# 1984
# ANNUAL
# REPORT

U.S. FEDERAL TRADE COMMISSION
WASHINGTON, D.C.

# Annual Report of the FEDERAL TRADE COMMISSION

For the Fiscal Year Ended

September 30, 1984

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

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LETTER OF TRANSMITTAL

March 19, 1986

The Honorable George Bush
President of the Senate
United States Senate
Washington, D.C. 20510

The Honorable Thomas P. O'Neill
The Speaker of the House of Representatives
House of Representatives
Washington, D.C. 20515

Dear Mr. President and Mr. Speaker:

It is a pleasure to transmit the seventieth Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended September 30, 1984.

By direction of the Commission.

TERRY CALVANI
Acting Chairman

FEDERAL TRADE COMMISSION
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Fiscal 1984 was a year of continued progress toward assuring the Commission its proper role as an effective and responsible agency.

While the Commission continued its commitment in carrying forward its statutory responsibilities, it also pursued several major goals:

## FOCUSING ON SPECIFIC MARKET FAILURES

In place of broad regulatory proceedings that waste Commission resources, the current FTC focuses on specific market failures. In consumer protection, the FTC has devoted major resources to areas of fraud, deceptive advertising, systematic breach of contract, illegal credit practices, and to a program that advocates consumers' interests before other government bodies. In antitrust, the FTC has devoted major resources to merger evaluation and to enforcement proceedings against cartel-like conduct - such as agreements by competitors to restrict output, set prices, divide markets, or limit entry.

## CLARIFYING THE RULES GOVERNING BUSINESS CONDUCT

The FTC has put major emphasis on informing businesses of the rules they must obey. The Commission has issued a policy statement clarifying the definition of unlawful deceptive practices, drawn from the criteria developed by the Commission and the courts over the last 40 years. The Commission has also adopted a policy statement clarifying the Commission's advertising substantiation rules and has published for the first time the guidelines it uses to assess mergers.

## INFORMING CONSUMERS OF THEIR RIGHTS

Coupled with guidance to business, the Commission has expanded its program of consumer education. Over the past three years, the FTC has developed and distributed nationally three television and two radio public service announcements aimed at making consumers more aware of their rights. It has also produced and distributed numerous consumer booklets and brochures.

## WORKING WITH BUSINESS TO OBTAIN COMPLIANCE

Although the FTC has made major efforts to provide guidance to both businesses and consumers, businesses still fail at times to comply with legal requirements. Sometimes the violations are inadvertent. In such cases, the FTC has attempted to obtain voluntary compliance without engaging in costly enforcement proceedings. For example, the Commission's program to seek compliance with the Truth in Lending Act among real estate advertisers raised compliance in 46 targeted cities from 13 percent to 86 percent.

## PURSUING SOUND ENFORCEMENT ACTIONS

The Commission has developed a vigorous, carefully-targeted enforcement program to safeguard consumer welfare. In consumer protection the Commission has obtained injunctions halting investment frauds that would have cost consumers millions of dollars if allowed to continue, pursued cases in which companies systematically breached their contracts with consumers, and brought numerous enforcement actions under the Equal Credit Opportunity Act.

In antitrust, the Commission has increased its attack on cartel-like conduct. While not ignoring traditional "smokestack" industries, the Commission has focused on the fast-growing service sector of the economy, increasing enforcement efforts against activities by professionals, trade associations, and organizations that set industry and trade standards. It has also stopped anticompetitive mergers, while permitting mergers that lower costs and hold substantial prospect for lower prices to consumers.

## FILING COMMENTS BEFORE OTHER AGENCIES

Besides its more traditional law enforcement programs, the Commission has an advocacy program that involves all three bureaus and identifies critical competition and consumer interests in federal and state regulations and legislative proposals. Through the program, the Commission then advocates competition and consumer interests in proceedings before government agencies, in the courts, and before Congress.

Central to the Commission's overall program has been increased coordination between the Bureau of Economics and the two operating bureaus - Consumer Protection and Competition. The Bureau of Economics' role has been expanded to provide direct economic evidence at early stages of investigations and formal enforcement proceedings, rather that merely to critique cases after they have been fully developed and presented to the Commission. Because of its early involvement, the Bureau of Economics is able to help select targets for investigation, evaluate the consumer benefits of potential proceedings, assist in gathering and evaluating evidence, and assist in preparing memoranda in support of litigation proceedings.

## MAINTAINING COMPETITION MISSION

The mission of the Commission's Bureau of Competition is to enhance the welfare of consumers by maintaining the competitive operation of our economic system of private enterprise. The Bureau carries out its mission by enforcing the antitrust provisions of the Clayton Act and the Federal Trade Commission Act, as well as by serving as a vigorous advocate of competition before Congress and other governmental bodies.

### SUMMARY OF ENFORCEMENT ACTIVITIES

During fiscal 1984, the Commission initiated 203 initial phase and 50 full phase investigations. The Commission issued 13 administrative complaints, accepted 17 consent agreements and voted to seek 4 preliminary injunctions relating to competition matters. Two other consent agreements were accepted subject to public comment.

Civil penalty actions were filed by the Department of Justice on behalf of the FTC against RSR Corporation and the Coastal Corporation. The case against Coastal marked the first time the Commission enforced Section 7A(g)(1) of the Clayton Act for an alleged violation of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. Civil penalties were imposed against seven firms for failure to comply with outstanding Commission consent orders.

In administrative proceedings, Administrative Law Judges issued three initial decisions which dismissed charges involving merger cases: Weyerhaeuser Co., B.A.T. Industries Ltd., and Echlin Inc. In one other case, Boise Cascade Corporation, the ALJ upheld the complaint which alleged that Boise knowingly received illegal discriminatory discounts from suppliers of office products. The four initial decisions are awaiting final Commission review.

Three final orders issued by the Commission upheld initial decisions. Charges that Champion Spark Plug Co. lessened competition in the market for replacement windshield wipers and refills through its acquisition of the Anderson Co. were dismissed on grounds that the market was already competitive due to low barriers to entry and other companies' interest in expansion within the industry. In the General Foods Corporation matter, the Commission dismissed charges that the company attempted to monopolize the coffee industry. American Medical International Inc. was ordered to divest French Hospital after it was found that the 1979 acquisition could create a monopoly of general acute care health services in the city and county of San Luis Obispo, California. The acquisition gave American Medical control of 3 of the 5 hospitals in the area.

Two other orders overturned rulings of Administrative Law Judges and dismissed complaints: General Motors Corporation and ITT Continental

Baking Co. One other matter, Schlumberger Limited was dismissed after Schlumberger voluntarily divested Accutest Corporation.

In addition, the U.S. Court of Appeals overturned an FTC order on appeal by the Ethyl Corporation.

## MERGERS AND ACQUISITIONS

Mergers and acquisitions represented the largest area of antitrust enforcement activity during fiscal 1984. Under the review process of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, businesses filed 2418 notifications to report 1340 proposed mergers and acquisitions during the fiscal year. The Commission issued requests for additional Information in 36 of the reported transactions.

Four companies entered into consent agreements with the Commission to divest assets or share holdings to settle antitrust concerns. Texaco Inc.'s acquisition of Getty Oil Co. resulted in a final consent agreement requiring substantial divestiture of certain oil and gas assets to settle charges that the acquisition violated the antitrust laws because it could lessen competition in various markets of the oil and gas industry. Consent agreements requiring divestitures were also accepted with Pilkington Brothers P.L.C., Flowers Industries Inc. and Jim Walter Corporation.

Under a final consent agreement, General Motors Corporation and Toyota Corporation agreed to limit the number of subcompact cars to be produced by their California joint venture. The firms also agreed to refrain from exchanging competitively sensitive technical information if unrelated to the production of cars by the joint venture corporation.

Great Lakes Chemical Corp. agreed to license brominated flame retardants technology in settlement of a complaint challenging the acquisition of one of its competitors, Velsicol Chemical Corp. In addition to accepting the consent, the Commission accepted separate agreements dismissing its complaints against Velsicol and its former parent, Northwest Industries Inc.

One merger resulted in acceptance of a consent agreement for public comment. Standard Oil Co. of California's $13.2 billion acquisition of Gulf Oil Corporation. Under terms of the agreement, SOCAL agreed to divest certain oil and gas assets to offset alleged anticompetitive effects resulting from the acquisition. In addition, the Commission negotiated a hold separate agreement whereby SOCAL agreed to the independent operation of all Gulf oil and gas assets until all antitrust concerns were satisfied.

The Commission's staff was authorized to seek preliminary injunctions in four merger cases. The district courts granted injunctions in Bass Brothers Enterprises, S.A. and Columbian Enterprises, Inc. The Court of Appeals for the Ninth Circuit reversed the district court's decision in Warner Communications, Inc. and granted the Commission's application for a preliminary injunction. In the fourth case, involving Alcon Laboratories

Inc.'s proposed acquisition of CooperVision Inc., the proposal was abandoned by the parties before the Commission's application was filed in court.

## HORIZONTAL RESTRAINTS

The Commission's antitrust enforcement activity continued to reflect an emphasis on prohibiting anticompetitive agreements between competitors and resulted in the acceptance of six final consent orders and the issuance of eight complaints during fiscal 1984.

Dillon Companies, Smitty's Super Markets Inc. and David Porter entered into settlements agreeing not to interfere with the collection and publication of price surveys based on retail grocery items checked in their stores.

In two other consent agreements, The Washington, D. C. Dermatological Society and Estes Park Accommodations Association, Inc. agreed not to interfere with their respective members' truthful advertising of fees and available services.

The Commission's complaint against The District of Columbia Superior Court Trial Lawyers Association charged the group with conducting an illegal boycott to fix prices by encouraging its member attorneys to withhold their legal services to indigent defendants under the Criminal Justice Act. The complaint further alleged that the boycott forced the District of Columbia to increase the fee level under duress in order to secure the administration of justice.

Three separate complaints were issued against Tristate Household Goods Tariff Conference, Middle Atlantic Conference and the Motor Transport Association. The Commission charged that each of the motor carrier tariff bureaus conspired illegally to fix the intrastate transportation rates for property shipped by motor common carrier. The complaints alleged that the price fixing practices of the three bureaus deprived consumers using intrastate carriers of the benefits of competition in the specified states.

After a comprehensive staff analysis of the antitrust problems in the taxi-for-hire industry, separate complaints were filed against the municipal governments of Minneapolis and New Orleans charging both cities with unfair competition through the use of restrictive regulations applicable to taxicab operators. Monetary damages cannot be assessed in either case; however, if the Commission finds that the law has been violated, it could order each city not to enter into or enforce any agreement or city code provision that unreasonably restricts competition.

## VERTICAL RESTRAINTS

The Commission reversed an Administrative Law Judge's decision and dismissed a complaint which charged that General Motors Corporation violated the Robinson-Patman Act by granting advertising allowances to

a few large car rental and leasing firms while not offering the same allowances to smaller companies. The Commission found no evidence that the challenged practice produced anticompetitive effects.

## MONOPOLIZATION

In General Foods Corp., the Commission upheld an initial decision by an Administrative Law Judge dismissing charges against the nation's largest coffee maker. The Commission found that General Foods did not use unfair methods of competition or attempt to monopolize the coffee industry, but promoted healthy competition between brands through the use of efficient marketing skills.

The Commission overturned an Administrative Law Judge's initial decision in ITT Continental Baking Co. and dismissed the complaint. The Commission ruled that Continental's pricing policies were in response to competitive conditions in the wholesale white bread baking market and were not an attempt to eliminate competition or control prices.

## ORDER MODIFICATIONS

The Commission modified 22 of its prior orders during fiscal 1984.

In keeping with the Commission's policy of allowing firms more freedom in establishing non-discriminatory standards for product promotion, display and services with their dealers, nine orders were modified.

The Commission relaxed the prior approval provisions of six orders restricting acquisitions and it deleted from another order a provision which required the filing of special reports prior to the consummation of an acquisition.

Two other orders were modified to delete provisions prohibiting reciprocal dealings.

The provisions prohibiting a firm from distributing its products through wholesalers were deleted from an order.

One order was modified to allow a medical group to participate in discussions about new types of health care financing.

In addition, one order was vacated due to a jurisdictional change and the last remaining provision of an order in a merger case was set aside after the anticompetitive issue was removed through divestiture.

## COMPETITION ADVOCACY

The Bureau of Competition works with the Bureau of Economics and the Bureau of Consumer Protection to identify important consumer protection and competition issues found in government regulation. In comments submitted to other agencies, Congress, and the courts, the bureaus

advocate the consumers' interest in promoting a competitive marketplace. By using interventions to complement its cases and investigations, the FTC can more effectively represent consumer interests than if it relied solely upon either approach.

There were several filings on trade policy issues. For example, the FTC participated in International Trade Commission proceedings involving domestic industries' (tuna, copper, and steel) petitions based on the so-called "escape clause." The domestic producers have sought trade restrictions such as tariffs and quotas against foreign competitors. At stake in these proceedings are literally billions of dollars. The FTC has argued that, assuming a finding of damage to the domestic industry and the necessity for some form of relief, the least restrictive available trade limitation should be imposed because restrictions of any kind harm consumers. In addition, the Commission filed an amicus curiae brief before the Court of International Trade in countervailing duty and antidumping cases involving nitrocellulose.

The Commission presented an oral argument in a case before the ITC, arguing that trademark protection for product shape should not be granted to certain U.S. producers of vertical milling machines.

Several comments were filed in state regulatory and legislative matters. The Commission intervened as an amicus curiae in an Illinois Supreme Court case involving real estate commission discounts. The Commission argued that non-price discounts (through coupons redeemable at retail establishments) offered by certain real estate brokers stimulate competition to the consumer's benefit. The FTC submitted an amicus curiae brief in California in a case involving regulation of the sale of alcoholic beverages. The FTC argued against restricting price competition by prohibiting cash rebates to retail purchasers of certain wines.

The Commission has played an active role in problems of airport access. The agency staff submitted comments and testified before the FAA in a rulemaking involving the problem that some airports now have because there are more applicants for landing slots than there are slots available. The comments recommend creating a market mechanism that would allow carriers to buy and sell slots in order to solve this problem. In related proceedings at the CAB and the FAA, the staff recommended this approach as an alternative to granting antitrust immunity to airline scheduling committees.

The Commission staff also appeared before the other federal transportation agencies, the ICC and the FMC, arguing in appropriate proceedings for the greatest possible latitude to be given market forces as contrasted to government regulation. The emphasis again was on the interests of consumers.

## CONSUMER PROTECTION MISSION

The Consumer Protection Mission is charged with the elimination of unfair or deceptive acts or practices in or affecting commerce, with emphasis on those practices that may unreasonably restrict or inhibit the free exercise of consumer choice. The Mission emphasizes market-oriented remedies for law violations. Its activities can be grouped into five program areas: Advertising Practices; Credit Practices; Service Industry Practices; Marketing Practices; and Enforcement. In addition, the Mission has a Policy and Evaluation Unit, and an Office of Consumer and Business Education.

### ADVERTISING PRACTICES

During fiscal year 1984, the Commission devoted major resources to the elimination of false, deceptive, and unfair advertising. Advertising monitoring activities and vigorous follow-up law enforcement actions were undertaken.

The Commission issued a policy statement clarifying the standards the Commission uses to protect consumers and businesses from deception. The Commission also reaffirmed its commitment to the advertising substantiation program, which requires advertisers and advertising agencies to have a reasonable basis for advertising claims before they are disseminated.

The Commission obtained several final consent agreements relating to advertising practices. Emergency Devices, and Monte Proulx, former head of marketing and research for the company, and two corporate officers agreed to stop advertising that the "Extra Margin Emergency Escape Mask" provides protection from carbon monoxide gas; will permit a person to breathe normally or for an express period of time; or has been endorsed by a government agency. Claims that the mask will protect a person from fire hazards must be accompanied by the statement, "The mask does not filter carbon monoxide - a lethal gas associated with fire." Estee Corporation, a leading manufacturer and marketer of health-related foods, agreed not to claim that any of its products have been recommended for use by diabetics or hypoglycemics unless it discloses the identity of the endorser and any qualifications placed on the endorsement. The company will also pay $25,000 in consumer redress. Adria Laboratories agreed to stop making claims comparing the safety of "Efficin" pain reliever, or any other over-the-counter analgesic containing magnesium salicylate, to aspirin, without also disclosing that the product is similar to aspirin and may produce the same side effects as aspirin. California Texas Oil Co. agreed not to make false or unsubstantiated claims about improved gas mileage or improved emission control for its gasoline additive "AWECO Mileage Extender", or other products. Cynex Manufacturing Corporation agreed not to make any energy-related performance claims for its "Watt Wizard" power factor con-

troller unless it has adequate substantiation. It may not use the phrase "up to" in its energy savings claims unless an appreciable number of consumers can achieve the stated maximum level of savings under conditions normally encountered by consumers. Sovereign Chemical & Petroleum Products agreed to have a reasonable basis for any quality-related or other representations about its motor oils and transmission fluids.

