

Annual  
Report  
of the

**FEDERAL  
TRADE  
COMMISSION**

For the Fiscal Year Ended  
June 30, 1967

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For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington, D.C., 20402 - Price 50 cents (paper cover)

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## Letter of Transmittal

FEDERAL TRADE COMMISSION,  
*Washington, D.C.*

*To the Congress of the United States:*

It is a pleasure to transmit herewith the Fifty-third Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1967.

By direction of the Commission.

PAUL RAND DIXON,  
*Chairman.*

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

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## **INTRODUCTION**

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To summarize the achievements of an agency whose work covers so wide a scope as the Federal Trade Commission's is like trying to summarize the numbers in a telephone book. A summary can hardly do justice to each fact. Nevertheless, fiscal 1967, stands out from FTC's 52 previous years in the greater emphasis placed on actively guiding businessmen into legal channels as a supplement to formal casework. To an unprecedented degree, the Commission and its staff undertook to clarify requirements of the trade laws, to encourage voluntary compliance with them, and to alert consumers--particularly the poor, the sick and the elderly--on how to avoid being deceived in their purchases.

With an appropriation of but \$14,403,000, it was patently impossible to police the Nation's \$775 billion economy by bringing a few hundred adversary actions against violators of the law. To have attempted it would have been as futile as for police to depend solely on sirens and the passing out of tickets to achieve safety on the highways. Instead, common sense dictated that if trade laws were to be obeyed, only the willingness (and self interest) of reputable businessmen to comply with them would achieve a fair and orderly marketplace. Therefore, the principal mission of the Federal Trade Commission was to clarify the laws' requirements and to encourage by every means voluntary compliance with the laws, while husbanding its resources to cope with the defiant. At the same time, it sought to identify and analyze problems--particularly in the area of monopoly and other trade restraints that threaten the vitality of our free enterprise system. To this end, the Commission's economic reports spotlighted economic problems warranting remedial action by the Commission, as well as providing Congress with the factual information needed for proper consideration of legislation.

The year also saw the Commission's staff giving much more attention to the planning of corrective action and screening of casework.

This effort was aimed at remedying the haphazard character of the caseload that came to the Commission "over the transom." Indeed, simply trying to keep abreast of miscellany has long plagued FTC's effectiveness. In years past, its resources too often were expended in a desperate but patternless effort to keep from being inundated by applications for complaint. Thus, confronted by an ever greater volume of such applications and aware that overloading results in delay that would deny justice, the Commission undertook closer screening of cases, both new and old, to give priority to the most significant. At the same time, more attention was given to planning work so that particular illegalities could be attacked on a broad enough scale to be effective. This planning included close liaison with other Government agencies concerned with the same problems.

Another Commission action calculated to reduce the number of individual actions was to provide more guidance to businessmen by making public, whenever appropriate, the essence of advisory opinions which previously were offered only to the parties requesting them. Whenever such opinions contained interpretations of the trade laws that would provide guidance for other businessmen confronted with the same or similar problems, news releases containing digests of the opinions were issued. These were widely used, particularly by the trade press, and spared the Commission much time and effort in answering largely repetitious inquiries.

Also in line with the policy of substituting guidance for time consuming individual actions was intensification of a public education program conducted by FTC's 11 field offices in strategic cities across the country. Attorneys assigned to these offices sought out opportunities to address meetings of business and consumer groups to give them a clearer understanding of FTC's purpose. A significant result of this closer "grass roots" relationship was that more than 10,000 inquiries from businessmen and consumers were handled by the Commission's field staff, and certainly many thousands more were made unnecessary by a better public understanding of the trade laws' requirements. Significant, too, was that talks to consumer groups alerted them to fictitious pricing, bait advertising, deceptive guarantees, and other such trickery whose principal target is the low-income consumer.

The combination of better planning, more careful screening of cases, and more aggressive and explicit guidance to business en-

abled the Commission to escape enmeshment in mere volume of work. It therefore could strike with greater force against significant areas of illegality as well as hard core violators.

The speedier pace also was made possible by faster processing of cases after investigation warranted their prosecution. For example, a major area of enforcement activity was in halting violations of the Robinson-Patman amendment to the Clayton Act. These cases developed principally from complaints from businessmen subjected to illegal discriminatory practices by the competitors. In former years, such cases could not be settled informally on the basis of a respondent's assurance that the illegal practice had been stopped and would not be resumed. As a consequence, their prosecution consumed a disproportionate amount of time and expense on cases that could have been settled quickly and adequately by an assurance of voluntary compliance. The Commission amended its Rules of Practice (General Procedures, Subpart C, Section 1.21) to make the latter possible, and during fiscal 1967, a total of 50 Robinson-Patman cases were thus settled informally. Also, in enforcing section 5 of the FTC Act, as it pertains to trade restraints, 11 cases were concluded without protracted litigation on the basis of assurances of voluntary compliance.

Further pursuing the objective of eliminating litigation when possible, the Commission stepped up its issuance of advisory opinions. It issued 83 of these in fiscal 1967 as contrasted with 46 the year before. The increase was due in part to a cleanup of backlog of old matters pending and in part to a new policy of providing those who sought FTC advice with Commission opinions that could be widely disseminated rather than with staff advice given only to the requester. Of course, staff advice continued to be given when the facts did not warrant a formal advisory opinion.

The Commission's guidance efforts also were evidenced in proceedings looking to the issuance of 10 trade regulation rules. Here the objective was to pinpoint illegal practices in particular industries by the issuance of rules upon which FTC would rely in prosecuting cases. Among rulemaking proceedings actively engaged in during the year were those dealing with the \$2 billion men's and boys' tailored clothing industry, the advertising of nonprescription systemic analgesic drugs, advertising of transistor radios, and the failure of the glass fiber curtain and drapery and fabric industry to

disclose that skin irritation may result from handling its products.

While the Commission's guidance efforts, ranging from consumer education to trade regulation rules, went far toward coping with the volume of its law enforcement responsibilities, guidance had to be backed up with adversary proceedings against the indifferent and the defiant. Although it could be correctly assumed that most businessmen would abide by the law if they knew its exact requirements, it was equally true that others regarded the offer of guidance as no more than extension of time within which to gain illegal advantages over competitors and mulct consumers. For such as these the Commission was ready to do battle.

For example, in attacking deceptive business practices, FTC initiated 666 cases during fiscal 1967, approved for negotiation or reopened 109 formal complaints, issued 68 consent orders and completed action on 32 litigated cases. It also concluded 141 cases by accepting assurances of voluntary compliance.

In tackling trade restraints, as distinct from deceptive practices, the Commission during the year initiated 352 formal investigations, while completing 321. It issued 24 antimonopoly complaints and 30 orders to cease and desist, of which 20 were consent orders. At the fiscal year's end, 725 formal investigations were in progress.

In addition, the Commission issued 89 cease and desist orders against violators of the Textiles, Furs and Flammable Fabrics Acts.

In countering deceptive practices, the Commission's workload continued to mount. Last year complaints from the public and competitors increased by 45 percent over 1965, and in fiscal 1967 they increased another 10 percent. Formal investigations jumped from 1,087 last year to 1,210.

Priority in selecting these cases was given to deception in the sale of basic necessities of life and to false advertising of products and services needed by those least able to afford shabby value for their money.

Attacked with vigor were such areas of deceptions as: False advertising of household furnishings, bait-and-switch practices in promotion of meats for home freezers, false claims for the profitability of schemes for extra income (aimed principally at the elderly), phoney correspondence schools, and fictitious bargain sales. Guides relating to retail credit transactions also were being developed, so



that consumers might have a clearer idea of credit costs and total prices to be paid.

Deceptive practice investigations, including false advertising, accounted for 772 of the 1,129 investigations completed by FTC's 11 field offices. Problems investigated included games and other promotional schemes used by 22 principal chain organizations in the grocery trade to attract customers; tricky pricing and guarantees in the sale of automobile tires; misrepresentation in the sale of home improvements, particularly aluminum siding; schemes to bilk automobile owners in connection with the overhaul of transmissions in need of repair; vicious credit practices; and deception in the sale of franchises and earnings to be expected from the operation of the franchises.

The fiscal year found FTC concluding its formal corrective action against false claims for the effectiveness of products offered to relieve and treat hemorrhoids. The Commission also finished developing the scientific evidence needed to tackle exaggerated advertising claims for the efficacy of analgesics. Studies also were undertaken to determine whether automobile warranties are being complied with, the extent to which softwood lumber is being misrepresented as to grade, and false advertising of life, health, or accident insurance in States where some 75 companies are not registered.

Steps were taken to implement the mandate from Congress to determine the effectiveness of cigarette labeling, analyzing practices and methods of promotion, and submitting recommendations for appropriate legislation. To this end, a cigarette testing laboratory was established to develop data on the tar and nicotine yields of the many brands on the market.

In anticipation of its increased responsibilities beginning July 1, 1967, under the Fair Packaging and Labeling Act, pilot studies were conducted, the studies, incidentally, developed sufficient information to warrant issuance of orders against 10 firms prohibiting slack filling.

To cope with the ever growing problem of monopolistic practices in American business, the Commission augmented its adversary proceedings by making an effort, unprecedented in scope, to speed litigation and to encourage voluntary compliance with the antitrust laws by spelling out their application to particular industries.

By making it possible to dispose of many antimonopoly cases upon the proposed respondent's submitting firm assurances that the challenged practice had been discontinued and will not be resumed, more time and effort could be devoted to halting the defiant. Also, the lifting of this litigation load gave the staff more opportunity to dig into and assess competitive business situations that could be alleviated by industrywide action.

For example, the thorough spadework done in prosecuting four cases involving anticompetitive vertical mergers between cement and concrete companies provided the Commission with enough factual background to issue an enforcement merger policy statement that served to slow down the merger trend that was developing in the industry. A similar statement followed intensive investigation of the food distribution industry.

In addition to the investigation and litigation of individual cases, the Commission's staff combatting general trade restraints engaged in several industrywide investigations including the auto body sheet metal parts and the aftermarket auto parts industry, the newspaper industry, food industry, and TV advertising.

Antimonopoly work by FTC's field staff resulted in more than 300 completed investigations. These involved such diverse evils as: Discrimination and below-cost pricing of bread and milk; reciprocity arrangements between suppliers and customers in various industries; illegal brokerage payments in the marketing of fresh vegetables and citrus fruit; illegal rebates in the rug and carpet industry; and arrangements between major tire manufacturers and bus companies whereby tires used on buses are leased so as to tie a bus company to one source of tire supply.

Principal cases in FTC's antimonopoly work during the fiscal year are discussed in chapter IV of this report.

The Commission's continuing effort to halt corporate mergers which violate the Celler-Kefauver Anti-Merger Act saw 76 informal cases initiated and 48 disposed of during the fiscal year, plus 11 formal complaints issued and the same number concluded by consent orders. However, the most significant event in the antimerger field was the Supreme Court's landmark decision upholding FTC's finding that Proctor & Gamble Co. the Nation's leading manufacturer of soaps and detergents had illegally acquired Clorox Chemical Co., the leading maker of household liquid bleach. In so ruling,

the high court affirmed the Commission's new and larger view of antitrust law in its approach to the difficult and increasing threat of conglomerate mergers looking to "product extension."

Other of the more important court decisions and status of court cases during fiscal 1967 are outlined in appendix A of this report.

In addition to its handling of court cases, the General Counsel's office supervises the negotiation of consent orders by which the great majority of formal enforcement proceedings are concluded. A total of 173 (up from 124 in 1966) executed agreements containing consent orders was forwarded to the Commission for consideration during the year. It should be noted here that the average cost of cases which terminate in a negotiated consent order is one-tenth that of cases which have to be litigated, omitting expense of possible court appeals.

Marked progress also was achieved by the General Counsel's office in carrying out FTC's program for Federal-State cooperation. Here the purpose was to correct unfair methods of competition or deceptive acts or practices which occur at the State level. State officials referred 436 interstate commerce complaints to the FTC, while the Commission staff referred to State officials 99 local commerce complaints. In addition, the FTC assisted State officials in drafting legislation to halt improper business practices which occur intrastate.

The fiscal year found the Commission engaged in making extensive inspections of the textile and fur industries in carrying out its obligations under the Wool Products Labeling Act, the Textile Fiber Products Identification Act, the Fur Products Labeling Act and the Flammable Fabrics Act. A total of 12,670 inspections were made, and 2,392 corrections were achieved by means of informal assurances of discontinuance. At the same time, it was necessary to issue 89 formal cease and desist orders.

The inspection efforts were expanded towards counseling those retailers whose customers have such low incomes as to come within the Government's "Poverty Program." From such stores people could least afford to receive less than full value for their money. It is believed these efforts were quite successful.

Emphasis continued to be given to administrative correction of labeling, invoicing and advertising deficiencies, and a lower percentage of deficiencies recorded in relation to products inspected

was noted--due primarily to the effectiveness of the Commission's education and cooperative activities.

Not unexpectedly, the bulk of cases involved violations of the Textile Act. Such cases accounted for more than 45 percent of the workload, as compared to nearly 35 percent for cases under the Wool Act, and about 14 percent under the Fur Act. This pattern likely will continue in the future, although considerable action can be expected in cases involving the misbranding of wool products by labeling reprocessed wool as wool.

In Wool Act enforcement, a significant action was proposed during the year when the Commission considered adding Rule 36 to the rules and regulations promulgated under the Wool Products Labeling Act. This would provide, among other things, that if the Commission has reason to believe that any shipment of imported wool products may be misbranded, it may require as a condition to sale of the products in commerce that tests be made to substantiate the labels. The new regulation would be the most practical and equitable means of achieving substantial equality in the administration of the Wool Act as applicable to domestic products and imported products and to assure that the ultimate consumer receives the same degree of protection in his purchase of either.

In enforcing the Fur Act, surveillance of all levels of manufacturing and distribution of fur products continued, and a total of 85 formal fur cases was considered during the year. Emphasis was again directed at deceptive pricing and recordkeeping with the result such violations appear to have decreased considerably.

Sale and distribution of dangerously flammable fabrics continued to receive the sharpest attention, and 22 investigations were opened during the year. Ten cease and desist orders were issued. Cooperation with the Bureau of Customs has been excellent, and many dangerously flammable fabrics destined for U.S. markets have been detected at the port of entry.

Fiscal 1967 saw the Commission's Bureau of Economics effectively accomplishing its mission to study and report on the structure, conduct and performance of American industry in order to identify existing or developing anticompetitive conditions. It also provided economic assistance for FTC's antimonopoly and deceptive practice programs.

To take proper corrective action, it is imperative that both Congress and the Commission have information that will permit early exploration of the basic causes of poor economic performance. For example, during the year, the Division of Industry Analysis completed another report related to its continuing research into corporate mergers and industrial concentration. This was presented as testimony before the Senate Small Business Committee. In addition on a report on casual factors relating to changes in milk and bread prices was prepared at the request of the Secretary of Agriculture. At the fiscal year's end a report was issued on anticompetitive practices in the marketing of gasoline. In this report, the Commission, in addition to focusing on anticompetitive practices, spelled out guidelines and enforcement policy designed to prevent such practices.

Perhaps the most significant of such reports was background material provided the Commission in its enforcement policy statements concerning vertical mergers in the cement industry and mergers in the food distribution industries. The purpose of these statements is to reduce business uncertainty concerning FTC's enforcement intentions concerning mergers in these industries. Such guidance is designed to forestall as much litigation as possible.

Special assistance also was provided other FTC bureaus in planning their programs or in the development of specific projects. For example, a background report was made on the role of product standards in the marketing of softwood lumber, and work went forward on economic facts needed for an enforcement program involving tire pricing and advertising. Also, a report was prepared for the Bureau of Deceptive Practices on competitive interrelationships of various finished tobacco products. And, of course, assistance was provided in the preparation of briefs filed in support of Commission appeal actions.

An important continuing project is the collection and classification of data on merger activity. This calls for a continuing count of overall merger activity, plus a detailed statistical review of all mergers involving companies with acquired assets of \$10 million or more. Highlights of this and other studies are contained in chapter VIII of this report.

In addition to the work of economic analysis, Commission economists assisted the legal divisions in such matters as mergers, general trade restraints, industry guides, advisory opinions, dis-

criminator and deceptive practices, and other unfair methods of competition. About 60 percent of this effort was spent on antimerger cases during the fiscal year; however, economists working with the Division of Economic Evidence participated in 107 investigations of all kinds, as well as in consent negotiations, litigated cases, and compliance matters. They also contributed to nine general economic investigations.

While an assessment of FTC's accomplishments in fiscal 1967 necessarily is based on its service to business, to the public and to Congress, it should be pointed out that such service is not the unique contribution of the skilled professionals, legal, scientific and administrative. Important, too, to the Commission's effectiveness were secretaries, typists, clerks, telephone girls, and even the messengers who waited patiently for opportunities to make their contribution.

## THE INDUSTRY GUIDANCE PROGRAM

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In line with the Commission's efforts to encourage businessmen to bring their practices into compliance with the trade laws voluntarily, FTC's Bureau of Industry Guidance offers a balanced and coordinated program of guidance. It is designed to fit whatever need is most appropriate to solution of the problem-trade practice rules for entire industries, guides covering particular problems common to many industries, trade regulation rules clearly defining the Commission's interpretation of the statutes as they apply to particular trade practices, and advisory opinions concerning proposed actions by individual businessmen or organized groups. The Bureau also undertakes to achieve compliance with its guidance program.

### Industry Guides

During the year, revisions were made in the guides for advertising allowances and other merchandising payments and services to make them conform to more recent court decisions and Commission opinions and to bring to the attention of businessmen the availability of advice and guidance on both current and proposed courses of action involving practices covered by the guides. Specifically, the revisions make it clear that the good faith meeting competition defense is available to a section 2(d) of the Clayton Act charge as well as to a section 2(e) charge and that businessmen participating in tripartite promotional assistance plans devised by others are not thereby insulated from the requirements of section 2 of the Act.

A public hearing was held at which all segments of the toy industry, as well as the consuming public, were afforded opportunity to be heard concerning the practices of toy catalog publishing firms and the effects of these practices on competition among toy jobbers. The Commission then issued a statement clarifying certain legal responsibilities of members of the toy and toy catalog industries. The statement discusses legal requirements for paying or receiving allow-

ances to promote and advertise toy products in toy catalogs of independent publishers as well as those owned or controlled by toy jobbers.

A public statement was issued by the Commission requesting data, views, comments and suggestions from all affected parties with regard to possible shrinkage of preshrunk fabrics when tumble-dried in automatic dryers. The number and character of the responses received at the close of the year indicate widespread interest in this subject.

A public hearing was held regarding proposed revised guides for the watch industry. Staff study of the testimony and materials presented at the hearing and later is nearing completion.

Public hearings were held in San Francisco, New York City and Atlanta on proposed revised rules for the beauty and barber equipment and supplies industry. Staff work is continuing as written comments from industry members are still being received.

Proposed guides for the pet food industry have been formulated. The guides have to do primarily with alleged misrepresentations concerning ingredient content, nutritional values, etc. of pet foods. Comments from other interested Government agencies are being received and studied.

