

Annual
Report
of the

FEDERAL
TRADE
COMMISSION

For the Fiscal Year Ended

June 30, 1973

FEDERAL TRADE COMMISSION

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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 the fifty-ninth Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended June 30, 1973. The Commission regrets the delay which has occurred in transmission of this report.

By direction of the Commission.

PAUL RAND DIXON
Acting Chairman.

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

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TABLE OF CONTENTS

Chapter	Page
I. The Year In Summary	1
II. Consumer Protection	3
III. Competition	13
IV. Economics	17
V. Regional Operations	25
VI. Administrative Law Judge	29
VII. General Counsel	31
VIII. Policy Planning and Evaluation	43
IX. Funds Available to the Commission During Fiscal Year 1973	47
Appendices	
IV-1 Large Manufacturing and Mining Firms Acquired 1948-1972	22
IV-2 Composition of the QFR Sample, by Total Assets, 1st Quarter 1973	23
IV-3 Profit Rates of All Manufacturing Corporations, 1961-1973	24
VII-1 FTC Cases in the Courts	34

THE YEAR IN SUMMARY

During fiscal year 1973, the Federal Trade Commission instituted an examination of all policies and procedures to determine whether the Commission's manpower and budgetary resources were being efficiently allocated.

As a result of this examination, staff energies were directed toward the careful selection of problems and cases where corrective or preventive action would have the greatest impact.

The Commission's ability to act effectively on behalf of the public also was strengthened in other respects during fiscal 1973. The agency's rulemaking authority, under a cloud because of an adverse court decision the previous year, was affirmed by a court of appeals decision. To make more effective use of this authority, a realignment of responsibility in the Bureau of Consumer Protection was directed at the end of the year to permit attorneys throughout the Bureau to participate in proposed and developing rules. The realignment is also expected to improve handling of the special statutes administered by the Federal Trade Commission and to allow for greater emphasis on emerging areas of consumer protection.

During 1973, the Commission promulgated two new trade regulation rules: Cooling Off Period for Door-to-Door Sales and Negative Option Plans for Book and Record Clubs. The rule relating to Care Labeling of Textile Wearing Apparel became effective in July, and work continued on several other rules already proposed or under study.

Fiscal 1973 also marked the Commission's first major involvement with problems arising from creditor's remedies. A comprehensive program for attacking retail fraud was developed.

As part of its re-evaluation, the Commission staff prepared an in-depth report on the advertising substantiation program, evaluating its impact on advertisers and recommending changes. The staff also developed guidelines for practical application of the "unfairness" doctrine.

The Commission continued to encourage and cooperate with state and local agencies wishing to adopt "little FTC acts" for consumer protection. With assistance from Commission headquarters and regional offices, 44 states now have passed laws to prevent deceptive and unfair trade practices.

The Commission also continued its efforts to expand and to make more effective the participation of regional offices in Commission law enforcement activities.

The Federal Trade Commission also undertook its first significant attempt to apply cost/benefit analysis to decisionmaking in the antitrust area. Because the task has been hampered by lack of good data, the Commission has begun a major data-gathering program, the most important aspect of which will be the collection of profit information for individual lines of business. Such information will permit, for the first time, profitability comparisons between meaningful economic markets and between firms within those markets.

Through investigations of market concentration, the staff continued efforts to identify for the Commission those industries where the exercise of its antitrust authority might enhance the vitality of competition.

CONSUMER PROTECTION

The Commission's consumer-oriented activities are entrusted to its Bureau of Consumer Protection. The Federal Trade Commission Act is the principal source of authority for the Bureau's work. Additional authority is conferred by specialized statutes governing specific areas such as consumer credit and fair packaging and labeling of consumer goods.

Each of the Bureau's divisions specializes in a particular aspect of the total consumer protection effort. Each Division, however, closely coordinates its work with the work of the others.

General Litigation

The General Litigation Division is charged with major responsibility for contesting unfair or deceptive acts or practices in areas other than national advertising.

Deceptive Advertising and promotion of hazardous products were of special concern to the Division during fiscal year 1973. Complaints were issued against three major sellers of pesticides who allegedly used deceptive safety advertising to promote sales.

The practices of retail food stores were investigated and a complaint was issued charging mispricing of advertised food products.

Deceptive advertising for automobiles and automobile tires was also investigated during the year, and the Commission issued an order requiring a major tire manufacturer to substantiate safety and performance claims with scientific tests (Firestone Tire &

Rubber Co. v. FTC, 481 F. 2d 246 (6th Cir. 1973) cert. denied, 414 U.S. 1112 (1973)). Also, the Commission issued a complaint against a major manufacturer charging that its failure to show reasonable basis for performance and durability claims constituted deception and unfairness. Finally, orders requiring a reasonable basis for economy claims were secured against an importer of automobiles and its advertising agency.

Four consent orders were obtained from firms engaged in utilizing deceptive techniques to sell magazine subscriptions. Other major investigations during fiscal year 1973 resulted in action against private vocational schools and income tax preparation services.

National Advertising

This Division is responsible for the enforcement of the Federal Trade Commission Act in the area of advertising. During fiscal year 1973, the Division addressed misleading and deceptive advertising using such recently adopted tools as requirements for advertising substantiation and corrective advertising.

The Commission issued eleven consent cease and desist orders, two of which, Sugar Information, Inc. and Amstar Corp. (Domino and Spreckles sugar) contained "corrective advertising" provisions, and one, R. J. Reynolds Foods, Inc. (Hawaiian Punch) involved mandatory affirmative disclosures.

The Division initiated 32 formal investigations during the past fiscal year. Several of these resulted in issuance of complaints when advertisers were unable to produce adequate substantiation for advertising claims.

Evaluation

The Evaluation staff is responsible for evaluating existing consumer protection programs and for generating proposals for new

programs. These responsibilities have been carried out in the past through the preparation of a series of Analytical Program Guides. The Division has now begun to undertake substantive projects in addition to its planning and evaluation work. The staff also continues its work as the "unfairness task force," exploring the reach of the Sperry & Hutchinson decision (405 U.S. 233 (1972)) which gave the Commission broad power to declare trade practices unfair to consumers.

In light of the Supreme Court's decision in S&H, the Division developed guidelines for practical application of the "unfairness" doctrine. A consent agreement settling the S&H matter was accepted by the Commission.

In 1973, the Evaluation staff developed a program for attacking metropolitan retail fraud. This program concentrated on the problems arising from creditors' remedies and marked the Commission's first major commitment to work in that area.

Rules and Guides

This Division issues trade regulation rules and industry guides.

Trade regulation rules are substantive in nature and are legally binding. Issued only after full and open hearings at which all interested parties are given an opportunity to appear and participate, a rule is based upon a finding by the Commission that practices in question are unfair or deceptive. Practices engaged in contrary to a rule provision are violations of law.

