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For the Fiscal Year Ended
September 30, 1981

Federal Trade Commission

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JAMES C. MILLER, III, Chairman
DAVID A. CLANTON, Commissioner
MICHAEL PERTSCHUK, Commissioner
PATRICIA P. BAILEY, Commissioner

CAROL M. THOMAS, Secretary

EXECUTIVE OFFICES OF THE FEDERAL TRADE COMMISSION

Pennsylvania Avenue at Sixth Street, N.W.
Washington, D.C. 20580

Regional Offices

Atlanta, Georgia
Room 1000
1718 Peachtree Street, N.W.
Zip Code: 30367

Denver, Colorado
Suite 2900
1405 Curtis Street
Zip code: 80202

Boston, Massachusetts
Room 1301
150 Causeway Street
Zip Code: 02114

Los Angeles, California
Room 13209
11000 Wilshire Boulevard
Zip Code: 90024

Chicago, Illinois
Suite 1437
55 East Monroe Street
Zip Code: 60603

New York, New York
Room 2243-EB Federal Building
26 Federal Plaza
Zip Code: 10278

Cleveland, Ohio
Suite 500 - Mall Building
118 St. Clair Avenue
Zip Code: 44114

San Francisco, California
Room 12470 - Federal Building
450 Golden Gate Avenue
Zip Code: 94102

Dallas, Texas
8303 Elmbrook Drive
Zip Code: 75247

Seattle, Washington
Room 2840 - Federal Building
915 Second Avenue
Zip Code: 98174

Field Station

Honolulu, Hawaii
Room 6324
300 Ala Moana Blvd.
Zip Code: 96850

LETTER OF TRANSMITTAL

FEDERAL TRADE COMMISSION
Washington, D.C.

To the Congress of the United States.

It is a pleasure to transmit the sixty-seventh Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended September 30, 1981.

By direction of the Commission.

JAMES C. MILLER, III
Chairman

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

FEDERAL TRADE COMMISSION
1981 ANNUAL REPORT

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SUMMARY

Fiscal 1981 was a year of continuity within transition. Despite several changes at the Commission, the agency carried forward a range of activities designed to free the marketplace of deception and anticompetitive restraints.

During fiscal 1981, Commissioner Paul Rand Dixon completed his extraordinary 43-year career of government service. Commissioner Robert Pitofsky, whose intellectual discipline and commitment to effective law enforcement enriched the Commission, returned to the teaching of law. Commissioner Michael Pertschuk ended nearly four years of service as Chairman, and Commissioner David A. Clanton led the agency as Acting Chairman for the remainder of the year.

As the pages that follow make clear, however, these changes did not alter the Commission's commitment in carrying forward its statutory responsibilities. Three overall themes predominated:

FOCUSED CASE ENFORCEMENT AND RULEMAKING

In fiscal 1981, the Commission transferred resources from broad industry-wide projects to more precisely defined and manageable case enforcement activities, where concrete benefits to competition and consumers could be achieved. However, the Commission did take final action in two major trade regulation rulemakings and continued proceedings in several others.

GUIDANCE TO BUSINESS

The Commission recognizes its responsibility to provide as much specific content as possible to its statutory framework. The commands of the FTC Act are necessarily broad, but in order to help businesses comply with the law, and as a matter of sound self-restraint, the Commission ought, where appropriate, to spell out the principles that undergird its enforcement. To that end, the Commission approved a letter in December 1980, delineating its standards under its "unfair acts or practices" jurisdiction. Moreover, in the spring of 1981, the Commission directed the staff to undertake comparable projects with respect to merger policy and the "unfair methods of competition" element of Section 5.

PRESERVATION OF FTC JURISDICTION

The Commission believes that individual groups ought not to be granted special immunity from the law that all others are expected to

obey. Much injury to competition and consumers would result from this kind of erosion of Commission jurisdiction. Thus in fiscal 1981, the Commission strongly opposed such an exemption for professionals, i.e., doctors, lawyers, etc. The Commission's activities involving the professions during the year reflected the balance that current law permits - in Acting Chairman Clanton's words, "enhancing competition through market freedom without, at the same time, harming other important social values."

The organization of the Commission is divided into three bureaus which carry out the Congress' two mandates: that of maintaining competition in the marketplace and protecting the consumer. The following is a summary of the Federal Trade Commission's accomplishments in 1981.

MAINTAINING COMPETITION MISSION

The mission of the Bureau of Competition is to enhance the welfare of consumers by maintaining the competitive operation of our economic system of private enterprise operating in free markets. The bureau fulfills this mission through enforcement of the antitrust provisions of the Clayton Act and the Federal Trade Commission Act, as well as by serving as a vigorous advocate of competition to the Congress and other governmental bodies.

In fiscal year 1981, the Bureau of Competition, with support from the Regional Offices and the Bureau of Economics, concentrated its investigations and cases in the areas of health care, food, energy, and other major market matters which affect the American consumer.

SUMMARY OF ENFORCEMENT ACTIVITIES

During fiscal year 1981, the Commission opened 208 investigations of possible violations of the antitrust laws. The Commission issued seven administrative complaints and accepted 20 consent agreements relating to competition matters. Four more consent agreements were accepted subject to public comment. Also, the U.S. Courts of Appeals issued decisions in four matters where decisions by the Commission had been appealed. The Supreme Court has decided to review one of the Commission cases.

HEALTH CARE

The Commission took several actions designed to remove market restraints and to free competitive forces in the health care field. One of these actions was the American Medical Association decision which prohibited the AMA from restricting truthful advertising and solicitation by

physicians and from preventing physicians from working for hospitals on a salaried basis. That decision resulted in an appeal to the U.S. Court of Appeals which affirmed the Commission's decision, and to a petition for certiorari by the AMA to the Supreme Court. As a result of the Commission's action, consumers should have better information about fees and services, and hospitals and health maintenance organizations will be assisted in controlling health care costs by hiring physicians on a salaried basis.

The Commission also sought to prevent mergers which would lessen competition in the health care fields. In a consent order, American Hospital Supply Corp., agreed to divest the urological-catheter assets of American Cystoscope Makers. Also, SmithKline Corp. consented to divest its Sea & Ski subsidiary, settling charges that SmithKline's acquisition of Allergan Pharmaceuticals eliminated competition between the two firms in the sale of sun care products. A complaint alleged that American Medical International, the third largest commercial hospital chain in the U.S., had attempted to monopolize the hospital market in San Luis Obispo County (Calif.) and had reduced competition in that market with the acquisition of its third hospital there.

FOOD INDUSTRY

Several significant actions by the Commission affected alleged anticompetitive practices in the food industry. These actions ranged from small retail food stores to the largest food manufacturers.

An initial decision by one of the Commission's administrative law judges (ALJ) prohibited ITT Continental Baking Co., the world's largest baker, from discriminating in the prices that it charged competing purchasers for its bread products. Another ALJ decision held that Beatrice Food Co. must sell Tropicana Products because its acquisition substantially lessened competition in the processing, distribution, and sale of chilled orange juice to retail food stores in the U.S. The Commission also accepted a consent order from Albertson's, Inc., one of the country's 10 largest grocery store chains, that will prohibit it from making further acquisitions where those acquisitions would be likely to reduce competition in the retail grocery market.

At the manufacturing level, the Commission accepted a consent order requiring Sunkist Growers to divest its Arizona Products Division and to limit its affiliations with commercial packinghouses. The Commission also issued a complaint charging that Flowers Industries' acquisition of a bakery in the southeastern U.S. may have substantially reduced competition in that industry. Finally, the U.S. Court of Appeals remanded decisions against the Coca-Cola Co. and PepsiCo, Inc. to the Commission because of the enactment of the 1980 Soft Drink Interbrand Competition Act. The Commission subsequently dismissed charges against Coca-Cola, PepsiCo, and five other soft drink bottlers.

ENERGY

In order to help consumers keep the price of energy down, the Bureau of Competition took several actions in the energy field. The Commission asked a federal court to stop a merger in the oil field equipment industry in order to obtain more time to study the effects of the proposed merger. The merger involved the acquisition by LTV Corp. of the Wilson Oil Rig Manufacturing Company. Additionally, one of the Commission's administrative law judges ruled that the nation's only four producers of lead-based "antiknock" gasoline additives have allegedly engaged in anticompetitive practices that enabled them to maintain identical prices. In 1977, domestic sales of these antiknock additives were in excess of \$550 million.

In Exxon Corp., the Commission dismissed its complaint charging that eight major petroleum companies had unlawfully restricted and monopolized different aspects of the petroleum industry. In doing so, the Commission emphasized it was not reaching the merits of allegations of wrongdoing and left open the option of addressing anticompetitive problems in the oil industry through a more focused proceeding.

MAJOR MARKET MATTERS

In other major orders that affect consumers, the Commission ordered four companies to divest their acquisitions. Murata Manufacturing Co. was allowed to purchase Erie Technological Products if it agreed to divest Erie's "Arizona Division", which makes ceramic capacitors. Owens-Corning Fiberglas agreed to divest four asphalt roofing plants it had acquired from Lloyd Fry Roofing Co. Kennecott Corp. agreed to divest a subsidiary that produces industrial air pollution equipment, settling charges that its purchase of Curtiss-Wright's Dorr-Oliver subsidiary substantially reduced competition in that field. Finally, the Commission provisionally accepted an order to Lehigh Portland Cement to sell three cement distribution terminals and one of six cement plants it acquired from U.S. Steel Corp.

The Commission obtained a consent order prohibiting resale price maintenance by Palm Beach, a maker of men's apparel, and provisionally accepted a consent agreement with Onkyo, a manufacturer of audio components. Both companies were accused of attempting to control the resale prices charged by retailers of their products to prevent discounting. In separate actions, Miles Laboratories, Inc. and YKK (U.S.A.), Inc. were ordered to cease discriminatory practices where found to injure competition.