An additional three consent agreements were accepted and published for public comment. Thomas A. Dardas, president of Acu-Form Weight Control Centers agreed not to claim that the "Acu-Form" plastic earpiece or any other diet product is effective in helping consumers lose weight, without substantiation for such claims. He also agreed not to misrepresent and to clearly disclose the terms of any guarantee in connection with any weight loss program. Biopractic Group, Inc., maker of "Therapeutic Mineral Ice", agreed not to make claims about the product's effectiveness and acceptance by the scientific community and the news media, unless it has adequate substantiation. The product was marketed to reduce pain and inflammation arising from muscle sprains, arthritis, rheumatism, and similar ailments. Commodore Business Machines agreed not to advertise that its computers have certain equipment or capabilities unless the claim is true at the time of sale.

In a consent agreement obtained by the Commission to settle an administrative proceeding, PharmTech Research agreed not to misrepresent any scientific test results, research articles, or scientific opinions or data in its advertising claims for the dietary supplement "Daily Greens." Pharmtech is also prohibited from claiming that "Daily Greens" provides any health benefit or cancer-preventive properties unless it has reliable scientific evidence.

The Commission issued several administrative complaints challenging instances of alleged false and unsubstantiated advertising. The Commission charged that Associated Mills' "Pollenex Pure Air '99' Air Cleaner/Deodorizer" does not remove most tobacco smoke, ragweed pollen, or dust from the air as advertised. A complaint against P. Leiner Nutritional Products challenges the reasonable basis for its claims that "Octacol 4" helps increase endurance, stamina, vigor and athletic performance. The Commission challenged General Nutrition's advertisements claiming the diet supplement "Healthy Greens" reduces the chances of cancer. The Commission charged that Weider Health and Fitness falsely represented that its "Anabolic Mega-Pak" and "Dynamic Life Essence" nutrient supplements were effective substitutes for anabolic steroids. A complaint against Jerome Milton, Inc. challenges the evidence substantiating claims that "Shane" toothpaste cures gum disease or is superior to other toothpastes in reducing plaque.

In a suit filed in U.S. District Court, the Commission obtained a permanent injunction that prohibits Brown & Williamson Tobacco Corporation from claiming any specific milligram tar rating for "Barclay" cigarettes, unless such rating is approved by the Commission or results from a test method approved by the Commission.

The Over-The-Counter Antacid Advertising Rulemaking proceeding was terminated during fiscal year 1984. The Commission found that the record produced no credible evidence of express or implied claims that antacids are safe for everyone or that antacid advertisements are deceptive or unfair. Related issues will be handled on a case-by-case basis.

## MARKETING PRACTICES

The Commission took law enforcement actions against companies allegedly failing to meet warranty obligations or using unfair, deceptive, or fraudulent sales or marketing techniques.

Two final consent agreements were obtained in the warranty performance area. Three mobile home manufacturers, Centurion International, Centurion Homes, and Centurion Homes of California agreed to provide repair work or reimbursement to consumers who did not receive the warranty performance they were entitled to. Peabody Barnes agreed not to misrepresent the length of warranty coverage for its sump and sewage pumps, and to honor warranties on previously sold pumps for a full year. In addition, the company must clearly disclose or instruct purchasers on how to determine the date a pump was manufactured, and may tie warranties to the manufacture date only if the warranties last at least three years. In a consent agreement accepted and published for public comment, Sun Refining and Marketing Co., an automobile battery seller, agreed to honor lifetime warranties already issued and to so notify eligible customers.

A final adjudicated consent agreement with the General Motors Corporation was issued which requires the corporation to establish a nationwide arbitration program for GM car owners with unsatisfied complaints about engine or transmission failures. The corporation is also required to advertise the availability of and to provide service bulletins which describe both current and potential problems and repair procedures.

Robert J. McDaniel, former president of Harbor Village Club and its developer company, was ordered to pay $25,000 into a consumer redress fund to reimburse misled timeshare purchasers and was permanently enjoined from employing deceptive practices in the sale of vacation timeshares. The Commission filed a complaint in federal district court seeking a permanent injunction and consumer redress from Rita A. Walker and Associates, Inc. The U.S. District Court issued a temporary injunction to stop alleged false and deceptive practices in the company's offer of loans to help homeowners avoid foreclosure. The Commission has charged that after the

company secures the deeds, it records them and claims ownership of the house, treating the consumers as tenants.

The Commission issued an administrative complaint charging Orkin with unfairly raising annual renewal fees for its termite control contracts with consumers whose agreements called for fixed annual fees. Sentronic Controls Corp., in a consent agreement published for public comment, agreed not to claim that its ultrasonic pest control product eliminates insects and rodents, or make any other efficacy or performance claims, without competent and reliable scientific evidence for the claims.

The Commission obtained stipulated permanent injunctions against three health spa companies and their presidents. David Meade and Tyler-Radcliffe Co., Inc.; Robyn Kliss and Thor Enterprises, Inc.; and Billy DeVasher and Lady Venus Centers, Inc. all agreed to obtain performance bonds, disclose clearly the date that services will be available, and have any specific additional services or facilities claimed in working order before taking advance payments from consumers.

The Commission tentatively adopted a revised Used Car Rule, requiring dealers to give consumers complete and clear information on who will pay for repairs after a sale. The rule will also require dealers to make specified disclosures in a redesigned Buyers Guide placed in the side window of each used car offered for sale.

## CREDIT PRACTICES

The Commission took numerous actions to resolve problems in the consumer credit market.

The Commission obtained two consent agreements for alleged violations of Section 5 of the FTC Act. Lomas & Nettleton, a mortgage bank, agreed to pay all obligations due and payable from homeowners' escrow accounts in a timely manner. Avco Financial Services agreed to an order prohibiting it from a variety of abusive debt collection practices.

The Commission also obtained three consent agreements for alleged violations of the Fair Credit Billing Act (FCBA). The American Express Company agreed not to dun credit card customers for contested amounts until the dispute is resolved. Macy's New York agreed to distribute $225,000 in consumer redress among credit card customers who disputed their bills in 1977 and 1978. The corporation also agreed to change its credit billing practices and to educate its credit-office employees on the FCBA requirements. Emporium-Capwell, a major California retailer, agreed not to dun credit card customers for contested bills if consumers follow the notification procedures required by the FCBA, to resolve disputes in a timely manner, and not to collect finance charges on disputes resolved in the customer's favor.

Civil penalty judgments were obtained against alleged violators of the Equal Credit Opportunity Act. Two related firms, Security Pacific Finance

Corp., agreed to pay $140,000 in civil penalties in a consent decree settling charges that they failed to consider applications from women who did not have jobs, ignored women's alimony and child support payments, requested prohibited information, and failed to retain adequate records.

The Allied Stores Corp. agreed to pay a $122,000 civil penalty to settle charges that it violated the Equal Credit Opportunity Act by failing to disclose the specific, principal reasons for turning down credit applications. The judgment also settles charges that it violated the Fair Credit Reporting Act by failing to disclose that it denied credit applications based on information obtained from a third party other than a consumer reporting agency. Under a proposed consent order, the Hospital and Health Services Credit Union has agreed to notify affected former credit applicants that they were denied credit on the basis of information from a credit bureau or third party, and to provide the applicant with the name and address of the bureau, or the nature of third party information, upon request.

First Federal Credit Control agreed to a $25,000 civil penalty consent judgment for allegedly violating The Fair Debt Collection Practices Act, by failing to notify consumers of their right to dispute or obtain verification of a debt, and the use of form letters containing false and deceptive representations.

The Commission approved the final Credit Practices Rule covering the remedies lenders and retail installment sellers can include in consumer credit contracts for use if debtors become delinquent or default on their loans. The rule further prohibits misrepresentations of cosigner liability and provides that potential cosigners be furnished a "Notice of Cosigner" which explains in general terms their obligations and liabilities.

## SERVICE INDUSTRY PRACTICES

The Commission pursued legal solutions to instances where consumers were allegedly misled concerning the availability, cost, and value of goods and services supplied by persons claiming to offer professional services.

Spinal Health Services, the Laser Toning Center, and the two chiropractors who operate these companies, agreed not to represent that their "laser face lift" will reduce or remove facial lines, or otherwise give a more youthful facial appearance, or that the treatment will provide as long-lasting an improvement as that of a surgical face lift, without competent and reliable scientific tests or evidence. Christian Services International, a life-care home developer and operator, agreed not to misrepresent that its life care homes are affiliated with any religious denomination or group that may also be morally or legally responsible for the home; that there is little or no financial risk in entering into a life-care contract, and that increases in service fees will never exceed corresponding social security increases. In a complaint filed in U.S. District Court, the Commission charged that A & A

Laboratories, and the individuals who control the companies, made claims about hair analysis and their testing services that are false and that such tests may therefore be worthless to consumers.

Two defendants in the Commission's case against the U.S. Oil and Gas Corp. have agreed to pay $180,000 in consumer redress and have signed stipulated orders that prohibit them from making false claims about their success in obtaining oil and gas leases for customers. In addition, a federal district court froze $12 million in corporate assets and the personal assets of six officials connected with the company.

A civil action was filed by the Commission against four companies alleged to have induced consumers into investing thousands of dollars each for valueless or non-existent rights to oil and gas leases on federal land. The Commission's complaint names Trans-Alaska Energy Corp., Alaska Oil Development Corp., Federal Property Record Inc., and Federal Land Management Corp. A federal district court issued a temporary restraining order and has frozen the assets of the companies and five individuals. The Commission is also seeking a permanent injunction, and consumer redress. The Commission filed a complaint in federal district court seeking civil penalties, consumer redress and permanent injunctions against Alaska Land Leasing, four related companies, and six individuals. The U.S. District Court issued a temporary restraining order freezing the assets of the companies and individuals. The companies are charged with persuading customers to invest thousands of dollars each in Alaskan oil and gas leases of negligible value. In a consent agreement accepted and published for public comment, Charles E. Weller, a former officer of Alaska Land Leasing, agreed not to misrepresent the value or potential of oil and gas leases or other investments. He will contribute $60,000 to a consumer redress fund, and agreed to disclose information about the risks and potential of oil and gas leases. The Commission obtained a consent judgment in federal district court settling charges that International Diamond Corp. and several defendants had falsely claimed that its diamonds were risk-free investments and its prices were comparable with wholesale. The settlement provides for $6.7 million in consumer redress to be distributed to former IDC customers. Four IDC officials agreed to stipulated permanent injunctions and three of them are also required to pay a combined sum of $90,000 in redress.

The American Society of Sanitary Engineering, which develops standards for plumbing equipment, in a consent agreement accepted and published for public comment, agreed to change its policy of not granting standards coverage to products that are patented or produced by one or a limited number of manufacturers, and to consider products with innovative designs.

The Commission released a staff study entitled, "A Comparative Analysis of Cosmetic Contact Lens Fitting by Opthamologists, Optometrists and Opticians." According to the study, there was little difference in the quality of cosmetic contact lens fitting performed by opticians, opthamologists and

optometrists. There was, however, a wide range of costs. Staff concluded that state restrictions on the fitting of contact lenses by opticians may result in higher prices, because consumers might have limited access to the services at lower costs. The Commission also conducted a symposium entitled, "Advertising by Health Care Professionals in the 1980's." The symposium featured presentations of papers on health care advertising and regulation and discussions of those papers by panels of economists, trade regulation attorneys, and health care professionals.

## ENFORCEMENT

The Enforcement program monitors compliance with Commission orders for the Bureau of Consumer Protection, handles order modifications for the Bureau, and is responsible for the implementation and enforcement of most Commission rules. A number of actions related to rules and statutes were taken during fiscal year 1984.

The Commission's Funeral Rule took effect on April 30, 1984. The rule allows consumers to obtain comparative information about prices and services over the telephone and in writing before they select funeral arrangements. Guidelines were published to aid industry compliance with the rule, and an educational program for consumers was launched.

The Commission solicited comments on its Home Insulation (R-Value) Rule as part of its review under the Regulatory Flexibility Act. Comments were requested on whether the rule has significant benefits or costs for small businesses and, if so, whether the rule should be amended.

The Commission reviewed the Wool Products Labeling Act, the Fur Products Labeling Act, and the Textile Fibers Products Identification Act and found no significant impact on small business. Therefore, the Commission decided that no changes would be made in the rules issued under these acts. In the fur labeling area, Lloyd's Furs agreed not to misrepresent the designer or manufacturer of the fur garments it sells. Concerning wool labeling, Westwood, a fabric manufacturer and importer, agreed to pay $25,000 in civil penalties and to disclose the correct fiber content percentage.

Several civil actions were filed in the enforcement area. In a complaint filed in federal court, the Commission charged Royco Automobile Parts with violating the Franchise Rule by failing to provide required documents, misrepresenting facts, and making false earning claims. The Commission is seeking a permanent injunction, a freeze of assets, civil penalties, and consumer redress. The Commission also charged Federal Energy Systems with violations of the Franchise Rule. The Commission asked the court to order consumer redress and civil penalties and to grant a temporary restraining order, preliminary and permanent injunctions, and an asset freeze.

Numerous civil penalty judgments were obtained. Horizon Corp. agreed to make a $167,200 payment into a consumer redress fund, and to assess

$41,800 in civil penalties to settle charges that it had violated a 1981 FTC consent order by failing to make its regular payment to a consumer redress fund. Philly Mignon International (PMI), a fast-food franchisor, agreed to pay a fine of at least $80,006, and is prohibited from using a variety of deceptive practices to sell its franchises. Ferrara Foods, a franchiser of snack food distributorships, agreed not to make inflated earnings promises and to pay $40,000 in civil penalties. Under the consent judgment, the company is prohibited from selling a franchise unless it discloses all information about the business fully and accurately. Random Stationers, A & L Supply Co., Tri-Cor Supply, and Gary Supplies, four companies that sell office supplies, and the seven people who own and operate them, have agreed to pay $36,000 to settle Commission charges that they shipped unordered merchandise after being told that doing so violated prior Commission determinations. Hosiery Corp. of America agreed to a $200,000 civil penalty consent decree to settle charges that it sent consumers unordered merchandise, improperly tried to collect for that merchandise, sent dunning letters implying threats of action it did not intend to take, and violated the Mail Order Rule. The Commission filed a consent decree in federal district court with Claire Nelson, who was president and co-owner of Hosiery Corp. of America until 1981. The consent prohibits Nelson from violating the Mail Order Rule.

The Commission issued three final orders upholding Administrative Law Judge decisions. Under a final order, AMREP Corp. must have adequate substantiation supporting the claims it may make concerning the investment potential of the land it sells. AMREP is also prevented from using sales tactics that inhibit reasoned consideration or make the buyer more susceptible to deception. Contracts must be clearly labeled and must offer buyers a seven-day right to cancel. The Commission found Cliffdale Associates performance claims for its "Ball-Matic Gas Save Valve" false and deceptive. The company is prohibited from making the claims, may not misrepresent survey evidence supporting energy-savings claims for any product, and must disclose any relationship between itself and persons endorsing its products. The Commission issued a final order prohibiting Rentacolor from omitting information regarding payment schedules and other terms in its advertisements and contracts for color television sets and other video equipment.

The Commission modified several previously existing orders in fiscal year 1984. Orders against Benton & Bowles, Procter and Gamble, G.R.I. Corporation, American Home Products Corp., General Motors, Campbell-Ewald, Mattell, Inc., and Carson-Roberts were modified due to changed conditions in fact or law or the public interest.

## POLICY AND EVALUATION

In addition to its cases, rulemakings, and other activates to remedy problems in the market, the Commission has traditionally been active in providing analytical support and expert opinion to other government agencies. Commission fiscal 1984 filings and testimony, in which the Bureau of Consumer Protection played a major role, are represented below.

Staff comments were submitted to the Department of Housing and Urban Development concerning required warnings on manufactured housing to disclose formaldehyde-related health information.

In a letter to the Department of Health and Human Services, the Commission commented on proposed regulations involving the requirements that certain health care providers, (such as Health Maintenance Organizations), must meet to qualify for Medicare reimbursement.

Chairman Miller testified before the Subcommittee on Aviation of the Senate Committee on Commerce, Science and Transportation on the relative merits of transferring consumer protection authority for airline passengers from the Civil Aeronautics Board (CAB) to either the FTC or the Department of Transportation.