A proposed guide against deceptive use of the word "free" in connection with the sale of photographic film and film processing service was submitted to the Commission for consideration and release for comment.

A continuing compliance survey being conducted under the Commission's trade practice rules for the household furniture industry has resulted in substantial improvements in the advertising and labeling practices of many of the industry's approximately 40,000 members. As an adjunct to this cooperative procedure, a broad educational program has been undertaken better to inform consumers and businessmen of recurring problem areas, and to foster an awareness of false and misleading practices to be avoided in connection with the promotion and sale of furniture.

A preliminary study has been made of alleged industrywide deceptive uses of wood names in connection with the promotion and sale of wood and simulated wood decorative wall panels. FTC's staff began drafting proposed guides for the advertising and labeling of such products.



Proposed guides for the greeting card industry, ladies' handbag manufacturing industry and the toy manufacturing industry were being drafted for submission to the Commission.

In January 1967 letters were sent to over 450 members of the cosmetic and toilet preparations industry requesting information concerning their compliance with the revised industry rules. Similar letters also were sent to firms subject to the guides for advertising and labeling of adhesive compositions. Many of the submittals are voluminous and require extensive review and analysis before needed corrections can be pointed out to industry members.

In March 1967, letters were sent to members of the vacuum cleaner manufacturing industry enclosing a standard for measuring the motor horsepower output of canister and tank type household vacuum cleaners.

Staff work continued under the compliance surveys previously initiated with regard to the guides against debt collection deception and the guides for shoe content labeling and advertising.

Three hundred and sixty rule and guide compliance matters were disposed of on the basis of assurances that the practices in question had been discontinued. During the year, 542 compliance matters were disposed of with 471 matters still pending.

Four hundred and ninety-five interpretations of rules and guides were given to businessmen seeking advice concerning the application of particular provisions to their business practices.

### Trade Regulation Rules

During the fiscal year the Division of Trade Regulation Rules was actively engaged in 10 rulemaking proceedings. Of major interest is that involving the men's and boys' tailored clothing industry which consists of approximately 635 manufacturers doing about \$2 billion in net value of shipments annually. The practice under consideration relates to the widespread paying or granting of promotional allowances or services in violation of sections 2(d) and (e) of the amended Clayton Act. The public hearing was held, and at the year's end a recommended final rule was pending with the Commission.

Another rulemaking effort concerned the glass fiber curtain and drapery and fabric industry and the industrywide practice of failing to disclose that skin irritation may result from the washing and

handling of such products. The 1,100 manufacturers of these products produced about 6 million sets of curtains and 15 million pairs of draperies valued at roughly \$60 million. A public hearing in this matter was held and at the end of fiscal year a final trade regulation rule was pending with the Commission.

Also during the year a rulemaking proceeding relating to the advertising of nonprescription systemic analgesic drugs was initiated. The Commission approved a notice of rulemaking which included a proposed rule. This rule, if promulgated, would directly affect the advertising practices of this giant industry since it would prohibit any advertising claims which contradict or exceed the warnings, statements or directions for use appearing on the labels of such products. Among other things, the rule would also prohibit certain claims as to efficacy unless the advertiser had established and can demonstrate that the product is efficacious as represented.

Another proceeding concerns deceptive transistor count of radios, including walkie-talkies. It appears that many industry members are including in their transistor count dummies, diodes and other devices which do not perform the customary function of detecting and amplifying signals. It is estimated there are approximately 200 manufacturers, foreign and domestic, doing an annual business at the factory level of \$196 million.

At the end of the year the Division was also considering three applications for trade regulation rule proceedings. One would relate to the unlawful payment of advertising allowances to promote the sale of clothing made from synthetic fibers. The second would concern unlawful price discriminations in the rug and carpet industry, and the third would have application to allowances by major electric appliance manufacturers to builders.

A survey was initiated to ascertain compliance with the trade regulation rule relating to deception as to sizes of viewable pictures shown by television receiving sets. This rule, which became effective January 1, 1967, affected 50 foreign and domestic television manufacturers and private label marketers doing about \$1.5 billion business annually at the factory level. FTC's information showed that prior to the adoption of the rule virtually all television advertising was conducted in the manner prohibited by the rule. At the year's end the survey which was virtually completed, revealed that all marketers of televisions subject to the Commission's

jurisdiction were in complete compliance with the rule. Also, by the year's end a survey relating to the household electric sewing machine rule which prohibited use of the term "automatic" was completed and showed unanimous compliance with the terms of the rule.

Among work on special assignments performed by the Division was a project relating to automobile advertising as it concerned speed and safety. During the year letters were written to all automobile manufacturers informing them that the Commission was concerned with automobile advertising which tended to encourage reckless and unsafe driving. At the end of the year the Division was carefully scrutinizing all automobile advertising with the view of isolating that which may be illegal.

### Advisory Opinions

The primary function of the Division of Advisory Opinions is to prepare for the Commission's consideration proposed advisory opinions in response to requests which are received from individuals, partnerships and corporations as to the legality of proposed courses of action. These opinions, when finally rendered by the Commission, are binding upon the agency subject only to the right to rescind should subsequent developments indicate a necessity for so doing.

While the number of requests received remained at approximately the same level as the previous year of 1965-66, the number of matters submitted to the Commission nearly doubled during fiscal 1967. One hundred thirty-one of these matters were sent to the Commission, compared with 68 last year. Eighty-three advisory opinions were issued by the Commission during fiscal 1967 as contrasted with 46 the preceding year. A number of factors contributed to this development. First was the elimination of the previously existing backlog of old matters pending, with the work of the Division having on the average been placed on a 30-day cycle from the receipt of the request to submission to the Commission.

Second was the sharp reduction in the number of staff level opinions previously rendered with a corresponding increase in the number of matters submitted to the Commission. This has come about from an increasing recognition of the fact that the primary function of the Division is not to furnish staff level advice, but to assist the Commission in rendering its own advisory opinions. Staff

level opinions reach only the requester whereas Commission opinions are generally published for the guidance of all. Staff level opinions do not bear the imprimatur of the Commission and are not binding upon it.

Third, more care was taken to avoid losing valid requests that might otherwise have received different treatment. For example, impersonal letters from this Division requesting more information might have gone unanswered, whereas personal contact with the requesting party by telephone has served to assist several uncertain applicants more clearly to formulate their questions and compile the information needed to render informed decisions.

Thus, it is apparent that by adopting these measures the Division nearly doubled the per-man efficiency of its present staff in the accomplishment of its main objective.

As might be expected and with few exceptions, the legal issues raised are usually without precedent, as businessmen seek guidance before embarking upon programs never before tested under the law. This is as it should be since the Commission, in part, created the procedure to furnish guidance in these areas where uncertainty exists. During the year the Division handled and the Commission issued an opinion in a completely unprecedented matter involving a trade association code of ethics containing machinery for self-regulation to which approval was given on a tentative, 3-year basis. So-called tripartite promotional arrangements involving various forms of in-store promotions devised by independent middlemen and financed by large groups of suppliers continued again to constitute the single largest category of opinions requested, along with questions involving disclosure of the origin of products imported in whole or in part from foreign countries.

In addition to its regular work of preparing opinions, the Division continued to process the advisory opinion digests which have now been placed on a current basis. These digests receive wide coverage in the trade press and, in many instances, in newspapers of general circulation. Insofar as possible, the opinions are written so any businessman can readily understand them.

## COMBATING DECEPTION OF THE CONSUMER

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The Commission's program for the prevention of unfair methods of competition and unfair and deceptive acts and practices is one which directly affects every citizen of this country. It affords protection to the consumer and the honest businessman alike. A deceptive advertisement not only victimizes the misled consumer, but unfairly diverts trade from reputable sellers.

In this effort the Bureau of Deceptive Practices acts in behalf of a multitude of individuals who might be misled by a deceptive advertisement, no one of whom could be expected to proceed legally to seek redress of the wrong. Commission action has the effect of stopping the practice from being committed thereby protecting the public generally, but the FTC cannot secure a refund of a purchase price or damages suffered by an individual.

Acting in the knowledge that the great majority of businessmen are fundamentally honest and ask only that the rules of fair practice be spelled out and applied equitably, the Commission is steadily bringing necessary actions and issuing guidelines defining the road for industry to follow.

During the year, for example, a number of complaints were issued directed to deceptive pricing advertisements offering nonexistent bargains in connection with the sale of such products as household furnishings and unfair bait-and-switch practices in promotion of meats for home freezers.

In selecting such matters for attention, a high priority is accorded those matters which relate to the basic necessities of life, and to situations in which the impact of false and misleading advertising, or other unfair and deceptive practices, falls with cruelest impact upon those least able to survive the consequences—the elderly and the poor.

Consistent with this concept, the Bureau has been working on more than 50 matters in the home improvement industry involving allega-

tions such as false savings claims, bait-and-switch tactics, misrepresentation of quality of materials, referral selling, and others.

Another area requiring substantial attention is the appeal to the ambitious who desire to go into business for themselves, or who are looking for a supplementary source of income. Especially vulnerable are retired persons who may be induced to part with meager life savings to augment limited pensions. Typical promotions include franchises for coin-operated vending machines, and the sale of chinchilla breeding stock. A substantial investment of capital is required, and promised returns are vastly exaggerated.

Four complaints were issued during the year against operators of correspondence schools. The FTC is particularly vigilant to assist persons unable to attend resident schools but anxious to study correspondence courses to improve their qualifications. These are generally workers in the lower pay brackets seeking better incomes. After paying their money and studying diligently to complete the course, they deserve more than to discover that the value of the course or the job opportunities have been exaggerated or misrepresented nor does such deception offer fair competition to reputable correspondence schools.

An intensive program is underway to combat deceptive practices in the District of Columbia. A number of formal complaints have been issued and about 50 additional matters are now receiving attention. As a part of this program, guides relating to retail credit transactions are being developed by the staff.

A study now in progress would seek to determine whether warranties for automobiles are being complied with. This was commenced because of the number of complaints received from purchasers that they were unable to secure satisfactory service.

The Bureau has substantially completed an inquiry concerned with the grading and grade marking of softwood lumber. Any deception in this respect, with the resulting impact on home construction, is of great importance to a large segment of American consumers.

One of the most important issues facing the American people today is the relationship of cigarette smoking to health. Congress has charged the Commission with responsibility for determining the effectiveness of cigarette labeling, analyzing practices and methods of advertising and promotion, and submitting recommendations for appropriate legislation. These duties are in addition to the need for

surveillance under the FTC Act to assure, freedom from unfair and deceptive practices, including statements of tar and nicotine content. As a part of this program, FTC has established a cigarette-testing laboratory from which can be obtained reliable data respecting tar and nicotine yields of the many brands on the market.

In anticipation of its increased responsibilities beginning July 1, 1967, under the Fair Packaging and Labeling Act, some pilot studies were conducted during the year. As one result, 10 orders to cease and desist were issued, prohibiting slack filling.

After the Commission issues orders in deceptive practice cases, the Bureau maintains a continuing surveillance to make certain of compliance by respondents. Each violation of an order is punishable by a fine of \$5,000. There were seven such penalty actions prosecuted in the courts during the year.

The workload of the Bureau of Deceptive Practices is steadily increasing year after year. In fiscal year 1966 complaints from the

PICTURE--SEE IMAGE

Shown above is the cigarette-smoking machine in the FTC laboratory. This machine smokes 20 cigarettes at one time in a room at constant temperatures of 75° and 60% relative humidity. When the laboratory test procedures are completed the "tar" and nicotine content of cigarettes can be determined.

public and competitors increased 45 percent over 1965; this year they increased again by more than 10 percent. The number of formal complaints approved by the Commission grew from 66 to 109. The number of formal investigations pending swelled from 1,087 on July 1, 1966 to 1,210.

The Bureau Director is assisted by a legal adviser for screening and planning in programming the work. This attorney carefully reviews all incoming letters of complaint. He develops and maintains liaison with other Government agencies which have responsibilities for consumer protection and with non-Government organizations, such as better business bureaus, which are informed concerning business practices. The Bureau regularly receives and reviews a steady flow of advertising disseminated by all media and the reviewers report their findings to the legal adviser. Based upon this steady flow of intelligence, it is possible to evaluate problems affecting consumers as they change from time to time, to pinpoint matters of greatest concern, and to concentrate the efforts of the Bureau's limited staff in those areas reflecting the highest degree of public interest.



## THE FIGHT FOR FAIR BUSINESS COMPETITION

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In the area of antimonopoly, the basic responsibilities of the Commission's Bureau of Restraint of Trade arises from enforcement of section 5 of the FTC Act and four sections of the Clayton Act, including section 2, as amended by the Robinson-Patman Act. Both the Federal Trade Commission and the Clayton Acts were designed to apply the law against unfair trade practices on a broad basis in an effort to eliminate harmful competitive practices in their incipiencies. The Commission's objective is to preserve and foster the American economic position and combat monopolistic practices.

The Commission has continued its emphasis upon programs to encourage the business community to comply with the law. It has persuaded many violators of the law to stop, but in those instances where education or persuasion failed, formal action was brought.

During fiscal 1967, 1,695 applications for complaint were received from businessmen and the public. A total of 352 investigations involving restraint of trade were initiated, and 321 formal investigations were completed. As of June 30, 1967, 725 investigations were pending. The Commission issued 24 antimonopoly complaints and 30 orders to cease and desist, 20 of which were consent orders.

The Commission's investigations and proceedings under the Robinson-Patman Act represented a major area of enforcement activity in the restraint-of-trade field. This activity developed principally from complaints from businessmen seeking relief from illegal discriminatory practices. The following summary reflects the extent of the enforcement casework by the Division of Discriminatory Practices:

Informal cases:

Initiated .....	159
Disposed of during year .....	165
Pending June 30, 1967 .....	310

Formal cases:

Complaints issued .....	7
Contested orders .....	7
Consent orders .....	7
Dismissed .....	1
Cases pending litigation June 30, 1967 .....	8

A significant achievement was the settlement of 50 informal cases involving violations of sections 2 (a), (c), (d) and (e) of the Clayton Act, as amended, pursuant to the informal enforcement procedure as provided for in General Procedures, Subpart C, Section 1.21 of the Commission's Rules of Practice. The Commission approved use of this procedure in disposing of these cases upon the proposed respondent's submitting firm assurances that the practice had been discontinued and will not be resumed in the future.

A review of major cases decided or pending during fiscal 1967 follows:

Consent cease and desist orders were issued in the following cases: In Beatrice Foods Co., Inc. (C. 1090) the order prohibits discriminatory payment of promotional allowances between competing purchasers of Chinese foods in violation of section 2(d) of the Act. In Peter Pan Foundations, Inc. (C. 1178) the order prohibits discriminatory payment of promotional allowances and discriminatory services in violation of sections 2 (d) and (e) of the Act. In Graber Manufacturing Co., Inc. (D. 8038), a manufacturer of drapery hardware, the order prohibits discrimination in price between competing purchasers of these products in violation of section 2 (a) of the Act. In Susan Thomas, Inc. (C. II 85) the order prohibits discriminatory payment of promotional allowances between competing purchasers of wearing apparel in violation of section 2 (d) of the Act. In A. Greenhouse, Inc., et al. (C. 1201 ) the order prohibits receipt of illegal brokerage on purchases of food products in violation of section 2(c) of the Act. The order against Herman Miller, Inc. (C. 1248), a manufacturer of contemporary furniture, enjoins discriminatory pricing and illegal price maintenance in the sale of its products in violation of section 2 (a) of the Clayton Act, as amended, and section 5 of the Federal Trade Commission Act. A consent order against Pacific-Gamble-Robinson Co. (C. 1177) prohibits the company from knowingly inducing and

receiving discriminatory services from suppliers in violation of section 5 of the Federal Trade Commission Act.

In contested cases, the Commission issued cease and desist orders in the following: In National Dairy Products Corp. (D. 7018) the order prohibits the company from discriminating in price and promotional payments between purchasers of fluid milk and dairy products, in violation of sections 2 (a) and (d) of the Act. In National Dairy Products Corp., The Kraft Division (D. 8548) the order prohibits territorial price discrimination in the sale of this division's products in violation of section 2 (a) of the Act. Final orders issued against Tri-Valley Packing Association (D. 7225 and D. 7496), a fruit and vegetable packer, prohibit the granting of preferential prices and promotional payments among competing purchasers of its products in violation of section 2 (a) and (d) of the Act. In Knoll Associates, Inc. (D. 8549), a manufacturer of contemporary furniture, the order enjoins the company from discriminating in price in favor of larger buyers, in violation of section 2(a) of the Act. In Rabiner & Jontow, Inc. (D. 8629), a manufacturer of wearing apparel, the order prohibits payment of discriminatory promotional allowances among competing customers in violation of section 2 (d) of the Act. In Surprise Brassiere (D. 8584) the order prohibits payment of discriminatory advertising allowances in violation of section 2 (d) of the Act.

The following cases are pending in litigation: In Associated Merchandising Corp., et al. (D. 8651) the complaint charges said organization, a wholly-owned subsidiary, and 15 member department stores with knowingly inducing and receiving discriminatory prices from suppliers of merchandise in violation of section 2 (f) of the Act. In Beatrice Foods Co., Inc. and Kroger Co. (D. 8663) the complaint charges Beatrice with selling fluid milk and dairy products to Kroger at lower discriminatory prices in violation of section 2 (a) of the Act, and Kroger with inducing and receiving unlawful price discriminations in connection with such purchases in violation of section 2(f) of the Act. In Best & Co. (D. 8669) a large retailer is charged with knowingly inducing and receiving discriminatory advertising and promotional allowances from suppliers of wearing apparel and accessories in violation of section 5 of the Federal Trade Commission Act. Suburban Propane Gas Co. (D. 8672), the world's largest independent distributor of liquid pe-

troleum gas, is charged with inducing and receiving discriminatory pricing in the purchase of this product in violation of section 2(f) of the Act. In *Connell Rice & Sugar Co., Inc., et al.* (D. 8736) the complaint charges violation of sections 2 (a), (c) and (f) of the Clayton Act, as amended, and section 5 of the Federal Trade Commission Act (conspiracy) in connection with the sale and purchase of sugar, corn products, rice and other products.

In the enforcement of section 5 of the Federal Trade Commission Act, as it pertains to trade restraints, constituting unfair methods of competition or unfair acts or practices, the achievements of the Commission were twofold; the use of enforcement procedures in prohibiting restrictive practices and settlement of informal cases pursuant to the informal enforcement procedure previously mentioned.

Following is a summary of the Division of General Trade Restraints' casework in fiscal 1967.

Informal cases:

Initiated . . . . .	112
Disposed of during year . . . . .	108
Pending June 30, 1967 . . . . .	259

Formal Cases:

Complaints issued . . . . .	6
Contested orders . . . . .	2
Consent orders . . . . .	2
Dismissed . . . . .	1
Cases pending litigation June 30, 1967 . . . . .	7

Increased efforts were made to avoid the expense and manpower drain of protracted litigation. As a result, this Division negotiated and received assurances of voluntary compliance with the law from 11 companies.

In dealing with violations in their incipiency, the Division of General Trade Restraints inquired into 201 matters under its small business procedure. During fiscal 1967, 137 were closed. Of the total, 50 were satisfactorily resolved.