Consumers who use the Pillsbury Co.'s refrigerated dough products should benefit from increased competition in the purchase, distribution, and sale of those products after a thirty-year contract arrangement be-

tween Pillsbury and Kraft, Inc. was ordered changed by the Commission. Under the arrangement, Kraft had the right to be Pillsbury's principal distributor, in return for which it agreed not to distribute the products of any of Pillsbury's competitors. As a result, Pillsbury can sell or distribute its dough products through other distributors, and Kraft can distribute refrigerated dough products made by other manufacturers.

Other consumers should receive substantial redress from Binney & Smith, Inc., Milton Bradley, Co., and American Art Clay under the terms of a consent order accusing them of inflating prices through an unlawful price-fixing conspiracy. Under the order, the respondents will establish escrow funds totaling \$1.225 million for distribution to states whose school systems were the principal victims of the conspiracy.

CONSUMER PROTECTION MISSION

Bureau of Consumer Protection activities in fiscal year 1981 continued to focus on those sections of the market that account for the most significant portions of consumer spending. The five sectors targeted were health care, food, energy, housing and transportation. Two other areas, credit and advertising, had an overreaching influence on all of these sectors.

I. CRITICAL SECTORS

HEALTH CARE

The Federal Trade Commission was successful in a number of efforts to stop advertisers from making allegedly unsubstantiated claims about products' effectiveness and ability to treat a variety of health-related conditions. For example, an administrative law judge found that Sterling Drug, Inc. made effectiveness and superiority claims for Bayer aspirin and other analgesics that were not based on reliable evidence. Sterling Drug would be ordered, among other things, to substantiate all future efficacy and therapeutic superiority claims for over-the-counter (OTC) drugs. This case continues to be on appeal to the Commission. Teledyne, Inc. agreed to have a reasonable basis for challenged claims about Water Piles ability to help prevent gum disease, and was further ordered to cease misrepresenting the results of a survey without an unbiased sampling of the particular population, or the therapeutic abilities of any device without scientific tests to substantiate such statements. The Sperry Corp. and DKG Advertising agreed not to claim that the "Black Man's Shave" would eliminate or treat razor bumps without adequate scientific evidence. Sperry agreed to offer refunds to dissatisfied buyers. Total consumer redress in this could reach \$100,000.

The annual cigarette tar, nicotine and carbon monoxide reports were published. Also, an FTC report based on two decades of evidence on the medical effects of cigarette smoking was forwarded to the Congress and publicly released. The staff report concludes that cigarette smoking is more dangerous to health than was thought in 1964. Furthermore, many consumers still do not adequately understand the dangers of smoking. The report mentions a number of options that might be appropriate for actions by the FTC, Congress, other government agencies, or private organizations. A Federal Register notice describing the staff findings and recommendations and asking for comments was also published.

The Commission decided to close its Over-the-Counter Drug Rulemaking proceeding. The proposed rule would have limited advertising claims about a drug's purpose for which the Food and Drug Administration has found the drug to be safe and effective. The rulemaking process proved that some basic principles underlying such an effort are sound and compelling, but the Commission decided, after examining the record, to move on a case-by-case basis against this type of problem in the \$4 billion non-prescription drug industry.

FOOD

The Commission's efforts in the food area are designed to prevent deception in food advertising. Concomitant with that, the FTC's efforts seek to provide consumers with information needed to evaluate food advertisements on their own, and to choose accordingly. For example, the makers of Fleischmann's Margarine have agreed not to claim that "doctors recommend" their product unless scientifically conducted tests substantiate that claim.

A two-day session was held in conjunction with the Commission's Nutrition Information Project, establishing a founding committee for a broad-based council to develop and produce topical consumer education items on nutrition. An interim executive committee is to report back in FY 82 with recommendations for programs, organizational structure, and funding mechanisms for the new council.

ENERGY

The Commission took numerous actions to prevent allegedly inaccurate, incomplete or misleading information dissemination in the energy area, particularly in regards to claims concerning energy efficiency. For example, Boekamp and Energy Efficient Systems, Inc. agreed to stop claiming that their quartz heaters are more efficient or produce more heat than other electric heaters of the same wattage.

The Commission proposed an amendment to its Appliance Labeling Rule which requires that manufacturers of pulse combustion and con-

densing furnaces disclose energy efficiency information to consumers prior to sale. Hearings on this proposal will be held in early FY82. The report on a similar amendment requiring energy efficiency disclosures on central air conditioners and heat pumps, will be published in the Federal Register in FY82.

The Commission issued a complaint against Champion Home Builders Co., a solar-heating equipment manufacturer. The complaint alleged that the company falsely claims that its residential solar furnace did not have defects, was virtually maintenance free and was built with quality long life materials. The company did not tell customers about the existence of conditions that could impair the furnaces' performance and quality. In addition, the Commission alleged that Champion made specific energy savings claims that could not be substantiated.

The Commission modified a 1976 order covering Owens-Corning Fiberglass Corp. to make it clear that the respondent must have a reasonable basis for its advertisements which recommend amounts of home insulation.

The FTC contributed comments to the Department of Energy's Annual Report. FTC comments concerned utilities' financing, supply and installation activities, consistent with our responsibilities under the Residential Conservation Program.

HOUSING

The Commission reached numerous agreements with companies to pay civil penalties and/or restitution to consumers who suffered economic loss due to alleged misrepresentations of the value or cost of their Investment. Twelve housing industry companies agreed to pay nearly \$500,000 in civil penalties in settlement of charges that their advertising of credit terms violated federal law. The Horizon Corp. agreed to pay \$14.5 million in restitution and spend an additional \$45 million over the next twenty years on improvements to land that they sold. The company had misrepresented and omitted facts leading prospective purchasers to believe that undeveloped land being bought was an excellent, financially risk-free investment. Bea Kay Real Estate Corp. agreed to provide a total of \$500,000 in consumer redress to purchasers of certain Colorado lands. These purchasers allegedly were misled as to the equity of their land. The Bea Kay judgment completes FTC claims against those associated with Las Animas Ranch bringing the anticipated total value of consumer redress to \$1.2 million.

In other housing-related matters, the Darworth Co. agreed not to falsely claim that its wood stain products have been endorsed by the U.S. Government. The company allegedly had claimed that registration with the Environmental Protection Agency was an endorsement and that it indicated Darworth's products are superior to other stains and preservatives.

TRANSPORTATION

The Commission's efforts to remedy and/or prevent economic or personal damage to consumers in the transportation area were successfully concluded in a number of cases. The Commission issued a complaint against International Harvester. The complaint alleged instances of severe injury and at least one death by fire caused by a faulty gas tank design on some of this company's tractors. The Commission issued a complaint against Volkswagen of America, charging the company failed to disclose that an abnormally high number of 1974-1979 Volkswagens and Audis needed engine repairs related to high oil consumption. The American Honda Motor Co., Inc. agreed to provide owners of its 1975-1978 Honda Civics and Accords with repairs or reimbursements because of economic loss due to front fender rusting. Mobil Oil Corp. was ordered to stop advertising that "Mobil 1" motor oil results in reduced consumption of oil unless specific disclosures are made.

The final Used Car Rule was unanimously adopted by the Commission and published in the Federal Register. The rule was substantially modified from the one tentatively adopted by the Commission in May 1980. The final rule requires disclosure of warranty information, and of certain defects if the dealer knows of them. It was transmitted to the Congress for consideration under the legislative review procedures of the FTC Improvements Act of 1980.

CREDIT

The Commission successfully acted upon numerous alleged violations of the Fair Debt Collection Practices Act (FDCPA). The Universal Collection Bureau, Inc. was ordered to pay a \$90,000 penalty in settlement of FTC charges that it harassed debtors in its attempt to collect debts. Complaints were filed in federal district courts against five other debt collection organizations seeking civil penalties for abusive, unfair and/or deceptive collection practices. Aldens, Inc., the nation's fifth largest mail order firm, agreed not to contact third parties in attempts to collect delinquent accounts. Budget Marketing was ordered to pay \$125,000 in civil penalties in settlement of charges that it used deceptive sales and debt collection practices.

In other credit-related areas, the Commission obtained an agreement from Zale Corp., charged with improperly handling billing disputes, to conform to the provisions of the Fair Credit Billing Act. Equifax, Inc., one of the nation's largest consumer-credit reporting agencies, was ordered to end several practices that allegedly violate the Fair Credit Reporting Act. Practices alleged to have violated the law include: pressuring employees to uncover unfavorable information, having employees exaggerate information in credit investigation reports or in-

vent sources and comments, and failing to properly respond to consumer questions and complaints. Equifax appealed the decision to the U.S. Court of Appeals.

The Chrysler Corp. was ordered to provide its dealerships with new accounting procedures designed to protect the rights of credit customers by ensuring that if their cars or trucks are repossessed, they receive prompt and correct payment of any profits from the dealer's resale of these vehicles. Under a related consent agreement, Aurora-Chrysler Plymouth Inc., a Seattle dealership, was ordered to repay all repossession surpluses it generated since February 10, 1973.

George Irvin, a Denver car dealership, agreed to follow standards to insure that its T.V. advertisements of credit terms make federally required disclosures clearly and conspicuously.

ADVERTISING

The Commission acts in a variety of fields to prevent misleading, unfair or deceptive advertising. The following are examples of issues considered.

The FTC ordered Litton Industries, Inc. to stop claiming that its microwave ovens are superior to others or are preferred by technicians, unless it has a sound basis for such claims. The Commission also found that the company misrepresented the results of a survey in its advertising.

The Commission filed a complaint in federal court against Sears, Roebuck and Co. and a supplier, charging that the companies mislabeled and falsely advertised the amount of down filling contained in garments sold. Civil penalties and an injunction were sought.

Five cigarette companies agreed to pay \$485,000 in civil penalties for violating 1972 consent orders governing the display, size and placement of cigarette health warnings in advertisements. The case against a sixth company, continues to be in litigation.

