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WASHINGTON, D.C.

Annual
Report
Of the FEDERAL
TRADE
COMMISSION

For the Fiscal Year Ended

September 30, 1987

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LETTER OF TRANSMITTAL

August 29, 1989

The Honorable Dan Quayle
President of the Senate
United States Senate
Washington, D.C. 20510

The Honorable Thomas Foley
The Speaker of the House
House of Representatives
Washington, D.C. 20515

Dear Mr. President and Mr. Speaker:

It is a pleasure to transmit the seventy-third Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended September 30, 1987.

By direction of the Commission.

Janet D. Steiger
Chairman

FEDERAL TRADE COMMISSION
1987 ANNUAL REPORT

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SUMMARY

The Federal Trade Commission enforces a variety of federal antitrust and consumer protection laws. The Commission seeks to ensure that the markets of the nation function competitively, and are vigorous, efficient, and free of undue restrictions. The Commission also works to enhance the smooth operation of the marketplace by eliminating acts or practices that are unfair and deceptive. In general, the Commission's efforts are directed to stopping actions that threaten consumers' opportunities to exercise informed choice. Finally, the Commission undertakes economic analyses to support its law enforcement efforts and to contribute to the policy deliberations of the Congress, the Executive Branch, other independent agencies, and state and local governments.

In fiscal year 1987, the Federal Trade Commission continued its commitment to carrying out its statutory responsibilities, embodied in consumer protection and antitrust laws, to promote the welfare of consumers. In addition, the Commission advanced the policies underlying its Congressional mandate, through cost-effective non-enforcement activities. The agency achieved significant accomplishments in many areas.

COMPETITIVE MARKETPLACE

The Bureau of Competition and the Commission's ten regional offices assisted the Commission in fulfilling its mission of maintaining competition in the U.S. economy. In the merger enforcement area, the Bureau carefully reviewed an increased number of transactions filed pursuant to the Premerger Notification Program, and adopted several rule amendments to reduce the premerger reporting burden and to close a reporting loophole involving partnerships. In Fiscal 1987, the Commission sought to enjoin seven proposed merger transactions that were likely to substantially lessen competition. In other instances, parties contemplating mergers abandoned their efforts, or signed consent decrees curing potentially harmful effects, in the face of imminent Commission enforcement action.

Outside the merger enforcement area, the Commission continued efforts to eliminate private and public restraints on competition. The Commission devoted considerable attention to maintaining competition in the health care industry and to challenging anti-competitive agreements among competitors, especially competitive restraints involving professionals. In the compliance area, the Bureau of Competition staff continued or completed work on civil penalty litigation, petitions to modify orders, and applications for approval of divestitures and

acquisitions from entities already subject to Commission orders. Along with its enforcement activities, the agency promoted competition through other methods, including, when invited, advocacy before state and federal bodies of regulatory approaches that would foster rather than impair competition.

CONSUMER PROTECTION

In fiscal year 1987, the Commission challenged as false, misleading, or unsubstantiated a number of advertising claims involving diet plans, water purifiers, solar heaters, and other items, which might have resulted in substantial harm to consumers. As part of this effort, the Commission issued numerous administrative complaints - accepting consent agreements in some cases, while other cases went through full administrative litigation.

In addition, the Commission concluded investigations of alleged fraudulent or deceptive tactics in the sale of items such as rare coins, oil and gas leases, gold-mining rights, and cleaning fluid franchises. Federal court actions under this program targeted 49 corporations and individuals for allegedly fraudulent sales amounting to \$271 million to more than 39,000 consumers. In these lawsuits, the Commission obtained more than \$12 million in consumer redress. To increase effectiveness in combating telemarketing fraud, the Commission implemented a nation-wide computer network for consumer complaints, with widespread participation by state Attorneys General and local law enforcement agencies. Staff also completed work on an arbitration program for consumer automotive problems with a leading auto manufacturer. In addition, the Commission obtained civil penalty judgments totaling \$815,000 for violations of federal credit statutes.

RULE ENFORCEMENT

The Commission obtained over \$2.2 million in civil penalties for violations of Commission rules and federal labeling acts, and over \$5.2 million in consumer redress in Fiscal 1987. In addition, the Commission issued final regulations to implement the Smokeless Tobacco Act, and took action in two warranty-related rulemakings. Agency rulemaking activity also included publication, for comment, of the final staff report, and presiding officer report in the Ophthalmic Practices rulemaking, and the final staff and presiding officer reports for a Retail Food Store Advertising Rule amendment. Further, the FTC published staff guidelines to help used car dealers comply with the Used Car Rule, and the staff completed a study of the Appliance Labeling Rule. The staff also initiated rulemaking proceedings to adopt amendments to the Games of Chance Rule. The Commission determined not to amend the Negative

Option Rule or the Franchise Rule, however, and to propose only nonsubstantive modifications to the Cooling-Off-Rule.

