates, uniform standards, trade practices or policies, patent license agreements or other contractual agreements, and exchange of data among respondents.

2. In price discrimination cases, current practices and copies and explanations of price lists, pricing systems, price differentials, discount and rebate schedules, and other pertinent rules or arrangements that might result in price discrimination.

3. In Robinson-Patman brokerage cases, information not only concerning discontinuance of the unlawful commission, brokerage or compensation, allowance or discount, but a description of the entire pricing system. Only by a study of the complete pricing structure can it be learned whether the unlawful payment or allowance is being made under an alternate provision.

4. In cases involving failure to pay for services or facilities furnished on proportionally equal terms, a complete statement of current terms of payment or furnishing of such services or facilities, including all variations in the terms.

5. In any case, when the unlawful act or practice has been evidenced by any contract, lease, agreement, or other written matter, full information on the extent to which the instrument or written matter is currently in effect.

During fiscal 1956, a total of 144 compliance investigations were instituted and supervised by the division, 32 of which were in connection with antimonopoly matters. This 144 is an increase of 26 compliance investigations over the preceding fiscal year.

### Progress on Review of Old Orders

Since its organization the Commission has issued approximately 4,770 cease and desist orders. The compliance division, from its establishment in 1947, had been able to deal adequately with respondents' methods of compliance in less than 700 of these orders. In August 1954, a survey of the remaining orders (those issued prior to 1947) was undertaken. The status of this survey is as follows:

	Fiscal year *1956	Cumulative to July 1, 1956
Examined -----	590	1,812
Screened out as Requiring no Action -----	218	688
Supp. Reports Requested -----	270	739
Compliance Brought Current -----	302	744

\*Does not include Robinson-Patman Act orders.

A special survey of the 171 Robinson-Patman Act orders issued before 1947 was completed during fiscal 1956. Although the survey had made some progress the previous year, the bulk of the orders—156 of the 171—were examined in fiscal 1956.

Of the 2,200 old orders not yet investigated, more than 400 involve restraints of trade and Clayton Act violations, price-fixing conspiracies, and other complicated problems. These orders are directed against evils found in many of the country's most vital industries. Many involve a large number of respondents, each of whom must report. One case had 145 respondents, another 89, and another 294.

### Current Order Compliance

A substantial portion of the compliance division's work consists of securing compliance with current orders issued since 1947. As each current order is issued the division must study and analyze reports of compliance to insure that respondents adjust their business practices to conform to the Commission's cease and desist orders.

### Statistics on Matters Handled in Fiscal 1956

"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 pre-

liminary inquiries into compliance. Each category of these "matters" is a distinct operation requiring substantial man-hours.

Total pending July 1, 1955	908
Received during year	<u>1,589</u>
Total for disposition during year	2,497
Disposed of during year	<u>1,505</u>
Total pending June 30, 1956	992

## ADMINISTRATION OF WEBB-POMERENE ACT

### Office of Export Trade

This office administers the Webb-Pomerene (Export Trade) Act (15 U. S. C. § 61-65), makes investigations into foreign trade conditions as authorized by section 6 (h) of the Federal Trade Commission Act, advises other components of the Commission on foreign trade, and serves as liaison between the Commission and other government agencies in matters relating to U. S. foreign trade.

The Webb-Pomerene Act authorizes American business competitors to form associations for the sole purpose of export trade and exempts such groups from the antitrust strictures of the Sherman Act provided their activities are confined within certain statutory bounds.

The Commission polices the business behavior of these export trade associations. Where an association fails to comply with the Commission's recommendations for correcting its practices, the Commission refers the matter to the Attorney General for appropriate action relating to enforcement proceedings or a civil forfeiture suit.

Thirty-seven export trade associations representing 442 industry members are currently registered with the Commission. The value of the products exported by association members totals approximately \$840 million annually. It is expected this soon will exceed one billion dollars. For the first time in Webb-Pomerene history, the Office of Export Trade is ascertaining the activities of each export association to spot-light possible antitrust violations and joining with the Department of Justice and the Department of State to formulate a common course of antitrust action.

The office of export trade remains small, relying on coordination with other staff components of the Commission and cooperation with other government agencies to the end that antitrust laws, as modified by the Webb-Pomerene law, are efficiently and effectively administered.

## ECONOMICS

---

The Bureau of Economics conducts economic studies and renders economic and statistical assistance in the investigation and trial of cases.

During the first 7 months of the year, the Bureau made a major contribution to the work of a Merger Task Force which spearheaded the Commission's efforts to halt illegal mergers under section 7 of the Clayton Act. This task force, consisting of economists and lawyers, screened currently reported mergers and initiated inquiries and complaints as required.

In January 1956, the function of the Task Force was transferred to the Bureau of Investigation, and several economists in the Bureau of Economics who had gained experience in merger work were detailed to the Bureau of Investigation. Later in the year their detail was made permanent. Other economists also were transferred to the Bureau of Investigation for handling the economic aspects of merger investigations.

As a result of these changes, the work of the Bureau of Economics at the end of the fiscal year was devoted to three principal purposes: the preparation of economic reports on issues of competition and monopoly in American industry; the publication of quarterly financial reports summarizing the balance sheets and income statements of manufacturing corporations; and the making of economic and statistical reports in the conduct of Commission cases under section 7 of the Clayton Act after the stage of issuance of the complaint.

### ECONOMIC REPORTS

During the year work was done on two economic reports.

#### Corporate Patterns

In June 1956, the economic staff finished the report on Industrial Concentration and Product Diversification in the 1,000 largest Manufacturing Companies: 1950. When published, this report should serve as a statistical compendium for the student of American

corporate enterprise. Besides the many tables and charts in the text, there are several hundred pages of appendix tables which give detail on types of production by various size groups of particular manufacturing industries. The report will show what part of their output was shipped in 1950. As an example, the report will identify the four leading shippers of each class of product and show the total number of establishments from which shipments were made by the first four and the first eight companies, the aggregate value of shipments of these companies, and, wherever possible, the proportion these shipments were of the total shipments of all companies in the United States. In industries where there are numerous large companies, these data are shown for as many as 24 of them. A novel feature of the report is an index number that shows whether the companies among the first four made shipments of similar or widely varying sizes. In separate chapters the data for food, electrical apparatus, and transportation equipment are analyzed in detail, and the reader is given in appendix tables the data on which he can make his own similar analysis of the other industries.

### Antibiotics

During the final months of 1955 a group of the Bureau's economists met regularly to plan a Commission-ordered economic study of the antibiotics industry, with particular reference to costs, prices, profits, and patents. A procedural outline was put in shape, and the principal areas for inquiry were laid out. In the spring of 1956 the survey was discussed in detail with the Bureau of the Budget, and various facets were coordinated with other Federal agencies having specific interests in the study. In June 1956, the formal data request, to be addressed to the antibiotics manufacturers, was sent to the Commission for approval. (Following Commission action in July, the survey was begun with the mailing of the data request to the industry.)