The Commission decided to terminate the Children's Advertising rulemaking proceeding. The rulemaking sought to evaluate whether advertising directed at children is unfair or deceptive. The Commission concluded that continuing the proceeding was not in the public interest, because it may not resolve the complex issues presented, and it may not be able to develop an effective remedy.

OTHER ACTIVITIES

The Commission must monitor compliance with its cease and desist orders and rules and guides to ensure that past unfair or deceptive practices are rectified and further problems prevented. Some cases of this nature have been mentioned above. Others, which do not fall into the above categories, are highlighted below.

In total, the FTC obtained \$1,359,000 in civil penalties for violations of previously issued orders, or for violations of FTC rules. Up to another \$45,749,000 may be obtained by consumers in redress resulting from cases concluded in 1981.

A complaint was filed in U.S. District Court against Union Circulation because this magazine subscription firm, selling door-to-door, allegedly failed to tell customers of their right to cancel, failed to give them the necessary forms, and did not make timely refunds. Such practices are in violation of the cooling-off period called for by the Door-to-Door Sales Trade Regulation Rule.

Sure Products, Inc. agreed not to ship or bill for unordered merchandise, or ship orders taken over the phone without verifying their authority. A \$30,000 civil penalty was paid to settle charges resulting from its alleged practice of sending merchandise to small businesses, churches, schools and other institutions without the express consent of the recipients.

A complaint was filed in federal court against Marketing Associates, alleged to be in violation of the Franchise Trade Regulation Rule. FTC charged that Marketing Associates defrauded investors by failing to provide promised machines and services, and by not making the disclosures required under the rule.

As noted previously, the Commission also from time to time, modifies orders and amends trade regulation rules. For example, an order concerning Encyclopaedia Britannica Inc.'s marketing practices was modified following a petition filed earlier this year requesting the changes. The Games of Chance Trade Regulation Rule was amended to shorten the interval required between games. The amendment also eliminates the requirement that a complete list of winners be forwarded to the Commission at the conclusion of each game. Furthermore, each retail outlet is required to post information only for winners who redeemed their prizes at the outlet, instead of for all winners, as called for in the original rule. Industry savings due to the amendment are estimated to be in excess of one million dollars a year.

The Commission voted to issue a trade regulation rule governing the funeral service industry. The funeral rule is designed to provide consumers with enough information to comparison shop effectively and to select the funeral arrangements they desire. A major feature of the rule approved by the Commission is a requirement that funeral directors provide customers with itemized price lists at the funeral home. Upon final approval of the rule language, Statement of Basis and Purpose, and the Regulatory Analysis by the Commission, the trade regulation rule will be published in the Federal Register, and transmitted to the Congress for consideration under the legislative review procedure of the 1980 FTC improvements Act.

II. CONSUMER EDUCATION AND EFFECTIVENESS MEASUREMENTS

CONSUMER EDUCATION

The FTC found it extremely cost effective to supplement its regulatory efforts with intergovernmental liaison. The Commission and its staff provided independent counsel to Congress, support to the states, and support and advice to other federal agencies.

Similarly, the FTC continued its education program to inform industry and consumers of their rights and obligations under statutes and rules. For example, the Commission produced manuals for business discussing: advertising consumer credit, unordered merchandise, and handling consumer complaints. The Commission also produced consumer education materials on generic drugs, R-value, and franchise and business opportunities.

IMPACT EVALUATION

The Commission continued to assess the economic effects of its activities. For example, a retrospective study of affirmative disclosure orders focused on litigated orders and consent orders handed down by the Commission between 1970 and 1977. It examined the types of problems involved, the objective of the orders and the outcomes of the orders. The home insulation baseline study was conducted among a national sample of consumers who had purchased home insulation between May 1979 and May 1980. The findings indicated there is a relatively high degree of awareness of R-value as a measure of insulating capacity, that R-value information is an important consideration in consumers' purchase decisions, and that fact sheets and package labels are important sources of information.

Other studies nearing completion in FY81 included: a retrospective evaluation of the benefits and costs of the cooling-off rule; a retrospective evaluation of the degree of compliance with the consumer's right of access to eyeglass prescriptions under the Eyeglass TRR; a baseline study for the Care Labeling Amendment (which is also a retrospective evaluation of the Care Labeling TRR); and a study of quality of fit of contact lens by type of provider.

Through these studies the FTC continues to adjust its plans and enforcement activities to maximize consumer and business benefits at the least cost to all parties involved.

ECONOMIC ACTIVITIES

The FTC's Bureau of Economics has three main responsibilities: to provide economic support to the agency's antitrust and consumer protection activities; to advise the Commission about the impact of government regulation on competition; and to gather and analyze information on the American economy.

The primary mission of the FTC is to enforce the antitrust and consumer protection laws. In 1981 the Bureau of Economics continued to provide guidance and support to those activities. In the antitrust area, economists offered advice on the economic merits of potential antitrust actions. Situations where the marketplace functioned reasonably well were distinguished from situations where the market might be improved by Commission action. When enforcement actions were initiated, economists worked to integrate economic analysis into the proceeding and to devise remedies that will improve consumer well-being.

In the consumer protection area, economists provided estimates of the benefits and cost of alternative policy approaches. Potential consumer protection actions were evaluated not only for their immediate impact, but also for their longer run effects on price and product variety. Bureau economists provide internal advice on the competitive impact of various governmental laws and regulations. Using expertise derived from FTC studies of industries and trade practices, economists helped to evaluate the effect of actions in a wide variety of areas.

Although the FTC is primarily a law enforcement agency, it is also charged with collecting, analyzing, and publishing information about the nation's business firms. Much of this work is conducted by the Bureau of Economics. In 1981 economists did research and statistical work concerning a broad array of topics in antitrust, consumer protection, and regulation.

In the antitrust area, economists participated in the International Antitrust Task Force by providing analysis of the impact of the United States antitrust laws on the ability of American firms to compete with foreign competitors. In addition, work continued on an analysis of the use of accounting data to estimate economic profits. An experimental examination of "meet or release" contracts was completed in support of the Ethyl case, and work continued on the empirical analysis of the impact upon profitability of the electrical equipment price conspiracy. Work also continued on a study of the competitive and efficiency effects of product differentiation and on a study of the economic effects of joint ventures. Finally, numerous research projects using the Commission's line of business data were initiated, and several draft papers were completed.

In the consumer protection area, economists began preliminary work on a study of the relationship between the price and quality of housing. The analysis will test to see if there is a relationship between the prices of

new homes and the carefulness of construction. Research on the residential real estate brokerage industry also continued. The project seeks to evaluate the economic performance of real estate brokers and to consider possible policy actions to improve industry performance.

In the area of regulation, economists continued work on a study of the effects of the regulation of retail milk prices by states. The purpose of this study, which draws on information developed in an earlier legal investigation, is to provide information to the states and the Congress. The bureau also began preliminary work on a study of the effect of state drug substitution laws. Since the early 1970's, many states have adopted a variety of different statutes to allow the pharmacist to substitute a generic product for a brand-name drug prescribed by the physician. The study will examine the effects of the different state laws to determine their impact on the prices paid by consumers. Finally, economists completed the research protocol for an analysis of the impact of state advertising restrictions upon the price of legal services. The study will provide insight into the effects upon prices of a variety of different restrictions. It should be of substantial interest to states considering alternative regulations.

THE REGIONAL OFFICES

The regional offices play an important role in implementing the policies and law enforcement responsibilities of the Commission. Ideally, the regional offices, since they are located in the areas they serve, help develop and carry out those law enforcement activities which are best suited to the economic realities of their respective areas. The regional offices also help to monitor federal antitrust and consumer protection laws, provide important guidance and education to businesses and consumers, and coordinate efforts with local and state law enforcement agencies.

During fiscal 1981, the regional offices contributed to the Commission's law enforcement efforts, returning hundreds of thousands of dollars to the American public through consumer redress cases. The regional offices were responsible for handling significant litigation and achieving important settlements during fiscal 1981. These matters included the establishment of a \$1.2 million escrow account for distribution to states whose school systems were the principal victims of an unlawful price-fixing conspiracy; substantial refunds to consumers who had billing-error claims under the Fair Credit Billing Act; and litigation of numerous major matters.

Through their outreach effort, the regional offices handled thousands of inquiries and complaints from consumers, businesses and members of Congress. These offices provided important law enforcement guidance and education to members of the public, small business associations, and

local interest groups of numerous types. Overall, regional offices have assisted the Commission in carrying out its mission in a more effective manner.

EXECUTIVE DIRECTION, ADMINISTRATION AND MANAGEMENT

The Federal Trade Commission is committed to improving its own efficiency through the implementation of more effective agency administration. In addition to a long-standing dedication to recruiting top level attorneys, economists, and management officials, the agency has adopted important data processing support capabilities to improve the tracking and allocation of agency resources, to provide analytical support for law enforcement, and to improve recordkeeping and reporting responsibilities.

The Commission implemented a technically sophisticated management information system. This system tracks the status of all open cases and projects and tracks staff time spent on these matters. The system enables the agency to monitor the progress of cases and investigations and improve the capability to move matters quickly. In addition, data from the Commission's information systems, e.g., Financial Management System, is combined in the MIS to track the budget as well as program plans.

The agency continued efforts with GSA to consolidate six separate office locations in the Washington area. During fiscal 1981, the agency undertook steps to enhance productivity through the application of new office technologies and comparative costs studies of contractor performance of in-house performed functions.

The agency monitored the implemented section of the Civil Service Reform Act during 1981. These important systems included performance appraisal, Senior Executive Service and merit pay.

The merit pay system was implemented in fiscal 1981 and was designed to recognize and reward quality performance by supervisory and managerial officials. Merit pay covers many FTC employees in grades 13 through 15. This system was devised in 1980, and the first merit pay performance determinations were made in 1981.