Comments were filed with the Colorado Department of Regulatory Agencies regarding state law restrictions on commercial practices by physicians, chiropractors, podiatrists and optometrists in Colorado.

The Commission continued to assess the economic effects of its activities through various studies coordinated and monitored by the Impact Evaluation Unit staff. Among the studies completed was a Warranties Rule follow-up impact study of consumers concerning over 12,600 products, a study of the impact of the Franchise Rule on potential investors and franchisees, and a survey of firms engaged in mail order sales to determine the impact of the Mail Order Rule.

## OFFICE OF CONSUMER AND BUSINESS EDUCATION

The Office of Consumer and Business Education coordinates an education program aimed at providing information to consumers and industry on major Commission decisions, programs, statutes, and rules. This allows informed choices and competitive business practices to function freely in the marketplace. Thus, the consumer and business education program is a cost-effective way of obtaining compliance with the law.

In fiscal year 1984, television public service campaigns on the Commission's funeral and care label rules were aired. These campaigns informed consumers about the new funeral rule and care labeling amendments and the availability of brochures on these topics. In response, over $2,000 copies of the "Consumer Guide to the FTC's Funeral Rule" and over 30,000 copies of "What's New About Care Labels" were distributed in fiscal 1984. In ad-

dition, 15,000 copies of an industry guide entitled, "Writing a Care Label" were distributed. A radio campaign developed in conjunction with the American Society of Travel Agents was released. The campaign advised consumers to learn about cancellation policies, nationally advertised specials, and to get all promises in writing. A print campaign on mortgage advertisements was produced, and 30,000 copies of the consumer brochure, "Using Ads to Shop for Home Financing," were distributed.

In addition, several updates of print materials were developed and distributed. These materials include such topics as Franchise and Business Opportunity; Buying a Used Car (Spanish); Holiday Shopping by Phone or Mail; Laser Facelifts; Gold Jewelry; and Income Tax Preparation Services. In total, over two million pieces of print materials were distributed.

## 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 the functioning of markets; 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 1984, the Bureau of Economics continued to provide guidance and support to those activities. As has been the case in the past, the bulk of Bureau of Economics resources was committed to support for and analysis of investigations, litigation, and rulemaking. In the antitrust area, economists developed investigation plans, carried out investigations, collected data and evidence, and offered advice on the economic merits of potential antitrust actions. The primary objective was to distinguish situations where the marketplace performed reasonably well from situations where consumer welfare might be augmented by Commission action, and to advise on appropriate actions. Commission antitrust economists devoted considerable effort to increasing the availability and use of economic evidence at all levels of antitrust enforcement activities. When enforcement actions were initiated, economists worked to integrate economic analysis into the proceeding and to devise remedies that would facilitate competition. Staff economists also testified in cases. Finally, economists who were not involved in the investigation or prosecution of cases also provided advice to the Commissioners in matters at the adjudication stage.

In the consumer protection area, economists provided estimates of the benefits and costs 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, product quality and product variety. Bureau economists provided internal advice on the competitive impact

of various regulations and proposed trade rules. Using expertise derived from studies of various industries and trade practices, economists helped to evaluate cases in credit practices, advertising, product defects, warranties, and a wide variety of other consumer protection issues. Working with the staff of the impact evaluation group, economists helped design and carry out survey research aimed at determining the effects of various FTC initiatives and policies, and also at learning about consumer perceptions in various markets. An increasingly important contribution of economists was in computing optimal penalties, and the results were applied to many cases. Also, economists in the industry analysis division organized an academic conference on the economics of consumer protection. Economists within the consumer protection division prepared for a conference to be held in February at the Continuing Legal Education Center of Georgetown University aimed at informing practicing attorneys of the role of economics in consumer protection matters. Finally, economists analyzed and contributed to proposed policy protocols in several areas, including product defects.

Although the FTC is primarily a law enforcement agency, it also collects, analyzes, and publishes information about the nation's business firms. Much of this work is undertaken by the Bureau of Economics. In 1984, economists conducted a number of studies on a broad array of topics in antitrust, consumer protection, and regulation.

In the antitrust area, economists completed work on the application of structure-conduct-performance theory to oligopolistic markets, the use of efficiency defenses in litigation, incentives for oligopolistic behavior in the steel industry, and various kinds of vertical restraints including retail price maintenance and exclusive dealing. In addition, economists continued work on for-profit hospitals, the effects of antitrust remedies in experimental markets, geographic market definitions, facilitating practices, labor union exemptions, resale price maintenance, sealed bid markets, failing firm defenses, and sophisticated price-fixing. Finally, numerous research projects using the Commissions Line of Business data were initiated, and a large number of papers were released.

In the consumer protection area, work was essentially completed on the impact of advertising restrictions on the prices of legal services and on the effects of information security in experimental markets, and work continued on studies of the effects of state drug substitution laws, consumer opinions of automobile reliability, the effects of the FTC's Franchise Rule on advertising, and the role of information in the markets for auto insurance and life insurance.

In the regulation area, economists continued to participate in a program of commenting on the competitive and consumer protection effects of various regulatory activities. Three studies examining regulatory limitations on markets were completed during the year, one on the Alaskan crude oil export ban, another on Interior Department regulations restricting joint ven-

tures in bidding on outer continental shelf oil leases, and the third on textile import quotas. Another study examining the costs and benefits of a wider range of trade restrictions was begun and largely completed. In addition, drawing on the expertise gained in preparing a 1983 study on the costs imposed on air travelers by the FAA policy of allocating airport landing rights administratively rather than through a market, comments were filed with the FAA and testimony given at a public hearing held by the FAA explaining the benefits that would follow from permitting sales of landing rights. In the international trade area, comments were filed with the International Trade Commission as part of several investigations into claims that domestic industries had been injured by imports. The Commission's comments proposed an economic approach to determining whether imports were the cause of injury and estimated the costs that would result from granting the proposed relief. Industries involved included steel, copper and canned tuna.

Several ongoing study projects in the Bureau cut across the various FTC missions. Current research includes topics such as antitrust analysis of research and development joint ventures, regulations that restrict the adoption of certain inventory valuation methods, the effects of retail milk price regulation by states, securities regulation, building codes and innovation, certificate-of-need regulation, economic analysis of the "sports market", and price discrimination.

## THE REGIONAL OFFICES

During fiscal 1984 restructuring of the regional offices was completed. The more efficient size of the offices enables them, as well as the Commission, to more efficiently utilize available resources and to carry out those law enforcement activities best suited to the economic conditions of their areas.

The regional offices made significant contributions to the Commission's law enforcement efforts. They were responsible for handling some of the more significant litigation and for achieving some of the more important settlements during this fiscal year. In addition, 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, and local groups of numerous types.

## EXECUTIVE DIRECTION, ADMINISTRATION AND MANAGEMENT

The Office of the Executive Director is the central management and administrative organization of the Federal Trade Commission. The Executive Director is responsible for providing essential services and advisory func-

tions including those related to personnel, budget and finance, automated systems, library, etc. The Executive Director is also responsible for providing management direction to the Commission's ten regional offices and field station and works in conjunction with bureau and office heads to ensure optimal resource use and integration with Headquarters activities.

Fiscal 1984 marked the continued shifting of resources within the Office of the Executive Director to accomplish priority projects and functions with reduced workyears and dollars. Major management initiatives were directed toward maintaining service levels, while OED resources declined and organizational realignments were effected. Emphasis was on finding economies in each functional area; these included increased operating efficiencies through staffing changes and capital improvements, enhanced use of contractor services, and elimination of redundant or unnecessary procedures.

A reorganization of the procurement and administrative services organizations was completed which resulted in a consolidated organization designed to function with fewer staff resources and with increased efficiency. The telecommunications and word processing functions were separated from the administrative services area and combined in a new office systems organization. This change created a central office for telecommunications and word processing and placed the office in the main organization responsible for automated systems. An automated asset management system was designed and implemented to provide greater control and accounting of selected inventory and property.

The agency used approximately 1238 workyears and spent $64.1 million, full amount appropriated for the fiscal year. The workyears used were 5.4 percent less than fiscal 1983. Careful control of funding levels and workyears were necessary to accomplish objectives with decreased resources. A hiring limitation remained in effect for most offices in the Commission.

Regional offices continued to operate at levels established through the previous year reorganization. Regional emphasis was on new case generation, outreach and closer integration with Headquarters legal and economic activities. An automated consumer complaint system was instituted to facilitate handling and tracking of complaint responses.

Progress was made on the consolidation of Headquarters offices. Critical relocation decisions were made by senior management and task plans were developed. The consolidation was a major project for the Office of the Executive Director and required the coordinated efforts of administrative and operational organizations agency wide.

A number of human resource management initiatives were completed, including the development of a new management training program. Contract negotiations were also completed with the Headquarters union, and efforts continued to control average grade increases.

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

COMPETITION MISSION

Standard Oil Co. of California

Under a consent agreement, Standard Oil Co. of California (SOCAL), the nation's fourth largest oil company agreed to divest certain oil and gas assets to offset alleged anticompetitive effects of SOCAL's $13.2 billion acquisition of Gulf Oil Corporation. Under an accompanying hold separate agreement, SOCAL agreed to the independent operation of all Gulf's oil and gas assets until the divestitures comply with the requirements of the consent agreement and until the Commission determines that no additional divestitures are necessary to cure antitrust concerns. The merger is the largest in corporate history. The complaint accompanying the consent agreement charged that SOCAL's acquisition of Gulf could lessen competition in four relevant lines of commerce: the transportation of refined light petroleum products, such as gasoline, kerosene and jet fuel from refineries into the consuming areas of the southeastern U.S.; the refining and distribution of gasoline in specified areas; the transportation of crude oil from producing fields in western Texas and eastern New Mexico to refineries; and the manufacture and distribution of kerosene jet fuel in the East Coast and Gulf Coast areas of the U.S. SOCAL and Gulf, the complaint alleged, are direct competitors in each of the relevant lines of commerce. The agreement requires SOCAL to divest Gulf's interest in 30 wholesale gasoline terminals and several thousand Gulf-owned gas stations served by those terminals located in the southeast U.S. In addition, SOCAL is required to divest Gulf's interest in either the refinery located in Port Arthur, Texas or the refinery located in Alliance, Louisiana. Depending upon which refinery is sold, SOCAL must divest Gulfs interest in either the West Texas Gulf Pipeline Company, the Mesa Pipeline, and connecting pipelines or only Gulf's interest in the West Texas Gulf Pipeline Company. SOCAL must also divest Gulf's interest in the Colonial Pipeline. The agreement requires SOCAL to divest the specified assets, within six months, to acquirors approved by the Commission. For a period of ten years, SOCAL must obtain prior FTC approval before

acquiring any company engaged directly or indirectly in the refining and distribution of petroleum and pipeline transportation in, the geographic areas specified in the consent agreement.

Multiple Listing Service of the Greater Michigan City Area Inc.

The Multiple Listing Service of the Greater Michigan City Area Inc. of Michigan City, Indiana, agreed not to interfere with its members' participation in any comparative advertising or practice that would promote competition among residential real estate brokers in LaPorte County, Indiana. The Multiple Listing Service is a clearinghouse through which member real estate brokerage firms regularly exchange information on listings of real estate property located in LaPorte County. To comply with the order, the Multiple Listing Service is prohibited from establishing fixed commission rates or interfering with its members' truthful advertising of commission fees lower than the current market rate. In addition, the service must not deny membership to a firm because of size or volume of business, or restrict any member's participation in a venture that competes with the Multiple Listing Service.

CONSUMER PROTECTION MISSION

Sentronic Controls Corporation, et al.

Sentronic Controls Corporation agreed not to claim its "Pest Sentry" ultrasonic pest control product eliminates insects and rodents, or make any other efficacy or performance claims, unless it has competent and reliable scientific evidence which substantiates the claims. The complaint, alleges that the ultrasonic product is ineffective in controlling insects and rodents, does not prevent pests from entering an area, and does not effectively cover the square footage the company claims.

Thomas A. Dardas, Individually and as an Officer of Acu-Form Weight Control Centers, Inc.

Thomas A. Dardas, president of Acu-Form Weight Control Centers, Inc., agreed not to claim that the "Acu-Form" plastic molded earpiece or any other product is effective in helping consumers lose weight, without reliable and competent evidence to substantiate the claim. Dardas also agreed not to misrepresent the terms of any guarantee in connection with a weight loss or control product or service, and to clearly disclose the conditions of such a guarantee.

Charles E. Weller, as Former Officer of Alaska Land Leasing, Inc., et al.

Charles E. Weller agreed not to misrepresent the present value or potential for increased value of oil and gas leases or other investments, and will contribute $60,000 to a consumer redress fund. Weller also agreed to disclose information about the risks and potential of oil and gas leases in sales brochures and contracts, stating on the contracts that they are not valid or complete unless the customer signs a declaration of understanding regarding the required disclosures.

Sun Refining and Marketing Co.

Sun Refining and Marketing Co. agreed to honor lifetime warranty obligations for automobile batteries it sold with such a warranty. The company also agreed to contact eligible consumers and make them aware of the reinstatement of the lifetime warranty.

American Society of Sanitary Engineering

The American Society of Sanitary Engineering, which develops standards for plumbing equipment, agreed to change certain policies which may bar consideration of new products. The society agreed to change its policy of not granting standards coverage to products that are patented or produced by one or a limited number of manufacturers, and to consider products with innovative designs.

Commodore Business Machines, Inc.

Commodore Business Machines, Inc. agreed not to advertise that its computers have equipment or capabilities, such as running certain popular software programs, unless the claim is true at the time it is made. The company is also prohibited from representing that a product will have a particular capability or will be available in the future unless it has a reasonable basis at the time the claim is made.

Hospital and Health Services Credit Union

Hospital and Health Services Credit Union agreed to tell rejected loan applicants if information from third parties, such as credit bureaus or employers, led to denial of their requests for credit. The credit union agreed to send notices required by the Fair Credit Reporting Act informing consumers of the source of information leading to denial and their right to learn the nature of such information upon written request.

Biopractic Group, Inc.

Biopractic Group, Inc., maker of Therapeutic Mineral Ice, agreed not to make claims about the product's effectiveness and acceptance by the scientific community and the news media, unless it has adequate substantiation. Therapeutic Mineral Ice is a product marketed to reduce pain and inflammation arising from muscle sprains, arthritis, rheumatism, and similar ailments.

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

COMPETITION MISSION

The Washington, D.C. Dermatological Society

The Washington, D.C. Dermatological Society, a professional organization of dermatologic physicians located in the greater Washington Metropolitan Area, agreed not to interfere with its members' truthful advertising of their fees and services. The Commissions complaint alleges that the Society prohibited its members from engaging in truthful advertising and threatened to deny membership to any physicians associated with a health care delivery organization that advertised the identity, fees or services of an affiliated doctor. Under the agreement, the Society is prohibited from restricting or advising its members against truthful advertising of fees, services or facilities, but is permitted to adopt and enforce reasonable ethical guidelines governing false and deceptive advertising. In addition, for a period of five years, the Society is required to provide each new member with a copy of. the order.

Dillon Companies, Inc.

Dillon Companies, Inc. agreed not to interfere with the collection and publication of comparative price surveys based on items checked in the Dillon grocery stores. The complaint issued as part of the consent alleges that Dillon, a Kansas based grocery retailer, agreed with other grocers in the Springfield, Missouri area to bar a survey firm's price checkers from their stores. The complaint charged that the alleged group boycott suppressed price competition among grocers in the area and deprived consumers of the advantages of comparative price information. Under the order, Dillon is prohibited from restricting the collection or dissemination of comparative grocery price information and must take steps to restore competition by using price surveys in the Springfield area.

Great Dane Distributors Council
Great Dane Trailers Inc.

Great Dane Distributors Council, an association composed of dealers of Great Dane Trailers Inc. agreed not to impose territorial or customer restrictions among its members. Under a separate agreement, Great Dane Trailers Inc., a major manufacturer and distributor of truck trailers, is prohibited from supporting the dealers charged with restrain-

ing competition among themselves. The Commission charged that the Distributors Council and its members agreed to restrict sales of new truck trailers to designated areas of primary responsibility or to assigned dealers. Under a separate count, Great Dane was charged with assisting the Distributors Council to discourage dealers from making sales outside their assigned areas.