Industry guides are not legally binding in and of themselves. They are interpretations by the Commission of the laws it administers. They represent statements to business as to the position to be taken by the Commission in the event of litigation over the subject encompassed by the guide. In essence, guides represent a statement of ground rules by the Commission in advance of litigation concerning practices which may result in corrective action.

During fiscal year 1973, the Commission promulgated two new Trade Regulation Rules: Cooling Off Period for Door-to-Door Sales and Negative Option Plans for Book and Record Clubs.

The Rule relating to a Cooling Off Period for Door-to-Door Sales provides, in connection with contracts signed in the home, that purchasers be afforded a three-day period during which they may cancel the transaction without penalty or obligation.

The Rule relating to Negative Option Plans for Book and Record Clubs addresses the negative option system of marketing by providing consumers with full disclosure of all terms and conditions of participation in these plans, by providing adequate time for club members to consider the products periodically being offered and by requiring that participants be given adequate time in which to advise the club of their wish not to receive a given selection.

In July 1972, the Rule relating to Care Labeling of Textile Wearing Apparel became effective and a program to obtain compliance with the Rule was inaugurated. The Rule requires that wearing apparel bear tags and labels giving consumers comprehensive care and maintenance instructions.

In addition to these two Rules adopted by the Commission, work continued on other proposed Rules and Guides including:

- Wattage Rating for Home Entertainment Equipment: A. proposed Rule requiring disclosure of power output, power band or frequency response, and distortion characteristics.
- Undelivered Mail Order Merchandise: A Rule proposal requiring refund at the purchaser's discretion in instances of delayed delivery.
- Household Furniture Industry: A proposed Guide delineating disclosure for advertising and labeling with respect to appearance, composition, and materials used in construction.

- Franchising. A proposed Rule requiring disclosures concerning the relationship between franchisors and prospective franchisees, particularly in connection with representations made in soliciting participation in franchise arrangements.
- Law Book Publishing Industry: Proposed guides relating to the practices of sellers, publishers and distributors in connection with the advertising and sale of law books. Disclosures are aimed at supplementation, representations such as "new," "current," or "up-to-date," misleading titles, and other matters.
- Detergents: A proposed rule relating to labeling and advertising requirements for detergents.

During fiscal 1973, the Division also conducted public hearings in Chicago and Washington in connection with a proposed Rule relating to Buyers' Claims and Defenses in Consumer Installment Sales. The proposal relates to the commercial doctrine of holder-in-due course and to the problem of preserving consumers' rights against sellers when products they buy are damaged or perform unsatisfactorily. Earlier hearings had been conducted in fiscal year 1972, and as a consequence of the record developed, the Commission revised its earlier proposal. The revised proposal was released for additional public comment.

Consumer Credit and Special Programs

This Division is charged with developing and coordinating the Commission's consumer protection in the broad areas of consumer credit and packaging. Specifically, this includes the Truth in Lending Act, the Fair Credit Reporting Act, and the Fair Packaging and Labeling Act.

The staff continued to survey major credit card issuers to determine the extent of their compliance with the new amendment to the Truth in Lending Act banning unsolicited credit cards

and limiting a consumer's liability in the event of lost or stolen cards. Formal action to prohibit the issuance of unsolicited credit cards was taken in two instances (B. P. Oil Corp., Docket C-2210 and Arlen Realty d/b/a/ E. J. Korvettes and NAC Charge Plan, Docket C-2383).

In a related activity involving credit cards, the Commission concluded its challenge under the new amendment of one of the nation's largest credit card registration services for alleged misrepresentations as to the value of its services. Other consumer credit cases involved:

- Alleged deceptive practices and truth in lending violations by a major national retailer in connection with credit sales by means of coupon books, W. T. Grant, Docket 8931 (Complaint Issued May 25, 1973);
- A consent order against one of the country's largest consumer finance companies for alleged violation of the Truth in Lending Act in connection with the sale of credit life and credit accident and health insurance, Commercial Credit Co., 82 F.T.C. 1841 (1973); and
- A final order against a national direct mail lender prohibiting the making of unsolicited loans by mail, Acceptance Finance Co., 81 F.T.C. 476 (1973).

The Fair Credit Reporting Act created for the first time federal authority to regulate the "consumer reporting" industry composed primarily of credit bureaus and investigative reporting companies.

During the year, the first formal interpretations under this Act were issued in final form by the Commission.

During the year, the Commission concluded two investigations by issuing final orders covering six credit bureaus for alleged violations of the Fair Credit Reporting Act (The Credit Bureau of Columbus, et al, Docket C-2333 and Credit Bureau of Lorain, et al., Docket C-2287).

Enforcement of the Fair Packaging and Labeling Act regulations is conducted on a nationwide basis by periodic sampling inspections of packaging and labeling in the retail markets. During the fiscal year, 202 companies were required to submit labels with modifications reflecting compliance with the regulations.

All mandatory regulations have been written with efforts to ensure disclosure of specific and uniform labeling information that will facilitate value comparison by the consumer. Discretionary regulations governing "cents-off" and "economy size" claims have been written in the area of retail sale price representations. Surveys conducted during the past year indicate a high degree of compliance with these regulations without unfair burdens to packagers or retailers. An evaluation of the use of coupons and "free" offers on packaging revealed that previously issued Commission guidance on these subjects was adequate and formal regulations under the Act were not necessary at this time.

During fiscal 1973, the Division also broadened the scope of its packaging compliance program by developing several cases in the area of toy packaging practices. Five formal complaints against major toy manufacturers were issued during the year.

Textile and Furs

The Division of Textiles and Furs actively cooperated with the Department of Commerce in bringing formal cases and in promulgation of new standards of flammability under the Flammable Fabrics Act.

During fiscal 1973, rulemaking proceedings were advanced under the Textile Fiber Products Identification Act in connection with four applications previously filed by fiber producers for new generic names claimed not to fall within the existing generic classifications.

The Division continued its enforcement of the standard for the surface flammability of carpets and rugs. Inspections of carpet

mills disclosed that a substantial amount of carpets did not conform to the standard as promulgated by the Department of Commerce.

In addition, the Division continued its enforcement of the standards for the surface flammability of small carpets and rugs and the flammability standard for wearing apparel.

The Division investigated approximately 57 burn injury cases brought to its attention by sources that included fire officials, newspaper reports, Members of Congress and the burn victims themselves.

On May 14, 1973, personnel assigned to enforcement of the Flammable Fabrics Act were transferred to the Consumer Product Safety Commission. That agency now has responsibility for the enforcement of the Flammable Fabrics Act.

Compliance

The Compliance Division is responsible for more than 7,500 Commission cease and desist orders issued under the Federal Trade Commission Act, Truth in Lending Act, Wool Products Labeling Act, Fur Products Labeling Act, and Textile Fiber Products Identification Act to prevent false, misleading, and deceptive trade practices. It also was responsible for the Flammable Fabrics Act for eleven months. Responsibility for enforcing that Act has since been transferred to the Consumer Products Safety Commission.