In several matters in which cease and desist orders were issued a consent agreement was obtained in *General Electric (C-1251)* wherein General Electric allegedly used its "Medallion Home Program" through various promotional payments and restrictive purchasing agreements to promote the sale of major household

appliances, radiant heating equipment and wiring devices for use in homes. The order prohibits discriminatory and exclusory practices.

In contested cases, final orders were issued by the Commission in fiscal 1967 in two cases. Both are examples of unique applications of section 5 of the Federal Trade Commission Act. The first of these was the Community Blood Bank case (D. 8519). In that case the complaint charged the Community Blood Bank of the Kansas City Area, Inc., the Kansas City Area Hospital Association, hospital members of KCAHA, and hospital pathologists had illegally combined to restrain interstate commerce in human whole blood. The immediate effect of the combination was a restriction upon two Kansas City commercial blood banks licensed by the National Institute of Health, Department of Health, Education and Welfare.

The second unique application of section 5 of the Federal Trade Commission Act was in the contested case, Henderson Tobacco Market Board of Trade, Inc. (D. 8684). There the Commission charged that the Henderson Tobacco Market Board of Trade, Inc. and certain of its warehouse members were restricting competition in the buying and selling of leaf tobacco in the Henderson, N.C., market. The Commission adopted an order agreed upon by complaint counsel and appealing respondents prohibiting such practices.

In Lenox, Inc. (D. 8718), in which an initial decision was recently issued, the examiner found that Lenox had adopted and used nationally a policy of establishing resale prices for its products; that "there was an understanding and implied agreement" between Lenox and its dealers that they would maintain these retail prices; and that Lenox had "failed to show that such agreements were lawful in all the States of the United States."

In National Association of Women's and Children's Apparel Salesmen, Inc. (NAWCAS) (D. 8691), the Commission alleged that the association had foreclosed competition at trade shows by means of boycott agreements. Respondents denied all charges and adversary hearings were begun.

Two contested cases initiated in the fiscal year are: Golden Grain Macaroni (D. 8737) and Curtiss-Wright Corp. (D. 8703). In the first, the Commission charged respondents with price-fixing and all attempt to monopolize the marketing of macaroni and related paste products and territorial price discrimination in the Pacific Northwest area of the United States and the State of Hawaii. In the second case,

the Commission charged Curtiss-Wright with selling below cost or at unreasonably low prices, and attempting to create a monopoly in the sale of certain aircraft parts.

In addition, a number of industrywide investigations was begun, some of which involve the auto body sheet metal parts and the aftermarket auto parts industry; the newspaper industry; food industry, and TV advertising.

In the exercise of its enforcement responsibilities under the Celler-Kefauver Anti-Merger Act, the Commission concentrated a major part of its resources in those areas where preservation of competition would have the broadest effect.

Following is a summary of the Division of Mergers' workload during the fiscal year:

Informal cases:

Initiated . . . . .	76
Disposed of during year . . . . .	48
Pending June 30, 1967 . . . . .	139

Formal cases:

Complaints issued . . . . .	11
Contested orders . . . . .	1
Consent orders . . . . .	11
Dismissed . . . . .	1
Cases pending litigation June 30, 1967 . . . . .	11

Entry of modified orders by the Courts of Appeal and the Commission terminated two outstanding dairy cases, against Beatrice Foods Co. (D. 6653) and Dean Foods Co. (D. 8674). Likewise, two bakery merger cases were disposed of by means of consent orders (American Bakeries Co., C-1111, and Campbell Taggart Associated Bakeries, Inc., D. 7938).

The favorable decision rendered by the Supreme Court in the Procter & Gamble-Clorox case (D. 6901), decided April 11, 1967, affirmed the Commission's approach with respect to the difficult area of conglomerate mergers. Another Procter & Gamble acquisition (J. A. Folger & Co., a leading coffee processor) was concluded through consent settlement procedures (C-1169), as was Foremost Dairies, Inc.'s (C-1161) diversification into the pharmaceutical field. Like the Procter & Gamble-Clorox case, these cases also involved product extension mergers. Two complicated joint ventures and several acquisitions in the plastics industry will be dissolved as a

result of a comprehensive consent order entered in the matter of Phillips Petroleum Co., et al. (C-1088).

A Commission enforcement merger policy statement, designed to encourage the cement industry to voluntary compliance with section 7 was issued in January, 1967. This industrywide approach to the prevention of anticompetitive vertical mergers between cement and concrete companies is having an effect in slowing down the merger trend that was developing in the industry. Litigation which began in four cases, resulted in a consent order issued against Lone Star Cement Corp. (C-1159), and the dismissal of a complaint against National Portland Cement Co. (D. 8654).

In the food distribution industry, a Commission enforcement merger policy statement, designed to encourage voluntary compliance with section 7 was also issued in January, 1967. A consent order was entered against Winn-Dixie Stores, Inc. (C-1110), and a pending complaint against The Kroger Co. (D. 7464) remains to be litigated.

In the department store industry, two significant consent orders were issued, one against The May Department Stores Co. (C-1105), and the other against Spartans Industries, Inc. (C-1106). Both of these concerns were ordered to make no more acquisitions in the department store field for 10 years without advance Commission approval. Substantial divestiture was also ordered in the Spartans case. In the vending industry, dismissal was ordered in the initial decision by a hearing examiner, but has been appealed, in the matter of The Seeburg Corp. (D. 8682).

A consent order was entered against W. R. Grace & Co. (C-1182), in the confectionery industry. A complaint issued against The Crown Cork & Seal Co., Inc. (D. 8687), involving bottle caps and closures, is being litigated. A complaint and consent order was also entered against Cole National Corp. (D.8701), a manufacturer of key blanks and related items. The Frito-Lay, Inc. (D.8606) case is pending litigation after a lengthy series of collateral court challenges.

During the year, the Division of Compliance succeeded in affecting compliance with 73 final orders in the restraint of trade area. The Division also was instrumental in affecting divestiture of over 18 plants and facilities to some 17 buyers under divestiture orders

issued pursuant to actions initiated under section 7 of the Clayton Act, as amended.

A total of 402 compliance actions was completed, involving complaints of violations of orders, public inquiries, requests for advisory opinions (pertaining to compliance matters, as provided for by the Commissions Rules), requests for informal advice from respondents and miscellaneous actions.

During the year, the Division was instrumental in initiating investigations, some of which may necessitate corrective compliance action. One civil penalty case was certified to the Department of Justice during the past year and two court actions were concluded.

The following is a summary of the Division's caseload as of the end of the fiscal year:

Total pending July 1, 1966 .....	312
Received during fiscal 1967 .....	36
	<hr/>
Total workload .....	348
Disposed of during year .....	58
	<hr/>
Total pending June 30, 1967 .....	290

The Division of Accounting, during the year, furnished accounting services through increased use of electronic data processing equipment in cases involving price discrimination, unfair methods of competition, and merger cases. Also, the Division furnished accounting services in connection with the Commission's survey of the milk industry.

In addition, the tabulation and computation of rates of return showing the profitability of identical companies in selected manufacturing industries for the calendar year 1965 was completed and published, and preparation of the rates of return report for the year 1966 was initiated. The financial data contained in this report was utilized by other Government agencies and by industry in studies of various companies and industries.

During the past fiscal year, the Commission, under provisions of the Packers & Stockyards Act, as amended September 2, 1958 (7 U.S.C. 226, 227), continued its liaison with the U.S. Department of Agriculture. During the year, no notifications of investigations were made by either the Department or the Commission.



## WOOL, FUR, TEXTILE, AND FLAMMABLE FABRICS ACTS ENFORCEMENT

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During fiscal year 1967 the Bureau of Textiles and Furs used its facilities to educate the textile and fur industries on their obligations under the Wool Products Labeling Act, the Textile Fiber Products Identification Act, the Flammable Fabrics Act and the Fur Products Labeling Act. Inspection of mills, manufacturers, wholesalers and retailers was carried out by the Division of Regulation and cooperation was extended to all segments of the industries to assist them in getting their labeling, invoicing and advertising into compliance with the Acts. In the relatively few cases where cooperation was unsuccessful the matters were referred to the Division of Enforcement for formal action.

The number of inspections made by the Division of Regulation of manufacturing, wholesaling and retailing establishments totaled 12,670 as compared with 12,625 in the previous year. Informal assurances of discontinuance obtained by the Division of Regulation totaled 2,392 in fiscal 1965 as compared to 2,614 in 1966.

The Division's inspection program was also expanded towards counseling those retailers who deal most closely with the poor people who are involved in the "Poverty Program" and we believe a successful effort was made in that direction.

Incoming and outgoing pieces of correspondence remained fairly constant in fiscal year 1967 reflecting continuing emphasis on administrative correction of labeling, invoicing and advertising deficiencies. The lower percentage of deficiencies recorded in relation to the products inspected is due primarily to the effectiveness of the education and cooperative activities of the Division of Regulation.

A total of 1,310 confidential registered identification numbers was issued to members of the trade for use in lieu of their name and 3,208 continuing guaranties were added to the public file of guaranties under the four acts.

PICTURE - SEE IMAGE

In fiscal 1966 the Bureau of Textiles and Furs of the FTC made 12,670 inspections on the manufacturing, wholesaling, and retailing level. At top an FTC investigator is checking the textile products labeling requirement in a retail store. Middle photo shows an investigator checking the manufacturing operation of nylon hose to make certain the completed article is properly labeled as to the contents. Bottom photo shows an investigator checking labels on furs in a vault. It is the usual practice of furriers to keep their more valuable furs in a vault and to display only a few of them in the store at a time.

Several applications were presented during the past year for new generic names for man-made fibers. These applications are presently being studied.

The Fur Products Name Guide was amended changing "Japanese Mink" to "Japanese Weasel" and "China Mink" to "China Weasel". Rules 6 and 14 under the Flammable Fabrics Act were amended and a new Rule 36 was proposed as an addition to the rules and regulations promulgated under the Wool Products Labeling Act.

By far the most important Commission action taken in this regard was the hearing and later the consideration of the proposed Rule 36. This rule, if finally adopted, will have great bearing on the activities of many importers of finished wool products as well as domestic manufacturers who use imported fabrics. It is designed as an effective means by which the Commission may afford consumers the same degree of protection against the misbranding of imported wool products as is now afforded as to domestic products. A special section is being set up in the Division of Regulation to handle this matter.

During the year, the Division of Enforcement had an active docket of 383 formal cases. Two hundred and nine were on the docket at the start of the fiscal year and 174 new investigations were initiated.

Eighty-nine recommendations for complaint were forwarded to the Commission, and the same number of cease and desist orders were issued. One hundred and seven cases were recommended for closing during the year and 106 were closed.

Of considerable interest is the distribution of cases as to the four acts administered by the Bureau. The following table shows the distribution (actual number and percent of total under each act) of cases in 1962 as compared with each year following:

	As of July 1—					
	1962		1963		1964	
	Number	Percent	Number	Percent	Number	Percent
Wool .....	30	14.9	46	20.0	83	26.6
Fur .....	118	58.1	130	56.8	85	27.2
Textile .....	28	13.7	32	14.0	50	16.2
Flammable fabrics .....	27	13.3	21	9.2	94	30.0
Total .....	203	100.0	229	100.0	312	100.0

Act	As of July 1—					
	1965		1966		1967	
	Num- ber	Percent	Num- ber	Percent	Num- ber	Percent
Wool .....	63	25.9	70	32.9	66	34.8
Fur .....	63	25.9	52	24.4	27	14.2
Textile .....	63	25.9	79	37.1	86	45.2
Flammable fabrics .....	54	22.3	12	5.6	11	5.8
Total .....	243	100.0	213	100.0	190	100.0

It should be noted that the number of cases opened under the Textile Act which is the newest act now comprises the largest block of cases on the Division's docket. It is expected that this pattern will continue in the future.

A substantial number of wool cases which involved the practice of manufacturers misbranding woolen products by labeling reprocessed wool as wool have been opened. This practice of upgrading is particularly bad in that it substitutes a less expensive product for a more expensive product in a manner that is difficult to detect. The customer is deceived and competitors are placed at a disadvantage.

In uncovering this practice, textile and fur investigators called upon the woolen mills which were manufacturing and distributing reprocessed wool cloth blends and obtained the names of clothing manufacturers' customers who in turn were using these reprocessed

goods to manufacture garments. Over 100 of these clothing manufacturers were then inspected and some 15 were found to be upgrading the material. Formal investigations were opened against these firms.

Two cases involving imported mohair sweaters were tried and await the decision of the Commission. R. H. Macy & Co., Inc. (D. 8650) and Sportempos, Inc. (D. 8683).

Continued surveillance of furriers in this country at all levels of manufacturing and distribution has been maintained. A total of 85 formal fur cases was considered during the year. Emphasis has been directed particularly at false and deceptive pricing and recordkeeping, and as a result, violations in these categories appear to have decreased considerably.

The number of formal Textile Act cases increased during fiscal 1967 from 109 to 144. A considerable number of these cases involved the advertising of textile fiber products as to content and the upgrading of the true content of imported and domestic braided rugs.

The sale and distribution of dangerously flammable fabrics continues to receive the highest priority of attention. Twenty-two investigational cases were opened during the year and 10 cease and desist orders were issued under the Flammable Fabrics Act.

FTC attorneys went into Federal district court twice during the year to obtain injunctions to prevent the sale or distribution of dangerously flammable fabrics. One injunction, issued in the southern district of New York, enjoined the sale and distribution of silk head scarves; the other in Seattle, Wash., enjoined the sale of wood fiber chips used in making artificial flower leis.

Cooperation with the Bureau of Customs has continued to be excellent with the result that many dangerously flammable fabrics destined for U.S. markets have been detected at the port of entry. These fabrics have been denied entry into the United States and have been either returned to their port of departure or processed with a flame retardant.

The textiles and furs laboratory, operating as a part of the Division of Enforcement, continued during the past fiscal year to conduct tests and determine the true nature of these products.

With only two full-time laboratory employees and one part-time student trainee the laboratory completed over 1,400 tests or an

average of over seven difficult tests each working day of the year. These tests by acts are as follows:

Wool .....	368
Fur .....	108
Textile .....	202
Flammable fabrics .....	760
 Total .....	<u>1,438</u>

In addition the laboratory personnel has worked closely with laboratory personnel in the Bureau of Standards and in private industry to develop new testing procedure and to perfect procedures presently in use.

During the year, 111 cases were added to the calendar of the compliance section of the Division of Enforcement. Of these, 88 new orders were assigned for procurement of satisfactory compliance reports and 23 matters were reopened for compliance investigation and processing. In a total assignment of 216 cases, 99 were completed.

PICTURE - SEE IMAGE

The FTC maintains a laboratory to test textiles, furs, wool and the flammability of products. This is a view of part of the laboratory. The employee is about to light a piece of material to test its flammability.

Continued emphasis has been placed on counseling respondents. Chainstore operators have been encouraged to submit for review and comment drafts of instructions to store and department managers regarding compliance with orders. Respondents who use promotional catalogs, found particularly in the growing number of cases brought under the Textile Act, have been encouraged to submit proofs of revised catalogs prior to final printing.

The first two civil penalty cases involving violations of orders under the Flammable Fabrics Act were brought to satisfactory conclusion, along with a wool case for civil penalties.

In addition the Bureau of Textiles and Furs completed several extended investigations for the Commission during fiscal 1967. These investigations included a study of the possibility of flameproofing children's clothing, the flammability of paper-wearing apparel and the effect of using iron and copper salts in dressing dark ranch minkskins.

## FOLLOW THROUGH IN LAW ENFORCEMENT

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The General Counsel's work in fiscal 1967 varied with the changing patterns of Commission effort. A larger number of negotiated consent orders, review, interim report and special assignment matters were completed while reconsiderations of consent agreements dwindled to two-thirds those of fiscal 1966. A lesser number of court cases involving the Commission were filed by respondents, but a greater number of restraint of trade cases were completed by the Division of Appeals. A new and larger view of antitrust law was recommended to the Supreme Court in the Procter & Gamble Co. case and favorable judgment there expanded the responsibilities of the Commission in antimerger work. Trademark matters continued steady, as did export trade, while Federal-State cooperation work continued to reach for higher limits and goals. Legislative matters increased in their usual cyclical pattern during the first session of the Congress.

Court proceedings which involve the Federal Trade Commission arise in a number of ways. Any individual or company against which the Commission has issued an order to cease and desist may petition a U.S. court of appeals to review and set aside the order. The Commission may apply in a U.S. district court for enforcement of a subpoena, or may request the Attorney General to institute civil proceedings to compel the filing of a special or annual report ordered by the Commission and to recover forfeitures for failure to comply with the Commission's order. Disobedience of a court's decree enforcing a Commission order or subpoena may be punished by the court as contempt. Collateral suits challenging the Commission's jurisdiction or methods of procedure may be brought under certain circumstances in U.S. district courts. The Commission's interest in these collateral matters are defended by the Department of Justice with the full assistance of the General Counsel. It is the practice



of the Justice Department to refer such matters to the local U.S. attorneys who, in turn, accept the services of the General Counsel for actual handling of the cases.

In fiscal 1967, the General Counsel, through the Division of Appeals, handled 88 cases. Litigation was completed in 32 of these, of which 25 were restraint of trade matters; three involved deceptive business practices; and four were extraordinary matters such as suits against the Commission for declaratory judgment or injunction.

The years most outstanding court accomplishment was the Commission's Supreme Court victory in the Procter & Gamble case. This was the first merger case to raise the question in the courts of whether a large national multiproduct firm may expand into a related market heretofore composed of relatively small firms by acquiring the dominant company. This decision is an important precedent which paves the way for future activity on the Commission's part in combating the threat to the Nation's economy posed by an increasing number of "product extension" or "conglomerate" mergers.

The Division of Consent Orders, which processes the great majority of the FTC formal enforcement proceedings, supervises the negotiation of consent orders to be entered in appropriate cases. A total of 173 (up from 124 in 1966) executed agreements containing consent orders were forwarded to the commission for its consideration in fiscal 1967; 27 matters (down from 41) were resubmitted to the Commission for consideration when negotiation failed to produce agreement; and 390 (up from 211) review, interim report or special assignment matters were completed. The Division of Consent Orders uniquely serves the interest of the public and the business community by affording a means whereby the law is enforced and business is not required to engage in expensive, time-consuming, market-disrupting litigation.

It also demonstrates uniquely the management improvement accomplished by reorganization of the Commission in 1961 to create this office. Studies indicate the average cost of cases which terminate in a negotiated consent order is one-tenth that of cases which are brought to a cease and desist order by litigation, omitting expense of possible court appeals. In this fiscal year, savings from operation of this one office extended Commission activity approximately one-

third of the range otherwise made possible by the Commission's total budget.

The General Counsel's Division of Export Trade supervises administration of the Webb-Pomerene [Export Trade] Act (15 U.S.C. .§ 61-65) for the Commission, performs necessary investigative functions in connection with the Commission's general authority under section 6(h) of the Federal Trade Commission Act to inquire into foreign trade conditions, coordinates the Commission's jurisdiction over foreign commerce, advises other offices of the Commission on the problems of American business abroad in the field of restrictive business practices and serves as advisory liaison to other governmental departments and agencies having complementary jurisdiction over international trade.