CONSUMER AND BUSINESS EDUCATION

In fiscal 1987, the Office of Consumer and Business Education developed and distributed four television video news releases on financial counseling, mortgage financing, telemarketing investment fraud, and vacation fraud, together with free consumer brochures on the same subjects. The staff also developed or revised over 25 new consumer publications and distributed approximately 1.7 million copies of consumer and business publications.

COMPETITION AND CONSUMER ADVOCACY

A number of state legislatures and regulatory bodies sought the Commission's advice on proposed legislation or regulatory matters. Topics addressed included restrictions on business practices of professionals, restraints on relationships between suppliers and dealers, and other competition-related issues. Staff comments generally endorsed market solutions as superior to regulatory approaches. The staff also filed amicus curiae briefs in federal appellate courts concerning several major issues related to the agency's missions. Finally, the staff submitted comments to the Securities and Exchange Commission, the Federal Communication Commission, the Federal Energy Regulatory Commission and the International Trade Commission, among other federal agencies, on issues affecting consumer welfare.

ECONOMIC ANALYSIS

In fiscal 1987, FTC economists continued to make policy recommendations and to produce reports to topics of interest to the public. While direct support of antitrust activities absorbed the bulk of the resources of the Bureau of Economics in Fiscal 1987, the FTC is additionally charged with analyzing data and publishing information about the nation's industries, markets, and business firms. In fulfilling this duty, the Bureau conducted a number of studies on a broad range of antitrust, consumer protection and regulatory topics. As a result, FTC economists published reports on, among other things, international competitiveness and the trade deficit, the effects of antitakeover statutes, competition among hospitals, and tax-related motives for mergers. These major reports provide insight into the effects of government regulation on competition and consumer welfare.

ADMINISTRATION AND MANAGEMENT IMPROVEMENTS

In fiscal 1987, the Commission made significant progress in office automation. It acquired and installed a pbx telephone system, a local area network and also purchased a large number of personal computers. Agency automation resulted in more efficient sharing of expensive resources, and allowed for increased automation support for litigation. The Budget and Finance Division continued its careful review of agency expenditures in order to accomplish agency objectives with decreased resources.

The Personnel Division's employee training efforts in fiscal 1987 focused on continuing education, as well as on briefing employees on the new Federal Employees Retirement System and the new performance rating systems. The division issued a policy document on incentive awards and produced a new employee handbook. An Employee Assistance Program was also developed in fiscal 1987, and the Equal Employment Opportunity Program efforts were strengthened.

The Commission voted, during fiscal 1987, to reallocate agency resources to strengthen the regional offices. The Commission's plan will gradually shift additional resources from headquarters to the regions.

MAINTAINING COMPETITION MISSION

The Maintaining Competition Mission is charged with preventing unfair methods of competition that violate the Federal Trade Commission Act, and shares enforcement responsibilities under the Clayton Act with the Department of Justice. The Bureau of Competition carries out this mission with the assistance of the Commission's ten regional offices.

This mission is also charged with bringing competition analysis to bear upon legislative and regulatory restrictions imposed by governmental bodies at the federal, state, and local levels, and aiding such governmental bodies in finding procompetitive solutions to the problems before them. Activities are grouped into ten program areas: mergers, energy and natural resources, health care, transportation, horizontal restraints, compliance, international antitrust, market power, distributional restraints, and food. In addition, the Mission has evaluation, planning, and development components.

MERGERS

During fiscal year 1987, 2533 transactions were filed with the Commission pursuant to the Hart-Scott-Rodino Premerger Notification Program, an increase of approximately 30 percent over fiscal year 1986. The Commission issued requests for additional information relating to

26 transactions. The parties in five of the proposed transactions decided to abandon their plans, and the Commission sought to enjoin seven transactions under Section 13(b) of the FTC Act: Kidde/Harnischfeger, Dupont/Asamera, Invacare/Huntco, Hoechst-Celanese, Supermarket Development Corporation, Pacific Resources Inc.; and Svenska Cellulosa AB. The Commission settled Hoechst by a consent order and, ordered Hoechst to divest either two or three Celanese polyester textile fiber plants, or American Hoechst's plants. The Commission also accepted for comment a consent agreement requiring Supermarket Development Corp. to divest certain grocery stores throughout New Mexico and Texas.

Two other transactions, L'Air Liquide S.A. and Alleghany Corp., were also settled by consent orders. The final order in L'Air Liquide required the divestiture of certain Big Three and Liquid Air plants in Florida, New Mexico and Texas, and ordered the divestiture of the customer base and equipment for those plants. In Alleghany Corp., the final order required Alleghany to divest within one year a Safeco title plant in Cook County, Illinois, and within 14 months, either Safeco's title plant in Los Angeles County or Alleghany's interest in the TRI plant in Los Angeles County.