At the end of the fiscal year, 13 civil penalty suits were in litigation in the United States district courts. Penalties awarded during the year totaled \$999,000 including \$812,000 assessed against the J. B. Williams Company and its advertising agency for their advertisements of Geritol (354 F. Supp. 521 (SDNY), aff'd in part and rev'd in part, 498 F. 2d 414 (2d Cir. 1974). It was the largest single civil penalty judgment ever to arise from a Commission finding.¹

¹ The court of appeals affirmed \$155,000 of the district court's award, reversed certain counts, and remanded others for retrial. The remaining counts were eventually settled for \$125,000, bringing the total civil penalty recovery to \$280,000, excluding interest.

Scientific Opinions

The Division of Scientific Opinions offers technical consultation to all of the Commission's operating bureaus. It is also responsible for the FTC's Tobacco Testing and Research Laboratory.

The Commission's Tobacco Testing and Research Laboratory continued the testing of all domestic varieties of cigarettes for tar and nicotine content. This is the only government laboratory that tests cigarettes exclusively and is one of two such laboratories in this country. During the fiscal year, two cigarette testing runs were conducted by the Commission's Tobacco Laboratory. Reports of the results of these tests are made available to the Congress and the public.

Federal-State Cooperation

There is no formal division that concerns itself with federal-state cooperation. However, the Bureau encourages state and local agencies to adopt programs similar to those conducted by the Commission at national level for protection of the public against deceptive and unfair trade practices. With assistance from headquarters and the regional offices of the Commission, programs of this character were adopted during the past year in Connecticut, Florida, Kansas, Louisiana, Maryland, Minnesota, Montana, Nevada, Texas, Utah, and Wyoming.

These enactments brought to 44 the number of states which have laws similar to the Federal Trade Commission Act to prevent deceptive and unfair trade practices.

The Bureau of Consumer Protection distributes legal research material to state and local consumer protection agencies to apprise them of developments in other parts of the country and to improve their expertise.

Both headquarters and the regional offices were active in conferences and seminars to improve the skills of state and local officials in carrying on consumer protection and antitrust programs. For example, an April 10 seminar at headquarters brought together 32 attorneys from 25 states, including three attorneys general, for discussion of problems of mutual interest in the antitrust area.

Liaison contacts in areas of mutual interest are maintained with organizations of state and local officials such as the Antitrust and Consumer Protection Committees of the National Association of Attorneys General, the Committee on Suggested legislation, the Regional Legislative Conferences of the Council of State Governments, and the National District Attorneys Association.

COMPETITION

The Commission's antitrust authority is vested in it by three acts: the Federal Trade Commission Act, the Clayton Act and the Robinson-Patman Act. Together, these acts provide for maintaining competition in the nation's markets; for challenging anticompetitive acquisitions and abuses of market power; and, for preventing unfair methods of competition.

Approximately 30% of total Bureau manpower was engaged in litigation during 1973. During 1973, the Commission issued 31 new antitrust complaints and 28 final orders. Final Commission determinations were rendered in ten adjudicative matters. The number of unresolved formal investigations was reduced from 486 at the end of fiscal year 1972 to 261 at the end of fiscal year 1973.

Among highlights of an active year for the Bureau was resolution of a series of acquisitions by Georgia-Pacific. In that case, a spin-off of 20% of Georgia-Pacific's assets resulted in a new entity in the forest products industry. In the office copier industry, the Bureau brought a major case against Xerox charging monopolization. Interlocking directorates were eliminated in two proceedings involving Alcoa. At year end, the Bureau was nearing completion of its investigation of structure and performance in the petroleum industry.

In addition, substantial and innovative improvements were made in the Bureau's evaluation and supervisory procedures and techniques. Among these, the development of a computerized case-tracking system provided a pilot program for a proposed Commission-wide information system.

Industry Concentration

The Bureau focuses particular attention to industries with a high degree of concentration and limited competition. In this area, the Bureau pursued in the Xerox case and the breakfast cereal case, as well as in major investigations of the petroleum industry, other energy industries, natural gas, and the beer and wine industries.

Mergers and Interlocking Directorates

Merger law enforcement activities were similarly at a high level during 1973. Four major litigated merger matters (PepsiCo-Rheingold, Retail Credit Co., Heublein-United Vintners, and Associated Dry Goods-L.S. Ayers) were begun in 1973 while ongoing litigation continued in Warner-Lambert Parke Davis, Eaton, Yale & Towne, Kaiser Steel, and Budd-Gindy. Final Commission determinations resulting in divestiture orders were reached in three litigated matters, (Avnet, U.S. Steel, and United Fruit). Consent settlements were reached in seven major merger matters. Director interlocks were challenged both in the Alcoa case and in a case against General Electric and Chrysler.

Petroleum

Two complaints issued during 1973 charged coercive restrictions in gasoline dealership relationships with major oil companies.

Hearing Aids, Shopping Center Leases, Franchising, and Fair Trade

Alleged vertical restraints in the hearing aid industry led to settlement of two cases, Radioear and Sonotone, and to complaints against three respondents.

Charges of leasing restrictions in shopping centers had resulted in a recommendation for settlement of one case by year end.

In the area of restrictions imposed upon franchisees, the Commission accepted a major settlement in Tastee-Freez.

The Commission in Coming Glass held unlawful the abuse of fair trade exceptions to antitrust laws and issued a proposed complaint in another such matter.

General Enforcement Activity

Industry use of a basing point system involving alleged "phantom freight" was the subject of a proposed complaint concerning distribution and sale of softwood plywood. A consent order prohibiting reciprocal trading arrangements was issued against the Georgia-Pacific Co. A settlement was also reached in Hollow Metal Door, a case involving alleged agreement to restrain trade in the construction industry. A final order was entered by the Commission against Great Lakes Carbon in connection with long-term contracts for the production and sale of petroleum coke.

Antidiscrimination cases included litigated matters concerning the sale of private label milk and alleged illegal brokerage of fresh produce. Consent settlements were obtained in Sales Marketing Services, Inc. and Western Storecasting.

The Bureau also was involved in trials of cases involving pyramid selling of cosmetics, territorial limitations for distribution of soft drinks, vertical acquisition in the cement industry, and mergers in the drug and auto parts industries.

Compliance

Ensuring compliance with Federal Trade Commission orders is an essential part of antitrust enforcement. The Bureau's Compliance Division initiated 14 major compliance investigations in 1973 and certified three cases to the Department of justice for civil penalty proceedings. Five such proceedings were pending in the

courts at the end of fiscal 1973. The civil penalty proceeding in Head Ski Co. resulted in a judgment in favor of the government.

Accounting

The Accounting Division assists in both the Bureau's antitrust enforcement and the Commission's general economic investigations. In addition, it prepares the report Rates of Return in Selected Manufacturing Industries.

Export Trade

The Bureau's staff has partial responsibility for administration of the Webb-Pomerene Act. This responsibility includes supervising export associations, and inquiring into and making recommendations for reform.