## FINANCIAL REPORTS

A second major division of the Bureau's work is the Quarterly Financial Report for Manufacturing Corporations. This is produced jointly by the Bureau's Division of Financial Statistics and the Securities and Exchange Commission and is an indicator of the state of economic health of a substantial part of the nation's business community. In it are published quarterly estimates of selected income and balance sheet items for all manufacturing corporations based on consolidated quarterly financial statements received from a cross-section of 9,000 of the 120,000 manufacturing corporations which are taxable under the United States Internal Revenue Code. Quarterly

estimates of sales, costs, tax liability, profits, liquidity, operating ratios, and the like are also published for each of 23 manufacturing industries and 7 sizes of manufacturing corporations.

This quarterly series was inaugurated in 1947 to meet a long-standing and vital need of many government agencies for an analytic tool in determining present and prospective levels of economic activity. Since the published reports provide statistically reliable estimates of current operating results and reflect accurately the current financial condition of the United States manufacturing corporations, they are used by:

(1) The President of the United States for inclusion in each of the annual and mid-year economic reports of the President transmitted to the Congress in accordance with the Employment Act of 1946;

(2) The President's Council of Economic Advisers and the Joint Economic Committee of the Congress for their evaluation of current economic conditions;

(3) The Department of Commerce for its quarterly estimates of national income and gross national product;

(4) The Board of Governors of the Federal Reserve System for measuring corporate working capital and related financial factors in its analyses of money flows in our economy and in its evaluation of the general financial condition of United States corporations;

(5) The Congressional Joint Committee on Internal Revenue Taxation, the Treasury Department, and the Bureau of the Budget for estimating current tax liability and future tax receipts from corporations;

(6) The Senate and House Select Committees on Small Business and the Small Business Administration for evaluating the current financial position of small business.

This quarterly publication is also used by many business executives (1) to measure efficiency by comparing a company's operating results with the average performance of companies of similar size or in the same line of business and (2) to compare the profitability of various types of business activity.

In addition to the issuance of four Quarterly Financial Reports during fiscal year 1956, a plan was developed to distribute more equitably the reporting burden of manufacturing corporations with assets of less than \$1 million which are required to submit to the Commission quarterly financial data. Under the new sampling process, to be inaugurated in fiscal year 1957, the sample of smaller corporations will be replaced (or "rotated") periodically, with the result that the sample of these corporations will be changed every two years. The same replacement (or "rotation") system cannot be employed for the lesser number of reporting corporations with assets in excess of \$1 million,



however, without impairing the reliability of the published quarterly estimates.

## ASSISTANCE IN LITIGATION

Aid to the legal staff in hearings on formal complaints is the third major division of the Bureau's work. This includes supervising the preparation of economic evidence and of supporting statistical displays, and of the development of such appropriate rebuttal material as may be required by the defense line introduced by the respondents. During the year five cases accounted for the major part of the time of personnel assigned to this activity: Farm Journal, Crown-Zellerbach Corp., Pillsbury Mills, Inc., Luria Bros. and Co., Inc., and A. G. Spalding and Co. The legal aspects of these cases are discussed in the summary of the work of the Bureau of Litigation. The principal contributions by the Bureau of Economics were the following:

The Crown-Zellerbach Corp. antimerger case was in trial throughout the fiscal year. The economic staff, assisted by accountants from the Division of Accounting of the Bureau of Investigation, cooperated with the trial staff in the preparation of exhibits and in supplying expert testimony. Assistance also was given in the preparation of briefs.

Pillsbury Mills, Inc. During the year further hearings were held for the presentation of testimony and exhibits by respondent. This phase of the case required the full-time assistance of one economist in connection with the evaluation of the testimony and exhibits presented and preparation for cross-examination. At the close of the year testimony from the respondent was still being received.

Luria Bros. & Co., Inc. Supplementary inquiries were sent to members of the steel industry to cover the purchases of iron and steel scrap for the years 1953 and 1954, a period not covered by the original inquiry. Tabulations and analyses were made of the information supplied by the steel producers.

A. G. Spalding & Bros., Inc. An economist assigned to this case provided a preliminary analysis of the market positions and competitive relationships of A. G. Spalding & Bros., Inc., and Rawlings Manufacturing Co. in the sporting goods industry. This economic analysis was used as a basis in issuing the complaint against A. G. Spalding, dated December 8, 1955. Thereafter, statistical evidence, tabulations, and analyses on market shares and on economic concentration in the sporting goods industry were made available to the trial staff for use as Commission exhibits.

Farm Journal, Inc. Assistance was given counsel supporting the complaint in the pretrial conferences, hearings before the hearing examiner, preparation of briefs, preparation and presentations of statistical and economic testimony, and preparation of findings.

## CONSULTATION

---

This bureau is composed of the Divisions of Trade Practice Conferences, Stipulations, and Small Business. Its functions are: (1) to seek voluntary compliance with the laws administered by the Commission by means of trade practice rules, conferences, stipulations, and other types of informal procedures; (2) to give informal advice (but not formal opinions) in matters under trade practice rules and stipulations; and (3) to advise small business informally on matters over which the Federal Trade Commission has jurisdiction.

Fiscal 1956 was a year of sharply increased activity in the Bureau's work. More new sets of trade practice rules were promulgated than in any of the previous 16 years, and the 166 stipulations were the largest number accepted in any fiscal year since 1946 when the present Division of Stipulations was created. At the same time, the Division of Small Business noted a 26 percent increase in the number of its completed actions. These actions include such things as conferences with small businessmen, reports in response to individual inquiries, and other advisory actions.

In addition, cigarette advertising guides were promulgated for the use of Federal Trade Commission attorneys in evaluating cigarette advertising. This action already has proved its worth in encouraging the cigarette industry to eliminate much objectionable advertising.

Direction of the bureau of consultation is centralized in the office of the director, who has general supervision over the three divisions.

### DIVISION OF TRADE PRACTICE CONFERENCES

This division administers the trade practice conference program of the Commission. This provides for:

Establishment and revision of trade practice rules for industries in cooperation with their members;

Furnishing of advice and guidance on requirements of the rules;  
and

Obtaining of voluntary compliance with the rules on an individual as well as an industry-wide basis.

Trade practice rules interpret and clarify the requirements of laws administered by the Commission as they apply to a particular industry. The rules effect widespread voluntary observance of laws administered by the Commission, thus lessening the need for individual complaint proceedings and substantially reducing the cost of law enforcement.

Industries usually ask for the rules. The division studies the request and recommends whether it should be approved. If the Commission approves, the division conducts industry-wide conferences at which industry members suggest and discuss rules. Proposed rules are then drawn and discussed at public hearings, following which the Division recommends final rules for Commission approval and promulgation.

In addition to establishing new rules for industries, the division keeps old rules up to date both as to legal requirements and changes in trade practices. Five rule revision proceedings are now in process, 12 others are in the initial stages, and rules for 34 additional industries are being studied for possible revision or rescinding.

During the year the Commission adopted a new industry committee provision covering the formation and activities of industry committees under trade practice rules. It requires the staff member administering the rules to keep the industry committee advised of Commission actions relating to practices covered by the rules. It provides further that when meetings of the committee and the staff are held, they will be chaired by the staff member, limited to a discussion agenda prepared by him, and complete minutes filed with the Commission.