The Commission adopted nine of the thirteen proposed amendments to the premerger notification rules that were published in the Federal Register for comments in 1985. All but one of the final rules relate to the Commission's burden-reduction efforts that began in 1982. These final rules narrow the types of acquisitions that must be reported, reduce the volume of documents or information that must accompany notification, and clarify the meaning of certain notification rules. An additional change eliminates the reporting exemption in Section 802.70(b) for acquisitions subject to Commission or federal court prior approval. The Commission rejected one proposed change for budgetary reasons and deferred action on the other three.

In addition, the Commission adopted another rule that had been published for comment during this fiscal year. The new rule addresses the so-called "partnership loophole," which allowed acquisitions by newly formed partnerships with assets under \$10 million to be non-reportable/exempt transactions under the premerger notification rules. The new rule requires any partner with a fifty or greater percent interest in a partnership to report acquisitions made by the partnership that would be otherwise reportable.

ENERGY AND NATURAL RESOURCES

The Commission continued its active involvement in maintaining competition in both petroleum and non-petroleum energy industries. During this fiscal year, several investigations were initiated or continued. In addition, the Commission authorized the Bureaus of Competition,

Consumer Protection, and Economics to respond to a number of legislative requests for analysis and advice on energy competition issues.

The Commission also reviewed several significant proposed energy acquisitions under its statutory responsibilities pursuant to the Hart-Scott-Rodino amendments to the Clayton Act, 15 U.S.C. §18a. In one of these, DuPont/Asamera, the likelihood of anticompetitive results attributable to horizontal overlaps between the only two refineries in the Denver, Colorado, area led to a Commission decision to seek a preliminary injunction to block the transaction in federal court under §13(b) of the FTC Act. The parties abandoned the transaction. The Commission also authorized its staff to seek a preliminary injunction to block Pacific Resources Inc.'s proposed acquisition of Shell Oil's Hawaiian terminal and distribution operations for gasoline and other petroleum fuels because of the apparent horizontal overlaps in that market.

During this fiscal year, the Commission continued its administrative proceeding relating to the combination of offshore Gulf Coast natural gas pipelines under a single company as a result of the MidCon/United merger.

The Commission also continued its program of examining the regulatory activities of other federal and state agencies in energy markets, and examining proposed federal and state legislation in such markets. The Commission staff offered advice on competitive effects, when requested, and intervened in regulatory proceedings, when appropriate, to advocate market solutions in preference to regulations. The Commission approved joint comments by the Bureaus of Competition, Consumer Protection, and Economics, at the request of state legislators in Georgia, California, and Nevada, opposing state legislation requiring refiners to divest their retail gasoline stations, and so-called "below-cost" state legislation to prevent refiner- or jobber-operated gasoline stations from continuing to offer lower prices to consumers.

Finally, the Commission continued to discharge its responsibilities under the Energy Policy and Conservation Act with regard to the International Energy Program by monitoring industry meetings, providing antitrust advice to other agencies of the United States government, and preparing and issuing reports on the competitive impact of the International Energy Program to the President and to Congress. The Commission also continued to fulfill its obligations under the Deep Seabed Hard Mineral Resources Act, the National Energy Conservation Policy Act and the Power Plant and Industrial Fuel Use Act, and conducted several investigations in various resource industries.

HEALTH CARE

During fiscal 1987, the Commission continued its efforts to promote

competition in the health care sector of our economy. The Commission was particularly active in law enforcement efforts to eliminate alleged private and public restraints on competition in the health care industry. The Commission accepted for comment a consent agreement against a county medical society prohibiting restriction of advertising by its members, and issued a consent order against a group of physicians in Pennsylvania that prohibited the group from threatening to boycott a hospital as a means of forcing it not to open a competing clinic in their area. Oral argument was held in a case against a state regulatory board of optometry, pending before the Commission on appeal from an Administrative Law Judge's finding of a violation.

The Commission and its staff were also active in investigating and enforcing the laws against anticompetitive mergers of competing health care facilities. The Commission's order against Hospital Corporation of America, issued to remedy the anticompetitive effects of the acquisition of competing hospitals in Chattanooga, Tennessee, was upheld by the Seventh Circuit Court of Appeals, and certiorari was denied by the Supreme Court. The Commission's staff also conducted numerous investigations of allegations of: 1) efforts by health care providers to coerce collectively higher fees from third-party payers; 2) collective activities by physicians to restrain competition from allied health professionals and alternative delivery systems; and 3) abuse of the certificate-of-need regulatory process to exclude competitors from health care markets.