The Bureau of Competition continues to pursue vigorously its traditional antitrust enforcement program - in antimerger work as well as in the general practice field. In 1973, however, the Bureau focused on potential barriers to entry in areas of high industry concentration and interdependent competitive strategies.

ECONOMICS

Professionally competent advice and research on matters requiring well-reasoned economic analysis are indispensable to the Commission's efforts in the areas of consumer protection and anti-trust. Congress, when it created the Federal Trade Commission, intended economic reporting and analysis to act as a curb on monopoly power and anticompetitive practices.

Statistical Reports

During 1973, the Bureau's two annual statistical reports on merger activity were combined into one report entitled Federal Trade Commission Report on Mergers and Acquisitions. The new publication has resulted in both increased accuracy and simplified access to the information being reported.

There were 56 acquisitions of listed firms with assets over \$10 million in fiscal 1972. Their total acquired assets were \$2.4 billion. In 1968, there were 173 such firms acquired and their total assets were \$12.6 billion (Appendix IV-1, page 22).

Total mergers reached 3,100 in 1972, with the manufacturing sector continuing to account for the major proportion of the activity.

Acquisitions involving very large firms, firms with over \$100 million in assets, continued the decline which had begun in 1969 when 20 were recorded. In 1972, only five occurred, three of which were spin-offs from existing firms.

The Bureau of Economics also monitors changes in aggregate concentration; that is, the percentage of total manufacturing assets

held by the largest 100 and 200 corporations. In 1969, the respective percentages were 48.2% and 60.1%; in 1972, the respective percentages were 48.9% and 61.0%.

Economic Reports

In fiscal year 1973, one staff economic report was issued entitled Conglomerate Merger Performance: An Empirical Analysis of Nine Corporations. Approved for release at the beginning of fiscal year 1974 was an Economic Report on the Dairy Industry.

The conglomerate merger study attempted to measure the actual effects of merger movement of the 1960's. The staff sent a series of questionnaires to nine large conglomerate corporations that had engaged in extensive merger activity.

During the 1960-68 survey period, the nine companies acquired 348 companies with assets totaling nearly \$10 billion. Their activity reached a peak in 1968 when their acquisitions accounted for 26% of all assets acquired in large manufacturing and mining mergers.

The report indicates that prior market power is necessary if the alleged anticompetitive behavior of conglomerates - predatory pricing, reciprocal dealing, mutual forbearance - is to take place. The sampled conglomerates did not, by and large, seem to possess, or have acquired, market positions with the structural characteristics conducive to market power.

The most important conclusion of the study was that the sampled conglomerates publish financial information at such a high level of aggregation that it is virtually impossible for an investor, financial analyst, researcher, or policymaker to determine what is, in fact, happening.

The survey found that it was possible to produce meaningful, disaggregated line of business information. For example, five of the sampled conglomerates were able to provide Commission staff

with profit data for their leading products (in excess of 1% of sales) on a standard industrial classification 5-digit product level. This level of detail, in the opinion of the staff, comes close to representing profitability for economically meaningful markets much closer than anything that currently exists from public sources. The report concludes that the benefits from making such information available to owners, analysts, and policymakers are substantial and vital to the efficient functioning of these enterprises and of our economy.

The purpose of the dairy industry study was to examine trends in structure and performance since 1962 when the Commission began to restrain the major dairy firms from a continuation of their intense merger activity of the 1950's. The investigation found that improvements in transportation equipment and the completion of interstate highways had linked previously separate local markets and thereby increased competition. Nevertheless, concentration had not decreased in local and regional markets because of the exit of hundreds of small, high-cost processors, most of whom served the rapidly shrinking retail home delivery market. Moreover, there has been no increase in demand, a further discouragement to entry.

Concentrated Industries

The Commission has approved studies of electrical machinery, autos, prescription drugs, and the energy sector. In each, a particular issue is being examined. In the case of electrical machinery an examination of the efficacy of the antitrust litigation of 1960 in stopping the price-fixing conspiracy will be made.

The Bureau's work, begun intensively in fiscal year 1972, has been slowed greatly because of the lack of suitable data. Attention has been directed toward acquiring for the Commission the data necessary to help plan a rational allocation of its antitrust resources. The outstanding effort in this regard is the development of a line-of-business profit-reporting form that will request large diversified firms to break out their financial data into segments more closely aligned to meaningful economic markets.

Economic Evidence

The Bureau's staff concerned with economic evidence was active during the past fiscal year in more than 100 investigations, most of which concerned proposed or consummated acquisitions and mergers. The Bureau's activity in this area escalated in the last year reflecting the need for sound economic analysis in the Commission's enforcement efforts.

The Premerger Notification Program completed its fourth full year of operation in fiscal year 1973. Under this program, all corporations subject to FTC jurisdiction and having total assets or sales of \$250 million or more are required to file a special report when acquiring a firm with \$10 million or more in total assets or sales. The acquisition itself may be either of assets or of 10% or more of the voting stock. A special report also may be required, at the discretion of the Commission, when a firm with less than \$250 million in total assets merges with another firm, resulting in a corporation with assets of \$250 million or more. During fiscal year 1973, special reports were received concerning 173 mergers or acquisitions of which 18 were cleared to the Department of justice. Eight others were subsequently called off. Of the remaining 147, the FTC undertook further investigation of 39. Six of these resulted in the opening of a formal investigational file.

During fiscal 1973, special reports were also routinely required from firms acquired. The data from the special reports received under the Premerger Notification Program has been invaluable in detecting possible violations of Section 7 of the Clayton Act. It has also provided useful information about the economic impact of larger mergers on individual industries and has been helpful in evaluating trends in mergers and acquisitions involving large corporations.

Financial Statistics

The Division of Financial Statistics designs and maintains current statistical cross sections (probability samples) of corporate

enterprises; periodically it collects, analyzes, and summarizes uniform and confidential reports from these enterprises; using the reports, it estimates national aggregates, and it compiles the Quarterly Financial Report for Manufacturing Corporations (QFR) containing statements of income and retained earnings, balance sheets, profit rates (rates of return), and related financial and operating statistics for industries grouped by type and asset size.

In fiscal year 1973, multi-billion-dollar enterprises accounted for more than half the total assets of all manufacturing corporations. The number of such corporations increased from 115 in the first quarter of 1972, to 124 in the first quarter of 1973. These corporate manufacturers averaged \$3.5 billion in total assets and accounted for 52% of the total assets of all 200,000 manufacturing¹ corporations in the United States. Three years earlier, there were 102 corporate manufacturers with assets exceeding 81 billion. Their average assets were \$2.6 billion and they accounted for 48% of the total assets of all manufacturing corporations.

Average profit rates (rates of return) were higher in 1972 than in 1971, and continued to rise in the first quarter of 1973. Profit rates for all manufacturing corporations on stockholders' equity and sales, both before and after taxes, for each quarter in the 1961-1972 period are give@ in Appendix IV-3, page 24.