The agency recognizes the importance of relevant and timely training and development programs for its employees. Thus, in fiscal 1981, continued emphasis was placed on courses such as the Trial Advocacy Program, Clerical/Technical Lecture Series, Advanced Management Training, and Career Development/Upward Mobility Programs.

The agency's program planning and budgeting process provided the Commission with needed information to allocate resources through quarterly budget review sessions.

PART II (Investigative Stage)
CONSENT AGREEMENTS ACCEPTED
AND PUBLISHED FOR PUBLIC COMMENT

COMPETITION MISSION

Onkyo U.S.A. Corp.

Onkyo U.S.A., the American distributor for audio components manufactured in Japan, was prohibited from trying to set resale prices for its audio components sold in the U.S. The complaint accompanying the consent alleged that Onkyo required some of its dealers to sell its products at "suggested" resale price. Under the agreement, Onkyo may not suggest resale prices for audio components for two years. After the two-year period, the company may recommend resale prices only if it clearly states that these are purely suggestions and that dealers may set their own retail prices.

CONSUMER PROTECTION MISSION

Aldens, Inc.

The nation's fifth largest mail-order firm, Aldens, Inc., agreed to follow a set procedure in collecting debts owed to it by its customers. Under terms of the agreement, the company will not contact employers, relatives, friends, or neighbors about debts, but may ask them the whereabouts or address of the consumer. Also, Aldens may not contact a consumer at any unusual or inconvenient time or place, including his or her place of employment. The company may not contact directly any customer who has an attorney representing his interest.

American Honda Motor Co.

American Honda Motor Co. agreed to provide owners of its 1975-1978 Honda cars with repairs or reimbursement for premature rusting of fenders. According to the consent order, Honda allegedly knew or should have known that the fenders on these Civics and Accords would prematurely rust, but did not disclose that fact to consumers.

Ball-Matic Corp.

Ball-Matic Corp. agreed to stop making claims that its valve increases fuel efficiency.

Great North American Industries, Inc.

Great North American Industries, Inc. which markets Tephguard, an engine-oil additive, has entered into a consent agreement that requires the company to not make any claims of substantial gas savings resulting from Tephguard or other similar products without competent scientific evidence. Furthermore, Great North American Industries must use appropriate Environmental Protection Agency procedures to support all fuel-economy claims.

Tomy Corp.

Tomy Corp. entered into a consent agreement which bars Tomy from showing any group of toys in an ad unless they are sold as a set or the ad describes that they are "sold separately." The order also requires Tomy's ads to state when an advertised item is available on a limited basis.

Chrysler Corp.

Chrysler Corp. agreed to notify owners of 700,000 Japanese-made Chrysler cars and trucks that they should be using special strength oil filters in order to avoid engine damage that could involve repairs costing an average of \$500. Chrysler also must run ads in "Automotive News" advising the trade that a technical data service on filters and other Chrysler specifications is available. The complaint charged that Chrysler allegedly provided inaccurate information about replacement oil filters to vehicle owners.

PART II (Investigative Stage)
CONSENT AGREEMENTS
ISSUED IN FINAL FORM

COMPETITION MISSION

Murata Manufacturing Co.

This consent agreement allows Murata Manufacturing Co. to acquire Erie Technological, a capacitor industrial firm. The terms for this consent requires Murata Manufacturing to divest Erie's "Arizona Division" within nine months. Murata must also run Erie as a separate company until the Arizona Division is sold to a buyer approved by the Commission. If Murata cannot find an acceptable purchaser for the Arizona Division within nine months, it must divest all of Erie Technological within four months thereafter.

Owens-Corning Fiberglas Corp.

Owens-Corning Fiberglas Corp., a major manufacturer of glass fiber and other construction materials, has agreed to divest four asphalt roofing plants. The Commission charged that Owens-Corning's acquisition would substantially lessen competition in seven western states. Under the consent agreement, Owens-Corning must divest the four plants producing asphalt roofing products within two years of the effective date of the order to a person or persons approved by the Commission. In addition, Owens-Corning is prohibited for ten years from acquiring, without Commission approval, any interest in western asphalt roofing plants.

Pillsbury Co. and Kraft, Inc.

This consent agreement requires Pillsbury Co. and Kraft, Inc. to change a thirty-year contractual arrangement under which Kraft was appointed the principal distributor for Pillsbury's refrigerated dough products on the condition that Kraft not distribute or sell the products of Pillsbury's competitors. This contractual arrangement was found to substantially lessen competition in the sale, distribution and purchase of refrigerated dough products. Under the order, Pillsbury can sell or distribute its dough products through other distributors, and Kraft can sell or distribute other manufacturers products.

Albertson's, Inc.

Albertson's, Inc., one of the nation's largest grocery chains, has agreed not to purchase more than four grocery stores in any one state where it already owns stores, without consent of the Commission. Albertson's must also seek permission before purchasing any grocery stores within 500 miles of one of its warehouses or within 300 miles of any Albertson's grocery store. The restriction applies to acquisitions of five or more stores located in any of fifteen states. The order charges that Albertson's 1978 acquisition of the Fazio grocery business eliminated competition within the Los Angeles and Orange County areas of California.

Godfrey Co.

Godfrey Co., the second largest grocery chain in the Milwaukee area, must divest seven stores. Godfrey agreed to sell three of its own stores and four stores previously owned by Jewel Co. to FTC-approved buyers within six months. The consent order contended that Godfrey's 1980 acquisition of eleven Jewel Co. stores may encourage further mergers among other leading grocery stores in the Milwaukee area and may lead to a monopoly in the grocery business.

American Hospital Supply Corp.

American Hospital Supply Corp. has agreed to divest the catheter-making assets of recently acquired American Cystoscope Makers Inc. The consent charged that the acquisition of American Cystoscope by American Hospital Supply Corp. would create a monopoly in the \$70.4 million dollar catheter industry. American Hospital Supply will have 18 months to divest American Cystoscope assets used in the manufacture and sale of urological catheters. In addition, for five years, American Hospital Supply will be prohibited from acquiring more than a one percent interest in any company making or selling urological catheters in the U.S. without Commission approval.

YKK Inc.

YKK, Inc., one of the nation's largest manufacturers of zippers and zipper components, agreed not to discriminate in prices between different customers when it is in competition with other suppliers. In order to comply with the consent, YKK would have to file a compliance report and give the Commission advance notice of any changes in its corporate organization. The company must also distribute copies of the order to all of its sales and marketing divisions.

Miles Laboratories

Miles Laboratories agreed not to discriminate in their promotional programs aimed at retail customers. The complaint charged that Miles' promotional programs may have given larger customers an advantage over smaller ones. Under the agreement, Miles will notify its retail customers of advertising and promotional programs. The company will also notify each of its customers of its revised advertising and promotional policy. Miles will also send letters to those retail customers who purchased less than \$5,000 of advertising and promotional programs stating the company has revised its compensation policy to encourage greater participation in its promotional program by small retailers.

Palm Beach

In a consent agreement with Palm Beach Men's Division, the company will no longer maintain the resale price at which its men's clothes are to be advertised or sold. According to a complaint, Palm Beach allegedly refused to deal with any retailer who sold their products below their set resale prices. Under terms of the consent order, Palm Beach may not suggest resale prices for any product for three years. After the three-year period, Palm Beach may recommend resale prices and sale periods only if it clearly states that these are simply suggestions and that the retailers are free to set their own sale terms.

British Petroleum Co. Limited

British Petroleum agreed to divest 6.8 percent of its holdings in Amax Inc. within thirty months. A complaint alleged that British Petroleum's acquisition of Kennecott Corp. may reduce competition in the U.S. production of molybdenum, a metallic element used in steel production. The agreement bars British Petroleum from entering into a venture with any other company producing more than three percent of the U.S. molybdenum output and also bars the acquisition of stock of other producers. In addition, the order prohibits interlocks of officers, directors or employees of British Petroleum with other molybdenum producers.

Kennecott Corp.

Kennecott Corp. agreed to divest a subsidiary that produces industrial air pollution equipment. The complaint alleged that Kennecott's purchase of Dorr-Oliver violated the Clayton Act by reducing

competition between the two manufacturers by significantly increasing its share of the fabric air filter bag market. Under the agreement, Kennecott must divest the Filter Media Division in a manner calculated to preserve the division's assets and business as a viable competitor. In addition, the agreement calls for Kennecott to operate National Filter Media Corp., a subsidiary of Dorr-Oliver, as a separately managed subsidiary.

SmithKline Corp.

The SmithKline Corp. agreed to divest its Sea & Ski sun care products subsidiary. The complaint alleged that SmithKline's acquisition of Allergan Pharmaceutical Inc., which produces the "Eclipse" line of sun care products, had reduced competition in the sun care market. SmithKline agreed to divest all Sea & Ski assets, including customer names and trade lists, within six months, and to provide the buyer with any personnel or technical assistance it needs to produce Sea & Ski products for one year.

Genstar, Ltd.

Genstar, Ltd., a Canadian manufacturer of portland cement and gypsum wallboard, agreed not to undertake agreements with its competitors to share profits or exchange cost and price information. Genstar's acquisition of a U.S. firm, the Flintkote Co., in conjunction with its pre-existing price exchange and profit sharing agreements with two of Flintkote's competitors, were alleged to have the effect of reducing price competition and restricting supplies to its customers. Genstar also agreed to refrain from acquiring further cement or wallboard manufacturing plants without prior Commission approval.

CONSUMER PROTECTION MISSION

Benton & Bowles, Inc.

Benton & Bowles, an advertising agency, agreed to no longer show children who appear to be eight years old or younger operating a non-motorized vehicle on public thoroughfares. Instead, the New York advertising agency agreed to depict safe riding habits in advertisements it produces for bicycles, tricycles, or minibikes.

Mentholatum Co., Inc.

Mentholatum, the maker of Snug Denture Cushions, agreed to refrain from claiming that its product is for long-term use to settle charges

that its advertising claims contradicted government-required label warnings.

Universal Bodybuilding, Inc.