Statistics on rule-making activities during fiscal 1956 are as follows:

#### Applications, Authorized Trade Practice Conferences, and Completed Proceedings

New and revision trade practice conferences authorized	-----	19
Applications for new and revision trade practice conferences pending	-----	18
	-----	-----
Total pending July 1, 1955	-----	37
Applications for new and revision trade practice conferences received		
during the year	-----	28
Proceedings authorized on Commission's own motion	-----	2
	-----	-----
Total proceedings to be disposed of	-----	67

Disposition (July 1, 1955, to June 30,1956)

Applications denied by the Commission -----	16
New industries for which T. P. C. rules were promulgated -----	10
Industries for which T. P. C. rules were revised and promulgated -----	4
Total number of industries for which rules were promulgated (New and Revision ) -----	14
Total proceedings disposed of -----	30
Total proceedings pending June 30, 1956 (Authorized—15, Applications—22) -----	37
T. P. C. rules in force July 1, 1955 -----	153
T. P. C. rules rescinded during year -----	4
New rules promulgated (including 1 consolidation of 3 previous sets) -----	11
T. P. C. rules in force June 30, 1956 -----	160

During fiscal 1956 the Commission promulgated trade practice rules for 14 industries. Rules for 10 of these are new, and for the other four the existing rules were revised. The new rules are for the following industries: Accident and Health Insurance; Frozen Food; Nursery; Refrigeration and/or Air Conditioning Contracting; Corset, Brassiere and Allied Products; Diamond; Commercial Dental Laboratory; Blue Print and Diazotype Coaters; Plastics Housewares; and Melamine Dinnerware. The revised rules are for: Brick and Structural Clay Tile and Allied Products; Poultry Hatching and Breeding; Gummed Paper and Sealing Tape; and Wholesale Plumbing and Heating.

Trade practice rules for the Accident and Health Insurance Industry represent a significant step in preventing deception in the sale of this insurance. The rules cover such things as advertisements of benefits and losses covered, premiums payable, disclosure as to exceptions, reductions and limitations, and disclosure of policy provisions relating to renewability, cancelability, or termination of policies.

The frozen food rules clarify for members of this highly competitive and rapidly growing industry the legal requirements for their marketing practices, particularly inhibitions of the Robinson-Patman Act.

For the Poultry Hatching and Breeding Industry the new rules supersede those promulgated in 1948 for the Baby Chick Industry. This highly competitive industry has an annual gross volume of business exceeding \$4 billion. The rules cover misrepresentation and deception and also furnish specific guidance on the use of descriptive terms, such as "hybrid."

Other proceedings which were advanced during the year were those for the following industries: Combination Storm Window and Door, Engraved Stationery, Mastic and Texture Sprayed Coating, Steel Bobby Pin and Hair Pin, Low and Medium Priced Jewelry, School Supply and Equipment, Buff and Polishing Wheel Manufacturing, Watch Attachment, and Direct Selling.



Statistics relating to rule compliance activities of the Division during fiscal 1956, are as follows:

Compliance matters pending July 1, 1955	212
New compliance matters initiated	405
Total for disposition	617
Disposed of during year	321
Pending at end of period	296

The rule compliance activities of the Division during the year included the following:

Radio and Television Industry. Advertising practices corrected in this industry included deception concerning the size of television pictures, prices, cabinet composition and failure to disclose when the products contained used parts.

Canvas Cover Industry. Efforts were made to stop the misuse of the terms "fireproof" and "waterproof" in advertising and labeling; the nondisclosure in advertising and labeling of the finished size, the possibility of size shrinkage under normal conditions of use, and the kind and grey goods weight of the fabric.

Diamond Industry. Practices corrected included misuse of the terms "blue white," "perfect" and "flawless" to describe diamonds, failure to disclose properly the weights of diamonds, and representations that diamonds are "guaranteed" without disclosing the kind of guarantee and how it will be performed.

Portrait Photographic Industry. Actions were taken to stop deceptive use of coupons and certificates representing special prices, and false advertising of contents, exhibits, special or limited offers and color and finishing of photographs.

Hosiery Industry. Attention was given to the need for disclosing when hose are "seconds" or "irregulars", and to preventing preticketing of hose with fictitious selling prices.

## STIPULATIONS

The stipulation procedure is a time-tested method of obtaining law observance by cooperative means. Under this procedure voluntary correction of unlawful practices is accomplished in individual cases (as distinguished from industry-wide action under the Trade Practice Conference procedure) without the necessity of instituting formal proceedings, thereby saving the time and expense of litigation. The procedure affords a person, charged after investigation with engaging in unfair practices, an opportunity to present his side of the matter and to enter into an agreement or stipulation to discontinue those



practices which are shown by the facts to be unlawful.<sup>1</sup> Since the first stipulation was accepted by the Commission more than 30 years ago, over 8,800 stipulations providing for discontinuance of unlawful practices have been approved by the Commission.

In fiscal year 1956, the Commission approved 166 stipulations, the largest number of stipulations accepted in any fiscal year since the stipulation procedure was revised in 1946 to permit proposed respondents to submit facts and proposals reflecting their views and since the Division of Stipulations was created as a separate division within the Commission to perform stipulation functions.

### Stipulation Procedure

Matters appropriate for disposition by stipulation are referred for this procedure after investigation by the Bureau of Investigation. The proposed respondent is furnished with a statement of the acts or practices which, following investigation, appear to be unlawful and is accorded an opportunity to discuss the issues informally with a representative of the Division of Stipulations (83 such informal conferences were held during the year). He, or his counsel, may present such factual information as he may wish to have considered in the matter, in person or in writing. Thereafter, a stipulation or voluntary agreement providing for discontinuance of any practices shown by the facts to be illegal may be entered into as a basis for disposing of the case. The stipulation becomes effective upon approval by the Commission and is a matter of public record.

### Practices Covered by Stipulations

Stipulations approved during the year called for discontinuance of a wide variety of unfair or deceptive practices. In 47 stipulations, manufacturers or distributors of fur products agreed to discontinue practices violative of the Fur Products Labeling Act, including misbranding, false invoicing, and false or deceptive advertising. Eleven manufacturers or distributors of wood products entered into agreements providing for the labeling of these products in accordance with the requirements of the Wool Products Labeling Act. The number of wool and fur stipulations obtained, as compared with five for the previous fiscal year, is further evidence of the emphasis placed on this means of enforcement of these statutes.

---

<sup>1</sup> Opportunity to enter into a stipulation is not afforded when the alleged violation of law involves false advertising of food, drugs, devices, or cosmetics which are inherently dangerous, the sale of fabrics and wearing apparel which are so highly flammable as to be dangerous, or the suppression or restraint of competition through conspiracy or discriminatory or monopolistic practices. The Commission reserves the right in all cases to withhold the privilege of disposition by voluntary agreement.





In other stipulations, four companies agreed to stop representing their medicinal products as treatments for or as correcting the cause of neuritis, neuralgia, lumbago, arthritis or rheumatism.

Two manufacturers of children's shoes agreed not to represent their shoes as correcting or preventing defects, deformities or abnormalities of the feet.

Five sellers of insecticides stipulated to discontinue misrepresentations as to the effectiveness or safety of their products.

Three distributors of used lubricating oil agreed to disclose in advertising and labeling that the oil has been used.

Six stipulations provided for discontinuance of claims that products composed of imitation or pulverized leather were made of genuine leather.

A seller of a device containing the radioactive element polonium, and used for removing lint and dust from phonograph records, agreed to label the device so as to warn of the possible harmful effects of this element.

A manufacturer of insulation agreed to cease misrepresenting the insulating value of his product as compared with competing products.