In addition to traditional law enforcement activity, the Commission's staff provided advisory opinions and informal guidance to health care professionals seeking to insure that their proposed activities, including new forms of health care marketing and delivery, such as preferred-provider organizations or joint ventures, were consistent with the FTC Act. Staff also provided advice and comments to the states and the public on matters involving competition in the health care field. The Commission's staff submitted numerous letters commenting on proposed regulations governing advertising by health care professionals and submitted its views on various issues raised by state certificate of need laws. The Commission also participated with the Department of Justice in a hospital peer-review case in which the government filed an amicus brief with the Supreme Court.

TRANSPORTATION

During fiscal year 1987, the Commission continued its litigation of two motor carrier rate bureau cases. In *New England Motor Rate Bureau, Inc.*, an administrative law judge found that respondents had conspired to fix prices within the states of Massachusetts, New Hampshire, and Rhode Island. He further held that their joint activities in Rhode Island

were exempted from the antitrust laws by the "state action" doctrine, but their activities in Massachusetts and New Hampshire were not. In Motor Transport Association of Connecticut, Inc., an administrative law judge found that respondents had conspired to fix prices, but that their activities were exempted by the "state action" doctrine. Both cases were appealed to the full Commission. The investigation of other motor rate bureaus also continued.

Also during this fiscal year, the Commission accepted an order in settlement of its complaint charging Amerco Inc. (U-Haul) with non-price predation, including sham litigation, against a competitor.

Finally, the Commission continued to monitor various taxicab markets to determine whether enforcement actions or competition advocacy projects were appropriate.

HORIZONTAL RESTRAINTS

During fiscal year 1987, the Commission continued to devote substantial resources to eliminating anticompetitive agreements among competitors, especially among professionals. The Commission focused its efforts on the regulations of state boards and private professional and trade associations that may have the purpose, or the effect, of fixing or stabilizing prices or reducing output, thus causing substantial injury to consumers. In implementing its program against anticompetitive horizontal restraints, the Commission has used various means: advocacy, cooperative efforts resulting in voluntary compliance, consent orders, and litigation.

This year, the Commission issued orders in partial settlement of two cases: Detroit Motor Vehicle Dealers, involving an alleged conspiracy among 50 Detroit-area motor vehicle dealerships and their associations to restrict newspaper advertising; and Ticor Title Insurance Company, involving alleged price fixing. There were six respondents in Ticor; the Commission's consent order pertains to First American Title Insurance Company; and the matters involving the remaining five respondents are on appeal. In addition, the Commission engaged in advocacy on behalf of consumers in comments to 19 professional regulatory boards, state legislatures, and private associations. Of these, 11 involved the legal profession, four the pharmacy profession, two the real estate brokerage profession, one the accounting profession, and one the funeral industry.

INTERNATIONAL ANTITRUST

During fiscal year 1987, the international antitrust program was active in a total of eighteen full phase and initial phase investigations involving such matters as: possible horizontal price fixing in formal wearing apparel, melamine, imported and domestic semiconductor chips, and

imported small gasoline engines; possible attempted monopolization of the market for melamine; and potential anticompetitive restraints resulting from proposed transnational mergers involving manufacturers of hydraulic cranes, wood pulping machinery, and spot utility vehicles and light trucks.

Through a total of fifteen projects, the international program was active in a variety of intervention matters and international liaison activities involving transnational competition and antitrust law enforcement issues affecting the domestic economy. For example, the Commission intervened in several trade law proceedings involving such products as imported specialty steel products, photocopier supplies, 256K computer chips, and softwood lumber. The Commission also provided legal and economic analyses that sought to identify and quantify the economic costs to consumers and the national economy of trade relief remedies requested. Under its international liaison activities, the International Antitrust Division maintained full compliance with the notification provisions of bilateral and multilateral antitrust cooperation agreements and understandings that minimize international law and policy conflicts, as well as facilitate United States' antitrust law enforcement efforts involving international commercial transactions or the acquisition of evidence located abroad. In addition, the Commission, in cooperation with the Department of Justice and the State Department, continued its participation on the OECD Committee of Experts on Restrictive Business Practices, and the interagency Committee on Foreign Investment in the United States (CFIUS).

MARKET POWER

During fiscal 1987, the Commission continued investigations into possible abuses of market power, including possible abuse of the patent process and other practices that may raise rivals' costs as a means to destroy competition. The Commission staff is examining additional circumstances in which non-price predation may be an effective anticompetitive tool.

DISTRIBUTIONAL RESTRAINTS

The Commission issued a consent order against Max Factor & Co. that settled Robinson-Patman Act charges that Max Factor granted discriminatory promotional allowances to certain purchasers of its cosmetic products. The Commission continued existing investigations and initiated new ones, involving other possible distributional restraints.