¹ The total asset figure in Appendix IV-2, page 23, arises from an estimate based on a sample of 11,085 corporations. For all asset-size classes except those below \$10 million, the sample corresponds to the population.

APPENDIX IV-1

LARGE* MANUFACTURING AND MINING FIRMS ACQUIRED
1948-1972

GRAPH - TEXT NOT AVAILABLE - SEE IMAGE

APPENDIX IV-2

Composition of the QFR Sample, by Total Assets,
1st Quarter 1973

Asset Size	Total assets of all manufacturing corporations		Number of manufacturing corporations in QFR sample
	Million dollars	Per- cent ¹	
\$1,000 million and over	353,406	52	124
\$250 million to \$1,000 million	121,158	18	246
\$100 million to \$250 million	<u>51,265 7</u>		<u>327</u>
\$100 million and over	525,829	77	697
\$50 million to \$100 million	28,605 4		402
\$25 million to \$50 million	21,203 3		597
\$10 million to \$25 million	<u>23,647 3</u>		<u>1,462</u>
\$10 million and over	599,284	88	3,158
Under \$10 million	<u>85,096 12</u>		<u>7,927</u>
All asset sizes	<u>684,380</u>	<u>100</u>	<u>11,085</u> ²

¹ Figures are rounded and will not necessarily add to totals.

² Drawn from a universe in excess of 200,000.

SOURCE: Division of Financial Statistics, Federal Trade Commission.

APPENDIX IV-3

Profit Rates of AR Manufacturing Corporations 1961 - 1973

TABLE - TEXT NOT AVAILABLE - SEE IMAGE

REGIONAL OPERATIONS

As a federal law enforcement agency with responsibility for regulating many types of business activities, the Commission maintains twelve regional offices in various major metropolitan areas. The regional offices operated under the general supervision of the Federal Trade Commission's Executive Director. Offices are located in Atlanta, Boston, Cleveland, Chicago, Dallas, Kansas City, Los. - Angeles, New Orleans, New York, San Francisco, Seattle, and Washington, D.C.

Responsibility for carrying out the Commission's mandate to preserve free and fair competition is shared by the regional offices and headquarters. To facilitate coordination of their respective activities, the Commission, in fiscal year 1973, established the Office of the Assistant Executive Director for Regional Operations. This Office is responsible for planning, coordinating and reviewing all consumer protection and antitrust functions of regional offices.

At present, about one-third of the Commission's staff is located in regional offices, including approximately 166 lawyers, 132 consumer protection specialists, and 141 clerical personnel. Consumer protection specialists, first used on a large scale in fiscal year 1971, have increasingly handled the bulk of the work involved in business and consumer education, textile and fur, flammability, and truth in lending investigations, and federal-state coordination activities. Perhaps most importantly, they actively participate with regional attorneys in the conduct of investigations and litigation of all statutes enforced by the Commission.

Casework and Investigations

A major goal of the Commission is to achieve more effective participation of regional offices in Commission law enforcement activities. Regional offices have been delegated authority to initiate preliminary investigations; to conduct investigational hearings; to issue subpoenas and accept returns; to negotiate consent settlement agreements for the Commission's approval; to draft proposed complaints for administrative litigation; and to serve as trial counsel in litigation proceedings.

Regional offices also continue to perform investigations at the request of the Commission's Bureau of Competition and Bureau of Consumer Protection.

In fiscal year 1973, regional office attorneys participated in an increased number of trials of cases, either on their own or in conjunction with attorneys from headquarters.

In addition to casework, regional offices made major efforts during the past year to uncover problem areas that might need corrective action by the Commission. Investigations, sometimes accompanied by public hearings, were continued into such diverse matters as:

- Practices of traders on the Navajo and Hopi Indian Reservations;
- Vocational schools;
- Talent agencies;
- Contracts for future consumer services;
- Debt collection practices;
- Marketing abuses in the ghetto;

- Price fixing by title insurance companies;
- New and used car dealer practices;
- Retail merchandising of carpets; and
- Restrictive leasing practices of shopping centers.

In addition to their law enforcement activities, regional offices, in fiscal 1973, continued to be heavily involved in other functions essential to the work of the agency. These included coordination and liaison activities with federal, state and local authorities, and groups active in consumer protection; and implementing business and consumer education programs.

PAGE 28 NOT IN ORIGINAL

ADMINISTRATIVE LAW JUDGE

Administrative Law judges¹ preside at the trial of cases in which respondents contest allegations that they have violated one or more statutes administered by the Commission. The judges are responsible for conducting fair and impartial hearings, for receiving testimony and documentary evidence, and for considering and ruling upon all procedural and other motions arising in the adjudicative proceeding.

The Administrative Law judge files an initial decision containing findings of fact, conclusions, and an appropriate order. This initial decision becomes the decision of the Commission unless appealed by any party or docketed for review by the Commission on its own motion.

During fiscal year 1973, 102 cases were in adjudication before the Commission's 11 judges, an increase of 12 cases over fiscal year 1972.

¹ Administrative Law Judges were formerly designated as Hearing Examiners. The change of title to Administrative Law Judge was made by the Civil Service Commission effective August 19, 1972; 37 Fed. Reg. 16787 (1972).

PAGE 30 NOT IN ORIGINAL

GENERAL COUNSEL

The General Counsel's Office advises the Commission and its operating bureaus on legal, policy and procedural matters that cover the spectrum of consumer protection, antitrust, administrative law, and legislation.

Specifically, the General Counsel advises the Commission on administrative law matters. These include the Commission's procedural responsibilities under the Administrative Procedure Act and under the Commission's Rules of Practice and Procedure.

The Office advises the Commission on its responsibilities under the Freedom of Information Act, makes recommendations on all requests for access to Commission records, and reviews recommendations by the Bureaus on requests for confidential treatment of information submitted to the Commission),

During fiscal year 1973, the Office handled 159 requests for access to material in the Commission's files.

The Office also handles requests for advisory opinions received by the Commission from members of the public. During fiscal year 1973, the staff processed and sent to the Commission some 14 advisory opinion matters; and 94 extensive letters of advice (which are not binding on the Commission) were dispatched. These letters are used to respond to requests for an advisory opinion when requests are inappropriate for submittal to the Commission because they do not pertain to a planned course of action, relate to a practice already under investigation or active consideration, or involve questions for which Commission precedent is available.

The General Counsel also advises the Commission on all motions to quash subpoenas and special orders issued by the Commission in the course of Commission investigations or proceedings. During fiscal year 1973, this Office prepared recommendations on 65 motions to quash.

In addition to its advisory responsibilities, the General Counsel also represents the Commission on review of cease and desist orders in the courts of appeals and assists the Department of justice in preparing and arguing collateral cases brought by or against the Commission in the United States district courts and courts of appeals.