A manufacturer of "instant tea" agreed to disclose in advertising the exact proportions of soluble tea and carbohydrates contained in his product.

A distributor of belts agreed to stop using fictitious price markings.

A corporation operating a chain of filling stations stipulated to discontinue shipping in commerce coupon books intended to be used in the sale of gasoline by means of a lottery.

A manufacturer of hernia supports agreed to disclose the nature of any represented "guarantee" and the manner of his performance under it.

A jobber of cotton fabric stipulated that he would not represent that the fabric is "colorfast" unless its color is fast to both light and laundering.

Other stipulations provided for discontinuance of claims that: juice extracted by a fruit and vegetable juicer provides greater health benefits than are obtained from unprocessed vegetables and fruits; a vitamin-mineral food supplement will cure tuberculosis, prevent baldness or loss of teeth or will prolong life; a laxative preparation is a cure for aches, pains or lack of pep, energy or vitality; a concrete burial vault affords absolute sanitation and complete protection; a paper-bound abbreviated edition of a book is identical in content with a more complete edition of the same title; a weight-reducing plan is different from other plans requiring a low calorie diet with a dietary supplement; a tire sealant will eliminate flat tires; rebuilt voltage regulators are new; a liquid fertilizer will assure increased plant growth;

a

flowering plant will produce 75,000 blooms or will bloom in winter; shoes made by machinery are hand sewn.

### Stipulation Compliance

Under the Commission's Rules of Practice, parties to approved stipulations are required to file within 60 days of their receipt of notice of the Commission's approval of a stipulation a report in writing showing in detail the manner and form of their compliance with it. During fiscal 1956, a total of 133 reports were received and filed as showing satisfactory compliance, an increase of 44 percent over the preceding fiscal year. Twenty-five matters in which compliance was not considered satisfactory or further investigation was necessary were referred to the Bureau of Investigation. Seventy-seven matters were pending at the close of the fiscal year.

### Stipulation Compliance Check

The Division of Stipulations continued to check compliance with older stipulations. A total of 293 compliance inquiries were initiated during fiscal 1956 as a result of the Division's survey and information received from the Bureau of Investigation.

The results statistically of this program are shown below:

	Fiscal 1956
On hand July 1, 1955 -----	68
Initiated during period -----	293
Received from Bureau of Investigation -----	21
 Total -----	 <u>382</u>
Filed as showing compliance -----	250
Filed after voluntary correction of violations -----	38
Referred for further attention -----	44
 Total -----	 <u>332</u>
On hand end of period -----	50

## DIVISION OF SMALL BUSINESS

The Division of Small Business completed its second year June 30, 1956. Its purpose is to assist small business in obtaining the protection and relief afforded by the statutes administered by the Commission and to provide guidance concerning requirements of these statutes.

Its principal functions are:

- I. To give informal advice on a staff level to the small businessman, assisting him to conduct his business practices in keeping with these statutes;
2. To expedite through the Commission those matters involving practices which adversely affect small businessmen;

3. To perform liaison functions with the House and Senate Select Committees on Small Business, the Small Business Administration, and other agencies pertaining to small business matters.

Statistical Summary of Accomplishments

	Fiscal 1956
Matters on hand July 1, 1955 -----	50
Received during period -----	1226
Completed during period -----	1222
Matters on hand June 30, 1956 -----	54

The 1,222 matters completed during 1956, which include 547 conferences, represent an increase of 26 percent as compared with the preceding year..

Description of Work Performed

The problems presented to the division are varied and involve both unfair and deceptive acts and practices and matters in the antitrust field. The largest volume of work consists of informal advice to small businessmen in regard to the applicability of the various statutes administered by the Commission. The information or advice given concerns specific or individual problems, generally involving practices which the inquirer either is engaging in or intends to engage in or which are being engaged in by a competitor. Answers are supported by citations and documents in appropriate cases.

Problems which are the responsibility of other governmental agencies are transmitted to them, or if the answer is known to be available at a non-governmental agency the inquirer is referred to the proper source.

The services of this division are especially valuable to small businessmen who, without the safeguards afforded by the Commission, may not have the resources to enter or remain in a given field where unfair or restrictive business practices exist.

## APPROPRIATIONS AND FINANCIAL OBLIGATIONS

### FUNDS AVAILABLE FOR FISCAL YEAR 1956

Funds available to the Commission for the fiscal year 1956 amounted to \$4,548,500. Public Law 112, 84th Congress, approved June 30, 1955, provided \$4,262,500; and the Second Supplemental Appropriation Act, 1956, Public Law 533, 84th Congress, approved May 19, 1956, provided the sum of \$286,000.

#### Obligations by Activities, Fiscal Year 1956

1. Antimonopoly:	
Investigation and litigation	\$1,753,778
Trade practice conferences and small business	75,000
Economic and financial reports	314,736
2. Deceptive practices.	
Investigation and litigation	1,232,638
Trade practice conferences and small business	155,272
Wool, fur, and flammable fabrics enforcement	270,242
Insurance and trademarks	86,081
3. Executive direction and management	367,118
4. Administration	292,298
Total	<u>4,547,163</u>

#### Obligations by Objects, Fiscal Year 1956

01 Personal services	\$4,161,486
02 Travel	163,861
03 Transportation of things	5,647
04 Communication services	46,839
05 Rents and utility services	27,341
06 Printing and reproduction	20,597
07 Other contractual services	46,715
Services performed by other agencies	4,137
08 Supplies and materials	51,853
09 Equipment	18,462

13 Refunds, awards, and indemnities	-----	225
Total	-----	<u>4,547,163</u>

## SETTLEMENTS MADE UNDER FEDERAL TORT CLAIMS ACT

During the fiscal year 1956 the Commission paid no claims nor were any claims pending.

### COMPARATIVE APPROPRIATIONS

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

Year	Number of employees	Nature of appropriations	Appropriations	Obligations	Balance
1954 ___	596	Lump sum (including printing and binding)---	\$4, 053, 800	\$4, 044, 981	\$8, 819
1955 ___	584	Lump sum (including printing and binding)---	4, 129, 000	4, 125, 959	3, 041
1956 ___	641	Lump sum (Including printing and binding)---	4, 548, 500	4, 547, 163	1, 337



## APPENDIXES

## Federal Trade Commissioners—1915-56

Name	State from which appointed	Period of service
Joseph E. Davies	Edward T. Tait	Wisconsin
Edward N. Hurley		Illinois
William J. Harris		Georgia
Will H. Parry		Washington
George Rublee		New Hampshire
William B. Colver		Minnesota
John Franklin Fort		New Jersey
Victor Murdock		Kansas
Huston Thompson		Colorado
Nelson B. Gaskill		New Jersey
John Garland Pollard		Virginia
John F. Nugent		Idaho
Vernon W. Van Fleet		Indiana
Charles W. Hunt		Iowa
William E. Humphrey		Washington
Abram F. Myers		Iowa
Edgar A. McCulloch		Arkansas
Garland S. Ferguson		North Carolina
Charles H. March		Minnesota
Ewin L. Davis		Tennessee
Raymond B. Stevens		New Hampshire
James M. Landis		Massachusetts
George C. Mathews		Wisconsin
William A. Ayres		Kansas
Robert E. Freer		Ohio
Lowell B. Mason		Illinois
John Carson		Michigan
James M. Mead		New York
Stephen J. Spingarn		New York
Albert A. Carretta		Virginia
Edward F. Howrey		Virginia
John W. Gwynne		Iowa
Robert T. Secrest		Ohio
Sigurd Anderson		South Dakota
William C. Kern		Indiana