Universal Bodybuilding, Inc., a Michigan mail-order company, has agreed not to make unsubstantiated advertising or promotional claims about its bodybuilding programs.

Darworth Co.

Darworth Co., a Connecticut manufacturer of wood stain and preservative products has agreed to stop making claims that its product was endorsed by the Environmental Protection Agency. Future advertisements will disclose that the registration was not an endorsement by the EPA, or that all products containing a fungicide must be similarly registered.

Farnam Companies, Inc.

Farnam, the manufacturer of "Snail Jail," a garden pesticide, agreed to no longer make claims that its product is "completely safe for children and pets" and has been approved by the Environmental Protection Agency.

Mobil Oil Corp.

Mobil Oil Corp. has agreed to disclose in its advertising that some automobiles using "Mobil I," the company's synthetic motor oil, consume increased amounts of oil. Under the agreement, if the company claims in ads or in labels or packaging materials that Mobil I results in reduced oil consumption, it also must recommend that users check oil levels frequently.

Benton & Bowles, Inc.

Benton & Bowles, an advertising agency, agreed to stop making any contraceptive effectiveness claims in advertisements regarding Encare which use the words "effective" or "reliable" in conjunction with any performance or quality heightening modifiers such as "highly" or "extremely." In addition, the company may not misrepresent the effectiveness of any over-the-counter contraceptive product.

Shaller Rubin Associates

Shaller Rubin Associates agreed to stop making any contraceptive effectiveness claims in advertisements regarding Encare which use the words "effective" or "reliable" in conjunction with any performance or quality heightening modifiers such as "highly" or "extremely." In addition, the company may not misrepresent the effectiveness of any over-the-counter contraceptive product.

Citicorp Financial, Inc.

Citicorp Financial, Inc. agreed to comply with a 1973 consent order against Arlen Realty and Development Corp. and its subsidiary NAC Credit Corp. The order requires that Citicorp disclose at the outset the financial obligations its credit card users incur before issuing them a card.

Sorga, Inc.

Under terms of this consent, Sorga agreed to stop making any contraceptive effectiveness claims in advertisements regarding Semicid which use the words "effective" or "reliable" in conjunction with any performance or quality heightening modifiers such as "highly" or "extremely." In addition, the company may not misrepresent the effectiveness of any over-the-counter contraceptive product.

Ted Bates & Co.

Ted Bates & Co., formerly the advertising agency for Standard Brands' Fleischmann's Margarine, agreed to no longer make claims based on surveys or tests unless the claims are scientifically conducted and accurately reflect the results. The company allegedly used ads which implied that doctors used their medical expertise in choosing Fleischmann's Margarine.

Standard Brands, Inc.

Standard Brands, Inc., the manufacturer of Fleischmann's Margarine, assured the Commission that future advertisements will not make claims based on surveys or tests unless they can be scientifically proven. The order also stipulates that an expert may only give his endorsement if his expertise is related to the product.

Boekamp, Inc.

The nation's first producer of portable electric quartz heaters, Boekamp, agreed to stop claiming that its quartz heaters are more ef-

ficient or produce more heat than other electric heaters of the same wattage. The complaint alleged that Boekamp falsely claimed its infrared quartz heaters provided superior efficiency when, in fact, it operated at the same efficiency and produced the same amount of heat per watts consumed as other electric resistance heaters.

Energy Efficient Systems, Inc.

Energy Efficient Systems, a firm which distributes Boekamp's Quartz Energy Saver Heater, agreed to stop making unsubstantiated claims about the efficiency and heat-producing qualities of the Quartz Energy Saver Heater. The company agreed to make future claims only if they were supported by competent and reliable scientific testing.

Sperry Corp.

Sperry Corp. agreed to stop claiming that the "Black Man's Shaver" will eliminate or effectively treat razor bumps and similar claims without adequate medical basis for such claims. Sperry was also required to offer dissatisfied purchasers of the Black Man's Shaver an opportunity to request a refund.

DKG Advertising, Inc.

DKG Advertising Agency agreed to stop advertising that the "Black Man's Shaver" would effectively treat razor bumps. The agency may not misrepresent in ads that a medical device is unique or use ads which are inconsistent with accepted medical opinion.

Zale Corp.

Zale Corp. agreed to settle customers' billing-error claims and to follow the Fair Credit Billing Act in future transactions. Under terms of the agreement, Zale would send forms to customers requesting information about past billing errors. After receiving a complaint Zale would investigate the claim, and if the customer is correct, Zale would pay the refund due. Zale would correct the credit ratings of customers who claimed that the dispute hurt their credit ratings. In addition, Zale must disclose in future billings the existence of any credit balances, and refund past credit balances plus six percent interest.

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PRELIMINARY INJUNCTIONS

COMPETITION MISSION

Weyerhaeuser Co.

The Commission sought a preliminary injunction barring Weyerhaeuser Co.'s proposed acquisition of the Manasha Corp. The complaint charged the acquisition would violate Federal antitrust laws by substantially reducing competition in the West Coast production of corrugating medium, a material used to make cardboard boxes. If the acquisition was allowed, Weyerhaeuser would become the nation's leading producer of corrugating medium with more than twenty percent of the market. The preliminary injunction was denied and the Commission issued an administrative complaint against the merger.

LTV Corp.

The Commission applied for a preliminary injunction to prohibit the proposed merger of Wilson Oil Rig Manufacturing by the LTV Corp. The injunction was sought because the Commission needed more time to study the effects of the merger on the oil field equipment industry. The Commission has requested additional information from LTV Corp. and Wilson Oil Rig Manufacturing before its final review. This marked the first time the Commission invoked Sec. 7A(g)(2) of the Clayton Act to request a temporary restraining order. LTV cancelled its takeover attempt before the case was heard.

Great Lakes Chemical Corp.

The Commission authorized its staff to seek a preliminary injunction barring Great Lakes Chemical Corp.'s proposed acquisition of part of Velsicol Chemical Corp. It argued that the acquisition could substantially lessen competition in the elemental bromine and brominated flame retardant products market, because it would increase Great Lakes Chemical's 33.6 percent share of the bromine market to 38 percent. The company already owned a fifty percent interest in the fourth largest bromine producer, Arkansas Chemicals, which had 8.4 percent of the bromine market. The preliminary injunction was denied and the Commission issued an administrative complaint against the acquisition.

CONSUMER PROTECTION MISSION

Marketing Associates, Inc.

The Commission sought and was granted a preliminary injunction restraining the company from further. violations of the Franchise Rule and from defrauding investors.

CIVIL PENALTY ACTIONS

COMPETITION MISSION

Joseph Dixon Crucible Co.

The Federal Trade Commission charged in federal court that Joseph Dixon Crucible Co. inflated prices through a price-fixing conspiracy. The complaint alleges that Joseph Dixon Crucible violated an FTC cease and desist order by agreeing with competitors to fix prices, terms and discounts at which its art materials were sold and by exchanging related information with competitors. The court was asked to order Joseph Dixon Crucible Co. to refund excess payments made by consumers and to pay civil penalties of up to \$10,000 for each law violation,

Binney & Smith, Inc., Milton Bradley Co., and American Art Clay Co.

In related actions, the Commission accepted consent agreements with Binney & Smith, Milton Bradley, and American Art Clay in which they agreed to pay a total of \$1.25 million in redress to consumers of their products. The complaint prepared as a part of the settlement alleged that the three manufacturers had conspired to raise the prices of art supply products in the period between 1972 and 1979. Redress funds were ordered paid into an escrow account from which consumers, primarily state school boards, would be refunded overcharges. Refunds were directed to be paid within three years in a manner to be determined by Commission staff, after which any funds remaining would be returned to the companies.

Louisiana-Pacific Corp.

The Commission charged Louisiana-Pacific with failing to divest its Rocklin, California medium density fiberboard plant as required by an FTC order, Louisiana-Pacific, the nation's second-largest producer of particle board, had agreed to sell the plant by March 27, 1981, but failed to do so. The Commission sought civil penalties of up to \$10,000 a day against the company for violating the consent order. In addition to civil penalties, the Commission requested an injunction against future violations of the order.

CONSUMER PROTECTION MISSION*

Budget Marketing, Inc.

This company agreed to a civil penalty consent decree in the amount of \$125,000 for allegedly using unfair and deceptive practices in telephone sales and debt collection. In addition, the company must make certain disclosures in telephone solicitations, give refunds, and give future telephone sales customers a right to cancel.

Riccardo Pagnini (America) Corp.

This company agreed to a civil penalty consent decree in the amount of \$20,000 for allegedly falsely labeled wool-blend fabrics. In addition, the company agreed not to mislabel wool products, to have an independent laboratory test to determine fiber content of imported wool products and to correct the labels of products the tests show to be inaccurately labeled.

Associated Dry Goods Corp.

This company agreed to a civil penalty consent decree in the amount of \$75,000 for allegedly violating a 1975 cease and desist order that prohibited writing off credit balances due consumers. In addition, the company must devise a new billing system, send notices to consumers, and provide refunds.

Atlantic Hosiery, Inc.

This company agreed to a civil penalty consent decree in the amount of \$16,000 for allegedly violating a 1974 cease and desist order. In addition, the company must disclose the identity and percentage of the constituent fibers on all of their textile fiber products.

Universal Collection Bureau, Inc.

This company agreed to a civil penalty consent decree in the amount of \$90,000 for allegedly violating the Fair Debt Collection Practices Act. The company must also immediately notify the Commission of impending bankruptcy proceedings or other actions that might diminish its assets.

* All civil penalty actions include a permanent injunction enjoining future violations.

Credit Rating Bureau, Inc.

This company agreed to a civil penalty consent decree in the amount of \$10,000 for allegedly violating the Fair Debt Collection Practices Act. In addition, the company must delete the words "credit" and "rating" if it intends to remain in the debt collection business.