General Motors Corporation/Toyota Corporation

General Motors Corporation and Toyota Corporation agreed to limit the number of subcompact cars to be manufactured jointly in General Motors' Fremont, California plant. The equally-owned venture, New United Motor Manufacturing Inc., will manufacture a front-wheel drive car, derived from Toyota's Japanese distributed Sprinter. The car, Model TVX, will be sold under the Chevrolet nameplate by GM dealers. The complaint, issued with the consent, alleged that the joint venture could lessen competition in the manufacture and sale of subcompact, compact and intermediate cars in the United States and Canada unless consent order restrictions were placed on the venture's production and expansion capabilities. Under the terms of the order, production is limited to approximately 250,000 vehicles per year for 12 years from the date the first automobile is manufactured. The order prohibits GM, Toyota, and the venture from exchanging competitively sensitive technical information except when required for the legitimate development of the joint venture. In addition, for a period of six years the companies are required to maintain records for FTC review. Further expansion of the joint venture would require prior Commission approval.

National Association of School Music Dealers, Inc.

The National Association of School Music Dealers, Inc., an association comprised of retail dealers who sell and service musical instruments to individual customers and school systems on a local scale, agreed not to interfere with the distribution practices of manufacturers of musical instruments. According to the Commission's complaint, the association threatened to boycott any manufacturer who shipped its musical instruments directly from the factory to customers of mail-order or discount dealers. Under the order, the association is prohibited from taking any action, on behalf of its members, to influence the decision of a musical instrument manufacturer concerning how its products are distributed. In addition, the association is required to mail each member who received a copy of the boycott resolution, a copy of the order and its attached explanatory letter.

Pilkington Brothers P. L. C.

Pilkington Brothers P.L.C. agreed to reduce and limit its affiliations with two manufacturers and producers of float glass located in Canada and Mexico so as to reduce its North American position in the float glass industry. Float glass is used in car and truck windshields and specialty applications such as sliding doors and shower enclosures. Pilkington, the world's largest manufacturer of float glass, owns a 49 percent interest in Ford Glass Ltd., a Canadian firm, a 35 percent interest in Vitro Plan S.A., a Mexican company, and in 1982 purchased 30 percent of the voting securities of Libby-Owens-Ford Co., the second largest producer of float glass in North America. According to the complaint, the ownership of the Libby-Owens-Ford shares together with Pilkington's interests in the Canadian and Mexican float glass firms may have reduced competition among the four firms and could increase the already high levels of concentration in the market. Under the terms of the consent, Pilkington a reed to divest its shares in Ford Glass, limit its voting privileges and participation in the business decisions of Vitro Plan, while maintaining its present share interest. In addition, for a 10 year period, the consent prohibits Pilkington from acquiring any firm engaged in the manufacture of float glass in North America without prior Commission approval.

Texaco Inc.

Texaco Inc. agreed to divest, within one year, oil and gas assets in excess of $100 million to acquirors approved by the FTC to settle antitrust charges. The Commission charged that Texaco's $10 billion acquisition of Getty Oil Co., the nation's fourteenth largest oil company, violated the antitrust laws because it could lessen competition in the refining and transportation of refined products in the Northeast and decrease competition in the transportation of refined light products to Colorado. The complaint also charged that the acquisition could harm competition by imposing restrictions on independent refiners' access to crude oil and pipeline transportation in California. The consent provides that Texaco can choose to either divest its forty percent interest in the Wyco Pipeline which runs from Wyoming into Colorado or divest its interest in the Chase Pipeline, which runs from Kansas into Colorado, along with other selected Getty assets in fifteen states. The consent also requires Texaco to divest its Eagle Point Refinery in Westville, N.J. and a related terminal in Salisbury, Md., in addition to certain Getty wholesale gasoline terminals and associated gas stations in the Northeast. Under additional terms of the consent, for a period of five years, Texaco must offer independent West Coast refiners and other

Getty customers the opportunity to purchase stated amounts of California crude oil. Finally, Texaco agreed to favorably vote on any proposals to increase the capacity of Colonial Pipeline, the major petroleum products pipeline serving the Gulf Coast to the Northeast. Texaco must obtain prior FTC approval before acquiring any share of a company engaged in refining or wholesale distribution of gasoline in specified areas and any petroleum product pipeline transportation system in or into Colorado for a period of ten years.

Estes Park Accommodations Association, Inc.

Under the terms of a consent agreement, Estes Park Accommodations Association, Inc. agreed not to impose restrictions on its members from soliciting business through the use of truthful advertisement of room prices or facilities. According to the complaint, the 80-member association representing the interests of operators of motels, hotels, campgrounds and other lodging facilities for travelers in the area of Estes Park, Colorado restrained trade by prohibiting its members from posting or distributing information on room rates and, under the threat of dismissal, coerced individual members into abandoning their efforts to advertise their prices to the public. The consent agreement prohibits the association from imposing any restrictions on members' efforts to truthfully advertise prices or facilities. In addition, the association must send each current member and provide each new member with a copy of the order.

CONSUMER PROTECTION MISSION

Spinal Health Services, Inc., et al.

Two Florida chiropractors, and the two companies which they operate, agreed not to represent that their "laser face lift" or "biostimulation face lift" will reduce, smooth out, or remove facial lines, depressions, and wrinkles or otherwise give the recipient a more youthful facial appearance; or that their cosmetic treatment will provide as long-lasting an improvement as that of a surgical face lift, without competent and reliable scientific tests or evidence.

Emergency Devices, Inc., et al.

Emergency Devices, Inc. and two corporate officers agreed to stop advertising that the "Extra Margin Emergency Escape Mask" provides protection from carbon monoxide gas, will permit a person to breathe normally for 20 minutes, or has been endorsed or approved by a govern-

ment agency. Any representation that the mask will protect a person from fire hazards must be accompanied by the statement: "The mask does not filter carbon monoxide, a lethal gas associated with fire."

Monte Proulx

Monte Proulx, former head of marketing and research for Emergency Devices, Inc., agreed not to make false representations in advertisements for the "Extra Margin Emergency Escape Mask." The prohibited representations are identical to those in the consent with Emergency Devices, Inc.

Lomas & Nettleton Financial Corp., et al.

Lomas & Nettleton, a mortgage bank, agreed to establish and maintain procedures to ensure that it will pay all obligations due and payable from homeowners' escrow accounts in a timely manner. The corporation must also maintain procedures to identify and correct any injury caused by its failure to pay such obligations when due. The order further prohibits misrepresentations concerning funds withdrawn from escrow or the nature of any fee or obligation imposed upon a homeowner's escrow account.

Estee Corporation

Estee Corporation, a leading manufacturer and marketer of health-related foods, agreed not to claim that any of its products have been accepted or recommended for use by diabetics or hypoglycemics unless it discloses the identity of the endorser and the material qualifications or limitations placed on the endorsement. Claims and representations about its foods must be substantiated as required by the terms of the order. The company will also pay $25,000 in consumer redress in the form of research grants to the American Diabetes Association or the Juvenile Diabetes Foundation.

Christian Services International, Inc.

Christian Services International, Inc., a life-care home developer, marketer, and operator, agreed not to represent that its life care homes are affiliated with any religious denomination or group who may also be morally or legally responsible for the home; that there is little or no financial risk in entering into a life care contract; and that increases in service fees will never exceed corresponding social security increases, unless such is the case. The company also agreed not to misrepresent

its financial status and stability. Under the terms of the order, the company must provide each prospective resident with required disclosures and financial information at least five days prior to the execution of a life care contract.

Lloyd's Furs, Inc.

Lloyd's Furs, Inc. agreed not to misrepresent the designer or manufacturer of the fur garments it sells. Under the consent order, Lloyd's will not represent a garment as the product of a particular designer or manufacturer, unless such is the case and Lloyd's has complied with all written labeling instructions from the manufacturer or designer. The order also requires records be kept documenting from whom a garment was received and to whom it was sold, as well as records documenting compliance with the Fur Products Labeling Act.

American Express Company

The American Express Company agreed not to dun credit card customers for contested amounts until the dispute is resolved, as required by the Fair Credit Billing Act (FCBA). American Express also agreed to resolve alleged billing errors involving foreign purchases within a specified time period; establish procedures ensuring the forfeiture of disputed amounts up to $50 if it does not follow FCBA billing procedures; and retain records pertaining to billing errors for two years. This is the Commission's first FCBA enforcement action against a third party creditor.

Macy's New York, Inc.

Macy's agreed to distribute $225,000 in consumer redress among credit card customers who disputed their bills in 1977 and 1978. The corporation also agreed to change its credit billing practices and to set up a program to educate its employees who either establish credit billing procedures or handle notification of billing errors. This is the first case the Commission has brought under the Fair Credit Billing Act involving a department store.

Centurion International, Inc., et al.

Three mobile home manufacturers, Centurion International, Inc., Centurion Homes Corp., Inc., and Centurion Homes of California, Inc., agreed to provide repair work or reimbursement for past expenses to consumers who were entitled to, but allegedly did not receive, perfor-

mance under all the companies' warranties or service contracts, or warranties implied by state law. The companies also must try to locate every person who purchased a new mobile home which they manufactured and notify the purchasers of their right to redress.

Emporium-Capwell

Emporium-Capwell, a division of Carter Hawley Hale Stores Inc., a major California retailer, agreed not to dun credit card customers for contested bills if consumers follow notification procedures required by the Fair Credit Billing Act (FCBA). Under the consent, the company agreed not to try to collect amounts contested by consumers following FCBA procedures until the dispute is settled; to resolve disputes in a timely manner; to retain records documenting FCBA compliance; and not to collect finance charges on billing errors resolved in the customer's favor.

Adria Laboratories, Inc.

Adria Laboratories, Inc. agreed not to make claims comparing the safety of "Efficin" pain reliever to any product containing aspirin without also disclosing that the drug may produce side effects similar to those associated with aspirin. The agreement covers any analgesic made of magnesium salicylate, a chemical similar to aspirin, which has been associated with most of the same side effects and contraindications as aspirin.

California Texas Oil Co., et al.

California Texas Oil Co., et al. agreed not to make false or unsubstantiated claims about the fuel economy or emission control value of its gasoline additive, "AWECO Mileage Extender," or other products. Under the agreement, Cal-Tex must have adequate substantiation for future claims; may not say the additive claims are based on scientific tests if that is not the case; may not misrepresent the conclusions of any tests conducted; and may not use the phrase "up to" unless an appreciable number of consumers tan reasonably expect to achieve the maximum stated performance level under normal driving conditions.

Cynex Manufacturing Corp.

Cynex Manufacturing Corp. agreed not to make energy-related or performance claims for any power factor controller without reliable and competent evidence to substantiate the claims. The company also agreed

not to make any energy-related claims containing the phrase "up to" or a similar phrase, unless an appreciable number of consumers can achieve the maximum stated level of savings under reasonably expected conditions or the conditions necessary for maximum savings are disclosed. In addition, the company agreed not to misrepresent any tests it uses to support its energy-related or performance claims.

Sovereign Chemical and Petroleum Products, Inc.

Sovereign Chemical and Petroleum Products, Inc. agreed not to make claims about the viscosity, or thickness, of its motor oils and transmission fluids unless the representations are true and the company has a reasonable basis for them. The complaint charged Sovereign with selling motor oils that did not measure up to the quality claimed on the can. The company agreed to retain representative samples of each production run, and the Commission may have an independent laboratory test the oil and transmission fluid samples at Sovereign's expense.

Avco Financial Services, Inc.

Avco Financial Services, Inc. agreed to an order prohibiting it from a variety of abusive debt collection practices in violation of Section 5 of the FTC Act. Under the agreement, Avco may not engage in the following acts: use or threaten the use of violence; use obscene language; repeated or continuous telephone calls to the debtor at times or places known to be inconvenient; disclosure of the debt to third parties, including employers; and making false, misleading, or deceptive representations, including threats to take legal action not lawful or intended. It also agreed to inform consumers of their rights to prevent harassment and of applicable complaint procedures.

Peabody Barnes, Inc.

Peabody Barnes, Inc. agreed not to misrepresent the length or terms of warranties for its sump and sewage pumps, and must honor warranties on previously sold pumps for a full year from their installation date. In addition, the company must clearly disclose or instruct purchasers on how to find the date a pump was manufactured, and may tie warranties to that date only if the warranties last at least three years.

## INJUNCTIONS

### COMPETITION MISSION

Warner Communications Inc.

The Commission authorized its staff to seek a preliminary injunction to prohibit the proposed joint venture between the record unit of Warner Communications Inc. and Polygram Records Inc. charging that the venture would substantially lessen competition in the record and tape segment of the music business. If the parties consummate the venture, the new firm would become the largest prerecorded music distributor in the United States and the world. The Commission issued an administrative complaint and the Court of Appeals for the Ninth Circuit reversed a District Court's denial of a preliminary injunction and granted its own injunction.

Columbian Enterprises, Inc.

The Commission sought a preliminary injunction to prohibit Columbian Enterprises, Inc.'s proposed takeover of Continental Carbon Company, a subsidiary of Conoco, Inc. A preliminary injunction was issued by the Federal District Court in Cleveland to block the consummation of the merger until the Commission completes its administrative litigation challenging the merger. According to the complaint, the proposed merger would substantially eliminate competition between the two companies by creating the second largest producer of carbon black in the industry. Columbian Enterprises is a subsidiary of Consolidated Mining & Industries, S.A., a Panamanian corporation.

Bass Brothers Enterprises Inc.

The Commission sought a preliminary injunction against Bass Brothers Enterprises Inc.'s proposed acquisition of Ashland Oil Inc.'s Carbon Black Division on grounds that the acquisition could substantially increase concentration in the carbon black industry. If the acquisition were allowed, Bass Brothers, through its Sid Richardson Carbon and Gasoline Co. Inc. subsidiary, would become the third largest producer and distributor of carbon black in the United States. The Commission obtained a preliminary injunction from the Federal District Court in Cleveland.

Alcon Laboratories Inc.

The Commission authorized its staff to seek a preliminary injunction barring Alcon Laboratories Inc.'s proposed acquisition of CooperVision Inc. The complaint charged that the acquisition would violate the federal antitrust laws by eliminating competition in the ophthalmic therapeutic pharmaceutical market where CooperVision and Alcon are the only two competitors. If the acquisition was allowed to be consummated, the new firm would be the second largest manufacturer of soft contact lens and, in addition, would be the largest producer in a number of other eye care markets. Before court papers were filed, the parties abandoned their planned merger.

CONSUMER PROTECTION MISSION

Rita A. Walker and Associates, Inc.

The Commission filed a complaint in federal district court seeking a permanent injunction and consumer redress from R.A. Walker and Associates. A federal district court issued a temporary injunction in October, 1983. The complaint alleges that the company's offer of loans to help Washington, D.C. area homeowners avoid foreclosure is false and deceptive. The Commission charges that after securing deeds to the houses, the company records them and claims ownership, treating the original homeowner as a tenant. Given the misleading circumstances surrounding these transactions, the Commission charges that the failure to treat the transactions as loans is unfair and deceptive. In addition to injunctive relief, the Commission is requesting an order requiring Walker to cancel the contracts and make refunds to homeowners.

Brown & Williamson Tobacco Corporation

The Commission filed a complaint seeking injunctive relief to prevent continued misrepresentation that Barclay is a 1 mg-tar cigarette. A federal district court subsequently permanently enjoined Brown & Williamson from making any claim of specific milligram tar rating, unless such rating was approved by the Commission or derived from a test method approved by the Commission.

U.S. Oil and Gas Corp.

In fiscal 1984, a federal district court froze $12 million in assets of U.S. Oil and Gas Corp. and two of its jointly controlled oil and gas leasing companies. A preliminary injunction was also issued prohibiting the

companies from making false claims about their ability to obtain oil and gas leases for customers. The court subsequently appointed a receiver to manage the affairs of the three companies and froze the personal assets of six officials of the companies. In addition, Marc Douglas (also known as Marc Simpson), a former salesman, agreed to a permanent injunction and to pay $65,000 in consumer redress to customers who may have been injured in connection with the sale of filing services to obtain mineral rights. Irving Sands, another defendant in the proceeding, agreed to pay $115,000 in consumer redress and signed a stipulated order prohibiting him from making false claims about his success in obtaining oil and gas leases for customers.

Paradise Palms Vacation Club, et al.

The Commission obtained a settlement as to defendant Syed Sarmad, former associate of the marketer of Paradise Palms and Harbor Village Club, which permanently enjoins Sarmad from employing deceptive practices in the sale of vacation timeshares. In addition, the Commission obtained a settlement as to defendant Robert J. McDaniel, former president of Harbor Village Club and its developer company, which orders a $25,000 payment to a consumer redress fund to reimburse timeshare purchasers who were misled. McDaniel is also permanently enjoined from employing deceptive practices in the sale of vacation timeshares.

Royco Automobile Parts, Inc.