Pennsylvania

Mar. 16, 1915-Mar.  
18, 1918.  
Mar. 16, 1915-Jan. 31,  
1917.  
Mar. 16, 1915-May  
31, 1918.  
Mar. 16, 1915-Apr.  
21, 1917.  
Mar. 16, 1915-May  
14, 1916.  
Mar. 16, 1917-Sept.  
25, 1920.  
Mar. 16, 1917-Nov.  
30, 1919.  
Sept. 4, 1917-Jan. 31,  
1924.  
Jan. 17, 1919-Sept. 25,  
1926.  
Feb. 1, 1920-Feb. 24,  
1925.  
Mar. 6, 1920-Sept. 25,  
1921.  
Jan. 15, 1921-Sept. 25,  
1927.  
June 26, 1922-July 31,  
1926.  
June 16, 1924-Sept.  
25, 1932.  
Feb. 25, 1925-Oct. 7,  
1933.  
Aug. 2, 1926-Jan. 15,  
1929.  
Feb. 11, 1927-Jan. 23,  
1933.  
Nov. 14, 1927-Nov.  
15, 1949.  
Feb. 1, 1929-Aug. 28,  
1945.  
May 26, 1933-Oct. 23,  
1949.  
June 26, 1933-Sept.  
25, 1933.  
Oct. 10, 1933-June 30,  
1934.  
Oct. 27, 1933-June 30,  
1934.  
Aug. 23, 1934-Feb. 17, 1952.  
Aug. 27, 1935-Dec. 31, 1948.  
Oct. 15, 1945-Oct. 31, 1956.  
Sept. 28, 1949-March 31, 1953.  
Nov. 16, 1949-Sept. 25, 1955.  
Oct. 25, 1950-Sept. 25, 1953.  
June 18, 1952-Sept. 25, 1954.  
April 1, 1953-Sept. 12, 1955.  
Sept. 26, 1953-  
Sept. 26, 1954-  
Sept. 12, 1955-  
Sept. 26, 1955-  
Nov 2, 1956-.



## Types of Unfair Methods and Practices

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

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

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

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

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

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

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

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

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

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

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

11. Passing off goods for products of competitors through appropriation or simulation of such competitors' trade names, labels, dress of goods, or 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 seller's true identity and interest are initially concealed.

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

16. Combinations or agreements of competitors to fix, enhance, or depress prices, maintain prices, bring about substantial uniformity in prices, or divide territory or business, to cut off or interfere with competitors' sources of supply, or to close 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 weights or quantities of the product therein contained, or using standard containers only partially filled to capacity, so as to make it appear to the purchaser that he is receiving the standard weight or quantity.

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

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

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

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

(d) False claim by a vendor of being an importer, or a technician, or 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 stall or personages presently or theretofore associated with such business or the products thereof.

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

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

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

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

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

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

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

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

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

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

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

23. Giving products misleading names so as to give them 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, qualities, results accomplished, safety, value, and earnings or profits to be had therefrom.

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

(c) Misrepresenting the history or circumstances involved in the making and offer of the products or the source or origin thereof (foreign or domestic), or of the ingredients entering therein, or parts thereof, or the opportunities 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 of qualified reseller, as required by the Wool Products Labeling Act, or removing or mutilating tags required to be affixed to the products when they are offered for sale to the public.

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

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

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

## Statutes Pertaining to the Federal Trade Commission

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

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated below.
2. Clayton Act, sections 2, 3, 7, 8 and 11, approved October 15, 1914 (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, and amendment thereto approved August 23, 1954 (67 Stat. 111; 68 Stat. 770).

### Federal Trade Commission Act\*

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

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

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

---

\* Published as last amended by the Federal Fair Trade, or McGuire, Act, approved July 14, 1952. (See footnote on p. 80.)



but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed: Provided, however, That upon the expiration of his term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The Commission shall choose a chairman from its own membership.<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 commissioner 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

---

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Nothing contained in this Act or in any of the Antitrust Acts shall render unlawful any contracts or agreements prescribing minimum or stipulated prices, or requiring a vendee to enter into contracts or agreements prescribing minimum or stipulated prices, for the resale of a commodity which bears, or the 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 unlawful 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

---

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





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

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

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

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

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

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

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

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

---

<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.

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

(e) Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the Commission or judgment of court to enforce the same shall in 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.

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

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

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

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

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

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

---

<sup>7</sup> This sentence added by sec. 4 (c) 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."



(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust Acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

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

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

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

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust Acts, the court may, upon the conclusion of the testimony therein, if it shall be then of 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 imprison-



ment 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 after the regular time therefor, and

(2) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement. the court shall exclude such issue from the operation of the restraining order or injunction.

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

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

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

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

---

<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.



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.

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

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

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

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

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

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

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

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

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

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

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

Original act approved September 26, 1914.

Amended act approved March 21, 1938.

---

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

---

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

<sup>2</sup>This section of the Clayton Act contains the provisions of the Robinson-Patman 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."



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

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

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

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

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

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

SEC. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction

of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the lessee or 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 resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

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

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

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from 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

---

<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).

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.

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

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

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

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

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

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

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

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

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

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

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

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

That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits

aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the

foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

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

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

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

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

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

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

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate 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

---

<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).



have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$5,000, or confined in jail not exceeding one year, or both in the discretion of the court.

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

---

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

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.

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 had upon proper application and cause shown.

SEC. 14. That whenever a corporation shall violate any of the penal provisions of the antitrust laws, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation, and such violation shall be deemed a misdemeanor, and upon conviction 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 pro-

ceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned whether they reside in the district in which the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

SEC. 16. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, as against threatened loss or damage by a violation of the antitrust laws, including sections two, three, seven, and eight of this Act, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: Provided, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to 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.

---

<sup>6</sup> See second paragraph of footnote 8 on page 100.

<sup>7</sup> See second paragraph of footnote 8 on page 100.

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

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

SEC. 21.<sup>7</sup> That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or 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 matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

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

If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the 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

---

<sup>7</sup> See footnote 8 on pages 99, 100.



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 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 contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all the other cases of contempt not specifically embraced within section twenty-one of this Act, may be punished in conformity to the usages at law and in equity now prevailing.

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

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

Approved, October 15, 1914.

## Flammable Fabrics Act

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

[H. R. 5069]

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

Be it enacted by the Senate and 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.

---

<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

(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 wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

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

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

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

## PROHIBITED TRANSACTIONS

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

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

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

## STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the

conditions and in the manner prescribed in the Commercial

---

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.

Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and footwear covered by section 2 (d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

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

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

## ADMINISTRATION AND ENFORCEMENT

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

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

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

(d) The Commission is authorized to—

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

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

## INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction

or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such

---

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

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

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

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

#### PENALTIES

SEC. 7. Any person who willfully violates section 3 or 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 address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not, under the provisions of section 4 of this Act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing, 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.

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

commerce within the meaning of the Federal Trade Commission Act.

#### SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which,



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

#### EFFECTIVE DATE

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

#### AUTHORIZATION OF NECESSARY APPROPRIATIONS

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

Approved June 30, 1953.

## General Investigations by the Commission, since 1915

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

Reports 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

---

<sup>1</sup> The wartime cost-finding inquiries, 1917-18 (p. 122), include approximately 370 separate investigations.

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

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

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

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

---

<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."

under the general title, Chain Stores, 1931-33, see F. T. C. Annual Report, 1941, p. 201. )

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

Cigarette Shortage (F. T. C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944-45.—In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that it was not attributable to violations of laws administered by the Commission; but that certain undesirable practices such as hoarding and tie-in sales had developed. (Report of the F. T. C. on the Cigarette Shortage, 33 pages, processed, o. p., 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 Reports on Cost of Production, 4/20/20 to 10/30/20, Nos. 1 to 6, and two quarterly reports with revised costs, 8/25/20 and 12/6/20, processed, o. p.). An injunction to

---

<sup>7</sup> See footnote 4, p. 105.

prevent the calling for the monthly reports (denied about 7 years later) led to their abandonment.

Coffee (F. T. C.).—In its 1954 Economic Report of the Investigation of Coffee Prices, the Commission reported that the coffee price spiral of 1953-54 "cannot be explained in terms of the competitive laws of supply and demand." The report lists and discusses six major factors responsible for the price spiral, and recommends Congressional action to correct some of the "market imperfections" and "irregularities" found. (523 pp., 7/30/54.)

Combed Cotton Yarns.—See Textiles.

Commercial Bribery (F. T. C.).—Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published A Special Report on Commercial Bribery (H. Doc. 1107, 65th, 3 p., o. p., 5/15/18), recommending legislation striking at this practice; Commercial Bribery (S. Doc. unnumbered, 65th, 36 p., o. p., 8/22/18); and Commercial Bribery (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

Concentration in Manufacturing, Changes in, 1935 to 1947 and 1950 (F. T. C.).— This 153-page report shows that, on the basis of a study of the top 200 companies, concentration in American manufacturing was 2.8 percentage points higher in 1950 than in 1935. The report explores the reasons for the changes in recorded concentration in individual industries

Concentration of Productive Facilities (F. T. C.).—In a study of the extent of concentration of economic power, the Commission reported that 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, o. p. (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, 20 p., o. p., 11/29/24), recommending further development of cooperation in the United States.

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

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

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

Corporation Reports.—See Quarterly Financial Reports.

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

In 1947 the Commission published *The Present Trend of Corporate Mergers* (23 p., o. p.) This is a review of some of the economic effects of the loophole in the Clayton Act existing at that time in the fact that there was no prohibition against mergers by the acquisition of assets.

In 1948 the Commission published *The Merger Movement: A Summary Report* (134 p., o. p., also 7 p. processed summary). In this report the legal history of the antimerger provisions of the Clayton Act is reviewed. Significant individual mergers are examined in detail. Maps, diagrams, charts and tabular statistical materials are used to illustrate the economic effects of the then in force antimerger legislation.

*The Report on Corporate Mergers and Acquisitions* (210 p.) was published in May 1955. This study, bringing up to date much of the statistical material in the 1947 and 1948 reports, showed, among other things, that 1,773 formerly independent competitive firms in manufacturing and mining industries alone had disappeared in the period 1947-54 as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only 3 industries, food, nonelectrical machinery, and textiles and apparel—all predominantly small business fields.

Cost Accounting.—See Accounting Systems.

Cost of Living (President), Wartime, 1917-18.—Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See *Foods* (President), Wartime, 1917-18, herein.] Proceedings of the conference were published (*High Cost of Living*, 119 p., o. p.).

Cotton Industry.—See Textiles.

Cottonseed Industry (House).—Investigating alleged price fixing (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*, H. Doc. 193, 70th, 37 p., 3/5/28).

Cottonseed Industry (Senate).—Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29—71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at a fixed price under boycott threat; and whether such corporations acquired control of cotton gins to destroy competitive markets and depress or control prices paid to seed producers (*Investigation of the Cottonseed Industry*, preliminary report, S. Doc. 91, S. Doc. 209, 71st, 5/19/33).

71st, 4 p., o. p., 2/28/30, and final report, 207 p., o. p., with 11 vols. testimony,

Distribution Cost Accounting (F. T. C.).—To provide a guide for current legislation and determine ways for improving accounting methods, the Commission

studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection ( Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling, H. Doc. 287, 77th, 215 p., o. p., 6/23/41).

Distribution.—See Millinery Distribution.

Distribution of Steel Consumption.—A study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers. (1949-1950) The results of the study were transmitted to the Subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) o. p., 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 subtitles : Part I, Important Food Products (11/11/43, 223 p., o. p.); Part III, Building Materials—Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o. p.); Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements (3/2/44, 189 p., o. p.); Part V, Advertising as a Factor in Distribution (10/30/44, 50 p.) ; Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p., o. p.); Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area (6/30/45, 54 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., o. 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.

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

Farm Implements (F. T. C.).—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 Feeds, 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 Cost.

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

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

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

---

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

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



gress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p. 150.)

Food (President) Continued—Grain Trade.—Covering the industry from country elevator to central market, the Report of the F. T. C. on the Grain Trade was published in seven parts: I. Country Grain Marketing (9/15/20, 350 p., o. p.) ; II. Terminal Grain Markets and 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 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., o. p. and Wholesale Baking Industry, Part II—Costs, Prices and Profits (8/7/46, 137 p., o. p.). Part I developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products. It was found that, although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved

---

<sup>10</sup> In connection with its wartime cost finding inquiries, 1917—18, p. 124 herein, the Commission published Report of the F. T. C. on Canned Foods 1918—Corn, Peas, String Beans, Tomatoes, and Salmon (86 p., 11/21/21).

was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days, or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread-baking industry."

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

Food—Fish.—See Distribution Methods and Costs.

Food—Flour Milling (Senate).—This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in Wheat Flour Milling Industry (S. Doc. 130, 68th, 130 p., o. p., 5/16/24).

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

Food—Grain Elevators (F. T. C.), Wartime, 1917-18.—In view of certain bills pending before Congress with reference to regulation of the grain trade, the Commission, in a preliminary report, 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 (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: Report of the F. T. C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds (H. Doc. 152, 74th, 901 p., o. p., 4/5/35) ; Report of the F. T. C. on the Sale and Distribution of Milk and Milk Products (Connecticut and Philadelphia milksheds, interim report, H. Doc. 387, 74th, 125 p., o. p., 12/31/35) ; Chicago Sales Area (H. Doc. 451, 74th, 103 p., o. p., 4/15/36) ; Boston, Baltimore, Cincinnati, St. Louis (H. Doc. 501, 74th, 243 p., o. p., 6/4/36); Twin City Sales Area (H. Doc. 506, 74th, 71 p., o. p., 6/13/36) ; and New York Milk Sales Area (H. Doc. 95, 75th, 138 p., o. p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products, H. Doc. 94, 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

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

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

Food—Southern Livestock Prices (Senate).—Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination was being practiced, a Commission investigation (S. Res. 133, 66th, 7/25/19) revealed the alleged discrimination did not appear to exist (Southern Livestock Prices, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

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

Food—Sugar, Beet (F. T. C.).—Initiated by the Commissioner of Corporations,<sup>11</sup> but completed by the F. T. C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (Report on the Beet Sugar Industry in the U. S., H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

Foreign Trade—Antidumping Legislation (F. T. C.).—To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed, 6/27/38).