The 1918 Export Trade Act entitled "An Act to promote export trade, and for other purposes", qualifiedly exempts registered American associations from the provisions of the antitrust laws insofar as their activities relate to export trade. Under the provisions of this act, associations are permitted to fix prices and quotas, pool products for shipment and establish terms and conditions of sales to foreign markets. Thirty associations and their membership exported approximately \$1,044,222,037.00 in American products registered under the act to foreign markets in calendar 1966.

Further assisting businessmen and fulfilling the Commission's duty under provisions of the Lanham Trademark Act (15 U.S.C. 1064), the General Counsel participated in 12 matters involving applications for trademark or registrations in which allegedly false, misleading or deceptive business practices were considered. All of the matters were adjusted informally through the General Counsel. Additionally, he served as consultant on trademark law for other bureaus of the Commission, congressional interests, foreign embassy officials, and American businessmen.

The objective of the Commission's program of Federal-State cooperation, administered in the General Counsel's office, is to establish a system of effective cooperation between the Commission and the agencies of State governments to correct unfair methods of competition or deceptive acts or practices which occur at State level. The Office of Federal-State Cooperation in fiscal 1967 exhibited the expanding growth incident to the provision of a necessary service to consumers and State authorities. During that time, State officials

referred to the Commission for attention, 436 high-quality interstate commerce complaints, while the Commission's staff referred to State officials 99 local commerce complaints, assisted State officials to draft unfair practice and consumer protection legislation, assembled and dispensed data on law enforcement in the States, served as a communications central for the State agencies to maintain an information liaison among them.

The Commission's Office of Federal-State Cooperation actively counseled and encouraged State authorities to seek adequate legislation for consumer protection, and 11 States during this year enacted consumer protection laws similar to that administered by the Commission, although with local modifications desired by the legislatures. Some 25 States now have laws of a consumer protective character and there is local action in many States to obtain new laws or to improve existing laws of this type. In pursuance of its role as communications central the office transmitted information for law enforcement purposes in response to the 129 inquiries it received from State authorities.

The General Counsel's Division of Legislation furnished advice and comment to the Commission on 67 bills which were pending in Congress, and on 21 draft bills submitted to the Bureau of the Budget by other governmental agencies, and on two enrolled bills pending Presidential signature or veto. Frequent conference with members of the Congress and with representatives of executive agencies have been held to assist the preparation of legislation and the presentation of the views of the Commission and its members or representatives before legislative committees. From the experience of the Commission in considering problems of legislation, and its daily administration of the laws in its care, it urges the enactment of certain additional laws.

## THE ROLE OF ECONOMIC STUDIES AND EVIDENCE

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The functions of the Bureau of Economics are to investigate and analyze economic phenomena, particularly the structure, conduct, and performance of industrial corporations, and to provide economic assistance and analyses needed for the litigation of cases. But it is not enough for the Commission simply to try cases on an ad hoc basis. As the Nation's industrial organization becomes more complex and business concerns become larger, it is imperative that information be available which will permit an early exploration of the basic causes of poor economic performance. Indeed, to garner and explore the facts about underlying causes of economic problems provides the Commission and the Congress with information vital to the taking of proper corrective action. Some of the Commission's most important instruments of antimonopoly action are factfinding and economic reporting, coupled with well reasoned economic analysis.

The Bureau is divided into three Divisions: Industry Analysis, Economic Evidence, and Financial Statistics. The Division of Industry Analysis has two basic responsibilities: (1) It undertakes a wide variety of special projects to assist the Commission in the planning and performance of Commission activities, and (2) it conducts formal economic studies or investigations at the request of the President, the Congress, or the Commission. The Division of Economic Evidence is primarily responsible for providing economic assistance to FTC's staff in connection with the investigation and trial of legal cases. The Division of Financial Statistics collects and prepares, in cooperation with the Securities and Exchange Commission, a Quarterly Financial Report covering various manufacturing industries.

### Industry Analysis

In fiscal 1967, the Division of Industry Analysis continued research into mergers and industrial concentration. Substantial

progress was also made toward the completion of a report on Webb-Pomerene association activity. In addition, a report on causal factors relating to changes in milk and bread prices was prepared at the request of the Secretary of Agriculture. The Commission's Report on Anticompetitive Practices in the Marketing of Gasoline was also issued. The Division participated in the investigation and hearings which provided the basic data for this report.

Mergers and Industrial Concentration.—Mergers, more than any other single economic---factor, explain the existing structure of many American industries. Most contemporary big businesses owe their relative size to merger-accelerated growth, and current levels of concentration in many industries are directly linked to one or more of the merger movements which have swept through American industry.

The rate of merger activity appears to be rather closely associated with overall business activity. For example, the merger movement in the 1920's was choked off by the depression following 1929, and the first cycle of the current movement ended with the recession of 1948-49. On the other hand, the 13-percent increase in industrial production and 33-percent increase in industrial stock prices between 1954 and 1955 were associated with a rapid rise in merger activity. Mergers continued at a high rate into 1956 as industrial production rose another 4 percent. However, with the slackening of business activity in 1957 and 1958, total merger activity fell off slightly, but it revived once again with the expansion of 1959 and has since remained at high levels. Although total merger activity was down slightly in 1966, this downturn was traceable to the low merger rate during the last half of the year when the stock market dropped to its lowest level of the year.

Although there are a variety of unique reasons underlying particular mergers, business prosperity and conditions in the stock market seem to create an economic environment which, when viewed from the vantage point of individual business enterprises, makes growth by merger especially attractive. Simply put, businessmen often view mergers as the cheapest and most profitable way of growing. This does not mean that particular mergers are inevitable or that firms will not grow when they cannot grow by merger. Quite obviously, most firms grow primarily by the internal growth route rather than by mergers. And, of course, all real increases in national

wealth come about through internal growth which involves adding to productive capacity.

The current merger movement has occurred in two rather distinct phases or cycles. The first took place during the period 1943-47, and had an especially pronounced impact on the structure of particular industries, e.g., distilling.

Following 1947 merger activity subsided, reaching a postwar low in 1949. Beginning in 1950, however, the second major cycle commenced and the upward surge in merger activity is still continuing. Whereas at the peak of the first cycle of mergers the total manufacturing and mining series registered slightly more than 400 mergers per year, in each of the past 8 years more than 800 mergers have been recorded—the latest figure being 995 (figure 1).

For the period 1948–1966 the "large" merger series, which includes acquired firms with assets of \$10 million or more, parallels the general upward movement displayed by the "total" merger series—in terms of both numbers and aggregate assets acquired. In the late 1940's and early 1950's acquired assets were well below \$1 billion annually (table 1). Commencing in 1954, however, they moved over the \$1 billion mark and have tended generally upward except during the recession of 1957-58. In 1966 they reached an all-time high, when a total of 98 large mergers with combined assets of \$4 billion were consummated. Over the period 1948-1966, 912 manufacturing and mining companies with combined assets of \$31 billion were acquired. About one-half of these assets were acquired in the last 5 years of this 19-year period.

Quite clearly, we are in the midst of an enormous merger movement. This is especially apparent when merger activity involving "large" industrial concerns is placed in perspective. In 1966 the 2,320 manufacturing companies with assets of \$10 million or more controlled 83 percent of the assets and 85 percent of the profits of all manufacturing corporations. Consequently, mergers among companies in this size group are especially important.

During the period 1948–1966, 843 manufacturing companies with assets of \$10 million or more were acquired. Table 2 provides an insight into just how significant these large mergers have been in terms of the total number and assets of all large manufacturing companies. It compares the number and assets of acquired companies in various size classes with the total number of such companies in 1966.

Figure 1

MANUFACTURING AND MINING FIRMS ACQUIRED, 1940-1966

GRAPH-SEE IMAGE

\*Firms with assets of \$10 million or more.

Source: Bureau of Economics, Federal Trade Commission.

These comparisons reveal that the 509 acquired companies with assets between \$10 million and \$25 million were equal to 46.6 percent of the total number and 44.4 percent of the total assets of all companies of this size operating in 1966. At the other extreme, only five companies with assets of over \$250 million were acquired, and these represented only 2.3 percent of the companies and 1.0 percent of the assets of all companies of this size in 1966.

In short, merger activity took a heavy toll among companies with assets in excess of \$10 million, particularly those with assets between \$10 million and \$100 million. Had these companies not been acquired, and had they continued in business, there would have been

TABLE 1—Acquisitions of manufacturing and mining firms with assets of \$10 million or more, 1948-1966  
[Dollars in millions]

Year of acquisition	Number of firms acquired	Assets <sup>1</sup>	Average assets
1948 .....	4	\$65	\$16
1949 .....	5	67	13
1950 .....	4	173	43
1951 .....	9	201	22
1952 .....	13	327	25
1953 .....	23	679	30
1954 .....	35	1,420	41
1955 .....	67	2,115	32
1956 .....	58	2,036	35
1957 .....	49	1,459	30
1958 .....	39	1,118	29
1959 .....	64	1,958	31
1960 .....	62	1,708	28
1961 .....	59	2,129	36
1962 .....	72	2,192	30
1963 .....	68	2,917	43
1964 .....	90	2,784	31
1965 .....	93	3,910	42
1966 <sup>2</sup> .....	98	4,006	41
Total .....	912	\$31,264	\$34

<sup>1</sup> Or consideration paid.

<sup>2</sup> Preliminary. Data for all other years represent latest revisions.

Source: Bureau of Economics, Federal Trade Commission.



at least one-third more companies with assets of \$10 million or more operating in 1966.

1. Acquisitions of 200 Largest Corporations.—Between 1948 and 1965 the 200 largest manufacturing corporations of 1965 made at least 2,692 acquisitions with combined assets of \$21.5 billion. This represents an enormous volume of resources. It is greater than the

TABLE 2.--Number of acquisitions and manufacturing assets acquired during 1948-1966 compared with total manufacturing, 1966

A. NUMBER

Size class of acquired firms (millions)	Number of manufacturing companies acquired 1948- 1966 <sup>1</sup>	Total number of manufacturerers, 1966 <sup>2</sup>	Number of acquisitions as percent of total number of manufacturers, 1966 <sup>2</sup>
\$10-\$25 .....	509	1,093	46.6
\$25-\$50 .....	196	485	40.4
\$50-\$100 .....	97	284	34.2
\$100-\$250 .....	36	242	14.9
Over \$250 .....	5	216	2.3
Total .....	843	2,320	36.3

B. ASSETS

Size class of acquired firms (millions)	Number of manufacturing assets acquired 1948-1966 (millions) <sup>1</sup>	Total number of manufacturing assets (billions) 1966 <sup>2</sup>	Acquired assets as percent of total assets
\$10-\$25 .....	\$7,744	\$17,428	44.4
\$25-\$50 .....	6,765	17,455	38.8
\$50-\$100 .....	6,610	20,602	32.1
\$100-\$250 .....	4,932	38,450	12.8
Over \$250 .....	2,121	213,375	1.0
Total .....	\$28,172	\$307,310	9.2

<sup>1</sup> All mining acquisitions have been excluded from these data.

<sup>2</sup> First quarter.

Source: Bureau of Economics, Federal Trade Commission.

combined assets held by the 150 corporations ranking 51st to 200th in 1948. Put another way, between 1948 and 1965, these 200 concerns absorbed assets one-fourth as great as those held by all other manufacturing corporations in 1948.

All size groups made a substantial volume of acquisitions. Firms ranking among the top five companies in 1965 made the greatest volume of acquisitions measured in terms of acquired assets (about \$180 million each). But since these companies were so much larger than the others to begin with, acquisitions were relatively less important to their growth. Acquisitions were equal to 7.8 percent of the size of these companies in 1948, 2.1 percent of their size in 1965, and represent only 2.9 percent of their growth between 1948 and 1965 (table 3). Mergers were much more important to other companies ranking among the top 200 in 1965, particularly those ranking 21st to 200th. The acquired assets of companies ranking 51st to 200th in 1965 were equal to about 25 percent of their asset growth between 1948 and 1965. This represents a minimum estimate of the contribution of mergers to the growth of these companies, since it takes into account only the direct contribution of mergers to their growth.

The country's 200 largest industrial corporations have been very active acquirers throughout the course of the current merger movement. Nor has there been a significant letup in their tempo in recent years. During the period 1948-1966, acquisitions by the top 200 accounted for only 30 percent of the number of large acquisitions, but this was equivalent to 60 percent of all "large" acquisitions when measured by assets of acquired companies.

2. Change in Aggregate Concentration Between 1950 and 1965.— The level of aggregate concentration in American manufacturing has risen substantially over the past half century. Precise information is available for charting the trends in aggregate concentration in the postwar years. Figure 2 shows changes in the share of value added by the 200 largest manufacturing corporations between 1947 and 1963. Over the period the top 200 expanded their share from 30 percent to 41 percent, or by over one-third. Although the most precipitous increase occurred between 1947 and 1954, the trend has persisted throughout the period. Since 1958 the rate of increase was 0.6 percent a year. By 1963 the 100 largest held a greater share

Table 3--Acquisitions made between 1948 and 1965 by 200 largest manufacturing corporations of 1965

Size of acquiring corporation <sup>1</sup>	Assets of Group		Asset Growth 1948-1965 (millions)	Number of Acquisitions	Total assets acquired <sup>2</sup> (millions)	Acquired assets as percent of:		
	1948 (millions )	1965 (millions)				1948 assets	1965 assets	Asset growth 1948-1965
5 largest	\$11,445	\$42,825	\$31,380	62	\$897	7.8	2.1	2.9
6 to 10	5,128	22,634	17,506	41	838	16.3	3.7	4.8
11 to 20	7,847	24,540	16,694	80	805	10.3	3.3	4.8
21 to 50	10,920	39,177	28,256	419	4,930	45.1	12.6	17.4
51 to 100	10,399	37,804	27,405	867	6,810	65.5	18.0	24.9
101 to 150	5,876	21,755	15,879	740	4,210	71.6	19.4	26.5
151 to 200	3,459	14,859	11,399	483	3,008	87.0	20.2	26.4
	_____	_____	_____	_____	_____	_____	_____	_____
Total 200	\$55,074	\$203,594	\$148,519	2,692	\$21,498	39.0	10.6	14.5

<sup>1</sup>Companies ranked by total assets in 1965.

<sup>2</sup>These figures include all acquisitions (including partial acquisitions) made by the acquiring company during the period 1948-1965, and are not limited to acquisitions of mining and manufacturing companies. In instances where asset data were unavailable, asset estimates or consideration paid has been used. Asset information was available for 1,789 of these acquisitions

Source: Bureau of Economics, Federal Trade Commission.

Figure 2

SHARE OF VALUE ADDED BY MANUFACTURE  
ACCOUNTED FOR BY 200 LARGEST MANUFACTURING  
COMPANIES, 1947-1963

GRAPH - SEE IMAGE

SOURCE: Bureau of the Census

Figure 2. See Job 70-989, Economic Concentration, Hearings before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U.S. Senate, 89th Congress, 2d Session, September 12, 13, 19, and 20, 1966. Part 5, "Concentration and Divisional Reporting," p. 1890.

than was held by the 200 largest in 1947, and the 50 largest held a greater share than the 100 largest in 1947.

Concentration measured in terms of value added understates actual concentration in a number of respects. Table 4 shows the change in concentration between 1950 and 1965 using total assets as a measure of financial power. By this measure, the share of total manufacturing assets held by the top 100 companies rose from 38.8 percent to 45.4 percent, and the share of the top 200 rose from 46.9 percent to 55.4 percent. In other words, by 1965 the top 100 companies held very nearly as great a share as that held by the top 200 in 1950.

TABLE 4.-- Concentration of total manufacturing assets 1950 and 1965

Corporate size group	Percent of total assets	
	1950	1965
5 largest .....	9.6	11.8
10 largest .....	14.5	18.0
20 largest .....	20.7	24.6
50 largest .....	30.2	35.2
100 largest .....	38.6	45.4
200 largest .....	46.7	55.4

Source: Bureau of Economics, Federal Trade Commission.

This substantial growth in concentration occurred in the face of enormous growth in the economy. In fact, the total number of manufacturing corporations actually increased by about 55,000 during the period. Thus, this galaxy of a relatively few very large firms expanded its share in a universe which itself was expanding rapidly during the period.

3. Market Concentration.—Market concentration refers to the share of an industry's business held by the leading firms in the industry. It contrasts with the measures of aggregate concentration dealt with above. Instead of measuring concentration of all manufacturing assets or sales, it measures concentration in the manufacture of a particular product. Although aggregate and market concentration may be related and each may have relevance for questions of "economic power," they do not necessarily move in the same direction.

Market concentration is directly related to the matter of competition and monopoly. It shows where an industry is located in the broad spectrum between competition and monopoly. Economic theory suggests and industrial experience indicates that the level of industry concentration is a strategic conditioning influence on performance. Although not alone in this role, it is usually isolated as the single most important structural variable since values of other structural variables often move in tandem with it. A key example of this is that high levels of market concentration are almost always accompanied by high entry barriers.

Concentration ratios computed periodically by the Bureau of the Census for the Senate Antitrust and Monopoly Committee measure the percentages of total industry production or shipments accounted for by the largest four, eight or 20 companies in an industry. Twenty-seven percent of U.S. manufacturing production in 1963 originated from high concentration industries in which four companies accounted for 50 percent or more of the national output (figure 3). This share raises to over 30 percent when production of local market and not elsewhere classified product (NEC) industries are excluded.

4. Concentration Trends Between 1947 and 1963.—There appears to have been no marked tendency for concentration of manufacturing industries as a group to have either increased or decreased over this 16-year period. This conclusion is based on an analysis of 213 essentially comparable industries. These industries are sufficiently representative of all industries to indicate the nature of postwar concentration trends in manufacturing industries. Of these industries, 86 showed declines of 3 percentage points or more in four-firm concentration ratios, whereas 81 industries experienced increases of 3 percentage points or more in concentration ratios (table 5).

The concentration trend over the 16 postwar years from 1947 to 1963 conceals significant changes occurring within the period. From 1947 to 1958, there was a decline in average concentration (figure 4). The average four-firm concentration ratio fell .4 percentage points from 1947 to 1954 and a similar amount from 1954 to 1958. Between 1958 and 1963, however, there was a distinct upward trend in concentration. The average four-firm concentration ratio industries increased by 1.1 percentage points. Seventy-three industries experi-

Figure 3

Distribution of Manufacturing Industries  
by 4-Firm Concentration-Ratio Quartiles, 1963

Number Of Industries*	Concentration Quartile	Value Of Shipments*
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GRAPHS-SEE IMAGE

\*There were 415 4-digit manufacturing industries, excluding newspapers and periodicals, in 1963 with a total value of shipments of 358 billion. Included within the group were 18 local-market industries with value of shipments of \$38 billion and 15 "not elsewhere classified" industries of major 2-digit groups with value of shipments of \$8 billion.

\*\*This quartile includes one "not elsewhere classified" industry with value of shipments of \$71 million.