The Commission filed a complaint in federal district court against Royco Automobile Parts, seeking a permanent injunction, a freeze of assets, civil penalties, and consumer redress. A preliminary injunction was granted in February, 1984. The Commission charged the auto parts franchise company with making false promises of high profits from risk-free investments. The complaint alleges that Royco violated the FTC's Franchise Rule by failing to provide required documents, misrepresenting facts, and making false earning claims.

David Meade & Tyler-Radcliffe Co., Inc.
Robyn Kliss & Thor Enterprises, Inc.
Billy DeVasher & Lady Venus Centers, Inc.

The Commission obtained three stipulated permanent injunctions requiring these three companies and their presidents to keep promises made to health spa members. The three owner/operators of health spas agreed to obtain performance bonds, disclose dearly the date that services will be available, and have any specific advertised services or

facilities in working order before taking advance payments from consumers. The bonds will ensure that spa members will be able to receive refunds if the spa closes or fails to open. The complaints filed by the Commission charged the respondents with various violations of the FTC Act in connection with the advertising and operation of health spas in Iowa, Illinois, Delaware, and Louisiana.

Trans-Alaska Energy Corp., et al.

The Commission filed a complaint in federal district court seeking permanent injunctions and consumer redress against Trans-Alaska, three related companies, and the individuals who operated the firms. A federal district court issued a preliminary injunction in May, 1984, freezing the assets of the companies and five individuals. The complaint charges the companies with allegedly inducing consumers into investing thousands of dollars each for valueless or non-existent rights to oil and gas leases on federal lands. In September, 1984, the Commission named three additional individuals as defendants, and the Court issued a temporary restraining order and asset freeze against them.

Federal Energy Systems, Inc.

The Commission filed a complaint in federal district court seeking a temporary restraining order, preliminary and permanent injunctions, a freeze of assets, civil penalties, and consumer redress against Federal Energy Systems. The company sells franchises for the sale and installation of FES-trademarked equipment that automatically controls heating and air-conditioning energy use in small to medium-sized commercial buildings. The complaint charges the company with violations of the FTC Act and the Commission's Franchise Rule by failing to provide required information to its prospective franchise buyers and misrepresenting the earning potential of those franchises.

International Diamond Corp., et al.

In 1982, the Commission filed a complaint in federal district court charging International Diamond Corp. (IDC) and several defendants with falsely claiming that diamonds bought through the company were a risk-free investment, and that IDC's prices compared with wholesale prices. In July, 1984, a settlement reached with IDC in May, 1984, became final. The settlement provides approximately $6.7 million to a consumer redress fund to be distributed to former IDC customers. In addition, four IDC officials named as defendants, agreed to stipulated permanent injunctions. Three of these defendants are also required to pay a combined sum of $90,000 in redress.

Alaska Land Leasing, Inc., et al.

The Commission filed a complaint in federal district court seeking civil penalties, consumer redress, and permanent injunctions against Alaska Land Leasing, four related companies, and six individuals. A federal district court issued a preliminary injunction and froze the assets of the companies and individuals. The complaint charges that the companies persuaded consumers to invest thousands of dollars in Alaskan oil and gas leases of negligible value, using false representations of the value and potential of the leases.

A & A Laboratories, Inc.

The Commission filed a complaint in federal district court seeking preliminary and permanent injunctions, and a freeze of assets against A & A Laboratories, several divisions of A & A, and the individuals who control the companies. The defendants sell hair analysis services and vitamins, minerals, and other dietary supplements. The complaint charges that, contrary to the defendants' claims, hair analysis tests are grossly inaccurate, and that recommendations for dietary supplements based on the analyses may be potentially harmful to consumers' health.

Hosiery Corp. of America, Inc., et al.

The Commission filed a consent decree in federal district court with Claire Nelson, president and co-owner of Hosiery Corp. of America until early 1981. The consent prohibits Nelson from violating the Mail Order Rule or from misrepresenting that consumers' names will be given to a credit reporting agency. The complaint charged HCA with sending consumers unordered merchandise and improperly trying to collect for that merchandise.

Landmark Financial Services, Inc.

The Commission filed a complaint in federal district court seeking civil penalties from Landmark Financial Services, Inc. for allegedly violating equal credit opportunity laws. The complaint charges that Landmark gives loans to elderly applicants on less favorable terms than to similarly qualified but younger applicants.

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## CIVIL PENALTY ACTIONS

### COMPETITION MISSION

#### RSR Corp.

RSR Corp. agreed in a consent judgment to pay $175,000 civil penalties for failure to divest two lead-recycling plants. In 1983, the Commission accepted a modified settlement for other alleged past violations of the order. As part of that settlement, the order was modified to provide for the appointment of an FTC approved trustee to divest the plants. The Commission's complaint alleged that the company violated the 1976 order by failing to divest its Dallas, Texas and Seattle, Washington plants on or before the date specified in the order.

#### McKesson Corp.

McKesson Corp., formerly Foremost-McKesson, agreed to pay $300,000 civil penalties to settle charges that it accepted some form of payment or discount, not made available to competing firms, for the promotion of suppliers' products. Through its annual trade shows, McKesson promotes and sells the products of suppliers to retail drug firms. The judgment settles charges that McKesson collected compensation from several suppliers whose products were displayed and sold at the McKesson trade shows. In addition to the civil penalties, the judgment enjoins McKesson from accepting any valuables, which the company knows are not available to its competitors, for the promotion and sale of a supplier's product.

#### Louisiana-Pacific Corporation

A U.S. District Court Judge ordered Louisiana-Pacific Corporation to pay $4 million in civil penalties for failure to comply with an FTC order requiring the divestiture of its Rocklin, California plant within two years. The 1979 order required Louisiana-Pacific to divest the Fiberboard Corp. plant to settle charges that the 1978 acquisition of Fiberboard Corp. could lessen competition in the production and sale of medium density fiberboard and particle board. In January, 1984, Louisiana-Pacific posted bond securing payment of the civil penalties and filed an appeal with the Court of Appeals for the Ninth Circuit from the judgment.

Phelps Dodge Industries, Inc.
G-K Technologies, Inc.

Phelps Dodge Industries, Inc., successor to Phelps Dodge Copper Products Corporation, and G-K Technologies, Inc., formerly General Cable Corporation, agreed to consent judgments providing for the payment of monetary penalties to settle charges that the companies violated a Commission order by engaging in a conspiracy with others to fix prices of impregnated paper cable. The complaint alleged that Phelps Dodge and G-K violated a 1936 consent order by circulating paper cable price lists to their competitors, which in effect raised or stabilized prices. Phelps and G-K agreed to pay civil penalties of $517,500 and $552,000, respectively. In 1979 and 1982, final judgments were assessed against two other firms named in the order for cooperating with competitors to restrain prices in the paper cable industry.

Owens-Corning Fiberglass Corp.

A federal court ordered Owens-Corning Fiberglass Corp. to pay an $800,000 civil penalty to settle charges that it violated a 1981 Commission divestiture order requiring the company to sell four residential roofing plants by April 8, 1983. The plants, located in California, Oregon and Washington were acquired in 1977 from the Lloyd A. Fry Roofing Co. Owens-Coming was ordered to divest the plants to settle charges that the acquisition reduced competition in the asphalt roofing products market in seven western states. In addition to the civil penalty, the judgment provides for the appointment of a trustee to sell the roofing plants, individually or in any combination, within nine months to an FTC approved acquiror.

Coastal Corporation

The Coastal Corporation, a Texas oil and gas company, agreed to pay a $230,000 civil penalty to settle charges that the company violated the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. According to the complaint accompanying the settlement, Coastal, which already owned stock of Houston Natural Gas Corporation in excess of $15 million, purchased an additional 75,000 shares prior to filing notification and observing the waiting period required by the HSR Act. Under the HSR Act, companies contemplating certain mergers or acquisitions must file notice of a proposed transaction prior to consummation with the FTC and Department of Justice. The filing and waiting period requirements allow both agencies time to review the proposed transaction to determine if

it may violate the antitrust laws. In addition to the civil penalty, Coastal divested the 75,000 shares under an agreement with the Commission's Bureau of Competition. This marked the first time the Commission invoked Section 7A(g)(1) of the Clayton Act for an alleged violation of the HSR Act. The consent judgment was filed in District Court on behalf of the FTC by the Justice Department.

CONSUMER PROTECTION MISSION

First Federal Credit Control, Inc.

First Federal Credit Control, Inc., agreed to a $25,000 civil penalty consent judgment for allegedly violating the Fair Debt Collection Practices Act. The alleged violations included failure to notify consumers of their right to dispute or obtain verification of a debt, and use of form letters containing false and deceptive representations.

Security Pacific Financial Corp., et al.

Two related firms, Security Pacific Finance System, Inc. and Security Pacific Financial Corp. agreed to a $140,000 civil penalty consent decree to settle charges of violating the Equal Credit Opportunity Act. The alleged violations included: failure to consider applications from women who did not have jobs and ignoring women's alimony and child support payments; requesting prohibited information; and failure to retain records. This consent decree represents the first action the Commission has brought under the Act that resulted from use of a law enforcement approach in which testers posed as credit applicants.

Philly Mignon International

Philly Mignon International (PMI) agreed to a $80,000 civil penalty consent decree to settle charges of violating the Franchise Rule. The alleged violations included: failure to give complete information to potential franchisees; failure to give copies of the standard franchise agreement to purchasers within the required time span; failure to give potential franchisees lists of other franchises; and making potential sales and profits representations without a reasonable basis for them.

Allied Stores Corporation, et al.

Allied Stores Corp. agreed to a $122,000 civil penalty to settle charges it violated the Equal Credit Opportunity Act (ECOA) and the Fair Credit Reporting Act (FCRA). The company will also send corrective notices

to customers who allegedly did not receive sufficient information about why they were denied credit.

Ferrara Foods, Inc., et al.

Ferrara Foods, Inc. agreed to a $40,000 civil penalty consent decree to settle charges of violating the Franchise Rule. The company also agreed not to make inflated earnings promises, and not to sell a franchise unless it discloses all material information about the business fully and accurately.

Westwood, Inc.

Westwood, Inc. agreed to a $25,000 civil penalty consent decree to settle charges the company sold fabrics with mislabeled wool contents. The alleged violations included overstatement of the amount of wool in the fabrics, and continued importation of misbranded wool products for sale in the U.S. after the FTC had informed the company that it was illegal to do so. Under the agreement, Westwood will have an independent laboratory test products it imports to determine the percentage of each type of fiber, relabeling as necessary.

Gary Supplies, et al.

Gary Supplies, Random Stationers, Inc., A & L Supply Co., Tri-Cor Supply, and the individuals who own and operate them agreed to a $36,000 civil penalty consent decree to settle charges that they shipped unordered merchandise after being told it was illegal to do so. The agreement prohibits the companies and individuals from sending unordered merchandise and instituting collection activity for orders that are not bona fide.

Hosiery Corp. of America, et al.

Hosiery Corp. of America, et al. agreed to a $200,000 civil penalty consent decree to settle charges that it sent consumers unordered merchandise, improperly tried to collect for that merchandise, and violated the Mail Order Rule. The complaint charged that the company allegedly violated provisions of the Postal Reorganization Act which prohibit sending unordered merchandise through the mail without the recipient's prior approval. In addition, the company allegedly sent dunning letters implying threats of action HCA did not intend to take against consumers who did not pay for the unordered hosiery.

Horizon Corporation

Horizon Corporation agreed to a $41,800 civil penalty consent decree to settle charges that it had violated a 1981 FTC consent order by failing to make its regular payment to a consumer redress fund. In addition, Horizon was required to pay $167,200 in redress to the fund. The 1981 FTC order requires Horizon, formerly a major seller of undeveloped Southwest real estate, to pay a total of $14.5 million to a fund to partially reimburse purchasers who bought land on the strength of the company's claims.

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## ADMINISTRATIVE COMPLAINTS

### COMPETITION MISSION

The New England Motor Rate Bureau, Inc.

The Commission charged that The New England Motor Rate Bureau Inc. illegally conspired to establish and maintain collective rates which unlawfully fixed prices for intrastate freight transportation. The Rate Bureau publishes and issues tariffs stating the intrastate rates for the transportation of property on behalf of its member carriers engaged in the transportation of properties within the states of Massachusetts, New Hampshire, Rhode Island and Vermont. According to the complaint, the Rate Bureau prepared and filed collective fixed rate tariffs with state public utility commissions on behalf of its members. The complaint charged that the participation in and filing of collective rates suppressed competition among intrastate carriers and deprived shippers and consumers of the benefits of free and open competition in the transportation of properties in the four states. If the Commission finds that the Rate Bureau violated the law, it may require the group to cancel all tariffs filed with the four state utility commissions and may also prohibit the group from entering into any agreement to collectively fix prices for the transportation of intrastate property.

District of Columbia Superior Court Trial Lawyers Association

The Commission's complaint alleged that the District of Columbia Superior Court Trial Lawyers Association illegally conspired to conduct a work stoppage boycott when some of the associations members and other area attorneys declined to accept new criminal case assignments in order to demand higher legal fees. The association is a group of private attorneys on assignment from the Superior Court of the District of Columbia who primarily handle criminal cases involving indigent defendants under the Criminal Justice Act. According to the complaint, the association's members withheld their services from the indigent defendant program for 15 days in order to coerce higher payments from the city government. The complaint further alleged that the association's conspiracy to fix prices and make its member lawyers unavailable to accept new case appointments restrained competition among the group's members and between other attorneys. In addition, the Commission alleged that the boycott forced the District of Columbia to increase the fee level under duress in order to secure the administration of justice.

Smitty's Super Markets, Inc.
David Porter

The Commission's complaint alleged that three Springfield, Missouri grocery retailers conspired to prevent a grocery survey firm from collecting and selling price data based on grocery items in their stores. According to the complaint, Smitty's Super Markets Inc., Roswil Inc., owner of Ramey Super Markets and David Porter, owner of Porter's So-Lo Markets, agreed to obstruct the price checking efforts of Victor Enterprises, Inc. in its collection of comparative price data at several Springfield grocery chains for sale to a cable television operator for broadcast to its Springfield subscribers. The complaint further alleges that as a result of the conspiracy, Victor was able to check the grocery items in only one store causing the cable telecast to be canceled. The conspiracy, as charged in the complaint, restrained price competition among Springfield grocery retailers and deprived the city's consumers of comparative price information.

Warner Communications Inc.

The Commission charged that the proposed joint venture between Warner Communications Inc. and Polygram Records Inc. could lessen competition in the record and tape division of the music industry by eliminating Polygram as a substantial competitor. The complaint alleged that the joint venture to be formed by Warner's Warner Bros. Record unit, the second largest United States record company, and Polygram, the nation's sixth largest record company, would create the world's largest record distributor, controlling 26 percent of the U.S. market. According to the complaint, the merger would reduce the number of U.S. distributors of prerecorded music to five and result in the four major firms controlling the recorded music industry.

Columbian Enterprises, Inc.

The Commission's complaint alleged that the acquisition by Columbian Enterprises, Inc., a subsidiary of Consolidated Mining & Industries, S.A., of the Continental Carbon Co. could lessen competition by creating the nation's second largest producer of carbon black. Columbian Enterprises, with domestic carbon black sales in excess of $100 million, is believed to be the largest producer of carbon black in the United States. Manufactured from a petroleum feedstock, carbon black is used to strengthen rubber products such as tires, inner tubes, belts and other automotive rubber products. If the Commission concludes that Columbian Enterprises violated the law, it may order the divestiture

of Continental Carbon and for a period of ten years prohibit Columbian Enterprises' acquisition of any company engaged in the production or distribution of carbon black without prior Commission approval. Consolidated Mining is owned by The Hochschill Trust, a Panamanian corporation; Continental Carbon is owned by Conoco Inc.

Bass Brothers Enterprises, Inc.

The Commission charged that Bass Brothers Enterprises, Inc.'s acquisition of the United States assets of Ashland Oil Inc.'s Carbon Black Division could lessen competition and increase concentration in the production of carbon black, a strengthening agent manufactured from petroleum feedstock. Ashland's Carbon Black Division, believed to be the third largest domestic producer and seller of carbon black, had U.S. sales of approximately $80 million. The acquired assets would be integrated with a Bass Brothers' subsidiary, Sid Richardson Carbon and Gasoline Co. Inc., the seventh largest seller and sixth largest producer of carbon black in the United States. The complaint alleged that the acquisition would eliminate Ashland as a substantial competitor and, in addition, could reduce actual competition among other companies that produce and distribute carbon black.