Sure Products, Inc. and Marvin Saline

This company agreed to a civil penalty consent decree in the amount of \$30,000 for allegedly attempting to collect payment for unsolicited merchandise.

Paul Ramage and Dixie Ramage d/b/a Vanguard International

This company agreed to a consent decree providing for civil penalties of \$10,000 and refunds totaling \$20,000. Vanguard allegedly violated the FTC's Door-to-Door Sales Rule by not giving customers the required cooling-off period when the company sold magazines.

John Crosland Co.

This company agreed to a civil penalty consent decree in the amount of \$20,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

Hylton Enterprises, Inc.

This company agreed to a civil penalty consent decree in the amount of 28,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

Virginia Building Corp.

This company agreed to a civil penalty consent decree in the amount of 30,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

Yeonas Co.

This company agreed to a civil penalty consent decree in the amount of 25,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

Westminster Co.

This company agreed to a civil penalty consent decree in the amount of \$50,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

The Korman Corp.

This company agreed to a civil penalty consent decree in the amount of \$35,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

Wauwatosa Realty Co., Inc.

This company agreed to a civil penalty consent decree in the amount of \$15,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

Bob Scarborough, Inc.

This company agreed to a civil penalty consent decree in the amount of \$50,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

Pulte Home Corp.

This company agreed to a civil penalty consent decree in the amount of \$70,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

Centex Homes Midwest, Inc.

This company agreed to a civil penalty consent decree in the amount of \$50,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

Kettler Brothers, Inc.

This company agreed to a civil penalty consent decree in the amount of \$25,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

U.S. Home Corp.

This company agreed to a civil penalty consent decree in the amount of \$90,000 for allegedly using unfair or deceptive practices in its advertising of real estate credit terms.

Young Ford, Inc.

This company agreed to a civil penalty in the amount of \$10,000 for allegedly violating the Commission's Preservation of Consumers' Claims and Defenses Rule (Holder-in-Due-Course) during the sale and financing of its motor vehicles.

Fedders Corp.

Fedders agreed to a consent decree for allegedly violating a 1979 cease and desist order concerning the sale of heat pumps. The company must notify customers of the problem, repair the heat pump or refund the purchase price, and reimburse consumers for prior repairs.

Lorillard, A Division of Loew's Theatres, Inc.

This company agreed to a civil penalty consent decree in the amount of \$100,000 for allegedly failing to clearly and conspicuously disclose the required Surgeon General's health warning in all cigarette advertisements.

Brown & Williamson Tobacco Corp.

This company agreed to a civil penalty consent decree in the amount of \$100,000 for allegedly failing to clearly and conspicuously disclose the required Surgeon General's health warning in all cigarette advertisements.

American Brands, Inc.

This company agreed to a civil penalty consent decree in the amount of \$100,000 for allegedly failing to clearly and conspicuously disclose the required Surgeon General's health warning in all cigarette advertisements.

The Liggett Group, Inc.

This company agreed to a civil penalty consent decree in the amount of \$83,500 for allegedly failing to clearly and conspicuously

disclose the required Surgeon General's warning in all cigarette advertisements.

Phillip Morris, Inc.

This company agreed to a civil penalty consent decree in the amount of \$100,000 for allegedly failing to clearly and conspicuously disclose the required Surgeon General's health warning in all cigarette advertisements.

ADMINISTRATIVE COMPLAINTS

COMPETITION MISSION

Flowers Industries, Inc.

The Commission's complaint alleged this Georgia-based bread producer's bakery acquisitions in the southeastern U.S. may have substantially reduced competition in the industry. According to the complaint, Flowers Industries, Inc. produced bread and rolls, including hamburger and hot dog buns, snack foods and convenience foods. If the Commission concludes that Flowers violated the law, it may order the company to divest the acquired assets, and, for ten years, to refrain from acquiring any producer of bread, rolls, cakes or snack goods without the Commission's prior approval.

Weyerhaeuser Co.

The Commission's complaint alleged that Weyerhaeuser Co.'s \$66.3 million acquisition of Menasha Corp. would decrease competition in the eleven-state market west of the Rocky Mountains. The companies are direct competitors in the production of corrugating medium. Almost all of Menasha's western assets are included in the proposed acquisition.

Gillette Co.

The Commission's complaint alleges that the Gillette Co. discriminated against certain retailers that buy its products by not making promotional programs available to them. According to the complaint, Gillette has compensated retailers who have provided promotional services, including advertisements in various media, on behalf of Gillette's products. However, Gillette allegedly failed to make promotional allowances available on proportionally equal terms to all customers, a violation of the Robinson-Patman and the Federal Trade Commission Acts.

Gulf & Western Industries, Inc.

The complaint charges that the acquisition of two firms in the casket industry by Gulf & Western Industries may lessen competition. According to the complaint, the multinational conglomerate's acquisition of National Casket Co. and Wallace Metal Products Inc. may substantially increase concentration in both the finished and the unassembled casket markets and may tend to create a monopoly in

those markets, in violation of federal antitrust laws. In a notice accompanying the complaint, the Commission indicated that if a law violation is found, an order might require Gulf & Western to divest the acquired firms.

Great Lakes Chemical Corp.

The complaint stems from the proposed acquisition of Velsicol Chemical Corp. by the Great Lakes Chemical Corp. Presently, the two companies are substantial competitors in the production of elemental bromine and brominated flame retardant products. Great Lakes, the industry leader in the production and sale of bromine, accounts for approximately 33 percent of the market. If the acquisition takes place, the company will have more than 38 percent of the market and will have taken over the fifth largest firm in the industry. Great Lakes also owns a fifty percent interest in the fourth largest bromine producer, Arkansas Chemicals, Inc., which has 8.4 percent of the market.

Echlin Manufacturing Co.

The Federal Trade Commission charged that Echlin Manufacturing Co.'s acquisition of Borg-Warner Corp.'s automotive-aftermarket operations may substantially lessen competition in the assembly and sales of carburetor kits. The complaint charges that the acquisition created a single firm which controls half of the market. Actual competition between the two companies was eliminated and the already high levels of concentration in the market have been significantly increased. Before the acquisition, Echlin accounted for all carburetor kits assembled and sold in the U.S., producing 1.2 million kits in 1980. Borg-Warner assembled 4.8 million kits in 1980, making it the largest assembler, with over 30 percent of all kits.

American Medical International, Inc.

American Medical International, Inc., the third largest commercial hospital chain, has attempted to monopolize the hospital market in San Luis Obispo County in California, and with reducing competition in that market with the acquisition of its third hospital. American Medical already owned Sierra Vista Hospital and Arroyo Grande Community Hospital by previous acquisitions when it bought French Hospital in 1979. Together, the three hospitals allegedly gave American Medical control of 68 percent of the hospital beds in the county. The acquisition could give American Medical a sufficient share of the market to enable it to raise prices and exclude competi-

tion. If a violation is found, American Medical may be asked to divest French Hospital.

CONSUMER PROTECTION MISSION

International Harvester Co.

The complaint alleges that this company knew or should have known that its tractors were subject to fuel geysering due to pressure build-up in the fuel tank but failed to disclose the defect to consumers.

Thompson Medical Co.

The complaint alleges that this company and its advertising agency, Ogilvy & Mather, Inc., misled consumers by making unsubstantiated claims concerning Aspercreme's effectiveness and by claiming that it contains aspirin when, in fact, it does not.

Champion Home Builders Co.

The complaint alleges that this company's ads falsely implied that its residential "Solar Furnaces" did not have defects, were maintenance free, and were built "with quality longlife materials." In addition, Champion did not have a reasonable basis for energy savings claims.

Volkswagen of America, Inc.

The complaint alleges that Volkswagen failed to disclose that an abnormally high number of the more than one million 1974-1979 Volkswagens and Audis will need engine repairs due to high oil consumption.

Cliffdale Associates, Inc.

The complaint alleges that Cliffdale used false advertising in its promotion of the Ball-Matic Value by stating that the device can save the consumer up to \$200 a year on gasoline.

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PART III (Adjudicative Stage)
CONSENT AGREEMENTS ACCEPTED AND
PUBLISHED FOR PUBLIC COMMENT

COMPETITION MISSION

Lehigh Portland Cement Co.

Lehigh Portland Cement Co. was ordered to sell its Hannibal, Mo., cement plant and three cement distribution terminals. The complaint alleged that the acquisition of the new cement plants could substantially reduce competition in the manufacture of portland cement in the Midwest. Under the agreement, Lehigh must divest, within two years, all rights to the Hannibal cement manufacturing plant, as well as cement distribution terminals in Summit, Ill., Bellendorf, Iowa and St. Louis, Mo. The properties must remain operational until they are sold, and Lehigh must not permit any deterioration beyond normal wear and tear. In addition, Lehigh may not acquire cement plants or distribution terminals in Missouri, Iowa, Minnesota, Wisconsin or Illinois for ten years without prior Commission approval.

The Times Mirror Co., Inc.

The Times Mirror Co., publisher of The Los Angeles Times, allegedly discriminated in price in the sale of advertising. The proposed order would prohibit the Los Angeles Times from discriminating between large and small advertisers by charging different prices per line to competing purchasers of advertising. The order calls for Times Mirror to adhere to a rate schedule to insure equal treatment of advertisers of the same merchandise.

CONSUMER PROTECTION MISSION

Control Data Corp.

In a consent agreement with the Commission, Control Data agreed to stop misrepresenting to computer programming and operating students the potential benefits of its courses. In addition, the company will offer prorated refunds to future students and will make available an outside arbitration service to settle complaints.

Chrysler Corp. and Aurora Chrysler-Plymouth, Inc.

Chrysler entered into a consent agreement which requires that its official accounting manual must include procedures for dealers to calculate and refund surpluses to consumers whose vehicles were repossessed. In addition, Chrysler agreed to ensure that dealers it owns or controls make refunds to consumers whose vehicles were sold at a profit in the past.

George Irvin Chevrolet Co.