\*\*\*This quartile includes 3 local-market industries with value of shipments of \$3.6 billion and 3 "not elsewhere classified" industries with value of shipments of a half a billion.

\*\*\*\*Twenty five industries having 4-firm concentration ratios of less than 25 percent were either local-market industries or "not elsewhere classified" industries. Their value of shipments of \$42 billion made up 32 percent of the quartile total shipments. Of the 25 industries, 14 were local-market industries having \$34 billion in shipments and 11 were "not elsewhere classified" industries with \$8 billion in shipments.

Source: Bureau of Economics, Federal Trade Commission, based on Concentration Ratios in Manufacturing Industry 1963, Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U.S. Senate. 89th Congress, 2d session.

enced increases in concentration of 3 percentage points or more in this period compared to 49 which experienced decreases.

High concentration is more characteristic of consumer goods industries than producer goods industries. Excluding local market and NEC industries, 37 percent of the value of production of con-

TABLE 5.-Distribution of 213 comparable industries by change in four- and eight-firm concentration ratios 1947 to 1963  
[Dollars in billions]

A. NUMBER OF INDUSTRIES			
Concentration ratios	Number of industries in which concentration ratios—		
	Increased	Stayed the Same <sup>1</sup>	Decreased
4-firm . . . . .	81	46	86
8-firm . . . . .	95	50	68
Percent of industries in which concentration ratios—			
Concentration ratios	Increased	Stayed the Same <sup>1</sup>	Decreased
	4-firm . . . . .	38	22
8-firm . . . . .	45	23	32
B. VALUE OF SHIPMENTS			
Concentration ratios	Value of 1963 shipments of industries in which concentration ratios--		
	Increased	Stayed the Same <sup>1</sup>	Decreased
4-firm . . . . .	\$61	\$36	\$80
8-firm . . . . .	\$76	\$32	\$67
Percent distribution of shipments of industries in which concentration ratios--			
Concentration ratios	Increased	Stayed the Same <sup>1</sup>	Decreased
	4-firm . . . . .	35	20
8-firm . . . . .	44	18	38

<sup>1</sup> Changed less than 3 percentage points.

Source: Bureau of Economics, Federal Trade Commission, based on Concentration Ratios in Manufacturing Industry 1963, Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U.S. Senate, 89th Congress, 2d session



Figure 4

Average Change of 4-Firm and 8-Firm Concentration Ratios  
of comparable manufacturing industries  
1947-54, 1954-58 and 1958-63

GRAPH-SEE IMAGE

Average Concentration <sup>Change 1</sup>

- A. 213 Comparable Manufacturing Industries
- B. 132 Comparable Producer Goods Industries
- C. 81 Comparable Consumer Goods Industries

<sup>1</sup> Simple average of percentage point changes of 4-digit industry concentration ratios.  
Source: Bureau of Economics, Federal Trade Commission, based on Concentration Ratios in Manufacturing Industry 1963, Subcommittee on Antitrust and Monopoly of the Committee on the judiciary, U. S. Senate, 89th Congress, 2d Session.

sumer goods came from industries in which the top four firms account for over 50 percent of total production, while only 28 percent of producer goods production came from such highly concentrated industries.

5. Concentration in Producer and Consumer Goods Industries.— Concentration levels of individual industries experienced diverse movements between 1947 and 1963. Some contrasting patterns are evident, however, between consumer and producer goods industries. Generally speaking, concentration in consumer goods industries rose whereas it declined in producer goods industries (figure 4). Over the entire 1947-1963 period these counter movements offset each other, leaving the average level of four-firm concentration of the combined group relatively unchanged.

All consumer goods industries were classified into three categories: Undifferentiated, moderately differentiated, and highly differentiated. There were pronounced differences in the concentration trends among the various consumer goods industries according to the degree of product differentiation (figure 5). Among the undifferentiated product industries, 10 percent more industries experienced declines in concentration than experienced increases. This was in marked contrast to trends in both the moderately differentiated and highly differentiated consumer goods categories. About twice as many moderately differentiated consumer goods industries experienced concentration increases as experienced decreases, and about four times as many highly differentiated consumer goods industries experienced increases as decreases. These contrasting trends are especially significant since both the moderately and highly differentiated product industries were already more concentrated in 1947 than the undifferentiated industries.

The Nature and Scope of Webb-Pomerene Associations.— During the year the Bureau completed a draft of a report on Webb-Pomerene associations. Some of the results of the study were presented before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U.S. Senate, and are repeated below.

The Webb-Pomerene Act, passed in 1918, gave American companies limited exemption from the antitrust laws by permitting them to band together into export trade associations. The basic premise of the Act was that cooperative effort was necessary to enable many companies to compete effectively in foreign trade. It was hoped that

such associations would give small American companies the economies of large scale and enable them to countervail the large foreign cartels which appeared to be commonplace prior to World War I.

However, the full expectations of the Webb-Pomerene Act's proponents have not been realized over the half century since its passage. During the period 1918-1965, a total of 176 associations were properly registered with the Federal Trade Commission; of

### Figure 5

#### Change in 4-Firm Concentration in Consumer Goods Industries 1947-1963

Percent of industries where concentration:

GRAPH-SEE IMAGE

<sup>1</sup> A change of less than three percentage points.

Source: Bureau of Economics, Federal Trade Commission, based on Concentration Ratios in Manufacturing Industry 1963, Subcommittee on Antitrust and Monopoly of the Committee on the judiciary, U. S. Senate, 89th Congress, 2d Session.

these only 130 ever functioned in any way to assist U.S. exports. Table 6 shows the volume of Webb-assisted exports for the period 1958–1962 as reported by associations and their members. For this period Webb exports have ranged between \$420 million and \$500 million or approximately 2.4 percent of total U.S. merchandise exports.

In summary, the Bureau's study shows that Webb-Pomerene activity has been limited to a comparatively few associations handling a limited range of products, and the number of beneficiaries from such activity has been quite small. Only 263 firms were association members in 1962. For the period 1958–62 a total of 459 firms were members at one time or another. These members, for the most part, were drawn from the upper reaches of the business population and, at the same time, were the major beneficiaries of Webb-Pomerene assistance. Thus, although firms with \$100 million or more in assets accounted for only 0.1 percent of the corporate population, firms in this size category comprised 24 percent of all Webb-Pomerene association members and made 80 percent of all Webb-assisted exports. The collective assistance of all associations to small firms amounted to only \$18.5 million of exports in 1962, or less than 0.1 percent of total U.S. exports.

TABLE 6.--Webb-assisted exports relative to total U.S. exports,  
1958–1962

[Dollars in millions]

Year	U.S. merchandise exports	Webb-assisted exports	Webb exports as percent of U.S. merchandise exports (percent)
1958 .....	\$17,745	\$420	2.4
1959 .....	17,438	443	2.5
1960 .....	20,378	491	2.4
1961 .....	20,717	497	2.4
1962 .....	21,403	499	2.3

<sup>1</sup> Figures based on FTC Survey report. In some instances, member reports of assistance differed from association reports. Wherever such instances existed the larger of the 2 reports were accepted for the purposes of compiling total Webb-Pomerene export assistance.

Sources: For U.S. merchandise exports: U.S. Department of Commerce, Statistical Abstract, 1964, p. 866. For Webb-assisted exports: FTC Survey, Export Trade Associations, 1963.

Economic Report on Milk and Bread Prices.—This report made public the findings of a Federal Trade Commission study undertaken at the request of the Secretary of Agriculture. On August 4, 1966 as a result of growing concern over higher food prices, particularly bread and milk prices, Secretary of Agriculture Orville Freeman requested the Federal Trade Commission to "review immediately the pricing policies and actions for bread and fluid milk, including recent price changes of these food items and their relation to all factors affecting costs and the conditions of competition" and "make its findings available as soon as possible."

The study showed that the price increases taking effect mainly during July and August caused the national average retail price of bread to increase 7.5 percent and the price of milk to increase 7.8 percent. But there were also substantial differences in the patterns of price behavior between bread and milk. Although farm ingredient cost increases triggered processor and retail price increases in both products, farm ingredients represented a relatively greater share of the consumer price increase of milk than in bread. Over half of the average retail price increase of milk occurring between January and August 1966 was received by farmers in contrast to less than a third of the average retail price increase of bread being received by farmers.

Farm ingredient cost increases for bread and milk also were different. They resulted from a different set of market forces and also affected processors in different manners. Wheat, the principal ingredient of bread, is priced in a national market. Its price went up sharply in the spring of 1966 as a result of an expansion of export demand and a smaller than usual wheat crop. In July, the higher prices of wheat were reflected in higher flour prices. The increase in the national price of flour triggered bread price increases throughout the country although the pattern of the increases was very mixed. The greatest increases occurred in cities where bread prices had been lowest. For example, Milwaukee, which in August 1965 had the lowest average bread price of the 39 cities surveyed, experienced an increase of 22.5 percent. At the other extreme Los Angeles, which had the highest average bread price in August 1965, experienced a decline in bread prices (figure 6). Analysis indicated that low profit rates of bakers in low price cities was a probable reason for their larger price increases.

Although farm milk price increases varied from market to market, depending on the local conditions in those markets, a definite geographic pattern was apparent. The sharpest milk price increase occurred in the fresh milk surplus States where the surplus milk is used in the manufacture of processed dairy products, such as butter, cheese and evaporated milk. In the 12 cities in States where dairy manufacturing was most important, fluid milk price increases aver-

Figure 6  
RETAIL BREAD PRICE CHANGES IN THIRTY-NINE CITIES  
AUGUST 1965 - AUGUST 1966

CHART-SEE IMAGE

\*City average store price for white pan bread.

Source: Based on data supplied to the Federal Trade Commission by the Bureau Of Labor Statistics.

aged 17.5 percent (table 7). This compared with only a 5.9 percent average increase in those States where farmers marketed their milk almost exclusively as fluid milk. This pattern of increases was a result of a reversal of supply-demand conditions which had severely depressed the price of raw milk particularly in the dairy manufacturing States for over a decade. The National Commission on Food Marketing reported that in 1964 hourly wages of dairy farmers in parts of Wisconsin, the leading dairy State, were as low as 30 cents an hour.

Low returns to farmers over the decade prior to 1966 had caused a continuous exodus of dairy farmers. Increasing productivity of the remaining dairy farmers had prolonged this adjustment period. In 1965 the exodus of dairy farmers was so great that milk production fell absolutely. This, coupled with growing consumption, brought about a reversal in the supply-demand situation particularly in dairy manufacturing States which caused raw milk prices to increase sharply. These increases were passed along to consumers in the form of higher processor and retailer prices.

Processors raised their prices by more than ingredient cost increases, thus raising their gross margin. It appears that the greatest

TABLE 7.--Changes in raw milk prices in 35 cities, August 1965 to August 1966 according to percent of total supply used for fluid milk

Percent of total milk used for fluid milk, 1965	Number of cities	Average raw milk price per half gallon (cents)		Increase, 1965-66	
		August 1965	August 1966	Cents	Percent
Under 50: East North Central and West North Central States...	12	20.0	23.5	3.5	17.5
50 to 90: South Central and Western States....	11	23.7	26.2	2.5	10.5
90 and over: North Atlantic and South Atlantic States...	12	27.2	28.8	1.6	5.9
35-city average... ..		23.6	26.2	2.6	11.0

Source: U.S. Department of Agriculture.

of these increases occurred in markets where margins had been abnormally low. Processors also faced cost increases other than ingredient costs.

Retail price increases in both bread and milk reflected pyramiding. Retailers not only passed on wholesale price increases, but added to them by expanding their own gross profit margins. In the case of bread, retail margins were increased both absolutely and as a percentage of the retail price of bread. Where wholesale bread prices increased most, retailer margins registered the largest increase, irrespective of the size of their previous margin.

Private label prices of bread showed a marked tendency to lag behind the price increases of wholesaler brands. These brands typically sell for 2 to 5 cents a pound less than wholesale baker brands. Because of this lag the report concluded that it was likely that bread price increases of some cities would not stick because of the widened differential between private label prices and wholesale baker brand prices in those cities.

In both bread and milk, there were notable exceptions from the general pattern of price increases. For this reason, the Commission is studying in depth several markets which experienced especially sharp increases in bread and milk prices and comparing them with cities showing very moderate increases. The analyses of these cities will cover factors in addition to ingredient costs which may have contributed to increased processor costs, such as wages, packaging, and other items. It will also study the level and pattern of profits in these cities.

## Economic Evidence

The primary function of the Division of Economic Evidence is to provide economic assistance and analysis in connection with the Commission's enforcement responsibilities. Economists of the Division work in coordinate roles with members of the legal divisions and it is the Division's responsibility to provide economic background for assessing the economic needs in particular legal matters. The Division may perform these functions in either of two ways: (1) Through participation in the development of particular cases, from the initiation of the inquiry to the making of preliminary market studies, the development of complaints, preparations for trial, participation in trial work, and the formulation of final orders; or



(2) by a direct request of the Commission to undertake investigations upon which legal action may be predicated. The Divisions economists are available to assist the various legal divisions in such matters as mergers, general trade restraints, industry guides, advisory opinions, discriminatory and deceptive practices, and other unfair methods of competition.

A major responsibility of the Division in fiscal 1967 was merger matters. Initially, all mergers within the jurisdiction of the Commission are examined by the merger screening committee which is made up of the Chiefs of the Division of Economic Evidence and the Division of Mergers, and their deputies, as well as senior economists from the Division of Economic Evidence. The screening committee selects from the mergers reported those that merit in-depth investigation and also develops criteria for the investigation and analysis of mergers based on Commission experience, and current decisions of the Commission and the courts. At the outset, all mergers involving the acquisition of sizable firms (say with over \$5 or \$10 million of assets) are carefully scrutinized. Also, those mergers which appear to be part of a general merger pattern within a particular industry context are examined with care. To the fullest extent possible, study is made of merger activity which threatens to bring about adverse changes in the structure of particular industries and thus to adversely affect their competitive behavior. In this connection, past experience in the enforcement of the 1950 Celler-Kefauver Act provides useful guidance in the selection and development of early warning signals for merger investigation.

Merger analysis is further determined by both (1) the character of the merger movement—that is, the types of mergers that are taking place, whether predominantly horizontal, vertical or conglomerate—and (2) by the court decisions setting forth legal guidelines as to the economic indicia of anticompetitive mergers. The earliest cases under the Celler-Kefauver Act involved horizontal or vertical mergers; hence the guidelines for economic analysis were clarified by the court decisions. More recently the courts have ruled on conglomerate cases (the most recent of which was the Procter & Gamble-Clorox merger, 386 U.S. 568).

The changing character of the merger movement has in part reflected the deterrent effects of the earlier decisions and the rules of law established for horizontal mergers and at the same time pro-

vides guidance for the most appropriate allocation of the Division's resources. Thus in the past 4 years (1963-66), the percentage of all large mergers (acquisitions of firms with assets of \$10 million or over) of a horizontal type fell to 12 percent, as compared with 40 percent during the first 4 years of the Celler-Kefauver antimerger law (1951-54). Vertical mergers have risen slightly in relative importance, from 12 percent to 15 percent, while conglomerate mergers have risen to 73 percent of the total, as compared with 51 percent in the earlier period. The following is a breakdown of current conglomerate mergers by type (as percent of all large mergers):

	Percent
Production extension .....	43
Market extension .....	15
Other .....	15

Each of these various types of conglomerate mergers requires special analysis to determine possible anticompetitive effects and involves examination of such complicated questions as the impact on potential competition, the raising of barriers to entry, the creation of reciprocity opportunities, and so on.

The Division of Economic Evidence reviewed some 1,350 mergers and acquisitions during the fiscal year 1967, or more than double the total examined in 1966. Approximately 56 of these were subjected to in-depth analysis. Among the merger matters which resulted in the issuance of complaints during fiscal 1967 were the following:

- Phillips Petroleum Co., et al.—C-1088
- Cole National Corp.—D. 8701
- May Department Stores—C-1105
- Spartans Industries, Inc.—C-1106
- Winn-Dixie Stores—C-1110
- American Bakeries Co.—C-1111
- Lone Star Cement Corp.—C-1159
- Foremost Dairies, Inc.—C-1161
- Procter & Gamble Co.—C-1109
- W. R. Grace & Co.—C-1182
- Bendix Corp.—D. 8739

In addition, the Division economists assisted in the litigation of the Mississippi River Fuel Co. acquisitions of ready-mixed concrete companies.

A major investigation undertaken by the Division of Economic Evidence at the direction of the Commission during fiscal 1967, was the use of games of chance in food retailing. The objectives of the investigation, as set forth by the Commission, are: (1) To determine whether these promotional schemes constitute unfair methods of competition or unfair and deceptive practices in violation of the statutes administered by the Commission; (2) to ascertain their economic consequences, including increased costs to food retailers and higher prices to consumers, and their impact on competition in food marketing; and (3) to provide a factual basis upon which the Commission may take such effective corrective action as may be required to enforce the law. The Commission noted that it was particularly concerned that these promotional schemes, extensively used by retailers throughout the country, may have increased the cost of food to the housewife and substantially curtailed price competition in food distribution, to the detriment of consumers.

Overall in the fiscal year 1967, Division economists participated in some 107 investigations, 13 consent negotiations, 11 litigated cases and 17 compliance matters, as well as devoting considerable work time to nine general economic investigations. Approximately 60 percent of the Division's man hours was spent on section 7 (merger) cases; about 25 percent on general economic investigations and the remaining 15 percent on section 5 (general trade restraints), the Robinson-Patman Act (price discrimination), and other matters.

#### Financial Statistics

For the 21st consecutive year, the Division of Financial Statistics, in collaboration with the Securities and Exchange Commission, produced the Quarterly Report for Manufacturing Corporations. In fiscal year 1967, these published summaries included data for each of 34 industry groups and 10 asset sizes of corporate manufacturers. For each industry group and asset size there were published estimates for 13 items of income and retained earnings, 14 asset items, 16 items of liabilities and stockholders' equity, and 43 financial and operating ratios. These estimates accounted for more than 97 percent of all manufacturing activity in the United States, more than half of all corporate profits, and nearly one-third of the national income. Each published summary was based on uniform,

confidential, quarterly financial statements collected from a probability sample of some 10,000 out of an estimated total of more than 200,000 active manufacturing corporations in the United States. The following are some of the highlights of the four quarterly summaries published in fiscal year 1967.

The number of manufacturing corporations with assets of \$1 billion and over increased from 52 in 1966 to 63 in 1967. These 63 firms accounted for \$157 billion or 38 percent of the total assets of all manufacturing corporations, except newspapers, in the United States. An additional 186 firms, each with assets, in excess of \$250 million, accounted for another 22 percent.

Sales of all corporate manufacturers (excluding newspapers) in 1966 totaled \$554 billion, or 13 percent above 1965. After tax profits for the year amounted to \$30.9 billion, compared with \$27.5 billion in 1965 and \$23.2 billion in 1964.

For the four quarters of calendar year 1966, the average annual rate of profit on stockholders' equity, after taxes, was 13.4 percent, the highest since the 15.4 percent average rate for 1950. It compared with 13.0 percent for 1965 and 11.6 for 1964.