The City of New Orleans
The City of Minneapolis

Separate complaints were issued against two municipal governments alleging that each city's restrictive regulations imposed on taxicab companies could create a monopoly and restrain competition in the taxicab industry in each municipality. The City of New Orleans and the City of Minneapolis were both charged with entering into agreements with taxicab firms in their respective cities to increase fares and adopt uniform fares, at the request of some operators, to be imposed upon all taxicab operators; to limit the number of taxicab licenses or operators; and to prohibit competition from operators licensed outside New Orleans or Minneapolis. According to the complaints, these unfair practices eliminated competition, strengthened the market power of taxicab companies currently authorized to operate in Minneapolis or New Orleans, and raised or fixed taxicab rates. These complaints were issued by the Commission under Section 5 of the Federal Trade Commission Act to seek injunctive and remedial relief designed to benefit consumers by promoting competition in the taxicab industry to provide more available taxis at a lower cost. If the Commission finds that the law has been violated, it could issue orders prohibiting the municipal governments from entering into or enforcing any agreement or city code provision designed to be anticompetitive.

Rhode Island Board of Accountancy

The Rhode Island Board of Accountancy has allegedly restrained competition by prohibiting professional accountants in the state of Rhode Island from soliciting business through advertising. The board, appointed by the Governor, administers examinations and permits to practice to qualified certified public accountants and public accountants. All practicing accountants in Rhode Island are required by state law to hold a permit to practice issued solely by the board. The Commission's complaint alleges that the five member board restricted competition by restricting licensed accountants from advertising and from soliciting the public or clients of other CPA's or PA's. The complaint charged that because Rhode Island state law does not require the advertising restrictions written into the board's code of professional conduct, the ban on advertising is a violation of the federal antitrust laws.

The Electrical Bid Registration Service of Memphis, Inc.

The Commission's complaint charged that the Memphis Chapter of The National Electrical Contractors Association, The Electrical Bid Registration Service of Memphis, Inc., prevented price competition and raised the cost of electrical subcontracting work by establishing a bid registry that obstructed price negotiations between the electrical subcontractors and general contractors in the greater Memphis area. In most instances, general contractors developing proposals to seek prime construction projects contact various subcontractors to get estimates on specialty work not performed by the general contractor. The winning general contractor then enters into negotiations with any interested subcontractor to obtain sub-bids offering the most favorable prices for the specialty work involved in the project. During this period, subcontractors allegedly often lower their initial job estimate in an attempt to win the sub-bid. The registry, which regularly notifies electrical subcontractors of upcoming large subcontracting jobs in a 23 county area of Tennessee, Arkansas and Mississippi, collects sealed sub-bids, which cannot be changed, for distribution to general contractors preparing bids on prime contracts. Under the rules of the registry, any general contractor who uses the registered bids in development of a winning contract proposal must select one of the registry's bidders without negotiating a lower price. According to the complaint, the registry restrained competition by imposing regulations prohibiting subcontractors from changing their bids and hampered general contractors from conducting competitive negotiations with subcontractors to obtain the most desirable price for specialty work by restricting their choice of subcontractors.

Tristate Household Goods Tariff Conference
Middle Atlantic Conference
Motor Transport Association

The Commission issued separate complaints against three motor carrier tariff bureaus for allegedly fixing the intrastate transportation prices for property shipped by motor common carriers. The tariff bureaus act as agents on behalf of their member carriers that provide intrastate transportation of household goods and general commodities. The complaints allege that each tariff bureau, Tristate Household Goods Tariff Conference of Lester, Pennsylvania, Middle Atlantic Conference, based in Riverdale, Maryland and Motor Transport Association of Hartford, Connecticut, conspired with its respective members to illegally set and collectively file rates of intrastate motor carrier transportation in Pennsylvania and Connecticut which deprived consumers using intrastate carriers in the two states of the benefits of competition. If the Commission concludes that any of the associations violated the law, it may prohibit the association from entering into any agreement to fix prices carriers charge for the intrastate transportation of property or related services.

CONSUMER PROTECTION MISSION

Associated Mills, Inc.

The Commission's complaint alleges that the company's product, Pollenex Pure Air "99" Air Cleaner/Deodorizer, does not eliminate or remove most tobacco smoke, ragweed pollen, or dust, as advertised. The complaint also charges that Associated Mills represented it had a reasonable basis for these claims, when in fact, it did not conduct appropriate tests or use generally accepted procedures to apply test results to advertised room conditions.

P. Leiner Nutritional Products Corp.

The Commission's complaint alleges that advertisements for the dietary supplement "Octacol 4" contain claims that are false and unsubstantiated. "Octacol 4" consists of cold-processed wheat germ oil in capsule form. The advertisements for the product claim that the product helps increase endurance, stamina, vigor, and athletic performance. In addition, the company allegedly represents that long term university studies and related research support the performance claims. The complaint charges the company did not have a reasonable basis for these claims.

General Nutrition, Inc.

The Commission's complaint alleges that the company deceptively represents that its dietary supplement "Healthy Greens" is associated with a reduction in the incidence of cancer in humans, and that a 1982 National Academy of Sciences' National Research Council report supports that claim. "Healthy Greens" are pills containing dehydrated vegetables and some vitamins and minerals. According to the complaint, General Nutrition also falsely represents that Vitamin E plays an important role in reducing the risk of cancer.

Orkin Exterminating Co., Inc.

The Commission's complaint alleges that Orkin Exterminating Co., Inc. unfairly raised the annual renewal fees for its termite control contracts calling for fixed annual fees. According to the complaint, Orkin agreed in its contracts and guarantees entered into before September, 1974, to provide annual reinspection for the life of the house if the consumer paid a specified, fixed annual renewal fee. Orkin also agreed to re-treat and, in certain cases, repair any termite damage if consumers paid those fees. However, the complaint alleges that the company attempted to raise or raised the agreed-upon annual renewal fee.

Weider Health & Fitness, Inc., et al.

The Commission's complaint alleges that advertisements for "Anabolic Mega-Pak" and "Dynamic Life Essence" nutrient supplements falsely claim they are effective substitutes for anabolic steroids. Advertisements for the products claim that they increase muscularity and strength similar to steroids, but without the dangerous side effects. The complaint alleges that the company lacked substantiation for these claims, and that these representations mislead consumers and induced them to purchase the nutrient supplements.

Jerome Milton, Inc., et al.

The Commission's complaint alleges that Jerome Milton, Inc. and Jerome Milton Schulman, an officer of the company, made deceptive claims in advertising Shane toothpaste. The complaint charges that there is inadequate evidence substantiating claims that Shane toothpaste cures gum disease, is superior to other toothpaste in reducing plaque, or lessens the sensitivity of the teeth to hot and cold substances.

## PART III (Adjudicative Stage)
## CONSENT AGREEMENT ISSUED IN FINAL FORM

### COMPETITION MISSION

#### Gillette Company

The Gillette Company agreed to provide advertising and promotional program opportunities on a proportionally equal basis to both large and small retailers who sell its products. According to the complaint, Gillette offered advertising allowances only to large retailers who had provided promotional services on behalf of Gillette's products. The order required Gillette to offer alternate plans for retailers who did not regularly advertise in newspapers or distribute large numbers of advertising circulars.

#### Flowers Industries, Inc.

Flowers Industries, Inc., a Georgia based bread producer, was ordered to divest, to a Commission approved buyer, its bakery plants in High Point, North Carolina and Gadsen, Alabama to settle charges that its bakery acquisitions in the southeastern U.S. reduced competition. According to the complaint, acquisitions made by Flowers between 1973 and 1980 eliminated competition and increased concentration in the bread industry in various southeastern areas. The order also requires Flowers to transfer certain trade names and trademarks associated with the two plants. In addition, Flowers is prohibited from acquiring or holding any bakery concern without prior Commission approval for a period of 10 years.

#### Ford Motor Company

The Ford Motor Company was prohibited from extending advertising allowances to large car rental companies unless proportional allowances were also made available to competing small car firms. The complaint included with the consent agreement charged Ford with discriminating against small rental companies by not offering advertising allowances proportionally equal to those given to larger customers. Under the order, Ford was required to offer small car rental companies payment of part of the cost of certain types of Yellow Pages display advertisements. The restrictive standards imposed by this order was contingent on the Commission's ruling in the General Motors Corporation matter, Docket No. 9114, summarized in this report under Final Commission Orders. A provision in the Ford order allowed the firm

to benefit from the Commission's decision, if less restrictive obligations were imposed against GM. On June 27, 1984, the Commission dismissed its compliant challenging GM's method of granting advertising allowances. Due to that decision, Ford is no longer bound by the November 16, 1983 consent order.

Jim Walter Corporation

Jim Walter Corporation and its subsidiary, Celotex Corporation, agreed to divest four asphalt roofing materials plants to settle antitrust charges that the 1972 acquisition of Panacon Corp. could substantially lessen competition in the manufacture and sale of asphalt roofing products. Under the order, within 24 months Jim Walter and Celotex must divest the roofing plants in three states to an acquiror approved by the Commission. The order further provided that a Commission appointed trustee would be appointed to divest any plants not sold within 15 months. Also, for a period of ten years, Jim Walter and Celotex are prohibited from acquiring any interest in an asphalt roofing plant within the defined geographic markets without prior Commission approval.

Hughes Tool Company

The Commission accepted consent agreements from Hughes Tool Company and Big Three Industries, Inc. to settle charges made in a 1980 complaint that the two companies shared a common director, Ben F. Love. Under the antitrust laws, a person may not serve simultaneously on the boards of two or more competing corporations if either firm has assets of more than $1 million. The complaint alleged that both Hughes and Big Three manufactured and serviced products for the oil field equipment industry. Under the order, Hughes and Big Three agreed not to have a director who sits on the board of a competing firm for a period of ten years. The complaint against Hughes and Big Three was removed from adjudication in 1982 in consideration of consent agreement negotiations. The Commission dismissed charges against Ben F. Love who resigned from the board of Big Three before the complaint was issued.

Great Lakes Chemical Corp.

Under a consent agreement, Great Lakes Chemical Corp. agreed to license its brominated flame retardant technology to settle charges that the company's 1981 acquisition of Northwest Industries Inc.'s Velsicol Chemical Corp. lessened competition by eliminating one of its competitors. Great Lakes became the fifth largest firm in the production

and sale of bromine through its acquisition of Velsicol's bromine related assets and patents. The order requires Great Lakes to take steps to restore competition in the elemental bromine market by licensing technology it acquired from Velsicol to PPG Industries Inc., enabling the company to become established as a viable competitor in the production and sale of brominated flame retardants. The consent agreement with Great Lakes settles the complaint issued in 1981. Through additional agreements, the Commission dismissed the complaints against Northwest and Velsicol.

Smitty's Super Markets Inc.
David Porter

Smitty's Super Markets Inc. and David Porter, owner of Porter's SoLo Markets, are prohibited from taking any action that would prevent price checking or price publication of retail grocery items surveyed in their stores. The orders settle charges that Smitty's and two other Springfield, Missouri grocers, David Porter and Roswil Inc. conspired illegally to restrict Victor Enterprises Inc., a price checking company, from collecting comparative grocery price information for public broadcast. Under the orders, Smitty's and David Porter are required to grant price checkers the same access to their supermarkets as they give to customers. In addition, the two grocers must take steps to restore competition in the Springfield area by encouraging the use of price surveys for publications. The case against the third grocer, Roswil Inc., remains in adjudication.

CONSUMER PROTECTION MISSION

General Motors Corporation

The agreement requires the corporation to provide all interested persons with service bulletins (Product Service Publications) and indexes which describe both current and potential problems and updated repair procedures. GM is also required to advertise the existence, availability, and benefits of the publications in national magazines and through direct-mail notices. In addition, GM is required to establish a nationwide arbitration program for car owners with unsatisfied complaints about engine or transmission failures.

PharmTech Research, Inc.

The agreement prohibits PharmTech from claiming that its dietary supplement "Daily Greens" provides any health benefit unless it has reliable

and competent scientific evidence substantiating the claim. The company also agreed not to misrepresent the results of any scientific test, research article, or other scientific opinion or data in its advertising claims for "Daily Greens." In July, 1983, the Commission issued an administrative complaint charging the company with falsely and deceptively basing its ad claims on a 1982 National Academy of Sciences' report, "Diet, Nutrition, and Cancer." In November, 1983, the Commission obtained a preliminary injunction in federal district court banning those claims pending the outcome of the administrative proceeding. The company agreed to the consent order to settle the administrative proceeding.

## INITIAL DECISIONS

### COMPETITION MISSION

#### Weyerhaeuser Co.

An Administrative Law Judge dismissed a 1981 complaint against Weyerhaeuser Co. The Commission's complaint charged that Weyerhaeuser Co.'s acquisition of Menasha Corp.'s North Bend, Oregon medium mill would lessen competition in the eleven state market west of the Rocky Mountains. The companies are direct competitors in the production of corrugating medium, a product used in the production of corrugated box and containers. In defining the market in this acquisition as national in scope, the Judge found that the acquisition would not decrease competition in an industry with low barriers to entry and where excess production of corrugated medium in other parts of the country has a significant competitive effect on west coast medium.

#### B.A.T. Industries, Ltd.

An Administrative Law judge dismissed a complaint against B.A.T. Industries, Ltd., ruling that the company's 1978 acquisition of the Appleton Papers Division of NCR Corp. did not violate the federal antitrust laws. The 1980 complaint charged that the acquisition eliminated the potential for competition between the two firms, both engaged in the manufacture and sale of chemical carbonless paper. Chemical carbonless paper allows a writer to make several copies, without the use of carbon paper, by applying pressure to the top sheet and is primarily used to make business forms. Prior to the acquisition, B.A.T., which did not market paper in the United States, was the largest producer of chemical carbonless paper in the United Kingdom and Europe, and was second to Appleton worldwide. The Judge ruled that B.A.T.'s entry into the production and sale of the paper in the United States could only have been accomplished through the acquisition of Appleton due to a technological entry barrier.

#### Boise Cascade Corporation

In an initial decision, the Administrative Law Judge found that Boise Cascade Corporation knowingly received discriminatory price discounts from six manufacturers of office products. The Judge upheld a 1980 complaint which alleged that Boise, a forest products company which purchases office supplies from manufacturers for resale to both retail

dealers and to large commercial users, illegally received discounts not available to competing retail dealers on goods purchased for resale to commercial users. The Judge found that Boise violated the Robinson-Patman Act when the company knowingly accepted discriminatory prices or discounts, unavailable to competing buyers, on products furnished by common suppliers.

Echlin Inc.

An Administrative Law Judge issued a decision that found Echlin Inc.'s (formerly Echlin Manufacturing Co.) acquisition of Borg-Warner Corp.'s automotive-aftermarket operations did not create an antitrust violation. The Commission's complaint charged that the acquisition could substantially lessen competition by forming a firm controlling half the market for the assembly and sale of carburetor kits in the United States. Carburetor kits are prepackaged sets of most frequently used parts needed to repair carburetors that do not require replacement. The Judge dismissed the complaint finding that the industry would remain substantially competitive based on the industry's past performance. The Judge ruled that such non-market share factors as low barriers to entry and rapid technological advances must be considered, along with market share data, in assessing whether a merger's impact on an industry will probably produce anticompetitive effects.

## FINAL COMMISSION ORDERS

### COMPETITION MISSION

#### Schlumberger Limited

The Commission dismissed a complaint challenging Schlumberger Limited's acquisition of Accutest Corporation. The principal relief sought by the complaint was accomplished when Schlumberger divested Accutest to four individuals.

#### General Foods Corp.

The Commission upheld a 1982 Administrative Law judge's initial decision that dismissed charges against General Foods Corp., the nation's largest coffee maker. The 1976 complaint charged that General Foods, through its Maxwell House Division, used its dominant market position to frustrate the growth of small competitors by limiting their entry into General Foods' markets and attempted to monopolize the coffee industry. The complaint covered all types of coffee except instant products and products sold to institutions such as offices and hospitals. The Commission found that competition in the relevant market was sound enough to withstand any threats by any one firm. The Commission concluded that General Foods' efficient marketing practices were not an attempt to use unfair methods of competition or to monopolize, but, instead, promoted healthy competition between Proctor & Gamble's Folger brand and Maxwell House, resulting in reduced consumer prices.

#### Champion Spark Plug Co.

The Commission upheld an Administrative Law Judge's decision which dismissed charges challenging Champion Spark Plug Co.'s acquisition of the Anderson Co., the nation's largest manufacturer of replacement windshield wipers. The complaint charged that competition was lessened when Champion, the nation's largest manufacturer of replacement spark plugs, was eliminated as a future potential entrant in the replacement windshield wiper market. The Commission affirmed dismissal on grounds that the market for replacement wiper blades and refills was already competitive due to low barriers to entry and other companies' interest in expansion within the industry.