FOOD

During fiscal 1987, the staff concluded several investigations in the

soft drink industry. Administrative litigation continued in The Coca-Cola Company. The Commission also authorized the staff to seek a preliminary injunction against an acquisition of a supermarket division by a supermarket chain in the Supermarket Development Corporation/Safeway matter. A consent order to divest was subsequently accepted by the Commission for public comment. Under a final consent order, Roswil Inc. may not take any action that would prevent price checking or price publication of retail grocery items surveyed in its stores. Investigations were pursued concerning mergers and other activities in the soft drink ,and food retailing industries that may violate the Clayton Act and/or the FTC Act.

Work continued on the retail grocery pricing study. This study examines the impact of new retail formats on the state of competition among retail grocers. In addition, the staff filed comments in Maryland and Nevada, at the request of state legislators, opposing state legislation that would lessen competition and result in increased prices to consumers.

EVALUATION, PLANNING AND DEVELOPMENT

During fiscal year 1987, the Bureau continued its participation in the Commission's competition advocacy program. The Bureau staff wrote, and the Commission approved several briefs for filing. The Commission also approved the filing of a number of comments in response to invitations from state legislators for views on bills that might affect competition. Briefs were filed in federal appellate courts, and comments, on request, were furnished to states and municipalities on topics, such as, regulation of milk supplies, certificates of need for health care facilities, and taxicab licensure and rates.

Work also continued on a variety of ongoing responsibilities, including evaluation of current Bureau investigations, management of the Bureau's efforts in competition advocacy, provision of guidance to the public regarding Commission policies, research and analysis of significant antitrust issues, and provision of information to Commission managers on Maintaining Competition Mission activities.

COMPLIANCE

During fiscal year 1987, civil penalty litigation against American Hospital Supply Corp. was concluded with the entry of a judgment requiring American Hospital to pay a \$600,000 civil penalty; the complaint had alleged that American Hospital had made acquisitions without obtaining prior Commission approval as required by a final Commission order. Additionally, the Commission filed a civil penalty complaint against Union Carbide Corp., alleging that it had violated a

Commission order prohibiting Carbide from entering requirements contracts whose terms exceeded one year. In the continuing civil penalty litigation in Louisiana-Pacific Corp., the district court's order remanding the matter for reopening to consider modification was appealed to the Ninth Circuit. The Commission also acted on numerous petitions to modify orders and applications for approval of divestitures and acquisitions. In addition, compliance staff advised Bureau attorneys on the effectiveness of proposed remedies in the full range of competition cases, and conducted investigations of possible order violations and possible violations of the Hart-Scott-Rodino premerger reporting statute and rules.

CONSUMER PROTECTION MISSION

ADVERTISING PRACTICES

The Commission issued administrative complaints in two advertising matters. North American Philips Corp. was charged with making false and unsubstantiated claims for its Norelco brand "Clean Water Machine." The complaint charged that the company claimed the machines would make tap water clean or cleaner, when in actuality the machines' filters added a chemical that is potentially hazardous to consumers' health. The Commission charged Kraft, Inc. with misrepresenting the calcium content of its Kraft Singles product in advertisements. The complaint charged the company with falsely claiming in advertisements that a slice of Kraft Singles had the same amount of calcium as five ounces of milk, and contained more calcium than most imitation cheese slices.

Sheldon Friedlich Marketing, and nine other defendants, agreed to pay \$600,000 in civil penalties for violating the Mail Order Rule. The defendants also agreed to a permanent injunction settling charges that they made misrepresentations in the sale of many nationally advertised products, ranging from copper cookware to ceiling fans.

Consent agreements were accepted in each of three program areas: general advertising, food and drug advertising, and energy advertising. GCS Electronics agreed not to make misleading claims about the capabilities of its portable Mark II Executive Phone. The complaint charged that GCS did not have a reasonable basis for claims that the Mark II, selling for approximately \$4,000 to \$5,000, has a usable range of up to 50 miles and that the user can listen and speak simultaneously, as on a conventional phone. Cosmo Communications Corp. agreed not to misrepresent the capabilities of its telephones and to disclose that its touch-pulse telephones do not generate tones, but produce only pulses like rotary dial telephones.

Puritan-Bennett Aero Systems, a seller of fire- and smoke-protection masks, was charged with deceptive advertising for failing to disclose the masks do not filter carbon monoxide. A consent agreement accepted subject to final approval, prohibits the company from making deceptive advertising claims for such products. A manufacturer and distributor of counter-top water distillers, New Medical Technologies, agreed, subject to final approval, not to misrepresent the ability of its devices to provide pure water. The company also agreed not to falsely represent that such devices are approved or endorsed by any person or organization.