Highest average annual rates of return on stockholders' equity, after taxes, in 1966 were recorded by the producers of instruments and related products (20.8 percent) and drugs (20.3 percent); lowest rates of return were recorded by the makers of stone, clay, and glass products (9.9 percent), textile mill products (10.0 percent), and lumber and wood products (10.0 percent).

At the end of the second quarter of 1967, inventories of all corporate manufacturers (except newspapers) were \$102 billion, their net working capital \$118 billion, and their total assets \$416 billion. Stockholders' equity amounted to \$246 billion, of which \$160 billion was retained earnings.

## FIELD OPERATIONS

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During fiscal 1967 the Bureau of Field Operations and its 11 field offices located in strategic cities across the United States, intensified its program of public education designed to give businessmen and consumers a better understanding of the work of the Commission.

The educational program for business and professional men sought to educate them concerning the statutes administered by the Commission and to counsel and assist them in complying with these statutes. Whereas, the program for consumers was directed principally to those in the lower economic groups who are especially vulnerable to, and least able to afford, being deceived in their purchases.

Field attorneys attended meetings of consumer groups, particularly in the poverty category and in low-cost housing areas, either by invitation of such groups or as a result of contact with local, State, and Federal agencies through which such contacts are usually maintained. Among other media used were the local organizations of the Office of Economic Opportunity and its Legal Services Program. Also used were the legal aid programs of counties, States, and communities, which are designed primarily to serve the poor, the aged, and underprivileged and the undereducated.

In the discussions with these consumer groups emphasis was placed on ways of differentiating between honest merchandising methods and those which involved fictitious pricing, bait and switch advertising, deceptive guarantees, and other forms of deception.

That the educational program of the Bureau and its field offices, which was largely carried out on the own time of the attorneys of the Bureau and at very small cost to the Commission, has been successful is attested to by many letters of commendation received by the field offices and the Commission.

On 198 occasions, attorneys stationed in the field offices addressed professional, business, consumer, and college groups about the work of the Commission. Also, Commission attorneys in the field were

frequently sought out for consultation and information concerning grievances and other problems that arise under the statutes administered by the Commission. There were some 10,625 such contacts during the fiscal year.

The number of completed field investigations in fiscal 1967 totalled 1,129 cases which was an increase of 5 percent over the previous fiscal year. This was accomplished with no increase in the average number of investigating attorneys in the field. At the same time there was an increase in the referral of new investigations (i.e., 1,324) to the field offices during the fiscal year, as well as the backlog of cases (921) pending at the end of the year.

Of the 1,129 investigations completed, 772 were in the area of deceptive acts and practices and false and misleading advertising. The bulk of the remaining completed investigations involved anticompetitive and monopolistic practices and other restraints of trade.

The subject matter of some of the investigations in the false and misleading and deceptive field include:

Games and other promotional schemes used by 22 principal chain organizations in the grocery trade to attract customers;

Survey covering the pricing practices and guarantee representations in the sale of automobile tires;

Misrepresentations and deceptive practices in the sale of home improvements, particularly aluminum siding;

Sale of wigs made of horsehair or manmade fibers instead of human hair as represented, as well as the use of flammable materials in wigs;

Schemes to deceive and bilk automobile owners in connection with the overhaul of transmissions through misrepresentations as to the extent of the repairs needed and the prices thereof;

Unconscionable credit practices, trickery in obtaining contracts signed in blank, bait-and-switch and other deceptive practices in the sale of various merchandise to the poor and ignorant;

Deception and misrepresentations in the sale of franchises and equipment used in connection therewith, and the earnings that can be expected from the operation of the franchise;

Misrepresentations in connection with food freezer plans, "free" lessons with the purchase of musical instruments at exorbitant prices, and many others.

Among the major investigations in the restraint of trade area were:

- Price discriminations, the payment of kickbacks, and commercial bribery in connection with the sale of railway equipment;

- Reciprocity arrangements between suppliers and customers in various industries;

- Legality of brokerage payments in the sale, purchase, and distribution of fresh vegetables and citrus fruit;

- Discriminations and below cost pricing of bread and milk;

- The distributive and pricing practices of the automobile

PICTURE-SEE IMAGE

A group the FTC works closely with in consumer protection laws are the various Better Business Bureaus throughout the United States. Here you see an FTC attorney calling on one of the Better Business offices to discuss a matter of mutual interest.

companies in the sale of body replacement parts and the competitive effects thereof on independent repair businesses;

Arrangements between major tire manufacturers and bus companies whereby tires used on buses are leased so as to tie a bus company to one source of tire supply;

The use of cumulative volume rebates in the rug and carpet industry.

In line with Commission policy of obtaining voluntary compliance when appropriate, 159 investigations conducted by the field offices were closed by means of affidavits of discontinuance. Of this number 121 affidavits were initiated and negotiated by the field offices in the early stages of the investigation.

Consent orders to cease and desist from illegal practices also were negotiated by the field offices in 111 other matters.



## HEARING EXAMINERS

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The work of the Commission's hearing examiners showed a marked increase during fiscal 1967. There were 96 cases on the hearing examiners' docket during the year—an increase of 35 percent over the 71 cases handled during the previous year—and the number of cases disposed of was doubled.

With 42 cases on hand at the beginning of the year, 50 new cases were added (including one compliance inquiry); four other cases were reopened or remanded; and 59 cases were disposed of—39 through adjudication and 20 through other procedures, leaving 37 cases pending as of June 30, 1967. Cases disposed of in fiscal 1966 totaled 29.

The increased caseload was reflected in the number of days devoted to evidentiary hearings and prehearing conferences, which rose from 307 days in fiscal 1966 to 459 days in fiscal 1967.

Despite the mounting caseload, hearing examiners continued to perform other duties for the Commission and for other governmental entities. In addition to adjudicating Commission cases, examiners carried out a variety of special assignments for the Commission, sat as special masters in U.S. court of appeals proceedings, and heard cases for other Federal agencies.

## LEGISLATION NEEDED

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The Commission recommends enactment of the following additional legislation.

1. Amend section 7 of the Clayton Act (15 U.S.C. 18) to require prior notice to the Federal Trade Commission and other appropriate agencies of any proposed mergers of corporations of significant size which are engaged in interstate commerce, and to provide adequate means of preventing illegal mergers.

The Commission now obtains virtually all of its information regarding such mergers by scanning financial periodicals, trade journals and other publications. These procedures have not been entirely satisfactory. We are of the belief that there should be legislation requiring, within a specified period of days in advance of a proposed acquisition of stocks or assets of another corporation engaged in commerce, notice and information by the acquiring corporation of its intent to merge with another corporation, where the corporations have combined assets in excess of \$10 million.

The consideration of a proposed merger, particularly with respect to the probable effect upon competition, requires the accumulation of a considerable amount of factual data. Legislation of the type advocated would provide the Commission with advance information about pending acquisitions thus enabling it to make systematic checks on important mergers.

2. Amend section 5(a) of the Clayton Act (15 U.S.C. 16(a)) so as to include a final order of the Federal Trade Commission; that is, amend section 5(a) to read:

"A final judgment, decree or final order to cease and desist of the Federal Trade Commission heretofore or hereafter rendered in any civil or criminal proceeding 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 action or proceeding brought by any other party against such defendant under

said laws or by the United States under section 4A, as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken or to judgments or decrees entered in actions under section 4A.

"As applied to final orders to cease and desist of the Federal Trade Commission, 'antitrust laws' herein are defined as those sections of the Clayton Act over which the Federal Trade Commission has jurisdiction under section 11 of said Act (15 U.S.C. 21) and those proceedings brought by the Federal Trade Commission in which the findings, resulting in the Commission's final order to cease and desist are that the respondent or respondents named in said order have violated section 5 of the Federal Trade Commission Act, are tantamount to findings that he or they have violated sections 1 or 2 of the Sherman Antitrust Act (13 U.S.C. 1 et seq.)."

The Federal Trade Commission is vitally interested in effective enforcement of both the Federal Trade Commission Act and the Clayton Act. While the Commission issues orders to preclude further violations of the provisions of this Act, it cannot accord pecuniary redress to those injured by such violations. The remedy is found only in the provisions of sections 4 and 5 of the Clayton Act, the prior section pertaining to the damages to be awarded to a person injured by reason of anything forbidden in the antitrust laws, and the latter section to the prima facie evidence of such violations.

As now drawn, section 5(a) provides that such prima facie evidence is restricted to "A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws \* \* \* ."

The Supreme Court in *Minnesota Mining and Mfg. Co. v. New Jersey Wood Finishing Co.*, 381 U.S. 311 (1965) held that proceedings by the Federal Trade Commission tolled the running of the statute of limitations provided by section 4B of the Clayton Act (15 U.S.C. 15b) to the same extent, under section 5 (b) of the Act (15 U.S.C. 16 (b)), as do actions by the Department of Justice. However, on the question of whether section 5 (a) of the Act was or was not applicable to Federal Trade Commission proceedings, the court stated it would "venture no opinion."

Section 5 (a) should be amended, as we have recommended, so as to place a final order to cease and desist of the Federal Trade Commission in cases where the Commission has found a violation of "antitrust laws" in the same category as a final judgment or decree.

The Clayton Act in section 1 thereof (15 U.S.C. 12) defines "antitrust laws." This definition includes the Clayton Act, but does not include the Federal Trade Commission Act.

In the case of *Fashion Originators, Guild of America, Inc. v. Federal Trade Commission*, 312 U.S. 457 (1941), the Supreme Court held (p. 463) that where there is any combination among competitors which "runs counter to the public policy declared in the Sherman and Clayton Acts, the Federal Trade Commission has the power to suppress it as an unfair method of competition."

In defining "antitrust laws" as applied to final orders to cease and desist of the Federal Trade Commission, there is included not only those orders based upon violations of the Clayton Act but also those in which the findings of the Commission are that the respondent or respondents named in the final order to cease and desist are tantamount to findings that he or they have violated sections 1 or 2 of the Sherman Antitrust Act.

3. Amend section 13(a) (1) of the Federal Trade Commission Act (15 U.S.C. 53) to read as follows:

"Sec. 16(a). Whenever (1) the Commission has reason to believe that any person, partnership, or corporation is engaged in, or is about to engage in, acts or practices that violate any law administered by the Commission, and the Commission has issued, or intends to issue, a complaint against such acts or practices, and (2) it would be in the public interest to enjoin such acts or practices until such complaint is dismissed by the Commission or set aside by the court on review or until an order to cease and desist made thereon by the Commission has become final, 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 such acts or practices. 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."

The proposed statute should include safeguards similar to those found in section 13 (b) of the Federal Trade Commission Act.

Under section 13 of the Federal Trade Commission Act the Commission is authorized to seek an injunction in a U.S. district court restraining the dissemination of false advertisements of food, drugs, medical devices and cosmetics. The Commission recommends that its authority under that section should be expanded so as to enable it to obtain a preliminary injunction, when the public interest so requires, in any case involving an alleged violation of any law administered by this agency, where the Commission has issued, or intends to issue, a complaint. For the sake of clarity, the expanded section should follow present sections 14-16 of the Act which deal with the false advertisement of food, drugs, medical devices and cosmetics. Those sections would become sections 13-15 of the Act and the amendment here proposed would be section 16.

The need for the proposed legislation is clear. While the Commission has attempted to expedite its proceedings so that the interim between the issuance of a complaint and final determination by the Commission is minimized, the time lag can be substantial and may materially affect the outcome of Commission proceedings. Delay in merger cases, for example, combined with the inability of the Commission to preserve the status quo may make it more difficult to fashion an effective decree at the conclusion of the controversy. Cf. *Diamond Alkali Co.*, Docket 8572 (October 2, 1967).

In addition, consumers who are the victims of false and misleading advertising or of a false and deceptive sales practice are left wholly unprotected during the period from the date of the issuance of the complaint to the date when any order which may be entered becomes final. This period of time can be as long as 3 years. Members of the public can suffer serious economic loss from deceptive acts and practices during such a long period of time and respondents have every incentive to drag out the litigation for as long a period as possible in order to get the benefit of the practices which they may well know are in fact deceptive and a violation of law.

We are convinced that the interests of any proposed respondent in not being required to stop a practice before it has been finally adjudicated to be illegal are fully protected by requiring the Commission to demonstrate to a court the special circumstances requiring the issuance of a preliminary injunction pending final adjudica-

tion of the issues raised by the complaint. With this safeguard of court action, we are firmly convinced that the public interest in protecting consumers from alleged frauds and deceptions far outweighs the right of a businessman to continue to engage in a practice which both the Commission, and after application for an injunction, the court, have concluded may be in violation of law.

The new section 16 would grant the Commission the authority to seek injunctions in a U.S. district court restraining any alleged violation of any law administered by the Commission in the same manner as the Commission now exercises such power with reference to false advertisement of food, drugs, devices or cosmetics (see *Rhodes Pharmacal Co., Inc. v. Federal Trade Commission*, 191. F. 2d 744 (7th Cir. 1951)).

Another example of the type of situation which demonstrates the need for this type of injunctive power is the Commission's responsibility under section 2(a) of the Clayton Act (15 U.S.C. 13, et seq.), as amended by the Robinson-Patman Act, to prohibit sellers from discriminating by granting a lower price to a large concern than it is giving to this concern's smaller competitors. In the Commission's experience it has happened frequently that by the time the final order to cease and desist is secured, the small competitors may have suffered such injury, because of the illegal discrimination, as to force them out of business. Should the Commission be granted the authority sought by these amendments, it would be able, when it complied with the proper legal requirements, to go into a district court and secure a temporary injunction preventing the manufacturer from granting the discriminatory prices.

4. Amend section 14(a) of the Federal Trade Commission Act (15 U.S.C. 54 (a)) to make the violation of any provision of section 5 a misdemeanor under section 14 when the requirements of that section, which should be revised to deal more specifically with the kinds of business practices discussed below, are met.

The proposed amendment would give the Commission an additional and effective tool to protect consumers, particularly those in the low-income bracket and to eliminate misleading practices, especially those which are generally in the "racket area." The Commission in the past several years has received an increasing number of complaints which have resulted in investigations and trials of what may be termed as the "home improvement racket."

The Commission has found that home improvement operators and salesmen generally prey on the unwary and the least educated and experienced members of the consuming public. They generally are parties having no special place of business and promote their sales by door-to-door contacts. Frequently, they use model home and referral display techniques and engage in bait-switching tactics, and many times secure signatures on contract papers, which unknown to the victim turn out to be negotiable instruments or a first or second mortgage on the victim's home. At the present time, the Commission's Bureau of Deceptive Practices has pending approximately 50 such cases which are in various stages of development, anywhere from an investigation to an actual trial. Unfortunately, this appears to be a practice which appears to be widespread and growing.

Another "racket type" of business is that of the sale of freezers, freezer meats and other food products. In the Washington area the approach in the sale of such products frequently is to represent that the consumer can save money by buying large quantities of meat at wholesale prices or even less and that the freezer can be paid for out of the savings. During the last 2 years the Commission has secured approximately 24 orders to cease and desist against the continuation of such methods of sale, with most of said orders being by consent.

There also appears to be a recent tendency in the sale of meat to unsuspecting and unwary consumers not to emphasize the freezer phase of the sale but merely to state that quality beef is being sold at extremely low prices. Investigations by the Commission have found that these offers are made by persons who have established places of business, and when the anticipating buyer seeks to take advantage of the low advertised prices, he is urged not to buy that meat and is switched to buying meat sold at higher prices.

5. Amend the Federal Cigarette Labeling and Advertising Act (P.L. 89-92) by:

(1) Requiring that, in connection with the sale, offering for sale, or distribution in commerce (as "commerce" is defined in the Federal Trade Commission Act) of cigarettes, it is an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to fail to disclose, clearly and prominently, in all advertising and on every pack, box, carton or other container in which cigarettes

are sold to the consuming public that cigarette smoking is dangerous to health and may cause death from cancer and other diseases.

The Commission in its Report to Congress on June 30, 1967, pursuant to the Federal Cigarette Labeling and Advertising Act sets forth in detail the ineffectiveness of the cigarette labeling as required by the present law.

(2) The Commission endorses S. 1803, 90th Congress, 1st Session, a bill "To strengthen the Federal Cigarette Labeling and Advertising Act" with Chairman Dixon endorsing said bill in the manner set forth in the report of the Commission of September 6, 1967, on said bill to the Chairman, Senate Committee on Commerce, and with Commissioner MacIntyre not concurring in the report for the reasons set forth therein.

6. The Commission endorses the principle enunciated in S. 2268, 90th Congress, 1st session, a bill "To assist in the protection of the consumer by requiring meaningful disclosure of the cost of credit in advertising designed to promote retail installment sales, installment loans, or open-end credit plans." (H.R. 12904, 90th Congress, 1st session a bill "To assist in the promotion of economic stabilization by requiring the disclosure of finance charges in connection with extension of credit," has the same objective as S. 2268.)

These bills provide that the failure of any creditor in any advertisement in interstate commerce or affecting interstate commerce to clearly and prominently disclose the specific credit terms, etc., as well as such other information concerning the granting of credit, as may be prescribed by regulations promulgated by the Federal Trade Commission, would constitute a violation of section 5 of the Federal Trade Commission Act; they also authorize the Federal Trade Commission to make rules and regulations as to the manner and form of disclosing the information required.

The Commission's jurisdiction over false advertising is limited to advertising in the District of Columbia and advertising "in commerce." The proposed legislation would broaden this jurisdictional base to include any advertisement "affecting interstate commerce." A substantial volume of the type of misleading advertising of credit terms covered by this legislation appears in newspapers which, although they may not be in commerce, certainly affect commerce. Consequently, the Commission is endorsing these bills as a desirable and



essential extension of its present jurisdiction which will enable it to proceed against deceptive advertisements of this type on a broader basis and enable it to protect consumers more adequately and equitably.

## APPROPRIATIONS AND FINANCIAL OBLIGATIONS

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### FUNDS AVAILABLE FOR THE COMMISSION FOR THE FISCAL YEAR 1967

Funds available to the Commission for the fiscal year 1967 amounted to \$14,378,000. Public Law 89-555 approved September 6, 1966, provided \$14 million and Public Law 90-21 approved May 29, 1967 provided \$378,000.

#### Obligations by activities, fiscal year 1967

1. Antimonopoly:	
Investigation and litigation . . . . .	\$5,907,000
Economic and financial reports . . . . .	1,007,000
Trade practice conferences, industry guides and small business . . . . .	294,000
2. Deceptive practices:	
Investigation and litigation . . . . .	4,010,000
Trade practice conferences, industry guides, and small business . . . . .	588,000
Textile and fur enforcement . . . . .	1,322,000
3. Executive direction and management . . . . .	337,000
4. Administration . . . . .	840,000
Total . . . . .	<u>\$14,305,000</u>

#### Settlements Made Under Federal Tort Claims Act

During the fiscal year 1967 the Commission paid no claims under this Act and no claims were pending.

## APPENDIX (A)

### FTC Cases in the Courts

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Following is a summary of the principal Federal Trade Commission cases before the courts during fiscal 1967 together with a brief discussion of what is involved in each case or group of cases.