General Motors Corporation

The Commission dismissed a complaint which charged that General Motors Corporation violated the Robinson-Patman Act by granting advertising allowances to a few large car rental and leasing firms while not offering the same allowances to smaller companies. The Commission held that the challenged practices did not come within the jurisdiction of the Robinson-Patman Act and, moreover, that the FTC Act should not be used to extend the reach of the former Act to hold the challenged practices illegal.

American Medical International, Inc.

The Commission upheld the 1983 decision of an Administrative Law judge which found that American Medical International, Inc.'s 1979 acquisition of French Hospital in San Luis Obispo, California, restricted both price and non-price competition between French and two other area hospitals owned by American Medical. The Commission found the hospital acquisition gave American Medical control of three of the five hospitals in the area and could substantially lessen competition in the provision of general acute care health services in the city and county of San Luis Obispo, The order requires American Medical to divest French Hospital in one year to an FTC approved acquiror and to notify the Commission of the company's intention to acquire any hospital meeting specified conditions in a 13 state area.

ITT Continental Baking Co.

The Commission overturned an Administrative Law Judge's decision that found ITT Continental Baking Co., the world's largest baker, attempted to monopolize the wholesale white bread baking market by engaging in price discrimination and predatory pricing in five geographic areas. In dismissing the complaint, the Commission ruled that Continental's pricing policies were not an attempt to eliminate competitors or control prices, but were in response to competitive conditions in the market.

CONSUMER PROTECTION MISSION

AMREP Corporation

The Commission upheld in part a 1979 Administrative Law judge's decision that AMREP Corp. misrepresented the investment value of land it sold in developments in New Mexico, Florida, and Missouri; used

unfair and deceptive marketing practices to sell this land; and included an unfair forfeiture clause in its contracts. Under the order, AMREP may make only limited claims about the investment potential of the land it sells, and at the time the claim is made, must have adequate substantiation to support the claim. AMREP is also prohibited from engaging in sales practices that prevent reasoned consideration and make the buyer more susceptible to deceptive statements and practices. In addition, contracts must be clearly labeled and must offer buyers a seven-day right to cancel the transaction.

Cliffdale Associates, Inc., et al.

The Commission upheld a 1982 Administrative Law Judge's decision that Cliffdale made false performance claims and did not have a reasonable basis for other claims in its promotional materials for the "Ball-Matic Gas Save Valve." Cliffdale advertised the Ball-Matic as a significant and unique new invention which would give the typical driver gas savings of at least 20 percent. The Commission found these claims false and deceptive, and prohibited Cliffdale from making them. In addition, Cliffdale may not misrepresent survey evidence supporting energy-savings claims for any product, and must disclose relationships, if any, between Cliffdale and persons endorsing its products.

Rentacolor, Inc., et al.

The Commission upheld a 1983 Administrative Law Judge's decision that Rentacolor violated consumer leasing laws by failing to provide complete disclosures in its advertisements and lease contracts. The Commission issued an order prohibiting the company from omitting information on payment schedules and other terms in its ads and contracts for color television sets and other video equipment. The Commission dismissed charges against Rentacolor's president. This is the first FTC action brought under the Consumer Leasing Act since it became effective in 1977.

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# ORDER MODIFICATIONS

## COMPETITION MISSION

### ITT Continental Baking Company, Inc., et al.

The Commission modified a 1974 order with ITT Continental Baking Company, Inc., et al. to eliminate the provision requiring the filing of special reports 60 days before the acquisition of any firm engaged in the baking industry. The order required the divestiture of certain baking companies and prohibited Continental from acquiring companies engaged in the production and sale of bread and bread-type rolls for a period of 10 years without prior Commission approval. The order provision was set aside because the reporting requirements under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 would monitor any of Continental's acquisitions that might raise anticompetitive concerns.

### Coffee, Sugar and Cocoa Exchange

The Commission vacated a 1955 consent order at the request of the Coffee, Sugar and Cocoa Exchange, formerly known as the New York Coffee and Sugar Exchange, Inc., et al. The order settled charges that the organization used certain restrictive contracts to manipulate the supply of coffee. The order was terminated because the Exchange's conduct and activities are now the exclusive jurisdiction of the Commodity Futures Trading Commission.

### The Southland Corporation

The Commission modified a 1974 consent order with The Southland Corporation to eliminate provisions requiring recordkeeping monitoring reciprocal dealing and to terminate the remaining provisions of the order. The original order settled charges that Southland used reciprocal dealing to gain an unfair competitive advantage over its competitors.

### Damon Corporation

Damon Corporation petitioned the Commission to delete the entire prior-approval provision in a 1978 order restricting Damon's acquisitions. The Commission denied that request and voted to modify the order by easing the company's acquisition restrictions. Under the modified order, Damon may acquire independent medical laboratories of a specified size in 12 areas of the U.S. without obtaining FTC prior approval.

Endicott-Johnson Corporation

The Commission modified its order with Endicott-Johnson Corporation eliminating an acquisition restriction three years before it would have terminated. The 1965 consent order prohibited the shoe manufacturer from acquiring any company in the shoe industry for a period of 20 years.

Teac Corp. of America

The 1975 consent agreement with Teac Corp. of America was modified to permit the company to establish non-discriminatory standards for product promotion, display and service for its dealers. The order modification was consistent with last year's Commission actions involving four other firms.

Consolidated Foods Corporation

The Commission deleted the prior-approval provisions of an order against Consolidated Foods Corporation, at the request of the company. In modifying the 1965 order, the Commission removed the requirement that Consolidated obtain FTC approval before acquiring any grocery or dairy store. The provision applied in perpetuity.

Bulova Watch Company, Inc.

The Bulova Watch Company, Inc. petitioned the Commission to vacate or suspend a 1971 consent order which prohibited the company from engaging in resale price fixing and preventing transshipping of its products by its dealers. The Commission modified the order by deleting two provisions that prevented Bulova from enforcing policies against transshipping. Bulova's request to set aside or vacate the price fixing provisions was denied.

Sonotone Corporation
Radioear Corporation

The Commission modified 1973 consent orders against Sonotone Corporation and Radioear Corporation, manufacturers of hearing aids, that prohibited non-price vertical restraints and resale price maintenance. The provisions in the two orders restricting each company from engaging in exclusive sales arrangements with its dealers were deleted. The ban on resale price maintenance was not affected.

Maico Co., Inc.

The Commission modified a 1955 consent order against Maico Co., Inc. permitting the hearing aid manufacturer to enter into exclusive sales arrangements for the marketing of its products. The order now allows Maico more freedom in determining which customers their dealers could sell to and which territories their dealers could service.

Beltone Hearing Aid Co.

The Commission modified a 1956 consent order against Beltone Hearing Aid Co. The provisions prohibiting exclusive sales arrangements and customer and territorial restrictions were deleted.

Maico Hearing Instruments Inc.

The Commission modified a 1976 consent order against Maico Hearing Instruments Inc., a hearing aid manufacturer. Under the modified order, the company is allowed more independence in suggesting prices, customers and territories to its dealers.

Dictograph Products Inc.

The Commission modified a 1953 consent order against Dictograph Products Inc., a manufacturer of hearing aids, by deleting all provisions that prohibited exclusive sales arrangements.

Georgia-Pacific Corporation

At the request of Georgia-Pacific Corporation, the Commission terminated a 1973 consent order prohibiting Georgia Pacific from entering into sale agreements with firms which reciprocated by entering into sale agreements with Georgia-Pacific.

Genstar Ltd.

The Commission modified a 1980 consent order with Genstar Ltd., formerly Genstar Corp., at the request of the company. The two provisions requiring Genstar to obtain prior Commission approval before shipping its Canadian produced cement to the company's own facilities in Washington, Oregon, Nevada and California and to obtain prior FTC approval before acquiring active cement terminals in those states were deleted.

Brown Shoe Co.

Brown Shoe Co.'s petition to vacate a 1966 consent order prohibiting exclusive dealing arrangements with shoe retailers was granted by the Commission. The modified order will allow Brown to distribute its products through practices available to its competitors.

Diamond Crystal Salt Co.

The Commission modified a 1960 consent order against Diamond Crystal Salt Co. The order required Diamond to notify the Commission 90 days prior to its planned acquisition of a salt producer or salt distributor. Diamond petitioned the Commission for a one-time waiver of the 90 day notice to acquire the American Salt Co. and the Commission granted this request.

Nash-Finch Co.

The Commission dismissed a show cause order involving a Minneapolis based grocery retailer and wholesaler, the Nash-Finch Co. The show cause order was issued after the Commission denied Nash's petition to vacate a 1943 order prohibiting the firm from accepting brokerage fees or any other type of compensation from brokerage dealers. Nash, unwilling to provide sufficient evidence in support of the show cause order, requested a dismissal.

American College of Obstetricians and Gynecologists

The Commission modified a 1976 consent order with the American College of Obstetricians and Gynecologists, a medical group representing 90 percent of the nation's obstetricians and gynecologists. The original order settled charges that the group had influenced doctors' fees through the formulation and circulation of relative value studies. Relative value studies are lists of medical procedures and services with associated valuations expressed in non-monetary units, which doctors could convert to fee schedules by using a monetary multiplier. The order directed the group to refrain from formulating or disseminating a relative value scale. In addition, the order restricted the group from entering into discussions with governmental entities relating to the use of relative value studies in health care matters pertaining to reimbursement by third party payers, such as insurance companies. The Commission modified the provision to allow the group to participate in discussions about new types of health care financing. The group, however, remains under order prohibiting its development or circulation of a relative value study.

William H. Rorer Inc.

The Commission modified a 1967 order with William H. Rorer Inc. by deleting certain restrictions involving Rorer's ability to offer price discounts to retailers. Rorer's petition requested that the order be vacated entirely; however, the Commission retained a provision that prohibits the company from charging competing customers different prices for its products because Rorer had not presented evidence that compliance with the unchanged provision would cause injury to the company.

Armstrong World Industries, Inc.

Armstrong World Industries, Inc., formerly Armstrong Cork Co., petitioned the FTC to modify a 1965 consent agreement which settled charges that Armstrong conspired with its wholesalers to reduce competition in the floor covering market by fixing the resale prices and conditions of sale of its products to retail dealers and flooring contractors. The Commission deleted provisions prohibiting the distribution, through wholesalers, of Armstrong's Floor Fashion Center products, but denied the company's petition to limit restrictions on resale price maintenance and to delete provisions prohibiting price discrimination between competing purchasers.

McKesson Corp.

At the request of McKesson Corp., successor to Foremost Dairies Inc., the Commission set aside the only remaining provision in a 1967 consent order. The provision, which required McKesson to make available crude lactose used in the production of pharmaceutical grades of lactose to other producers and consumers, was no longer a competitive issue since McKesson's U.S. lactose-producing facilities had been sold.

CONSUMER PROTECTION MISSION

Benton & Bowles, Inc.

The 1971 order concerning certain advertisements for Vanquish, a nonprescription internal analgesic product manufactured by Sterling Drug, Inc., was vacated. The Commission noted it dismissed charges in Sterling Drug, Docket No. 8919 (July 5, 1983), that were based on advertisements almost identical to those that were subject of the complaint against Benton and Bowles, Sterling's advertising agency.

Procter and Gamble Co.

The 1971 order requiring disclosure of certain facts in "Sweepstakes" advertisements was modified to make the disclosure requirements consistent with the Games of Chance Rule.

G.R.I. Corporation

The 1972 consent order required G.R.I., a direct mail company selling cosmetics and household products, to disclose "dearly and conspicuously" and in dose proximity all conditions of any "free offers" in its advertisements. The order was modified to require disclosure that there are other conditions that a consumer assumes upon accepting the "free offer" and also allows the company to "clearly and conspicuously" disclose the details of the offer anywhere in the advertisement.

American Home Products Corp.

The order was modified so that its basic provisions are in parity with the Commission's order in Bristol-Myers Company (D. 8917) and Sterling Drug, Inc. (D. 8919). Under the modified order AHP must have a reasonable basis, consisting of reliable scientific evidence, for all therapeutic performance or safety claims.

General Motors Corp. and Campbell-Ewald Co.

The original consent orders concerned the claim that the 1971 Chevrolet Vega was "the best handling passenger car ever built in the U.S." The companies argued that the orders effectively prevented any claims of superior vehicle handling, even claims that were true. The modifications allow specific claims of superior handling as long as those claims are substantiated by a scientific test(s). Campbell-Ewald is the advertising agency for GM's Chevrolet Division.

Mattel, Inc.

The 1971 consent order concerning advertising of toys directed to children was modified to clarify restrictions on the use of certain camera techniques. The Commission modified the order by adding a provision allowing use of certain camera techniques if the results of competent and reliable tests demonstrate that use of the techniques, in the context of the ad as a whole, is not deceptive to children.

Carson-Roberts, Inc.

The 1971 consent order with the advertising agency, Ogilvy & Mather U.S., a division of Ogilvy & Mather International, Inc. (successor corporation to Carson-Roberts, Inc.), was modified in accordance with the Mattel, Inc. order described above.

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# APPELLATE COURT REVIEW OF COMMISSION ORDERS AND TRADE REGULATION RULES

Bristol-Myers Co.

On June 25, 1984, the United States Court of Appeals for the Second Circuit affirmed and enforced the Commission's order against Bristol-Myers Company, prohibiting deceptive practices in connection with the advertising of over-the-counter analgesics.

E.I. dupont de Nemours & Co. and Ethyl Corp.

On February 23, 1984, the United States Court of Appeals for the Second Circuit set aside the Commission's decision that price competition in lead-based antiknock gasoline additives had been substantially lessened by certain practices unilaterally adopted by four firms in the industry. The court held that the Commission's findings were not supported by substantial evidence and that the Commission had applied an erroneous legal standard in defining unfair methods of competition under Section 5 of the FTC Act.

Harry & Bryant Co.

On January 12, 1984, the United States Court of Appeals for the Fourth Circuit upheld the Commission's Trade Regulation Rule on Funeral Industry Practices.

Sterling Drug, Inc.

On August 28, 1984, the United States Court of Appeals for the Ninth Circuit affirmed and enforced the Commission's order against Sterling Drug, Inc., prohibiting deceptive practices in connection with the advertising of over-the-counter analgesics.

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## SUPREME COURT REVIEW

Grolier, Inc.

On October 11, 1983, the Supreme Court denied Grolier's petition for a writ of certiorari, thereby letting stand the decision of the Ninth Circuit affirming and enforcing the Commission's order prohibiting various deceptive practices in the sale of encyclopedias.

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## ECONOMIC REPORTS COMPLETED

"Impact Evaluations of the FTC's Vertical Restraint Cases," edited by Ronald N. Lafferty, Robert H. Lande, and John B. Kirkwood. Sept., 1984.

A collection of several analyses by outside scholars of past FTC vertical restraint cases; the studies found that FTC action sometimes benefitted and sometimes harmed consumer welfare.

"Exclusive Dealing and Vertical Integration: The Efficiency of Contracts in the Tuna Industry," by Edward C. Gallick. Sept., 1984.

An analysis of widespread contractual arrangements between buyers and sellers in the tuna industry; finds that such agreements, including contracts for exclusive dealing, may enhance efficiency.

"Resale Price Maintenance: Economic Theories and Empirical Evidence," by Thomas Overstreet, April, 1984.

Comprehensive review of the theoretical and empirical literature on the effects of retail price maintenance; concludes that retail price maintenance can either enhance ' or decrease consumer welfare, depending on the circumstances in which it is used.

"An Economic Analysis of Taxicab Regulation," by Mark Frankena and Paul Pautler, May, 1984.

A comprehensive survey of the economic consequences of taxicab regulation.

"The Benefits of Eliminating the Alaskan Crude Oil Export Ban, " by Calvin T. Roush, Jr., Sept., 1984.

Estimates the costs to the U.S. economy and to various groups of restrictions on the sale of Alaskan oil.

"Import Quotas and Textiles: The Welfare Effects of U. S. Restrictions, " by Morris E. Morkre, Sept., 1984.

Estimates the costs to the U.S. economy and to U.S. consumers of restrictions on the importation of apparel from Hong Kong.

"The Ban on Intramajor Joint Bids in Federal Offshore Lease Sales: An Evaluation," by Joseph P. Mullholland, Sept., 1984.

Evaluates the effects of the existing ban on joint bidding by major petroleum firms for federal offshore oil leases.

"Consumers' Experiences with Real Estate Brokers: A Report on A Consumer Survey of the Federal Trade Commission's Residential Real Estate Brokerage Investigation," by Gerard R. Butters, Nov., 1983.