During fiscal 1973, the Office handled 114 cases. litigation was completed in 43 of these - 4 involving deceptive practices, 6 involving restraint of trade, 13 concerning proceedings for enforcement of Commission subpoenas, and 20 concerning collateral matters such as suits against the Commission for declaratory judgement and injunctive relief. As of June 30, 1973, 71 cases were pending in the various courts of appeals and district courts. (See Appendix VII-1, on page 34.)

During the year, various committees of Congress, individual Congressmen, and the Office of Management and Budget made numerous requests for reports and correspondence seeking the views and comments of the Commission on a broad range of legislative issues. The Office drafted responses for consideration by the Commission and participated in the preparation of statements by the Chairman and members of the staff who were called upon to testify before congressional committees.

The Office also developed comments on various proposals to amend the Federal Trade Commission Act to make it more effective and to streamline its enforcement. These amendments would authorize the Commission to represent itself in court proceedings and to seek preliminary restraints to enjoin serious consumer abuses during the pendency of Commission cease and desist proceedings. They would also provide for clarification of its jurisdiction and for increased penalties for violations of the Federal Trade Commission Act. Testifying on this legislation, the Chairman, with

the unanimous backing of the other Commissioners, characterized it as the "most important consumer legislation now pending in Congress". He urged its enactment without delay as a measure long overdue in terms of public interest.

APPENDIX VII-1

FTC CASES IN THE COURTS

This Appendix summarizes the significant Federal Trade Commission cases in the courts during fiscal year 1973, together with a brief discussion of what is involved in each case or group of cases.

RESTRAINT OF TRADE CASES

Two important Section 5 restraint of trade cases decided by the courts in fiscal year 1973 were Golden Grain Macaroni Co. (D. 8733), in the Ninth Circuit (San Francisco), and National Association of Women's and Children's Apparel Salesmen (D. 8691), in the Fifth Circuit (New Orleans). Certiorari was denied in Golden Grain Macaroni Co-

In the Golden Grain Macaroni Co. case, the Ninth Circuit affirmed and enforced in part the Commission's order requiring Golden Grain, the largest seller of dry-paste food products in the Pacific Northwest, to divest itself of all its interests in two other macaroni producers and to refrain from further acquisitions in the macaroni industry for a period of ten years. The Commission had decided that Golden Grain's acquisition of substantial interests in three macaroni manufacturing companies violated Section 5 of the Federal Trade Commission Act. The court agreed as to two of the acquisitions but held that with respect to the remaining company, the smallest of the acquired competitors, the issue of commerce was not litigated and this company should not be included in the scope of the order. The court agreed with the Commission that the record failed to support the contention that acquisitions were permissible under the "failing company" defense since it was not shown that Golden Grain was the "only available purchaser".

In *National Association of Women's and Children's Apparel Salesmen*, the Fifth Circuit sustained the Commission's decision and order based on respondent's violations of Section 5 of the Federal Trade Commission Act by its exertions of economic leverage through blacklisting and refusals to deal in connection with its conduct and operation of regional trade shows. The court also sustained the Commission's finding that respondent did not qualify as an exempt labor organization.

In the field of illegal mergers, there were a number of significant court actions in addition to *Golden Grain* in fiscal 1973. The Second Circuit (New York) sustained the Commission's decision and order in *Stanley Works* (D. 8760), requiring divestiture by Stanley Works of its acquisition, the Amerock Corporation. Certiorari was denied. The Commission had determined that the horizontal merger of the two cabinet hardware manufacturers was a violation of Section 7 of the Clayton Act with the elimination of actual as well as potential competition.

The Tenth Circuit (Denver) in *Kennecott Copper Corp.* (D. 8965), a conglomerate merger case in the energy field, sustained the Commission's decision that the respondent, a producer, smelter, refiner, and fabricator of copper and other metal products, improperly, under Section 7 of the Clayton Act, acquired Peabody Coal Company, one of the two leading coal producers and distributors in the nation. The Commission ruled that prior to the merger, the respondent was a recognized potential entrant into the coal producing business and that its purchase of Peabody substantially lessened competition and tended to create a monopoly. Also by virtue of respondent's "deep pocket" of funds there was a likelihood of diminishing competition in the market resulting from the merger of the great economic resources of Kennecott and Peabody. The Commission's order of divestiture was affirmed and enforced. Petition for certiorari is pending.

The Seventh Circuit (Chicago) in *Papercraft Corporation* (D. 8779) affirmed with slight modification the Commission's decision and order involving respondent's horizontal merger in the giftwrap

products market. The court deleted a provision in the order prohibiting Papercraft from selling its products to customers of CPS Industries, Inc., for a three-year period.

Pending cases filed in the court of appeals during fiscal year 1973 to review Commission action included: Alterman Foods, Inc. (D. 8844), in the Fifth Circuit (New Orleans), involving inducement of certain discriminatory promotional payments prohibited by Sections 2(d) and 2(e) of the Clayton Act as amended by the Robinson-Patman Act in connection with food shows; Harbor Banana Distributors, Inc., United Brands, Inc., and Chiquita Brands, Inc. (D. 8795), in the Fifth Circuit (New Orleans), involving price discriminations, inducement of price discriminations and acquisition of competitor assets; and Avnet, Inc. (D. 8775), in the Seventh Circuit (Chicago) involving review of a Commission order to divest an acquired firm in the market of supplying rebuilt automotive products in competition with the acquiring firm.

DECEPTIVE PRACTICE CASES

In fiscal year 1973, decisions in several significant deceptive practice cases in courts of appeals upheld the Commission. In *The Firestone Tire & Rubber Company* (D. 8818), the Sixth Circuit (Cincinnati) affirmed and enforced a Commission order to cease and desist fictitious advertising of tire safety. In an important precedent, the order requires Firestone to make and retain scientific tests as the basis for any safety or superior performance claim about its tires. In *Standard Educators, Inc., et al.* (D. 8807), the District of Columbia Circuit affirmed a Commission order to cease and desist from numerous deceptive practices in the sales of encyclopedias. The order holds the chief executive officer responsible for the act of the company. In *Skylark Originals, Inc., et al.* (D. 8771), the Third Circuit (Philadelphia) summarily affirmed and enforced the Commission order involving unfair trade practices in the mail order business. The order requires compliance with guarantees by making refunds and it requires prompt delivery of ordered merchandise.

Courts of appeals also upheld Commission orders issued in two cases under the Truth in Lending Act. In *Zale Corporation, et al.* (D. 8810), the Fifth Circuit (New Orleans) affirmed and enforced a Commission order to cease and desist numerous violations of Regulation Z promulgated under the Truth in Lending Act. The court upheld the issuance of the order against Zale, a holding company, although the proof of violations was limited to its wholly-owned subsidiaries. In *Charnita, Inc., et al.* (D. 8829), the Third Circuit (Philadelphia) affirmed and enforced a Commission order to cease and desist violations of the Truth in Lending Act in the sale of recreational and residential homesites.