Viobin Corporation, a subsidiary of A.H. Robins, agreed not to make false and unsubstantiated claims about its wheat germ oil products. Viobin must inform consumers that the benefits claimed in its long-running advertising campaign are not supported by scientific evidence. In a final consent agreement, Walgreen Co. agreed not to make unsubstantiated claims for Advil or other analgesic products. The complaint charged that the company did not have a reasonable basis for claims that Advil is an effective anti-inflammatory drug for arthritis and can be substituted for prescription forms of ibuprofen, the product's active ingredient.

An adjudicated consent agreement with Buckingham Productions, marketer of the "Rotation Diet" and several related weight-reduction plans, settled charges it made false, misleading, and unsubstantiated claims in advertising mail-order programs and products. Jerome Milton, Inc., maker of Shane toothpaste, is required to have adequate substantiation for claims of superiority in reducing plaque and efficacy in curing or alleviating gum problems associated with gingivitis and periodonitis, by an adjudicative consent agreement subject to final approval.

The Commission charged Solar Age Industries with falsely claiming its solar energy heater, retailing from \$1,095 to \$3,595, could significantly reduce residential heating fuel consumption and would pay for itself in a few years. In a final consent agreement, the company agreed not to misrepresent the capabilities of the heater or any other solar product. An adjudicative consent agreement with Electronic Systems International settles charges that the company falsely advertised that consumers could save from 15 to 40 percent on their heating and air conditioning bills by installing duty cycler energy control devices.

An Administrative Law Judge ruled that Removatron International Corp., the largest maker of high-frequency, tweezer type hair removal devices, made false and unsubstantiated advertising claims that the product could permanently remove hair. The ALJ's initial decision, arising out of a 1985 FTC administrative complaint, found that the company's claims not only caused substantial financial injury but also profound emotional injury to Removatron patrons. Customers paid beauty salons and others \$10 to \$35 per hair removal session, with some

customers having spent as much as \$3,000 to \$6,000 on Removatron treatments over several years. The ALJ's initial decision is on appeal to the Commission.

The Commission closed its in-house Cigarette Testing Laboratory because of the cost of maintaining the facility and the fact that the same information is available from other sources. The cigarette laboratory was set up in 1966 to test the tar and nicotine levels of most brands of cigarettes. Since 1971 the cigarette industry has voluntarily included tar and nicotine ratings in all advertisements. For the past several years, the industry has maintained a testing program that duplicated the Commission program.

The Commission issued final regulations to implement certain aspects of the Smokeless Tobacco Act. The Act requires manufacturers, packagers, and importers of smokeless tobacco to display health warnings on packaging and in most advertising and to submit plans to the Commission specifying the method used to rotate, display, and distribute the required warnings. After the issuance of the regulations, the Commission approved a number of plans submitted by industry members.

MARKETING PRACTICES

Reliance Wood Preserving and its owner, and McCoy Industries and Reliance Treated Wood, agreed not to make misrepresentations about the flame-retardant value of "Flameguard" wood. They also agreed to notify purchasers that some of the wood may not meet established safety standards. Aquanautics Corp., manufacturer of a marine survival suit, agreed to notify owners and users of its Imperial Model 1409 survival suit of the possible failure of the suit. The Commission charged the product had a safety defect that was potentially life threatening. C&D Electronics agreed not to sell its cable television decoders to unauthorized persons in the future. The agreement requires the company to state in its catalogs and sales materials that the unauthorized use of cable TV equipment is against the law.

The company that produces and sells lighter-to-lighter automobile battery chargers, Plas-Tix USA, agreed not to make false, misleading, and unsubstantiated claims about its product in the future. The company was charged with falsely claiming that its "Safe-T-Start" product could restart auto batteries as quickly as jumper cables. International Masters Publishers, the mail order seller of "My Great Recipes," agreed to honor cancellation and return requests in a timely manner and not to misrepresent its return and cancellation policies.

A consent agreement accepted subject to final approval requires Volkswagen of America to establish an arbitration program for owners of certain Volkswagens and Audis with faulty valve seals and other oil

consumption-related problems. The settlement could involve one million cars with eligible repair costs of between \$125 to \$2,000 each.

Two companies, involved in the nationwide marketing and sale of photocopy supplies to small businesses and nonprofit organizations through telephone "boiler room" operations, agreed not to make future misrepresentations, to stop certain billing practices, and to make specified disclosures to potential buyers. North American Office Systems was ordered to pay \$60,000 in civil penalties to settle these charges and Copy Data Systems was ordered to pay \$300,000 in consumer redress. The president of Copy Data also agreed not to bill or collect any of the approximately \$400,000 in outstanding accounts receivable owed to the company.