Presents and analyzes a survey of 350 buyers and 350 sellers of houses. Respondents were asked about experience with real estate brokers, including selection of a broker, services provided by brokers, and commission rates charged.

"Firm Size and Regulatory Compliance Costs; The Case of LIFO Regulations, " by John C. Hilke, Sept., 1984.

Finds that small firms have disproportionately high costs in complying with LIFO regulations, and these higher costs are associated with lower rates of LIFO utilization among small firms.

"Experiments Concerning Antitrust Issues: Sunk Costs and Entry, and Predatory Behavior, " by R. Mark Issac and Vernon L. Smith, intro. by Dan Alger, Sept., 1984

Two papers by FTC consultants, one paper on the effects of sunk costs on the behavior or potential entrants and the other on predatory pricing, with an introduction by an FTC staff economist.

## ECONOMIC WORKING PAPERS

Multi-Market Strategies in a Dominant Firm Industry, Steven C. Salop and David T. Scheffman, April 1984

Advertising Sunk Costs and Barriers to Entry, Ioannis N. Kessides, November 1983

The Measurement of Conjectural Variations in an Oligopoly Industry, Robert P. Rogers, November 1983

A Note on the Equilibrium Auction for Contract Bidding, David M. Barton, November 1983

Tobin's Ratio and Industrial Organization: Further Results, Carl R. Schwinn, December :1983

A General Theory of Hedonic Pricing of Capital as a Factor of Production, Christopher C. Klein, December 1983

Uncertainty and the Value of Information: An Application of the Le Chatelier Principle, Mark L. Plummer, July 1984

Does Collusion Pay ... Does Antitrust Work? David F. Lean, Jonathan D. Ogur and Robert P. Rogers, June 1984

Unobservable Transactions Price and the Measurement of a Supply and Demand Model for the American Steel Industry, Robert P. Rogers, January 1984

A Model of Non-Competitive Interdependence and Antitrust Laws, Earl A. Thompson and Roger L. Faith, January 1984

A Stochastic Theory of Price Supports, Frederick I. Johnson, April 1984

Early Mandatory Disclosure Regulations, John C. Hilke, June 1984

Mergers for Monopoly: Problems of Expectations and Commitments, Robert J. Mackay, July 1984

Growth By Diversification: Entrepreneurial Behavior in Large-Scale United States Enterprises, F. M. Scherer and David J. Ravenscraft, September 1984

A Bidding Analysis of Special Interest Regulation: Raising Rivals' Costs in a Rent Seeking Society, Steven C. Salop, David T. Scheffman and Warren Schwartz, September 1984

Did Antitrust Policy Cause the Great Merger Wave? George Bittlingmayer, September 1984

Process Analysis, Capital Utilization, and the Existence of Dual Cost and Production Functions Christopher C. Klein, May 1984

The Growing Supply of Physicians: Has the Market Become More Competitive? Monica Noether, September 1984

The Effect of Government Policy Changes on the Supply of Physicians: Expansion of a Competitive Fringe Monica Noether, September 1984

## MISCELLANEOUS ECONOMIC POLICY PAPERS

Stephen Martin and John Lunn, "Market Structure, Firm Structure, and Research and Development," December, 1983.

Alexander Sannella, "Segment Reporting: The Cost Allocation Issue, November, 1983.

William F. Long and David J. Ravenscraft, "The Impact of Concentration and Elasticity on Line of Business Profitability," November, 1983.

Richard Schmalensee, "Do Markets Differ Much?" February, 1984.

Leonard W. Weiss and George A. Pascoe, Jr., "Concentration and X-Inefficiency," January, 1984.

Martin Melman, "Discovering a Business Entity's Costs, Profits, and Assets in Legal Actions," September, 1984.

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## INTERVENTIONS

A. Statements Presented to Other Agencies

1. FERC

FTC joint bureau comments to the Federal Energy Regulatory Commission (FERC) on a proposed rulemaking to eliminate variable costs from certain natural gas pipeline minimum commodity bill provisions. Staff concluded that except for certain instances, the proposed rule would enhance efficiency in the natural gas industry.

2. CAB

Joint bureau comments in response to a CAB proposed rulemaking regarding airline computer reservation systems (CRSs). FTC staff comments recommend that the CAB determine whether the CRSs have caused "substantial consumer injury", and, if so, that the CAB adopt the most cost-effective rule.

3. Virginia Health Commission

Oral argument in the State of Virginia on a request for certificate of public need by a home health care firm (Total Patient Care.) - given by Dave Kass (BE).

4. ICC

Joint bureau comments to the ICC recommending the withdrawal of antitrust immunity for collective ratemaking by motor carriers.

5. FMC

Joint bureau comments to the FMC in response to the Notice of Inquiry into regulation of port and marine terminal operators. FTC staff comments concluded that there is no justification for exemption of marine terminal agreements from the antitrust laws.

6. PRC

Notice of the FTC's intention to intervene as a limited participant in the matter of the Postal Rate and Fee Changes (Omnibus proceeding), Dkt No. R84-1.

7. PRC

   FTC joint bureau comments before the Postal Rate Commission (PRC) opposing the rates proposed by the United States Postal Service (USPS) for electronic - computer originated mail.

8. ITC

   FTC comments to the ITC (Investigation No. 337-TA-133) arguing that trademark protection for product shape should not be granted to a certain U.S. producer of vertical milling machines.

9. ITC

   FTC oral argument in ITC (Investigation No., 337-TA-133) arguing that trademark protection for product shape should be granted to certain U.S. producers of vertical milling machines.

10. New York State Dept. Agriculture and Markets

    Commission letter to Joseph R. Gerace, Commissioner of Agriculture and Markets; evaluating the competitive effect of granting or denying new applicants permission to sell milk and dairy products in New York State.

11. ITC

    Letter to Kenneth R. Mason, Secretary of International Trade requesting permission to enter appearance in Investigation No. TA-201-5:L, Carbon and Certain Alloy Steel Products.

12. ITC

    Letter to Kenneth R. Mason, Secretary of the International Trade Commission requesting permission to enter appearance in Investigation No. TA-201-52, Unwrought Copper.

13. ITC

    Letter to Kenneth R. Mason, Secretary of International Trade requesting permission to enter appearance in Investigation No. TA-201-50, Nonrubber Footwear.

14. ITC

    Letter to Kenneth R. Mason, Secretary of the International Trade Commission, requesting permission to enter appearance in Investigation No. TA-201-53, Certain Canned Tuna Fish.

15. HUD

    FTC joint bureau comments submitted to Department of Housing and Urban Development on whether a notice warning of potential health risks from formaldehyde vapors should be required on manufactured homes.

16. FMC

    Oral argument before the Federal Maritime Commission arguing that there should be antitrust and consumer welfare considerations regarding competitive restrictions on ports and marine terminals.

17. ITC

    FTC brief to the International Trade Commission on the Escape Clause Petition for Basic Steel Mill Products.

18. FCC

    Joint bureau comments in regard to the Federal Communication Commission's Public Notice, Report No. DS-265, dated 3/12/84, on the excess demand for satellite orbital slots. The comments recommended against comparative hearings, and suggested instead that the FCC hold auctions, or lotteries combined with the transferability of slot rights.

19. ITC

    FTC brief to the International Trade Commission commenting on import relief being sought for refined and blister copper under Section 201 of the Trade Reform Act of 1974.

20. FMC

    Joint bureau comments to the Federal Maritime Commission on additional arguments for antitrust immunity that were not addressed in our 12/20/83 comments.

21. ITC

    Brief by the FTC before the International Trade Commission on the Escape Clause Petition for Canned Tuna.

22. Alabama

    FTC staff letter to the Alabama Supreme Court regarding regulations for lawyer advertising.

23. ITC

Prehearing relief brief to the International Trade Commission, regarding import relief being sought for carbon steel under Section 201 of the Trade Act of 1974.

24. Colorado

Joint bureau letter to the Department of Regulatory Agencies of the State of Colorado, regarding state law restrictions on commercial practice by physicians, chiropractors, podiatrists, and optometrists in Colorado.

25. ITC

Prehearing relief brief intended for submission to the ITC on the Escape Clause Petition for Unwrought Copper.

26. DHHS

Commission letter to the Health Care Financing Administration regarding proposed regulations which set forth requirements that certain providers must meet to qualify for Medicare reimbursement.

27. Nebraska

Joint bureau comments urging Nebraska Bar Association to recommend that the state Supreme Court permit practicing attorneys in the state "to use advertising and trade names so long as their use is neither false nor deceptive."

28. FAA

Joint bureau comments (and testimony at the public hearing) to the Federal Aviation Administration regarding the proposal to permit sales of landing rights at high density airports.

29. ITC

FTC brief to the Trade Policy Committee (chaired by the Office of U.S. Trade Representatives) regarding import relief being sought for certain copper articles under Section 201 of the Trade Act of 1974.

30. New Mexico

Request to file a motion for a stay of the proceedings before the New Mexico Public Service Commission in connection with File No. 841-0145. The proceeding involves the proposed acquisition of Southern Union Company's New Mexico natural gas utility operations by the Public Service Company of New Mexico.

31. ITC

    FTC brief before the Trade Policy Committee (Chaired by the Office of U.S. Trade Representative) to assist in the development of recommendations regarding what action, if any, the President should take in providing import relief of carbon and alloy steel.

32. CPSC

    Commission letter to the Consumer Product Safety Commission (CPSC), commenting on a proposed regulatory amendment that would allow CPSC to "adopt," "endorse," or "recognize" voluntary industry standards for product safety.

33. Virginia Dept. of Health Regulatory Boards

    Joint bureau letter to the Department of Health Regulatory Boards of the Commonwealth of Virginia, regarding state law restrictions on commercial practice by dentists and physicians.

34. CAB

    Staff comments to the Civil Aeronautics Board in response to Eastern Airlines' petition for immediate short-term antitrust immunity to permit the operation of airline scheduling committees to relieve congestion in several of the nation's airports.

35. FAA

    Joint bureau comments to the Federal Aviation Administration on its plans to implement scheduling restrictions at a number of airports.

36. Virginia Dept. of Health Regulatory Boards

    Joint bureau letter to the Department of Health Regulatory Boards of the Commonwealth of Virginia, addressing restrictions on advertising contained in the regulations of the Boards of Optometry and Veterinary Medicine. The letter also addresses restrictions on corporate practice, trade name usage, and prepaid service plans in the statute governing optometrists.

B. Statements Presented to Congressional Committees and State and Local Legislative Committees

1. Senate Communications Subcommittee on Commerce, Science & Transportation

   FTC staff testimony summarizing its conclusions concerning repeal or modification of the FCC's syndication and financial interest rules.

2. Senate Committee on Small Business

   FTC staff testimony (Presented by Director of Bureau of Competition) on "Competition by Utilities in the Energy Conservation and Home Appliance Field." Testimony concluded that state-created monopolies have an unfair advantage over private competitors and therefore should be watched carefully.

3. Senate Judiciary Committee

   Joint bureau comments to Senate Judiciary Committee on proposed shipping legislation (S.47 and H.R. 1878). The comments analyzed the advance notice requirement for independent action in ocean shipping conference agreements.

4. Senate Judiciary Committee

   FTC testimony before the Senate Judiciary Committee opposing S. 1680, the Malt Beverage Interband Competition Act. The bill would create a partial antitrust exemption for the malt beverage industry to set up exclusive sales territories.

5. House Committee on Energy and Commerce

   Letter to the Chairman of the Committee on Energy and Commerce in response to a request for comments on H.R. 2250, a bill "to provide a moratorium until June 30, 1988, on changes to the FCC rules regarding network television syndication, network television financial interest, and prime time access."

6. Senate Committee on Banking, Housing and Urban Affairs

   Letter to Senator Jake Garn, Chairman of the Committee on Banking, Housing, and Urban Affairs in response to a request for comments on H.R. 4278, a bill to extend the prohibition against the imposition of credit card surcharges until July 31, 1984.

7. House Subcommittee on Aviation

   Testimony by Commissioner George W. Douglas on whether legislation is needed to ensure continued protection for consumers of air transportation, given the impending sunset of the CAB.

8. Alaska, Senate Labor and Commerce Committee

   Letter to the Chairman of the Alaska Senate Labor and Commerce Committee supporting Senate Bill 432 that would expand the jurisdiction of the Alaska Securities Act of 1959 to cover all oil and gas leases on land located in Alaska.

9. California State Assembly

   Joint bureau comments to the California State Legislature opposing Assembly Bill 3584 which would prohibit the use of rebates and coupons in the sale of alcoholic beverages.

10. Michigan Legislature

    FTC joint bureau comments submitted to the Michigan State Legislature on a proposed bill that would create an antitrust exemption for certain exclusive territorial arrangements in the beer and wine industries.

11. Senate Commerce Committee

    Commissioner Douglas testified on behalf of the Commission before the Senate Commerce Committee on S. 707, the Domestic Content Bill.

12. California State Assembly

    Joint bureau comments on proposed changes in the regulation of the Department of Alcoholic Beverage control that would restrict the use of rebates and coupons in the sale of alcoholic beverages.

13. House Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business

    Winston S. Moore, Assistant Director for Planning of the Bureau of Competition, presented joint bureau testimony before the House Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business on "Regulated Monopolies Competition with Small Business." The focus of the testimony was on the competitive concerns arising from utilities' competition with small business in the supply, installation, and service of heating and cooling systems.

14. House Subcommittee on Commerce, Transportation, and Tourism

    Testimony by Barbara Clark, Deputy Director of the Bureau of Competition, before the Subcommittee on Commerce, Transportation, and Tourism, on H.R. 5305, the auto fleet sales bill.

15. Senate Committee on Commerce, Science, and Transportation

    Letter to Bob Packwood, Chairman, Senate Committee on Commerce, Science, and Transportation on the redrafted version of S.286, the Office Machine and Equipment Dealers Act,

which Senator Exon proposed to offer as a substitute for the existing version of the bill.

16. Senate Subcommittee on Aviation, Committee on Commerce, Science, and Transportation

Testimony by James C. Miller III on "CAB Sunset." Chairman Miller presented FTC's views on the relative merits of transferring consumer protection authority for airline passengers from CAB - when the agency expires at the end of the year - to either FTC or Department of Transportation (DOT) and also whether DOT should receive antitrust authority over commercial carriers, now scheduled to be transferred to Department of Justice.

17. California State Assembly

Joint bureau letter to the California Assemblyman Art Agnos, regarding a bill that would allow an optometrist or group of optometrists to operate any number of branch, offices.

18. Senate Committee on the Judiciary

Testimony by Timothy J. Muris, Bureau Director for the Bureau of Competition on S. 2051 Health Care Cost Containment Act of 1984 before the Senate Committee on the Judiciary.

19. Chicago City Council

Staff testimony of William MacLeod, Chicago Regional Director, before the Transportation Committee of the Chicago City Council concerning a proposed ordinance that would gradually eliminate entry restrictions for Chicago taxicabs.

20. King County Council

Staff testimony of Ross Petty, Seattle Assistant Regional Director and Richard Zerbe, Economist, before the King County Council concerning a proposed ordinance that would regulate price and entry of taxicabs in King County, Washington.

21. Seattle City Council

Staff letter to the Seattle City Council concerning a proposed ordinance that would regulate price and entry of taxicabs in the City of Seattle.

22. Oregon Legislature Research Office

Joint bureau letter to the Oregon Legislature Research Office, addressing restrictions on corporate employment of op-

tometrists and dentists, and on other forms of business associations between them and non-licensees, including limitation's on trade name and other non-deceptive advertising.

C. Amicus Curiae Briefs

1. Court of International Trade

FTC motion for participation by the FTC as amicus curiae before the Court of International Trade on countervailing duty and antidumping cases involving nitrocellulose.

2. Court of Appeals of the State of California

FTC amicus curiae brief involving an administrative interpretation of California statute regulating the sale of alcoholic beverages. The interpretation would restrict price competition by prohibiting cash rebates to retail purchasers of Taylor California Cellars wine.

3. Court of International Trade

FTC amicus curiae brief to the Court of International Trade commenting on whether the financial assistance the Spanish government gives to certain uncreditworthy carbon steel producers should be considered a subsidy.

4. Iowa Supreme Court

FTC amicus curiae brief to the Iowa Supreme Court commenting for the limited purpose of addressing the impact on consumer welfare and on competition that results from restrictions on otherwise truthful, non-deceptive attorney advertising.

5. Illinois Supreme Court

Brief by the FTC as amicus curiae before the Illinois Supreme Court arguing that Illinois' real estate restrictions discourage informed choice and price competition.