---

<sup>11</sup> See footnote 8, j. 110.

Foreign Trade—Cooperation in American Export Trade (F. T. C.).—This inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U. S. manufacturers for export trade, was enacted as a result of Commission recommendations (Cooperation in American Export Trade, 2 vols., 984 p., o. p., 6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions 1916. 14 p., o. p.).

Foreign Trade—Cotton Growing Corporation (Senate).—The report of an inquiry (S. Res 317, 68th, 1/27/25) concerning the development of this British company, Empire Cotton Growing Corporation (S. Doc. 226, 68th, 30 p., o. p., 2/28/25), showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

Gasoline.—See Petroleum.

Grain.—See Food.

Grain Exchange Actions (F. T. C. and Chairman of Senate Committee on Agriculture and Forestry).—The Commission's report on Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946 (85 p., o. p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1946, for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act and the U. S. Warehouse Act "should be so amplified and coordinated, or even combined, as to make effective the type and scope of regulation over futures trading contemplated by the Congress in enacting the Commodity Exchange Act."

Guarantee Against Price Decline (F. T. C.).—Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in Digest of Replies in Response to an Inquiry of the F. T. C. Relative to the Practice of Giving Guarantee Against Price Decline (68 p., o. p. 5/27/20).

Housefurnishings (Senate).—This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (Report of the F. T. C. on Housefurnishing Industries, 1018 p., o. p., 1/17/23, 10/1/23, and 10/6/24).

Independent Harvester Co. (Senate), Wartime, 1917-18.—After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the F. T. C. Report to the Senate on the Independent Harvester Co. (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and insufficient capital.

Interlocking Directorates (F. T. C.).—This 1950 report on Interlocking Directorates summarizes the interlocking relationships among directors of the 1,000 largest manufacturing corporations. It also covers the interlocking directorates between these corporations and a selected list of banks, investment trusts, insurance companies, railroads, public utilities, and distributive enterprises.

International Alkali Cartels (F. T. C.).—In a report (1950) on International Cartels in the Alkali Industry, the Commission discussed the nature, extent, and effect of international agreements concerning baking soda, soda ash, and caustic

soda to which organized groups of American and European alkali producers were parties from 1924 until 1946.

International Electrical Equipment Cartel (F. T. C.).—In its 1948 report on this subject (107 p., also 10 p. processed summary) the Commission points out the high degree of economic concentration in the electrical equipment industry which exists in each of the important industrial nations.

International Petroleum Cartel.—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., o. 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., o. 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., o. p., 6/1/51.

Leather and Shoes (F. T. C. and House), Wartime, 1917-18.—General complaint regarding high prices of shoes led to this inquiry, which is reported in Hide and Leather Situation, preliminary report (H. Doc. 857, 65th, 5 p., o. p., 1/23/18), and Report on Leather and Shoe Industries (180 p., o. p., 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the Report of the F. T. C. on Shoe and Leather Costs and Prices (212 p., o. p., 6/10/21).

Lumber—Costs.—See Wartime Cost Finding, 1917-18.

Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers' associations (referred to F. T. C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the F. T. C. on Lumber Manufacturers' Trade Associations, incorporating regional reports of 1/10/21, 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 Mountain and Mississippi Valley Territory (S. Doc. 293, 67th, o. p.);

and Report of the F. T. C. on Northern Hemlock and Hardwood Manufacturers Association (52 p., o. p., 5/7/23).

Lumber Trade Association (F. T. C.).—Activities of five large associations were investigated in connection with the Open-Price Associations inquiry to bring down to date the 1919 lumber association inquiry (Chap. VIII of Open-Price Trade Associations, S. Doc. 226, 70th, 516 p., o. p., 2/13/29).

Meat-Packing Profit Limitations.—See Food.

Mergers (F. T. C.).—(See Corporate Mergers.)

Milk.—See Food.

Millinery Distribution (President).—This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of leased departments in department or specialty stores (Report to the President of the United States on Distribution Methods in the Millinery Industry, 65 p., processed, 11/21/39).

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—A Preliminary Report (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and Book Paper Industry—Final Report (S. Doc. 79, 65th, 125 p., o. p., 8/21/17)].

Paper—Newsprint (Senate), Wartime, 1917-18.—High prices of newsprint (S. Res. 177, 64th, 4/24/16) were shown to have been partly a result of certain newsprint association activities in restraint of trade. Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers. The Commission for several years conducted monthly reporting of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [Newsprint Paper Industry,



preliminary (S. Doc. 3, 65th, 12 p., o. p., 3/3/17; Report of the F. T. C. on the 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.

Petroleum—Foreign Ownership (Senate).—Inquiry was made (S. Res. 311, 67th, 6/29/22) into acquisition of extension oil interests in the U. S. by the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American interests (Report of the F. T. C. on Foreign Ownership in the Petroleum Industry, 152 p., o. p., 2/12/23).

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations,<sup>13</sup> this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipeline companies which were unfair to small producers (Report on Pipe-Line Transportation of Petroleum, 467 p., o. p., 2/28/16), 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 corpora-

---

<sup>12</sup> See footnote 8, p. 110.

<sup>13</sup> See footnote 8, p. 110. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in Conditions in the Healdton Oil Field (Oklahoma) (116 p., 3/15/15).





tion 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 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, o. p. ) 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

---

<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 Piling" herein.

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 1947-53 series of reports is intended to meet the general needs of the Government and the public for current reliable corporation financial data. The reports show the aggregate estimates for American manufacturing corporations as derived from reports collected by the Federal Trade Commission and the Securities and Exchange Commission. This work is based upon resumption by F. T. C. of its prewar financial reporting function and continuation by S. E. C. of its current responsibilities for collection of financial information from corporations with securities registered on a national exchange. F. T. C. obtains comparable information from a carefully selected sample of small, medium size and large nonregistered corporations. The sample has been designed so that the two sets of data can be combined to provide estimates for 21 major industry groups (increased to 23 major groups in 1951) as well as the aggregate for all manufacturing corporations. The Quarterly Financial Reports formerly were known as Industrial Corporation Reports.

Quarterly Financial Report, United States Retail and Wholesale Corporation.—This presents estimates of the income statements and balance sheets for the total operations of United States wholesale trade corporations (merchant wholesalers only) and retail trade corporations, for various industrial segments of retailing and merchant wholesaling, and for different sizes of business in retailing and merchant wholesaling. These estimates are for the year 1950 and each of the four quarters of 1951. They were compiled from financial statements received from individual corporations.

Quarterly Financial Report, Five Manufacturing Industries, 1947-51.—This presents averages of the quarterly income statements and balance sheets for the total operations of representative samples of manufacturing corporations (with average annual sales within a specified range) in specific industries and in a specific geographical region.

Radio (House).—A comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23) ; Report of the F. T. C. on the Radio Industry, 347 p., o. p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended, 11/2/35).

Rags, Woolen.—See Textiles.

Raisin Combination—See Food.

Range Boilers.—See Price Bases.