A complaint was filed against AMREP Corp. to obtain redress for the over 20,000 customers who spent more than \$35 million on undeveloped land in New Mexico and Florida. AMREP was charged with misleading purchasers about the investment value and resale market of the land.

A complaint was filed against another land sale company, Southwest Sunsites, seeking redress for consumers who bought undeveloped land in Texas and continued to make payments on the land as a result of false and misleading claims. The Commission previously issued an order requiring respondents to cease and desist their unfair and deceptive practices.

A court judgment was filed settling charges that Theodore Weiswasser misrepresented vacation timeshare interests in Hawaii, Lake Tahoe, Nevada, and the state of Washington. The settlement prohibits Weiswasser, currently serving a three-year prison term for criminal contempt, from having any further connection with timeshare businesses.

The Commission filed a complaint against Amy Travel Services, its principals, and affiliated corporations seeking injunctions, against the allegedly deceptive sale of vacation packages, and redress for approximately 150,000 consumers. The court issued a temporary restraining order, an asset freeze, and a preliminary injunction in this matter.

The Commission issued a final order upholding an Administrative Law Judge's ruling in the Orkin Exterminating Co. case. The Commission ruled that Orkin unfairly raised the annual renewal fees for customers whose contracts called for fixed annual fees, and ordered the company to roll back those fee increases.

The Commission took action in two warranty-related rulemakings. The mobile home proceeding was terminated because evidence indicated that the rule would cost the average mobile home buyer more than twice as much as it might offer in benefits and that most mobile home buyers appear to receive warranty service within a reasonable time without the rule. The Pre-Sale Availability of Written Warranty Terms

Rule was modified, giving retail merchants greater flexibility in meeting their statutory requirement to make warranties available to consumers before a sale.

CREDIT PRACTICES

Civil penalty judgments totaling \$815,000 were ordered in cases involving violations of credit-related statutes. A major debt-collection organization, ACB Sales and Services, was ordered to pay a \$350,000 civil penalty as a result of charges that it used abusive, deceptive, and unfair practices in collecting debts. The company was charged with violating a 1974 order and the Fair Debt Collection Practices Act. Central Adjustment Bureau, a debt collection agency, was ordered to pay a civil penalty of \$150,000 for violating the Fair Debt Collection Practices Act by making false threats of legal actions and harassing consumers.

Landmark Financial Services, a Maryland-based consumer finance company, paid a \$90,000 civil penalty to settle charges that it knowingly discriminated against elderly credit applicants because of their age. Norwest Financial, an Iowa-based consumer finance company, paid a \$135,000 civil penalty for allegedly failing to provide disclosures to consumers required by federal credit laws. Allied Department Stores paid \$25,000 as an additional civil penalty under an agreement amending a 1984 consent decree. The original decree settled charges that Allied's Gertz division violated federal credit laws.

Two automobile dealers and their owners, Hopkins Dodge Sales and Freeway Dodge were prohibited by a federal court from violating the Truth-in-Lending Act. The judge found that the dealers' credit advertisements repeatedly violated the Act. The Commission, through the Department of justice, appealed an earlier ruling by the court that the dealers were not liable for a civil penalty for the violations.

Another automobile dealer, Walser Motors, was prohibited from violating federal credit statutes, settling charges it violated the Truth-in-Lending Act by giving consumers incomplete credit information in its ads. The dealer may also be required to pay a civil penalty of \$60,000, depending on the result of the appeal in the Hopkins Dodge Sales and Freeway Dodge cases.

Jeffrey K. Williams, owner and officer of Coast Credit Recovery, Inc paid a \$5,000 civil penalty to settle charges he violated the Fair Debt Collection Practices Act in collecting consumer debts and the FTC Act in collecting commercial debts. John Liberto, owner of a mail-order credit company, Credit-Masters, agreed to a consent decree prohibiting him from misrepresenting his services. The decree requires Liberto to provide redress in the form of public service announcements that warn consumers about potentially deceptive credit services.

A final consent agreement with J.C. Penney Co. settles charges that the

company filed debt-collection cases in courts far from where customers lived, unfairly depriving those persons of their right to defend themselves. The nation's third largest retailer has agreed not to bring any debt-collection cases in judicial districts other than those in which a customer lives or signed the disputed sales contract.

The FTC filed a complaint against World Travel Vacation Brokers charging the company with deceptively marketing its \$29 vacation certificates to Hawaii. The Commission requested preliminary and permanent injunctions barring the defendants from violating the FTC Act and the Truth-in-Lending Act in the future, and an order requiring them to make refunds to consumers.