#### RESTRAINT OF TRADE CASES

The most significant antimonopoly decision in fiscal 1967 occurred in Procter & Gamble Co. (D. 6901). In a landmark decision, the Supreme Court reversed the Sixth Circuit and upheld the Commission's finding that the acquisition by Procter, the Nation's leading manufacturer of soaps, detergents and cleansers, of Clorox Chemical Co., the Nation's leading manufacturer of household liquid bleach, violated section 7. In concluding that the merger might substantially lessen competition the Supreme Court considered the following factors to be of great importance: (1) Excessive concentration in the industry involved at the time of the merger, and the dominant market position of the acquired company; (2) the relative disparity in size and strength as between the acquiring company and the remaining firms in the industry; (3) the dominant position of the acquiring company in other markets; (4) the nature of the production and distribution economies and advantages created by the merger; and (5) the elimination of the potential competition of the acquiring firm. In a somewhat similar "product extension" merger case awaiting decision in the Third Circuit, the Commission has held that the acquisition by General Foods Corp. (D. 8600), the Nation's largest producer and distributor of packaged food products, of The S.O.S. Co., a dominant producer and marketer of household steel wool pads, also violated section 7.

In the Dean Foods merger injunction proceeding (D. 8674), the Seventh Circuit issued an order enjoining Dean Foods Co. and Bowfund Corp. (formerly Bowman Dairy Co.) from making any material changes for a period of 4 months with respect to the capital stock or corporate structure of Bowfund, or with respect to the corporate assets purchased by Dean, pending entry of an order of the Commission disposing of its administrative proceeding. Last fiscal year the Supreme Court ruled that a court of appeals has

power under the "all writs" statute to grant such relief, where this step is necessary to preserve the existence of an effective remedy should the merger be held illegal. The case was subsequently disposed of pursuant to consent of the parties. The Beatrice Foods Co. (D. 6653) merger case in the Ninth Circuit was also settled by consent this year. The Commission had found that certain acquisitions by that firm of fluid milk and ice cream companies was unlawful.

Only one case involving the Robinson-Patman Act was decided by the Supreme Court in fiscal 1967. In *Universal-Rundle Corp.* (D. 8070); the Seventh Circuit last year refused to affirm the Commission's section 2(a) order and remanded the case to the Commission with directions to institute an industrywide investigation into the discriminatory discount practices involved. The Supreme Court reversed, holding that the reviewing court exceeded its authority in postponing the operation of the Commission's order, and remanded the case to that court for decision on the merits.

In other Supreme Court activity in Robinson-Patman matters, certiorari was granted on the Commission's behalf in *Fred Meyer, Inc.* (D. 7492) to review the Ninth Circuit's decision overturning the Commission's holding that a supplier who grants promotional allowances to a direct-buying retailer has an obligation to make such payments available on proportionally equal terms to wholesalers whose retail customers compete with the favored purchaser. The Court denied the company's petition for certiorari to review the appellate court's affirmance of the Commission's finding of inducing unlawful discriminations as to other transactions. The Supreme Court also granted certiorari in *Flotill Products, Inc.* (D. 7226). Last fiscal year the Ninth Circuit ruled that the concurrence of at least three members of a five-member agency is required for the entry of a valid order to cease and desist. Since only two members of the three-commissioner quorum which heard the case had joined in the section 2 (c) finding, the court remanded the case to determine whether a majority of the commissioners desired to enter an order relating to that practice. This question is also presented in a pending petition for certiorari filed by *Purolator Products, Inc.* (D. 7850). The Commission has not opposed review of this issue in that case, but, on the Solicitor General's authorization, has filed a brief on its own behalf in opposition to the company's attempt to challenge the Seventh Circuit's affirmance of an order prohibiting various price discriminations in the marketing of automotive replacement filters. The Solicitor General, in turn, has filed an amicus curiae memorandum contending that the Commission erred in its disposition of part of the case, and suggesting that certiorari be granted to resolve these issues. In another Robinson-Patman Act case wherein the Flotill question was raised, the Supreme Court denied a petition for certiorari on the part of *Forster Mfg. Co.* (D. 7207). In previous decisions in fiscal 1965 and 1966, the First Circuit affirmed the Commission's finding that

Forster, the Nation's dominant "woodenware" manufacturer, discriminated in price with the intention and effect of injuring its smaller competitors, and sustained the Commission's finding that those discriminations were not made in "good faith" under section 2 (b)

There were two Robinson-Patman decisions in courts of appeals this year. The Seventh Circuit, in *Lloyd A. Fry Roofing Co.* (D. 7908), held that the Nation's largest manufacturer of asphalt roofing materials sold its products at discriminatory lower prices in the Knoxville, Tenn. area with the predatory intention of injuring its smaller competitors in that market. The Second Circuit in *William H. Rorer, Inc.* (D. 8599), upheld a Commission order prohibiting that company from discriminating in price among purchasers of its pharmaceutical products unless, upon establishing a differential based upon a claimed cost saving, it notifies the Commission promptly and submits supporting data, and publicizes such price to all customers along with pertinent reasons and details. The court, however, limited the application of the order to retail customers only.

Price discrimination cases argued this year in the appellate courts and pending decision at the year's end are: *Borden Co.* (D. 7129) in the Fifth Circuit; *American Motors Corp.* (D. 7357) in the Sixth Circuit; and *Alhambra Motor Parts* (D. 6889) in the Ninth Circuit. Price discrimination cases expected to be argued in the coming year include: *Rabiner & Jontow, Inc.* (D. 8629) in the Second Circuit; *Dean Milk Co.* (D. 8032), *Knoll Associates, Inc.* (D. 8549) and *National Dairy Products Corp.* (D. 7018) in the Seventh Circuit; and *Tri-Valley Packing Ass'n* (D. 7225 and D. 7496) in the Ninth Circuit.

There were two decisions by courts of appeals this year in cases involving general restraints of trade. In *Safeway Stores, Inc. (Bakers of Washington)* (D. 8309), the Ninth Circuit upheld the Commission's finding of unlawful conspiracy to fix the price of bread in the Seattle, Wash. trade area. The court rejected petitioners' contention, inter alia, that the challenged acts and practices were not committed in interstate commerce within the meaning of section 5. In *Emile M. Lapeyre (Grand Caillou)* (D. 7887), the Fifth Circuit affirmed the Commission's finding that petitioners violated section 5 in leasing their patented shrimp processing machinery at higher prices to canners in the Pacific Northwest than to competing Gulf Coast canners. The court held, however, that there was insufficient evidence to establish that petitioners violated section 5 in selling their equipment to canners in foreign countries, while maintaining a leasing policy as regards domestic canners.

Two important restraint of trade matters have been argued and await decision in appellate courts: *Luria Brothers Co.* (D. 6156) in the Third Circuit, a highly complex case involving illegal restrictive agreements and arrangements by several scrap iron and steel companies; and *Texaco, Inc.*-

B. F. Goodrich Co., the last remaining undecided TBA case (D. 6485), in the District of Columbia Circuit on remand from the Supreme Court. Another important restraint of trade matter is pending in the Eighth Circuit: Community Blood Bank of the Kansas City Area, Inc. (D. 8519), involving a conspiracy to boycott the services of a commercial blood bank in that area.

#### DECEPTIVE PRACTICE CASES

There were no deceptive practice decisions by the Supreme Court this year. In courts of appeals activity, the Commission successfully sought a temporary injunction pendente lite enjoining the use by American Home Products Corp. (D. 8641) of certain representations regarding the efficacy of its hemorrhoid preparation, which the Commission has found to be false and deceptive. The Seventh Circuit upheld a Commission order requiring Montgomery Ward & Co. (D. 8617) to cease representing that its merchandise was guaranteed unless, inter alia, it clearly and conspicuously disclosed the nature and extent of the guarantees. In another deceptive practice matter, the Second Circuit upheld a Commission order prohibiting one Frank Sibert (D. 8628), from falsely representing the water filtration units sold by his company.

Two important "drug" cases were pending at the close of the year: J. B. Williams Co. (D. 8547) and Merck & Co. (D. 8635), involving claims concerning the effectiveness of "Geritol" tonic and "Sucrets" throat lozenges, respectively.

#### SUITS FOR ENFORCEMENT OF COMMISSION ORDERS OR SUBPOENAS

The Supreme Court, in *Jantzen, Inc.* (D. 7247), reversed the Ninth Circuit's ruling that Congress, in enacting the "finality" amendment to the Clayton Act in 1959, repealed the old procedures of section 11 for affirming and enforcing previously issued orders. It remanded the case to the court of appeals for action upon the Commission's application to affirm and enforce its section 2(d) order. In *Standard Motor Products, Inc.* (D. 5721), the Second Circuit, although holding it had jurisdiction to enforce pre-1959 Clayton Act orders, nevertheless denied the Commission's application. The court held that in rejecting Standard's attempted cost justification of its volume rebate pricing system, the Commission failed to suggest a practicable alternative means of classifying purchasers, and failed to articulate criteria reconciling the objectives of the cost justification proviso with those of the Robinson-Patman Act as a whole.

In a subpoena enforcement proceeding involving Paul C. Guignon and John H. Pahlman, officials of Anheuser-Busch, Inc. (File 611 0155), the U.S. District Court for the Eastern District of Missouri ruled that the Commission has no standing under section 9 of the Federal Trade Commission Act to

seek enforcement of subpoenas without the aid or consent of the Attorney General. The Commission has appealed to the Eighth Circuit. In ruling on the same question in *Continental Can Co.* (D. 8687), the U.S. District Court for the Southern District of New York ruled that the Commission did have such authority and directed compliance with the Commission's subpoena in that case. The court ordered, however, that the confidentiality of certain sensitive data produced in accordance therewith be protected.

In *Associated Merchandising Corp.* (D. 8651 ), the U.S. District Court for the Southern District of New York granted the Commission's application for enforcement of a hearing examiner's order for the production of documentary evidence in an adjudicatory proceeding as to certain specified items, but not as to others.

#### COLLATERAL SUITS AGAINST THE COMMISSION FOR INJUNCTIVE AND OTHER RELIEF

In *Frito-Lay, Inc.* (D. 8606), the Fifth Circuit, applying the doctrine of exhaustion of administrative remedies, affirmed the dismissal by the U.S. District Court for the Eastern District of Texas of a complaint for declaratory judgment and injunction. The company had challenged certain interlocutory rulings of the Commission and the hearing examiner in a section 7 case. In *Seeburg Corp.* (D. 8682), the U.S. District Court for the Eastern District of Tennessee dismissed a complaint for declaratory and injunctive relief for failure to state a claim. Seeburg contended, in connection with the Commission's rejection of a proposed consent settlement prior to the initiation of formal proceedings in a merger case, that the Commission wrongfully refused to divulge the basis for its approval in another case of an allegedly similar acquisition of a competitor. Seeburg further complained that it was unlawfully deprived of the right to confront agency counsel, to be furnished with copies of staff memoranda, and to make oral presentation before the Commission at the pre-complaint stage. The case is currently on appeal to the Sixth Circuit. The U.S. District Court for the District of Columbia dismissed a complaint for declaratory judgment and injunctive relief filed by *P. F. Collier, Inc.* and *Crowell Collier & Macmillan, Inc.* (D. 7751) to enjoin further prosecution of the Commission's complaint. Plaintiffs contended that the Commission improperly remanded the case to the hearing examiner, that the administrative proceedings were unduly protracted, and that irreparable injury would result from the adverse publicity associated therewith. In addition, the U.S. District Court for the District of Columbia granted a preliminary injunction in an action brought by *Cinderella Career & Finishing School, Inc.* (D. 8729), restraining the Commission from issuing further press releases in connection with its administrative proceeding against that company. The Commission has filed a notice of appeal from that ruling as well as from the court's denial of its motion to dismiss. A complaint for declaratory judgment and injunctive relief was filed by *Stewart Concrete &*

Material Co. and Richter Concrete Corp. in the U.S. District Court for the Southern District of Ohio, alleging that certain of the companies whose acquisitions were challenged by the Commission in its Mississippi River Fuel Corp. proceeding (D. 8657) were wholly intrastate in operation, and therefore outside the scope of section 7. Plaintiffs' motion for preliminary injunction was denied. In the U.S. District Court for the Eastern District of Virginia, a complaint for declaratory judgment and injunction was filed by Lehigh Portland Cement Co. (D. 8680), alleging that the Commission's section 7 proceeding against it was prejudiced by press releases and by the Commission's industrywide investigation concerning vertical integration in the cement and ready-mixed concrete industries. The Commission's motion to dismiss or in the alternative for summary judgment was pending at the close of the year.



## APPENDIX (B)

### Textile and Fur Court Cases

In May, 1967, the Commission proceeded against Continental Scarf & Novelty Co., a New York corporation, and petitioned the U.S. District Court for the Southern District of New York for a temporary restraining order and injunction to prevent the sale and shipment of dangerously flammable ladies' scarves under the Flammable Fabrics Act, No. 67 Civ. 1805. The restraining order was issued and pursuant to a consent agreement for the issuance of a temporary injunction such injunction was entered on May 16, 1967.

Also, in May 1967, the Commission proceeded against Pat & Bobbie's, Inc. and Patricia A. Farrell, individually and as an officer of the aforesaid corporation and petitioned the U.S. District Court for the Western District of Washington for a temporary restraining order and an injunction to prevent the sale and shipment of dangerously flammable fabrics i.e., wood fiber chips used in the manufacture of floral leis, under the Flammable Fabrics Act, Civil Action No. 7212. The temporary restraining order was issued on May 22, 1967, and after argument by Mrs. Marilyn Hale and Mr. Edward B. Finch, counsels representing the Federal Trade Commission, on May 29, 1967, a temporary injunction was issued by the court on May 31, 1967.

APPENDIX (C)  
 Bureau of Textiles and Furs  
 Civil Penalty and Criminal Cases

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During fiscal 1967 judgments totaling \$31,500 were entered in three civil penalty cases, with injunctions obtained in three instances.

Penalty Cases Statistics

Pending July 1, 1966 .....	4	
Filed during year .....	4	_____
Total for disposition .....	8	
Disposed of during year .....	3	
		_____
Pending June 30, 1966 .....		5

Criminal Cases Statistics

Pending July 1, 1966 .....	1	
Filed during year .....	0	_____
Total for disposition .....	1	
Disposed of during year .....	0	
		_____
Pending June 30, 1967 .....		1

Civil Penalty Cases Concluded

Regal Accessories, Inc. (E.D.N.Y.). Importation and sale of dangerously flammable wearing apparel, head scarves. Judgment for \$12,000 and injunction.

Stern & Stern Textiles, Inc. ( S.D.N.Y.). Importation and sale of dangerously flammable fabrics. Judgment for \$10,000 and injunction.

Waterville Woolen Mills, Inc. (D. Maine, So. Div.). Misbranding and false invoicing of wool products, fabrics. Judgment for \$9,500 and injunction.

Civil Penalty Cases Pending

Woody Fashions, Inc. ( S.D.N.Y.). Misbranding wool products, coats.

Asheville Textiles Corp. ( S.D.N.Y.). Misbranding and false invoicing of wool products, imported fabrics.

Stone & Stone, Inc. (S.D.N.Y.). Misbranding and false invoicing of fur products.

Elliot Knitwear, Inc. (S.D.N.Y.). Importation and sale of misbranded wool products, sweaters.

Marks Furs, Inc. (E.D. Mich.). Making pricing claims as to fur products without maintaining records showing the basis for such claims.

#### Criminal Cases Pending

Stone & Stone, Inc. (S.D.N.Y.). Misbranding and false invoicing of fur products.

## 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 and Output.—See *Cigarette Advertising and Output*.

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, o.p.), 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 pur-

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<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.

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

Agricultural Income (Congress).—Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 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., o.p. 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p., o.p.); Part II, Fruits, Vegetables, and Grapes, 906 p., 6/10/37, o.p.; Part III, Supplementary Report, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 p., o.p.) .]

Agricultural Prices.—See Price Deflation.

Antibiotics Manufacture (F.T.C.).—Because of the rising importance and the cost of antibiotic drugs, and the lack of published information on their production, a Commission resolution of July 13, 1956, authorized the study which appeared as Economic Report on Antibiotics Manufacture (361 p., 6/27/58). This volume covered the origin and history of the industry, the companies manufacturing antibiotics, production processes, marketing, prices, costs, profits, patents and trademarks, and public health aspects.

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

Automotive Tires.—See Tires, Manufacture and Distribution of.

Bakeries and Bread.—See under Food.

Beet Sugar.—See under Food— Sugar.

Bread Prices.—See Milk and Bread Prices.

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., o.p., 3/3/23).

Canned Fruit, Juice and Vegetable Industry.—See Food Marketing, Part III.

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 (F.T.C.).—In its Economic Report on Mergers and Vertical Integration in the Cement Industry, the Commission reviews recent developments in the cement and ready mixed concrete industries in the United States with particular reference to the merger movement which has brought about a large degree of vertical integration between two industries. The report develops data on trends in the structure and performance of

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<sup>4</sup> Conditions With Respect to the Sale and Distribution of Milk and Dairy Products (H. Doc. 94, 75th, 1/4/37), p.38; Report of the F.T.C. on Agricultural Income Inquiry, Part 1 (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.

cement manufacturing and processing industries. It examines the possible competitive consequences of market extension and vertical mergers. (123 p., April 1966.)

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).

Cents-Off.--See Coffee Industry.

Chain Stores (Senate).—Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/5/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities. (For subtitles of 33 reports published under the general title, Chain Stores, 1931-33, see F.T.C. Annual Report, 1941, p. 201.)

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

Cigarette Advertising and Output (F.T.C.).—This report was prepared in conjunction with the Commission's Rule Making proceedings regarding cigarette advertising. It reviewed the content of cigarette advertising together with related data on advertising expenditures and output. Particular emphasis was given to advertising patterns and practices from 1950 through 1964. Data from public sources were used. (Report on Cigarette Advertising and Output, 56 p., January 1964.)

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 the coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were: Anthracite Coal Prices, preliminary (S. Doc. 19, 65th, 4 p., o.p., 5/4/17); Preliminary Report by the F.T.C. on the Production and Distribution of Bituminous Coal (H. Doc. 152, 65th, 8 p., o.p., 5/19/17); Anthracite and Bituminous Coal Situation, summary (H. Doc. 193, 65th, 29p., 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;

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

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

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 (97p., 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 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.)

Coffee Industry (F.T.C.).—The coffee industry is characterized by widespread advertising and promotional activity. In 1963, coffee ranked as the third most heavily advertised food product, exceeded only by cereals and soft drinks. Coffee advertising expenditures have risen sharply in recent years, increasing 26 percent from 1958 to 1963.

Trade publications indicate that cents-off promotions were first used widely in the coffee industry about 1958 or 1959 by large nationwide sellers as a means of achieving a larger share of those local markets which were dominated by local firms.

In order to gain information concerning "cents-off" promotion practices during 1964 and 1965, the Commission staff conducted a limited survey of a group of the large- and medium-size coffee companies. (Cents-Off Promotions in the Coffee Industry, 65 p., April 26, 1966.)

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, 202 p., o.p., 11/29/24), recommending further development of cooperation in the United States.