Pending deceptive practice cases in courts of appeals at the close of the fiscal year included: *LaSalle Extension University* (D. 5907) in the Seventh Circuit (Chicago) involving misrepresentations about obtaining law degrees through a correspondence course; *John Clifford Heater* (D. 8821) in the Ninth Circuit (San Francisco) in which the Commission order would require restitution of monies obtained through deceptive practices; *Brown Auto Stabilizer Co., et al.* (D. 8863) in the Fifth Circuit (New Orleans) involving false advertising in the sale of a stabilizer device for automobiles; *Spiegel, Inc.*, (D. 8869) in the Seventh Circuit (Chicago) involving deceptive practices in the failure to disclose credit terms in catalogue sales; *Sunshine Art Studios, Inc., et al.* (D. 8825) in the First Circuit (Boston) involving deceptive practices in the sale of greeting cards; *Credit Card Service Corporation, et al.* (D. 8861) in the District of Columbia Circuit involving deceptive practices in the sale of a credit card protection service; *Dieners, Inc., et al.* (D. 8804) in the District of Columbia Circuit involving fictitious pricing and failure to make disclosures under the Textile Fiber Products Identification Act; *National Dynamics Corporation* (D. 8803) in the Second Circuit (New York) involving deceptive practices in the sale of a battery additive; and *Consumer Federation of America, et al.* (D. 8860) in the District of Columbia Circuit in which petitioners are seeking to intervene in the pending proceedings in Docket 8860 involving *ITT Continental Baking Company, Inc.*

SUITS FOR ENFORCEMENT BROUGHT
BY THE COMMISSION

During the fiscal year 1973, the Commission filed an emergency petition under the All Writs Act for a preliminary injunction and temporary restraining order to prevent the takeover of the Rheingold Corporation by PepsiCo, Inc. (D. 8903). The Second Circuit (New York) denied the relief requested but directed the parties to enter into an agreement to "hold separate" the two companies pending further proceedings.

Under the Flammable Fabrics Act, the Commission, during fiscal year 1972, obtained from the United States District Court for the Northern District of Georgia, in James Carpets, Inc. (D. 8876), a temporary restraining order pending the completion of administrative proceedings before the Commission and this order remained in effect through fiscal year 1973.

Under Section 13 of the Federal Trade Commission Act, the Commission obtained, upon consent, a temporary injunction against certain allegedly deceptive representations in Robert E. Sheldon, et al. (File 99-148) from the United States District Court for the Western District of Texas. Subsequently, the United States Attorney and the Commission filed pleadings against the respondent for civil and criminal contempt for violation of the injunction, and a hearing thereon is now pending. Also, under Section 13 of the Federal Trade Commission Act, the Commission obtained, in the United States District Court for the Western District of Washington, a temporary injunction against the dissemination by BioChemic Research Foundation, et al. (File 99-145) of certain advertising. This order was obtained by the consent of respondents and is to remain in effect pending completion of administrative proceedings before the Commission. In Ozark Dairy Co. (File 99-124), an action in the United States District Court for the Eastern District of Missouri to compel the filing of a report under Section 6(b) of the Federal Trade Commission Act, the Commission obtained voluntary compliance and the case was dismissed pursuant to a stipulation of the parties.

The Commission was engaged, in cooperation with the Department of justice, in the conduct of fourteen separate proceedings for the enforcement of its, subpoenas during fiscal year 1973. Of these, eight were successfully concluded during the year, two are currently before the courts of appeals on appeals from district court orders granting enforcement and four are at various stages in the district courts.

The Commission was also involved in three contested seizure proceedings under the Flammable Fabrics Act during this period.

COLLATERAL SUITS AGAINST THE COMMISSION FOR INJUNCTIVE AND OTHER RELIEF

Collateral suits filed in Federal courts for injunctive, declaratory and other relief against the Commission continued to rise in fiscal year 1973, during which period the Commission was involved in defending approximately 35 such actions.

Of greatest significance to the Commission was the decision in National Petroleum Refiners Association (Trade Regulation Rule 215-21), in which the District of Columbia Circuit, reversing the lower court's decision, held that the Commission had statutory authority for the promulgation of substantive Trade Regulation Rules. The Association, which had challenged the Commission from putting into effect a Trade Regulation Rule requiring the posting of octane ratings on gasoline dispensing pumps, has now filed a petition for rehearing in the court of appeals.

Three separate Courts of Appeal (New York, New Orleans, and St. Louis) affirmed district court orders upholding the Commission's action denying three national soft-drink companies the joinder of bottling companies as indispensable parties in the pending administrative proceedings. In Coca-Cola Company, et al. (D. 8855), and PepsiCo, Inc. (D. 8856), petitions for certiorari to the U.S. Supreme Court have been filed, while the time for filing such a petition has not yet expired in the Seven-Up Company (D. 8857) case.

In two actions involving the validity of various portions of Regulation Z under the Truth in Lending Act, *N. C Freed Co. and International Roofing Corp.* (File 99-90), the Second Circuit (New York) and the District of Columbia Circuit, respectively, upheld the authority of the Board of Governors of the Federal Reserve System to promulgate the challenged portions of Regulation Z.

Following a full trial in *Coca-Cola Company, et al* (D. 8824), the District Court for the Northern District of Georgia has under consideration a request for an injunction seeking to prohibit the Commission from continuing its administrative proceeding against the company which seeks a refund of monies to participants in promotional games sponsored by Coca-Cola.

In *Jewel Companies, Inc.* (D. 8786-8790), the Seventh Circuit ruled that the district court lacked jurisdiction to consider issues raised by a complaint seeking to dismiss a pending administrative proceeding.

In *Bostic* (D. 8634), the United States Court of Appeals for the Fourth Circuit affirmed the lower court's assessment of \$80,000, one of the largest civil penalties in a litigated case.

The United States District Court for the District of Columbia was active in numerous cases affecting the Commission. In *Warner-Lambert Co.* (D. 8891), the court refused to enjoin the Commission from conducting its administrative proceeding involving the labeling and advertising of Listerine. In *Orlan A. Saucke* (File 99-147), the court is currently considering a request to compel the Commission to proceed against certain local officials in East Ridge, Tennessee, for alleged deceptive advertisement in the sale of land. The court also denied a motion for a temporary restraining order in *Glenn W. Turner, et al.* (D. 8888), and is now considering a motion for preliminary injunction. *Missouri Portland Cement Co.* (D. 8783), involving various allegations under the Freedom of Information Act, the Declaratory Judgment Act, the Administrative Procedure Act, and the Due Process Clause of the United States Constitution, has been dismissed based on a stipula-

tion between the parties. In the companion case, Ash Grove Cement Co. (D. 8785), the court is considering the Commission's renewed motion for summary judgment and plaintiff's motion for entry of a memorandum order. In Holiday Magic, Inc., et al (D. 8834), the court dismissed a complaint brought under the Information Act after the Commission furnished an index of requested documents.