This company has entered into a consent agreement which requires that it presents clear and conspicuous credit information in its television advertisements. The company allegedly violated provisions of the Truth-in-Lending Act and Regulation Z.

Teledyne, Inc. and J. Walter Thompson Co.

Teledyne and its advertising agency have agreed to a consent agreement which requires that they have a reasonable basis for claims about the effectiveness of Water Pik in preventing gum disease.

PART III (Adjudicative Stage)
CONSENT AGREEMENTS ISSUED IN FINAL FORM

COMPETITION MISSION

Sunkist Growers, Inc.

Under the terms of its final consent order, Sunkist agreed to divest the assets of its Arizona Products Division, which consist of a citrus processing plant and cold storage facilities. The complaint alleged that Sunkist had monopolized or attempted to monopolize several citrus markets, including citrus processing and the sale and distribution of several citrus products. Sunkist also agreed to offer the purchaser of the Arizona Products Division a right of first refusal for the purchase of citrus fruit grown in Yuma County Arizona for processing in its plant, and to limit the number of commercial packinghouses it affiliated with.

Central Florida Electric Bid Depository, Inc.

The Central Florida Electric Bid Depository, an organization which collects sealed electrical-contracting bids from its members and submits them to general contractors, agreed to refrain from certain practices. These include encouraging exchange of bid information among bidders before bids were submitted, prohibitions on negotiating or submitting bids after the bid deadline, and prohibitions against submitting bids outside the depository. The complaint alleged that these practices had the purpose and effect of raising or stabilizing the bid prices submitted to contractors, and that the rules' enforcement by threats of exclusion from the depository constituted an unlawful group boycott. Under the order, the depository was required to reinstate members who had been suspended for noncompliance with the rules, to alter the depository rules to permit bids to be submitted and accepted outside the depository, and to cease encouraging or requiring the exchange of bid information.

Gould, Inc.

Gould, Inc., a manufacturer of electrical and electronic equipment, agreed to eliminate an interlock between its board of directors and the boards of its competitors, and to institute an annual monitoring program designed to detect and avoid unlawful interlocks in the future. The alleged interlock, in this case, arose from the presence of one of its directors on the boards of two of its competitors; Midland

Ross, a competitor in the manufacture of electrical busways and conduit fittings, and Narco, a competitor in the manufacture and sale of electronic medical devices. The complaint alleged that the interlock violated Sec. 8 of the Clayton Act, which prohibits interlocks between boards of competing companies where the elimination of competition between them by agreement "would constitute a violation of the provisions of any of the antitrust laws." The order is limited to interlocks in product markets in which at least one of the companies involved in the interlock has at least one percent or ten million dollars of that company's sales.

Sherman Hope, M.D.

Five doctors in Brownfield, Texas were ordered to refrain from interfering with the recruitment plans of hospitals, or with any contractual arrangement between a hospital and a doctor. According to the complaint, the five doctors boycotted the Brownfield Medical Center, because it recruited doctors by offering them guaranteed income. The five doctors were the only active ones in the Brownfield area of west Texas, and had specialties including surgery, internal medicine, and family practices. The order prohibits them from combining to boycott the hospital by refusing to provide emergency room coverage, to perform administrative functions, or to accept patients from recruited doctors, but does not prohibit individual actions such as commenting on a recruited doctor's qualifications or contacting the State Board of Medical Examiners.

INITIAL DECISIONS

COMPETITION MISSION

Beatrice Food Co.

In an initial decision issued by an administrative law judge, Beatrice Food Co., a large producer of orange juice, was required to divest Tropicana, a producer of ready-to-drink orange juice and other citrus products, because its 1978 acquisition of Tropicana violated the antitrust laws. The judge found that the merger would increase the already high concentration in the market, and thus reduce competition, because it gave Tropicana distribution advantages in areas where its shipping costs would otherwise have prevented it from becoming dominant. Beatrice was also prohibited from making acquisitions in the ready-to-drink orange juice industry without Commission permission for a period of ten years.

ITT Continental Baking Co.

An administrative law judge found that ITT Continental Baking Co., the world's largest baker, had attempted to monopolize the wholesale white bread market by engaging in price discrimination and predatory pricing. The decision prohibits Continental from discriminating among competing purchasers of its bread products where such an action would decrease competition among the purchasers. The decision also banned subsidizing below-cost prices in one market area through higher prices in a second area, except when necessary to prevent erosion of sales volume to competitors who are selling below Continental's costs. Finally, the order requires the company to keep records of its costs for ten years.

Ethyl Corp.

Ethyl Corp., E.I. duPont de Nemours and Co., PPG Industries, and Nalco Chemical were found in an initial decision to have violated the antitrust laws between 1974 and 1979 by using a variety of marketing practices which facilitated the stabilization of prices. The complaint alleged that the four reduced uncertainty about price changes in the lead-based antiknock compound market through the use of advance price announcements, uniform prices for delivered shipments regardless of distance, and "most favored nation clauses," which ensure the seller's customers that no other customer will receive a better price. The companies were prohibited from pre-announcing price changes, using a pricing formula that systematically matches a com-

petitor's price, or using a most favored nation clause. Under the order, customers must also be informed of transportation costs which are included in the price and allowed to instead furnish transportation for the shipment.

Michigan State Medical Society

The Michigan State Medical Society conspired to fix physician fees and influence reimbursement policies of Blue Cross and Blue Shield an administrative law judge found. The judge also rejected the medical society's argument that it was exempt from antitrust scrutiny. Under the order, the society may not act as an agent for members who are deciding whether to accept the terms of a participation agreement with a health-care plan, nor may the society make any collective threats to coerce a third-party payer to accept a position taken by members concerning reimbursement or terms of any particular agreement.

Russell Stover Candies, Inc.

An administrative law judge dismissed a complaint against Russell Stover Candies, Inc. Relying upon the Supreme Court's decision in *United States v. Colgate*, the administrative law judge held that the company had lawfully exercised its own independent discretion as to whom it would deal with. Russell Stover Candies had been charged with suggesting retail prices for its candy and refusing to do business with stores that discounted which, together with the acquiescence of many complaint stores, was alleged to demonstrate a tacit agreement to maintain prices. However, in the absence of evidence of agreement or coercion, the administrative law judge held, Colgate controlled, and tinker Colgate, merely suggesting prices and refusing to deal with discounters was not a violation of the Sherman Act.

Kellogg, Inc.

An administrative law judge ruled that the FTC's lawyers had failed to prove either conspiracy or monopolization charges against the nation's three largest ready-to-eat cereal producers, Kellogg Corporation, General Mills Inc. and General Foods Corporation, and dismissed the antitrust complaint. The complaint had alleged that, as a result of their conduct, the three cereal producers shared monopoly power and overcharged consumers for their products. The judge ruled that the various types of conduct alleged were not sufficient to constitute an unlawful conspiracy. Indirect pricing activities such as send-off labels on cereal boxes, toys inside the boxes, and production

of house brand cereals were found to have been done independently and without collusion; heavy industry advertising expenditures were found to be competitive rather than exclusionary; and there was sufficient evidence to support allegations that a shelf allocation program was anticompetitive.

Soft-Drink Manufacturers

An administrative law judge discharged the complaints against five soft-drink companies at the request of Commission attorneys. The complaints had charged that Crush International Ltd., Dr Pepper Co., The Seven-Up Co., Royal Crown Cola Co., and Norton Simon, Inc. had lessened or eliminated competition in the distribution and sales of syrup and soft-drink products. The judge based his decision on the Commission's dismissal of similar complaints against Coca-Cola and PepsiCo subsequent to the passage of the Soft Drink Interbrand Competition Act of 1980.

CONSUMER PROTECTION MISSION

Sterling Drug

An FTC administrative law judge prohibited the maker of Bayer Aspirin, Bayer Children's Aspirin, Vanquish, Cope and Midol from making effectiveness and superiority claims without reliable scientific evidence to back them up and to disclose the presence of aspirin.

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FINAL COMMISSION ORDERS

COMPETITION MISSION

Tenneco, Inc.

The Commission overruled an administrative law judge's decision and held that Tenneco's acquisition of Monroe Auto Equipment Co. was illegal, and ordered it to sell the shock absorber manufacturer. The Commission found that Tenneco was uniquely capable of entering the shock absorber market on its own, and its merger with Monroe would remove a significant potential competitor from the market, thus reducing competition. Responding to the administrative law judge's finding that there was no evidence that Tenneco was actually planning to enter the shock absorber field, the Commission said that Tenneco had eliminated the benefits of a perceived potential competitor, who had, in the recent past, affected the behavior of firms in the highly concentrated market merely by the threat of entry. The order also banned further acquisitions without prior Commission approval for ten years.

Exxon Corp.

The Commission accepted the recommendation of the Bureau of Competition to dismiss a major antitrust suit against eight oil companies. The dismissal resulted from a consensus that the limited progress to date held out little hope of further progress in the future, and that continuing litigation would, therefore, not be in the public interest. Exxon Corp., Texaco, Inc., Gulf Oil Corp., Standard Oil of California, Standard Oil of Indiana, Shell Oil Co., Atlantic Richfield and Mobil Oil were all charged with a range of anticompetitive practices involving production, refining and other aspects of the petroleum industry. The complaint was dismissed without prejudice, and the Commission stated that the dismissal did not necessarily mean that there had not been problems in the competitive performance of the oil industry and left open the possibility that the Commission would address problems in the oil industry through a more focused proceeding.

Soft-Drink Companies

The Commission upheld the initial decision to dismiss antitrust complaints against five soft-drink companies: Crush International Ltd., Dr Pepper Co., The Seven Up Co., Royal Crown Cola Co., and Norton Simon, Inc., had been charged with restraining competition

by means of exclusive territorial provisions in their licensing agreements with bottlers. The Commission affirmed dismissal of the cases on grounds that the Soft Drink Interbrand Competition Act of 1980 had undercut their legal basis.

American General Insurance Co.