Rates of Return in Selected Industries (F. T. C.).—A comparison of the prewar (World War II) and postwar rates of return on stockholders' investments after taxes for more than 500 identical manufacturing corporations. The present report, published annually, covers the years 1940 and 1947-52, includes 25 selected manufacturing industries.

Resale Price Maintenance (F. T. C.).—The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be per-



mitted 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 nonprice-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. 159, 73d, 79 p., o. p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (Report of the F. T. C. to the President in Response to Executive Order of May 30, 1934, With Respect to the Basing-point System in the Steel Industry, 125 p., o. p., 11/30/34).<sup>17</sup> The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).—An inquiry (S. Res. 286, 67th 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

---

<sup>16</sup> The salary lists do not appear in the report but are available for inspection.

<sup>17</sup> As of the same date, the N. R. A. published its Report of the National Recovery Administration on the Operation of the Basing-Point System in the Iron and Steel Industry (175 p., processed). The basing-point system is also discussed in published reports listed under "Cement" and "Price Bases" herein.

<sup>18</sup> See footnote 15, p. 118.



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), o. p., the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.—See National Wealth and Income.

Temporary National Economic Committee, Studies of the F. T. C.—See F. T. C. Annual Report, 1941, p. 218, for titles.

Textiles (President).—President Roosevelt (Executive Order of 9/26/34) directed an inquiry into the textile industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. Reports covering the cotton, woolen and worsted, silk and rayon, and thread, cordage and twine industries were: Report of the F. T. C. on Textile Industries, Parts I to VI, 12/31/34 to 6/20/35, 174 p., o. p. (Part VI financial tabulations processed 42 p., o. p.) ; Report of the F. T. C. on the Textile Industries in 1933 and 1934, Parts I to IV, 8/1/35 to 12/5/35, 129 p., o. p. ; Parts II and III, o. p. (Part IV, processed, 21 p., o. p. ; accompanying tables, processed, 72 p., o. p.) ; Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934, 1/31/36, 20 p., processed, o. p. ; Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934, 3/24/36, 48 p., processed, o. p. ; Textile Industries in the First Half of 1935, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed, o. p. ; Textile Industries in the Last Half of 1935, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed, o. p. ; and Textile Industries in the First Half of 1936, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed, o. p.

Textiles—Combed Cotton Yarns.—High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (Report of the F. T. C. on Combed Yarns, 94 p., o. p., 4/14/21).

Textiles—Cotton Growing Corporation.—See Foreign Trade.

Textiles—Cotton Merchandising (Senate).—Investigating abuses in handling consigned cotton (S. Res. 252, 68th, 6/7/24), the Commission made recommendations designed to correct or alleviate existing conditions (Cotton Merchandising Practices, S. Doc. 194, 68th, 38 p., o. p., 1/20/25).

Textiles—Cotton Trade (Senate).—Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920-22, as reported in Preliminary Report of the F. T. C. on the Cotton Trade (S. Doc. 311, 67th, 28 p., o. p., 2/26/23). After a second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, (68th., 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations.

Textiles—Woolen Rag Trade (F. T. C.), Wartime, 1917-18.—The Report on the Woolen Rag Trade (90 p., o. p., 6/30/19) contains information gathered during

the World War, 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.—Copper (26 p., o. p., 6/30/19) ; Report of the F. T. C. on Wartime Costs and Profits of Southern Pine Lumber Companies (94 p., o. p., 5/1/22) ; and Report of the F. T. C. on Wartime Profits and Costs of the Steel Industry (138 p., 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 Costs and Profits for Manufacturing Corporations, 1941 to 1945 (30 p., processed, with 10 p. appendix). Compilation of the information

---

<sup>19</sup> See footnote 10, p 111.

<sup>20</sup> Approximately 260 of the wartime cost inquiries are listed in the F. T. C. Annual Reports, 1918, pp. 29-30, and 1919, pp. 38-42, and in World War Activities of the F. T. C., 1917-18 (69 p., processed, 7/15/40).





contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-18, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flags, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper—Book, Paper—Newsprint, Profiteering, and Textiles—Woolen Rag Trade, o. p.

## 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 been related had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Chromium Processors (W. P. B.), Wartime, 1942-43.—For the War Production Board, the Commission investigated the transactions of the major chromium processors to determine the extent to which they were complying with Amendment No. 2 to W. P. B. General Preference Order No. m-18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W. P. B.), Wartime, 1942-43.—The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W. P. B. Limitation Orders L-182 and L-182 as amended 3/2/43; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No. 1.

Contractors, Prime, Forward Buying Practices of (W. P. B.), Wartime, 1942-43.—The matter of procurement, use, and inventory of stocks of critical materials involved in the operation of major plants devoting their efforts to war production was inquired into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

Copper Base Alloy Ingot Makers (W. P. B.), Wartime, 1942-43.—This investigation was designed to ascertain the operations, shipments, and inventories of copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M-9-a and b, and M-9-c.

Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.—A survey and inspection of a specified list of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Cost of Living (President).—President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1943-44.—Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M-38, M-11, M-11-b, M-126, L-81, L-131, and L-131-a, all as amended.

Electric Lamp Manufacturers (W. P. B.), Wartime, 1942-43.—At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W. P. B. Limitation and Conservation Orders L-33 and M-9-c.

Fertilizer and Related Products (O. P. A.), Wartime, 1942-43.—At the request of O. P. A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

Food—Biscuits and Crackers (O. P. A.), Wartime, 1942-43.—As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food—Bread Baking (O. E. S.), Wartime, 1942-43.—This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O. E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O. P. A.

Food—Bread Baking (O. P. A.), Wartime, 1941-42.—In the interest of the low-income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O. P. A. (Jan. 1942) in an unpublished report.

Food—Flour Milling (O. E. S.), Wartime, 1942-43.—Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, its purpose being to provide

the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices. The report was made to O. E. S. and a more detailed report was prepared for O. P. A.

Fruit Growers and Shippers (W. P. B.), Wartime, 1943-44.—This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape 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 9/30/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

Optical Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 8/12/52) the manner in which an antitrust consent decree entered (Sept. 1948) against the American Optical Company and others, restraining them from discriminatory and monopolistic practices, was being observed, and report (2/10/54) to the Attorney General.

Paint, Varnish, and Lacquer Manufacturers (W. P. B.), Wartime, 1943-44.—The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M-139, M-150, M-159, M-246, and M-327 in their acquisition and use of certain chemicals, all subject to W. P. B. allocations, used in the manufacture of paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

Paperboard (O. P. A.), Wartime, 1941-42.—Costs, profits, and other financial data regarding operations of 68 paperboard mills (O. P. A. request, 11/12/41) for use in connection with price stabilization work, were transmitted to O. P. A. in a confidential report (May 1942).

Paper—Newsprint (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U. S. District Court, Southern District of New York.

Petroleum Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

Priorities (W. P. B.), Wartime, 1941-45.—Pursuant to Executive orders (January 1942), W. P. B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with W. P. B. orders relative to the allocation of supply and priority of delivery of war materials. F. T. C. priorities investigations are listed herein under the headings: Aluminum, Foundries Using; Antifreeze Solutions, Manufacturers of; Capital Equipment, Chromium, Processors of; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of; Contractors, Prime, Forward Buying Practices of; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of; Costume Jewelry, Manufacturers of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia 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 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.