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

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

**Copper Industry (F.T.C.).**—The Commission's report on *The Copper Industry*, transmitted to Congress (3/11/47), was in two parts: Part I—*The Copper Industry of the United States and International Copper Cartels*, and Part II—*Concentration and Control by the Three Dominant Companies*, o.p. 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 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., o.p. 3/5/28).

Cottonseed Industry (Senate).—Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29—71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at a fixed price under boycott threat; and whether such corporations acquired control of cotton gins to destroy competitive markets and depress or control prices paid to seed producers (Investigation of the Cottonseed Industry, preliminary report, S. Doc. 91, 71st, 4 p., o.p., 2/28/30, and final report, 207 p., o.p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

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

Distribution.—See Millinery Distribution.

Distribution of Steel Consumption.—A study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers (1949-50). 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., o.p.); Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p.); Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area (6/30/45, 59 p.); Part VIII, Cost of Production and Distribution of Fish in New England (6/30/45, 118 p.); and Part IX, Cost of Production and Distribution of Fish on the Pacific Coast (7/25/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

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

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

Electric and Gas Utilities, and Electric Power.—See Power.

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

Farm Implements (F.T.C.).—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 Costs.

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

Flour Milling.—See Food, below.

Food (President), Wartime, 1917–18.—President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs" and "to ascertain the facts bearing on alleged violations of the antitrust acts." Two major series of reports related to meat packing and the grain trade with separate

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<sup>8</sup>The Commission was created Sept. 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."

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 District of Columbia, 2/27/20),<sup>9</sup> which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Congress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, P. 150.)

Food (President) Continued—Grain Trade.—Covering the industry from country elevator to central market, the Report of the F.T.C. on the Grain Trade was published in seven parts: I. Country Grain Marketing (9/15/20, 350 p., o.p.); II. Terminal Grain Markets and Exchanges (9/15/20, 333 p., o.p.); III. Terminal Grain Marketing (12/21/21, 332 p., o.p.); IV. Middlemen's Profits and Margins (9/26/23, 215 p., o.p.); V. Future Trading Operations in Grain (9/15/20 347 p., o.p.); VI. Prices of Grain and Grain Futures (9/10/24, 374 p., o.p.); and VII. Effects of Future Trading (6/25/26, 419 p., o.p.). The investigation as reported in vol. V, and testimony by members of the Commission's staff (U.S. Congress House Committee on Agriculture, Future Trading, hearings, 67th, April 25–May 2, 1921) was an important factor in enactment of the Grain Futures Act (1921). (Further reference to the grain trade is made under Grain Elevators, Grain Exporters, and Grain Wheat Prices, p. 149.)

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

Food (President) Continued—Canned Foods,<sup>10</sup> Private Car Lines, Wholesale Food Marketing.—Under the general title Food Investigation were published Report of the F.T.C. on Canned Foods—General Report and Canned Vegetables and Fruits (5/18/18, 83 p., o.p.); Report of the F.T.C. on Canned Foods—Canned Salmon (12/27/18, 83 p., o.p.); Report of the F.T.C. on Private Car Lines, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p., o.p.); and Report of the F.T.C. on Wholesale Marketing of Food (6/30/19, 268 p., o.p.), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

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

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

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., o.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 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 breadbaking 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, 36 p.).

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—Marketing (F.T.C.).—On October 9, 1958, the Commission launched a study of significant economic trends in food marketing. In the first phase of this investigation facts were developed concerning the growth of corporate chains and voluntary and cooperative wholesalers. On June 30, 1959, the Commission published a statistical report entitled Economic Inquiry into Food Marketing—Interim Report (6 p., 22 tables, o.p.). This was followed by publication of Economic Inquiry into Food Marketing, Part I, Concentration and Integration in Retailing (January 1960, 338 p.).

Food—Marketing (F.T.C.).—The second phase of the F.T.C. study of the food industry was begun on August 25, 1960. Through surveys and other data the Bureau of Economics undertook to identify and analyze major structural and behavioral aspects of the group of firms producing and marketing frozen fruit, juices and vegetables. Included in the study are chapters reviewing: production and consumption patterns; concentration, diversification and integration; marketing patterns; production, promotion and profits; and patterns of merger activity. (Economic Inquiry into Food Marketing, Part II, The Frozen Fruit, Juice and Vegetable Industry, 145 p., December 1962.)

Food—Marketing (F.T.C.).—This is the third in a series of staff reports concerning various segments of the food industry undertaken pursuant to a Federal Trade Commission resolution adopted October 9, 1958. Part III represents an extensive inquiry into the industrial organization of the canned fruit, juices, and vegetable industry. Various aspects of market structure including patterns of concentration, integration and diversification are examined in detail. Data on marketing patterns, costs, product promotion and profits are also presented. The impact of merger activity on industry structure and performance is considered along with a discussion of competitive trends. (Economic Inquiry into Food Marketing, Part III, The Canned Fruit, Juice and Vegetable Industry, 207 p., June 1965.)

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 procedures, 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 en-

acted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food—Milk Prices.—See Milk and Bread Prices.

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., 5/24/27).

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).

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.

Frozen Fruit, Juice and Vegetable Industry.—See Food Marketing, Part II.

Gasoline (F.T.C.).—This is a statement of the guidelines and enforcement policy designed to prevent anticompetitive practices in the marketing of gasoline. (The Federal Trade Commission's Report on Anticompetitive Practices in the Marketing of Gasoline, 67 p. plus separate opinions, 6/30/67.)

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<sup>11</sup> See footnote 8.

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.

Industrial Concentration and Product Diversification in the 1,000 Largest Manufacturing Companies: 1950 (F.T.C.).—This purely statistical report published in January 1957 has 127 pages of text which state the findings in 52 text tables and 22 charts covering all manufacturing, food, electrical apparatus, and transportation equipment, and 529 pages of appendix tables covering these and other manufacturing industries. The 4 leading shippers of each product are identified, but shipments by individual companies are not disclosed.

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, o.p., the Commission discussed the nature, extent, and effect of international agreements concerning baking soda, soda ash, and caustic soda to which organized groups of American and European alkali producers were parties from 1924 until 1946.

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

International Petroleum Cartel.—A staff study of the activities of the seven major oil companies in relation to control over the international oil industry. Staff Report to the Federal Trade Commission submitted to the Subcommittee on Monopoly of the Select Committee on Small Business, U.S. Senate Committee print No. 6, 82d Cong.—2d sess. 378 p., 1952.

International Phosphate Cartels (F.T.C.).—The F.T.C. Report on International Phosphate Cartels (F.T.C. Res. 9/19/44) developed facts with respect to the practices, arrangements and agreements between domestic phosphate companies and foreign competitors through international cartels, through which minimum export prices were fixed. These prices varied from market to market, depending upon competition, ocean freight rates, and other factors. The agreements established fixed quotas in each grade, and sales were allocated among members of the Phosphate Export Association according to their quotas and the grade involved. The report (processed, 60 p.) was transmitted to Congress 5/1/46.

International Steel Cartels (F.T.C.).—A report to Congress concerning numerous cartel agreements relating to steel which were adopted between World War I and World War II. Certain American companies participated in these agreements, which were both national and international in scope. The international agreements allotted quotas to the different national groups, fixed prices in the export trade, and established reserved and unreserved areas. (International Steel Cartels (1948), 115 p., o.p.)

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.)



Merger Summary (F.T.C.).—The Commission maintains an annual series on firm disappearances via merger for manufacturing and mining, which covers merger trends back to 1940. Data for the last 5 years indicate a sharply rising trend in the frequency with which large firms are acquired. In 1966, as in preceding years, most acquisitions were made by manufacturing companies. The number of "large" mergers of mining and manufacturing concerns with assets of \$10 million or more reached a record high of 98 in 1966. Firms with assets of \$100 million or more accounted for 28 percent of all the acquired manufacturing and mining concerns in 1966.

Mergers and Vertical Integration.—See Cement.

Milk.—See Food.

Milk and Bread Prices (Secretary of Agriculture).—This is a preliminary report prepared in response to a request by the Secretary of Agriculture to review the pricing policies and actions for bread and milk including the price changes that occurred during the period July-September 1966. This is the first or preliminary step of a two-phase investigation of bread and milk prices and is based on a limited amount of information, but does provide insights into how widespread the price increases were for bread and fluid milk in various parts of the country. (Economic Report on Bread and Milk Prices 86 p. plus appendices, October 1966; also published as a Committee print by Committee on Government Operations, 82d Cong., 2d Sess., 56 p., 11/4/66).

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, o.p.).

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 Selected Committee on Small Business, U.S. Senate, 82d Cong. (88 p. 3/31/52).

Motor Vehicles (Congress).—Investigation (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 (Cong. Rec., 2/28/25, p. 4941)—pursuant to request of President Coolidge, 2/7/24; Petroleum Industry—Prices, Profits and Competition (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.

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<sup>12</sup> See footnote 8.

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

motion, in which report legislation to remedy existing conditions was recommended; and Report of the F.T.C. on Panhandle Crude Petroleum (Texas) (19 p., o.p., 2/3/28) pursuant to F.T.C. motion, 10/6/26 (in response to requests of producers of crude petroleum).

Potomac Electric Power Co. (Procurement Director, United States Treasury).—A study (2/29/44) of the financial history and operations of this corporation for the years 1896-1943 was made at the request of the Director of Procurement, United States Treasury, and the report thereon was introduced into the record in the corporation's electric rate case before the District of Columbia Public Utilities Commission.

Power—Electric (Senate).—This inquiry (S. Res. 329, 68th, 2/9/25) resulted in two reports, the first of which, Electric Power Industry—Control of Power Companies (S. Doc. 213, 69th, 272 p., o.p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in superimposing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power—Utility Corps., below. Supply of Electrical Equipment and Competitive Conditions (S. Doc. 46, 70th, 282 p., o.p., 1/12/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

Power—Interstate Transmission (Senate).—Investigation (S. Res. 151, 71st, 11/8/29) was made of the quantity of electric energy transmitted across State lines and used for development of power or light, or both (Interstate Movement of Electric Energy, S. Doc. 238, 71st, 134 p., o.p., 12/20/30).

Power—Utility Corporations (Electric and Gas Utilities) (Senate).—This extensive inquiry (S. Res. 83, 70th, 2/15/28; Public Res. 46, 73d, 6/1/34; and F.T.C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commission's reports and recommendations, focusing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial 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

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<sup>14</sup> Final reports were published in 1935; a general index in 1937. Some of the volumes are out of print. For report titles, see F.T.C. Annual Report, 1941, p. 221; and for lists of companies investigated, see F.T.C. Annual Reports, 1935 p. 21, and 1936 p. 36.

<sup>15</sup> Basing-point systems are also discussed in the published reports listed under "Cement," "Steel Code," and "Steel Sheet Piling" herein.

unhealthy uniformity of delivered prices and cross-hauling or cross-freighting to be an economic evil (Report of the F.T.C. on Price Bases Inquiry, Basing-Point Formula, and Cement Prices, 218 p., o.p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N.R.A. code (Study of Zone-Price Formula in Range Boiler Industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

Price Deflation (President).—To an inquiry (3/21/21) of President Harding, the Commission made prompt reply (undated) presenting its views of the causes of a disproportional decline of agricultural prices compared with consumers' prices (Letter of the F.T.C. to the President of the U.S., 8 p., o.p.).

Prices.—See Milk and Bread Prices.

Profit Rates (F.T.C.).—A special report was published in 1963 showing profits per dollar sales and rates of profit on equity for 63 industry and size groups of manufacturing corporations in each calendar quarter 1947-62. (Report on Profit Rates of Manufacturing Corporations 1947-1962, 70 p., 1963.)

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 Report for Manufacturing Corporations.—Since 1947, the Federal Trade Commission has summarized for each calendar quarter uniform, confidential financial statements collected from a probability sample of all enterprises classified as manufacturers, except newspapers, which are required to file U.S. Corporation Income Tax Form 1120. The quarterly summaries, entitled Quarterly Financial Report for Manufacturing Corporations, are published by the Government Printing Office and sold by the Superintendent of Documents. In the published summaries, profits per dollar of sales and rates of profit on stockholders' equity are shown each quarter for each of 60 industry and size groups of manufacturing corporations. Also shown each quarter are 45 income statement and balance sheet items, and as many financial and operating ratios, for each of 45 industry and size groups of corporate manufacturers. (Similar reports for retail trade and wholesale trade corporations were published for the year 1950 and for each quarter of 1951 and 1952.)

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 for Identical Companies in Selected Manufacturing Industries (F.T.C.).—This report is a continuation of a series of reports, begun in 1948, comparing rates of return for identical companies in 25 selected manufacturing industries. The 1961 report compares 1940 with 1947 through 1961. Previous yearly reports compared rates of return in 1940 with rates of return in each of the years 1947-60 on an accumulative basis.

Beginning with the 1962 report the comparison with 1940 as a base year was eliminated and the comparison limited to a 10-year period. For example, the 1964 report

includes rates of return data for each of 23 selected industries for the period, 1955-64. This series is now reported as Part A of the report.

The Commission expanded coverage of the report in 1955 in order to provide data for more specific industries and, in 1957, published for the first time as Part B of the report comparative rates of return for the 12 largest companies in 39 selected industries for the years 1954 and 1955. Where possible, comparisons are presented for the 4 largest, the second 4, and the third 4 largest companies in each of the 39 industries. Part B of the report continues this series by comparing rates of return in the current year with that of the previous year. (Processed publications are available without charge from F.T.C. while the supply lasts. Copies prior to 1963 are o.p.)

Resale Price Maintenance (F.T.C.).—The Question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led to the first inquiry, resulting in a report, Resale Price Maintenance (H. Doc. 1480; 65th, 3 p., o.p., 12/2/18). Other reports were: A Report on Resale Price Maintenance (H. Doc. 145, 66th, 3 p., o.p., 6/30/19) and Resale Price Maintenance (F.T.C. motion, 7/25/27; reports, Part 1, H. Doc. 546, 70th, 141 p., o.p., 1/30/29, and Part II, 215 p., o.p., 6/22/31). The Report of the F.T.C. on Resale Price Maintenance, o.p., (F.T.C. Res., 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities in both the price-maintained and non-price-maintained categories.

Rubber Tires.—See Tires.

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, o.p.) 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 basin-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., 6522 and 9/7/22).

Steel Costs and Profits.—See Wartime Cost Findings, 1917–18.

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

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

Steel Sheet Piling—Collusive Bidding (President).—Steel sheet piling prices on certain Government contracts in New York, North Carolina, and Florida were investigated (inquiry referred to F.T.C. 11/20/35). The F.T.C. Report to the President on Steel Sheet Piling (42 p., processed, 6/10/36 o.p.) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system<sup>18</sup> and provisions of the steel industry's code.

Stock Dividends (Senate).—The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same information for an equal period prior to the decision was also requested. The Commission submitted a list of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (Stock Dividends, S. Doc. 26, 70th, 273 p., o.p., 12/5/27).

Sugar.—See Food.

Sulphur Industry (F.T.C.).—In its report to Congress on The Sulphur Industry and International Cartels (6/16/47), 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).

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<sup>18</sup> See footnote 15.

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.

Tires (F.T.C.).—This report analyzes structural and behavioral aspects of the automotive tire industry, with emphasis on recent mergers and acquisitions. Since 1961, a series of acquisitions of retail and wholesale tire distributors by leading tire manufacturers has taken place. In addition, three medium-sized tire producers have themselves been acquired in recent years by their larger competitors. The report examines these mergers and their possible effects on future competition in the industry. It also reviews trends in overall concentration and patterns of distribution, pricing and profit behavior, and conditions of entry. (Economic Report on the Manufacture and Distribution of Automotive Tires, 117 p., March 1966.)

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

Wartime Inquiries, 1917-18, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flax, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper—Book, Paper—Newsprint, Profiteering, and Textiles—Woolen Rag Trade, 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 United States covering their operations for May 1942 and their compliance with W.P.B. Supplementary Orders m-l-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.

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<sup>19</sup> See footnote 10.

<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.



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 manufacturer 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 inquiries 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.

Food—Retailing (National Commission on Food Marketing).—The report is based on information contained in the Commission's files, in public sources, and in special tabulations prepared by the Bureau of the Census.

Chapters II, III, IV, and V deal primarily with various aspects of industry structure: concentration, vertical integration and conglomeration. These chapters also provide information on various factors affecting the condition of new entry in retailing. Chapters VI, VII, VIII, and IX deal with various aspects of market conduct; competitive tactics of conglomerate firms, merger activity, discriminatory pricing, and the use of trading stamps in food retailing. Chapter X deals with industrial performance as measured by economic efficiency, marketing costs and margins, and profits. Chapter XI discusses the future structure of food retailing, particularly as influenced by factors affecting the survival of existing firms and the ease with which new retailers may enter food retailing. (Report on Food Retailing: Market Structure and Competitive Behavior, 516 p., 1966; for the National Commission on Food Marketing.)

Frozen Concentrated Orange Juice Processing (Special Assistant to President on Consumer Affairs).—This report evaluates the post-freeze industry pricing in light of the structure setting and performance history of the industry as well as against an analysis of the demand and supply conditions faced by the industry. It is divided into four parts: (1) The origin, development and organization of the Florida citrus industry; (2) the competitive structure of the frozen concentrated orange juice processing industry; (3) the price and profit behavior of the processing industry; and (4) the pattern of retail margins. (The Competitive Structure and Behavior of the Frozen Concentrated Orange Juice Processing Industry with Special Reference to Price Increases Following Major Freezes in 1957 and 1962, 67 p., August 1964, prepared at request of Esther Peterson, Special Assistant to President on Consumer Affairs.)

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; Glycerine, 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 United States.

War Materials Contracts (House), Wartime, 1941–42.—At the request of the House Committee on Naval Affairs, the Commission assigned economic and legal examiners to assist in the Committee's inquiry into progress of the national defense program. (H. Res. 162, 77th, 4/2/41). The Commission's examiners were active in field investigations covering aircraft manufacturers' cost records and operation, naval air station construction, materials purchased for use on Government contracts, and industry expansion financing programs.

Wartime Inquiries, 1941–45.—To aid in the 1941–45 war program, F.T.C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal, accounting, statistical and other services in conducting investigations. It made cost, price, and profit studies; compiled industrial corporation financial data; investigated compliance by basic industries with W.P.B. priority orders; and studied methods and costs of distributing important commodities. The 1941–45 wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; Cigarette Shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food—Biscuits and Crackers; Food—Bread Baking; Food—Fish; Food—Flour Milling; Household Furniture; Industrial Financial Reports; Metal-Working Machines; Paperboard; Priorities; Steel Costs and Profits; and War Material Contracts.

The following is a published investigation by the Commission for the use of other Government agencies:

Food—Manufacturing (National Commission on Food Marketing).—Examines trends in key structural and behavioral variables affecting the competitive performance of major food manufacturing industries. Included for analysis are: patterns of concentration, integration, diversification and product differentiation, as well as profit behavior, conditions of entry, merger trends and antitrust enforcement. This report was published by the National Commission on Food Marketing as Technical Study No. 8, June 1966. (The Structure of Food Manufacturing, 350 p.)