The Commission dismissed a 1971 complaint challenging the American General Insurance Co.'s acquisition of Fidelity and Deposit Co. of Maryland. The complaint had charged that the merger could reduce competition in the fidelity and surety bond markets. However, on remand from the Ninth Circuit Court of Appeals ten years later, the Commission decided to dismiss the case on grounds that American General had sold the Fidelity and Deposit Co. of Maryland in late 1980, and had thus removed itself from the markets which were the subject of antitrust concern. The Commission noted that American General had reaped the fruits of the illegal acquisition, but determined that it would not be in the public interest to issue an order against the company.

Equifax, Inc.

The Commission also dismissed a complaint against Equifax, Inc., a consumer-credit reporting agency, on remand from the Ninth Circuit, concluding that further proceedings would not be in the public interest.

E. I. DuPont de Nemours and Company

The Commission dismissed a complaint charging DuPont with unfairly attempting to monopolize the domestic market of titanium dioxide. Titanium dioxide is a pigment used in the production of paints, inks, paper, plastics, synthetic fibers to make them white or opaque. The Commission's 1978 complaint charged that DuPont tried to exploit a competitive advantage in order to monopolize the market. The dismissal affirms a 1979 finding of an administrative law judge that while DuPont's behavior may have discouraged expansion by its competitors, there was no violation of the Federal Trade Commission Act. DuPont's pricing patterns stemmed from a clear cost advantage over competitors and was consistent with foreseeable demands and scale economies; therefore, the Commission unanimously approved the dismissal.

Heublein, Inc.

The Commission overturned an initial decision and dismissed a complaint that Heublein's acquisition of United Vintners violated federal antitrust laws. The initial decision contained three antitrust theories: that the merger eliminated existing competition between the companies; that it eliminated Heublein as a potential entrant into the wine market; and that Heublein's strength in the alcoholic beverage industry would unduly entrench United's position as a market leader. The Commission found that in light of Heublein's extremely small market share and the small shares of market leaders, there was insufficient evidence of injury to competition to establish a violation of Sec. 7 of the Clayton Act.

CONSUMER PROTECTION MISSION

Equifax, Inc.

The Commission ordered Equifax, a consumer credit reporting agency, to end practices that violate the Fair Credit Reporting Act and Sec. 5 of the Federal Trade Commission Act.

Litton Industries, Inc.

The Commission ordered Litton to refrain from advertising that its microwave ovens are superior to others and that independent technicians prefer Litton ovens over competing products unless there is a reasonable basis for such claims.

Montgomery Ward and Co., Inc.

The Commission ordered Montgomery Ward to have binders containing warranty information, or signs directing customers to them, "in a prominent location" on each sales floor in their stores.

Horizon Corp., et. al.

The Commission ordered Horizon to pay \$14.5 million in restitution and spend over the next 20 years an additional \$45 million for improvements. The company misrepresented and omitted facts which led purchasers to believe that their underdeveloped land was an excellent, risk-free investment that would mature over a short term.

Household Finance Co.

The Commission dismissed a complaint charging Household Finance with violating the Truth-in-Lending Act.

American Home Products Corp.

The Commission ordered the makers of Anacin to discontinue advertisements that claim the product "contains the pain reliever most recommended by doctors" without disclosing that the pain reliever is aspirin and that the product relieves tension.

Kroger Co.

The Commission ordered Kroger to refrain from advertising any survey generalizing the results to products not actually surveyed unless the survey is conducted in a competent and reliable manner or unless the ad fairly and impartially presents conclusions that may be drawn from the survey.

APPELLATE COURT REVIEW
OF COMMISSION ORDERS

American Medical Association

On October 7, 1980, the Court of Appeals for the Second Circuit enforced as modified the Commission's order requiring the American Medical Association to cease and desist from regulating certain business aspects of the medical profession and to disaffiliate any component medical society that fails to comply with the order. The Supreme Court subsequently affirmed the Court of Appeals' decision by an evenly divided vote.

Francis Ford, Inc.

On August 24, 1981, the Court of Appeals for the Ninth Circuit vacated the Commission's order on the ground that the Commission exceeded its authority by proceeding to change existing law by adjudication rather than by rulemaking. The Commission has filed a petition for certiorari in the Supreme Court.

Kaiser Aluminum & Chemical Corp.

On July 7, 1981, the Court of Appeals for the Seventh Circuit remanded this merger case to the Commission for further proceedings, holding that the Commission did not define the relevant markets properly and that correct legal principles were not applied in reaching the determination that the effect of the acquisition might be substantially to lessen competition.

TRW, Inc.

On June 8, 1981, the Court of Appeals for the Ninth Circuit affirmed the Commission's finding that respondents violated the Clayton Act's prohibition against interlocking directorates, but vacated the Commission's order on the ground that prospective relief was unnecessary in the circumstances of this case.

Yamaha Motor Co., Ltd.

On July 29, 1981, the Court of Appeals for the Eighth Circuit enforced as modified the Commission's order holding that a joint venture agreement entered into by respondents for the manufacture and sale of outboard motors is unlawful. The Supreme Court subsequently denied respondent's petition for certiorari.

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SUPREME COURT REVIEW
OF COMMISSION ORDERS

Official Airline Guides, Inc.

On February 23, 1981, the Supreme Court denied the Commission's petition for certiorari, thus letting stand the Second Circuit's decision vacating the Commission's order and holding that the Commission erred in holding that, as a monopolist, the publisher of the Airline Guide had a duty not to discriminate unjustifiably between classes of carriers so as to place one at a competitive disadvantage.

SCM Corp.

On October 6, 1980, the Supreme Court denied respondent's petition for certiorari, thus letting stand the Second Circuit's decision upholding the Commission's final order. The Commission's order was directed at an interlocking directorate.

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ECONOMIC REPORTS

Petroleum Product Price Regulations, Output Efficiency, and Competitive Effects, by Scott Harvey and Calvin T. Roush, Jr., February 1981.

This report examines the effects of the Department of Energy regulations that governed the price of refined petroleum products (as opposed to crude oil) from May 1973 to January 1981. Theoretical models are used to determine the profit incentives created by the regulations as compared to the incentives faced by firms operating in an unregulated market. It is shown that the regulations: 1) encouraged the allocation of excessive resources toward supplying petroleum products; 2) caused market shares to be determined largely by historical accident rather than relative efficiency; 3) encouraged an inefficient degree of vertical integration; and 4) tended to cause refiners and marketers to use inefficient methods to produce and supply petroleum products. It is also shown that the inefficiencies induced by the product price ceiling regulations may have caused prices to be higher than they would have been in the absence of those regulations.

Strategy, Predation, and Antitrust Analysis, Steven C. Salop, editor, September 1981.

This volume contains the proceedings of a conference held at the Federal Trade Commission. Conference papers focus upon the antitrust implications of the growing economic and legal literature on strategy and predation. The literature views firms as sophisticated business strategists who formulate tactics by considering the likely reactions of their competitors. The seven papers in the volume provide the background and theory underlying strategic antitrust analysis as well as applications of that analysis to specific situations.

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ECONOMIC WORKING PAPERS

Losses Due to Mergers by Jonathan A.D. Cave, November 1980.

Products Liability Insurance, Moral Hazard, and Contributory Negligence. by Richard S. Higgins, November 1980.

The Length of Optimal Extraction Programs When Depletion Affects Extraction Costs by Stephen Salant and Tracy Lewis, November 1980.

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INTERVENTION BEFORE OTHER
FEDERAL AND STATE AGENCIES

International Trade Commission

The Bureau of Economics and Competition presented comments before the International Trade Commission concerning the costs and benefits of tariffs and/or quotas on imported automobiles. The comments concluded that tariffs and quotas appear to be very inefficient ways to increase employment and provide additional capital to the U.S. automobile industry. Tariffs and quotas would increase the prices of most cars sold in the U.S., and only a fraction of the extra dollars spent by consumers would go to providing additional jobs or capital. In addition the comments note that, on balance, tariffs or quotas would tend to be anticompetitive. Although tariffs and quotas would provide additional funds to the industry, and thereby decrease the likelihood of bankruptcy of domestic auto companies, the comments concluded that there appear to be less expensive means of providing additional capital and employment.

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Section 6 Report Writing Policy Review Session Briefing Book, April 1981.

The Impact of Department of Defense Procurement on Competition in Commercial Markets: Case Studies of the Electronics and Helicopter Industries by William L. Baldwin, December 1980.

Taxes and Competition: Three Analyses by Alan Feld, David Terkla and Russell Osgood, January 1981.

Future Developments in the Food Industry: Probable Emergency of Near Field Fermentation Conversion Centers by Charles W. Williams, Inc., July 1981.

Antitrust and the Health Professions by Michael Pollard and Robert Liebenluft, July 1981.

Tying Requirements with Imperfect Information and Other Unfair Contracts by Richard Creswell, September 1981.

Readings in Economic Analysis of Consumer Protection Issues by Richard Creswell and Richard Alan Poole, September 1981.

Staff Task Force Report on Comparative Performance Information (Cases Studies appended), September 1981.

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ISSUE PAPERS

Physician Control of Blue Shield Plans: A Further Discussion of the Issues by Keith Anderson, David Kass, and Paul Pautler (January 1981)

This study supplements a 1979 economic report. The study concludes that where medical societies control selection of Blue Shield board members, plans have higher average reimbursement rates for selected procedures. However, the relationship is evident only when control is exercised by an organized group of physicians. The mere presence of doctors on a plan's board of directors is not associated with higher fees.

Efficiency Considerations in Merger Enforcement by Alan A. Fisher and Robert H. Lande (September 1981)

This paper analyzes the Congressional and judicial background of the efficiency defense as an offset to the market-power effects of mergers. The authors demonstrate that existing methodologies are incapable of generating accurate estimates of any efficiencies due to mergers. Accordingly, the paper concludes that allowing an efficiency defense from individual mergers would create substantial problems.