The District of Columbia Circuit has still under consideration Sydney M. Floersheim (D. 8721), where the lower court denied the Commission's motion to dismiss on the ground that the Commission's rejection of certain "debt collection" forms constituted final agency action, but where it affirmed the Commission on the merits and further ruled that judicial review of the rejected compliance report must be taken at petitioner's risk. Remaining pending in the Ninth Circuit (San Francisco) is William H. Rodgers, Jr. (File 99-112), where the lower court dismissed a complaint for declaratory judgment and injunctive relief against the Commission. In Periodical Publishers' Service Bureau, Inc., and the Hearst Corp. (D. 8832), the District of Columbia summarily affirmed a lower court's refusal to enjoin the Commission's administrative proceeding because of an alleged conflict between those proceedings and a previously outstanding agreement as to certain industrywide conduct in the door-to-door magazine subscription business.

Numerous new cases have been initiated. Review in the District of Columbia Circuit is sought by Action on Safety and Health, et al. (File 99-1420), from a district court order upholding a Commission denial of a request for intervention in a pending administrative proceeding.

General Foods Corporation (D. 8833), pending in the United States District Court for the Western District of Michigan, is an action to enjoin the Commission from proceeding jointly against General Foods and three other cereal manufacturers named as respondents in the administrative proceeding. The district court denied a preliminary injunction against the Commission and has under consideration the Commission's motion to dismiss the com-

plaint. Injunctive relief against two Commission officials is requested in *William Edwards, et al. v. State-Wide Supply, Inc., et al.* (File 99-140), pending in the United States District Court for the Southern District of West Virginia. *Bestline Products, Inc. (D. C-1986)* involves a complaint in the United States District Court for the Northern District of California seeking to prohibit the agency from finding a compliance report to be in violation of a cease and desist order. In *Daniel C. Turoff v. Union Oil Co. of California* (File 99-135), as directed by the United States District Court for the Northern District of Ohio, the Commission filed an amicus curiae brief on the issue concerning the relationship of class actions with the Truth in Lending Act. *John Spector* (File 99-141) involves an appeal in the Ninth Circuit (San Francisco) from the denial by a district court of an injunction to prohibit the agency from proceeding against plaintiff's sale of a baldness remedy. *Borden, Inc. (D. 8866)*, involves an attempt to enjoin the Commission from any further investigation or proceedings on grounds that the Commission allegedly violated its own rules dealing with investigatory procedures. The United States District Court for the Northern District of Illinois is considering the Commission's motion for summary judgment but has dismissed the preliminary injunction count of the complaint which has been appealed to the Seventh Circuit (Chicago).

POLICY PLANNING AND EVALUATION

The Office of Policy Planning and Evaluation assists the Commission in developing priorities and enforcement procedures that will allocate the Commission's resources among its diverse statutory responsibilities in the most effective and efficient manner. The creation of the Office in 1970 reflects the Commission's awareness of the critical need to plan its regulatory activities so as to achieve maximum impact in protecting consumers and in preserving a competitive marketplace.

In carrying out its responsibilities, the Office works directly with the Chairman and the individual Commissioners, as well as with the three Bureaus and various other offices.

The work of this Office includes:

- Developing policy profiles and program guides that analyze problems and develop intended objectives and strategies for existing and new program areas;
- Assessing of estimated or expected benefits and costs Of investigations and other Commission activity;
- Cooperating closely with management staff in development and utilization of a computerized information system for resource allocation control at the Commission.
- Developing new program possibilities in both the antitrust and consumer protection fields; and
- Assessing the effectiveness and impact of completed or nearly completed programs to determine whether objectives were achieved and benefits realized.

Substantive and effective policy planning and evaluation are enormously complex, exacting, and sometimes elusive undertakings. Planning is a continuing function; more must be done to ensure that the Commission's efforts achieve maximum benefits for the public.

The Office is in the process of generating guides for staff attorneys to use in calculating estimated benefits of investigations or programs before significant activities are undertaken. In cooperation with the Division of Management, the Office is also incorporating pre-evaluation estimates into the overall, computerized, management information system. Additionally, the March evaluation report is substantially devoted to benefit estimates, as were other individual evaluations in areas of reciprocity, law book publishing, used cars, auto parts distribution, petroleum, and interlocking directorates.

During fiscal year 1973, the Office completed a pilot version of an antitrust benchmark data system, consisting of indicators that signal the likelihood of antitrust problems in an industry. The Commission is concerned, however, that the utility of such a data system may be presently impaired by the lack of sufficient economic data on a "line of business" basis.

In the consumer protection area, individual data elements indicating need for possible enforcement attention were developed for several hundred consumer-spending categories. These included data on such things as:

- Average price;
- Total number of consumer transactions;
- Total advertising expenditures;
- Frequency and severity of product-related accidents threatening health or safety;
- Total consumer spending;

- Spending breakdowns for selected groups of consumers (aged, families with small children, low income, non-white and uneducated); and
- Frequency of consumer complaints, reported both by product and by subject matter.

These data sets formed the basis for resource allocation recommendations to the Commission.

The Office's previously developed experimental recordkeeping - or inventory - system, called the Case Analysis and Evaluation System, is being merged continuously into two related computer systems. The first is an interim resource management system called BASIS, which now performs useful case management functions for the Bureau of Competition. The second is a comprehensive resource allocation and planning system called the Automated Case Information System. It eventually will combine the routine resource management and case tracking functions of BASIS with more of the planning functions envisioned in the original inventory program. This Office has been working in close cooperation With the Division of Management to assure that the emerging computer program will possess maximal planning and evaluation capabilities.

PAGE 46 NOT IN ORIGINAL

FUNDS AVAILABLE
TO THE COMMISSION
DURING FISCAL YEAR 1973

For fiscal year 1973, funds of \$30,474,000 were authorized for Commission use by Public Law 92-399. The Commission's adjusted budget for fiscal year 1973 was \$30,205,481, which reflects transfers of \$43,519 to the General Services Administration for space rental and \$225,000 to the Consumer Product Safety Commission for Flammable Fabrics Activities. Funds of \$2,640,346 were lapsed; the Commission's total obligations were \$27,565,135.

Obligations by Activities for Fiscal Year 1973

1.	Executive Director and Policy Planning	\$2,076,490
2.	Administration and Management	3,270,052
3.	Maintaining Competition:	6,105,602
	Investigation and Litigation	5,668,648
	General Activities and Special Reports	436,954
4.	Consumer Protection:	13,598,254
	Investigation and Litigation	9,751,575
	Consumer Credit Enforcement	973,351
	Fair Packaging and Labeling	124,177
	Flammable Fabrics, Textile, Fur and Wool Enforcement1,143,911
	Trade Regulation Rules and Industry Guides	616,060
	General Activities and Special Reports	701,084
5.	Economic Activities:	2,514,737
	Investigation and Litigation	724,084
	Economic and Financial Reports	1,286,744
	General Activities and Special Reports	503,909
	Total Obligations - Fiscal Year 1973	\$27,565,135