SERVICE INDUSTRY PRACTICES

In federal court actions brought under this program, the Commission sued forty-nine corporations and individuals for allegedly fraudulent sales of \$271 million of worthless or overvalued products or services to more than 39,000 consumers. The Commission acted to halt the challenged practices and permanently enjoin similar future action by the defendants. Along with halting the fraudulent practices, the Commission obtained court orders directing the defendants to provide redress of more than \$12 million, in cash or debt cancellation, for aggrieved consumers.

The eleven defendants named in the Trans-Alaska Energy Corp. complaint allegedly defrauded 1300 consumers out of \$12 million. The Commission succeeded in obtaining an order permanently restraining continuation of this telemarketing scheme that induced consumers to invest in worthless oil and gas leases on land in Alaska and Wyoming. Trans-Alaska, related companies and six officials were ordered to pay \$2.1 million into a fund to redress consumers. A settlement with another defendant in this matter, Alan F. Goda, required him to pay a \$100,000 civil penalty.

Alaska Land Leasing, Federal Lease Filing Corp. and nine other corporate and individual defendants were permanently enjoined from fraudulently selling oil and gas leases in Alaska that have little or no value. The defendants sales were approximately \$18 million. Consumers will receive \$1,980,000 in refunds as part of a settlement of FTC charges.

Standard Financial Management Corp., which does business as New England Rare Coin Galleries, was charged with misrepresenting the grade, quality, and value of coins sold to consumers. The company, which had sales of \$30 million, and two individuals were permanently enjoined from making misrepresentations about the grade, quality or value of coins sold and were required to make affirmative disclosures about coin grading and the investment value of rare coins. The settlement also provided \$1.5 million for consumer redress.

An agreement with five defendants in the matter of Rare Coin Galleries of America permanently enjoins them from future misrepresentations and requires that they transfer their personal assets to a bankruptcy trustee for payment of creditors, including defrauded consumers. The agreement settles charges that the coin dealers, who had sold \$15 million in allegedly rare coins, misrepresented the grade and investment value of the coins they sold.

The Commission obtained a temporary injunction barring the three defendants in the Security Rare Coin & Bullion Corp. matter from misrepresenting the value and investment potential of the coins they sell. The Commission is asking the court to order consumer redress and permanently enjoin defendants, which have sold \$160 million to over 20,000 consumers, from using the allegedly deceptive sales methods.

The Commission filed a complaint charging Numis Group, and four other defendants, with misrepresenting the value and investment potential of coins. The defendants market coins to consumers through telephone sales and written promotional materials. The staff estimates the defendants' sales of coins total several million dollars per year, with many customers investing between \$10,000 and \$20,000.

As part of a settlement with American National Cellular (ANC), the court ordered defendants not to mislead potential investors about the chances of winning federal lotteries for the right to build cellular telephone systems and the profits to be made from owning and operating such systems. The defendants had 5,500 customers and total sales of \$22.9 million. The settlement also provided consumer redress exceeding \$5 million, of which \$1 million was cash. In addition, the Commission successfully prosecuted ANC's former president, Michael Godfree, for criminal contempt of a court order freezing his assets. Godfree was also ordered to pay \$28,000 in restitution. Defendants Charles M. Fischer and Jerald Woods pled guilty to criminal contempt charges for violating the injunction.

Five defendants in the Volcano Mining Project matter were charged with selling \$2 million in worthless gold mining ventures to 200 consumers. The complaint charged that the defendants told consumers that an investment of \$9,600 in the rights to unmined gold and silver ore would return between \$45,000 and \$100,000. Several of the defendants settled the allegations and agreed to pay \$65,000 into a consumer redress fund.

A complaint was filed against nine defendants including Atlantex Associates, a Miami-based "boilerroom" selling partnerships in an oil and gas drilling operation. The complaint charges defendants with falsely claiming they could guarantee 2,000 investors long-term, low-risk, high-level income from the drilling partnerships. Estimated sales are \$12 million.

The Commission charged Rainbow Enzymes and nine other defendants with misleading consumers into paying \$3,000 each to participate in manufacturing a cleaning fluid, and with making false claims about the quality, composition and value of their product. The complaint also charged the defendants with falsely claiming that major companies and government agencies had endorsed the cleaner. The court issued a temporary restraining order, approved the appointment of a temporary receiver, and froze more than \$1 million contained in defendants' bank accounts.

In the Ophthalmic Practice ("Eyes II") rulemaking, the Commission published the final staff report and the presiding officer report for public comment. The proposed rule would prohibit certain state restrictions on optometrists' commercial practices. In proposing the rule in 1984, the Commission said it would examine whether the state bans injured consumers by raising prices and decreasing the availability of vision care without increasing the quality of care provided.

The Commission also published the final staff and presiding officer reports in the Retail Food Store Advertising Rule amendment proceeding. The current rule, adopted in 1971, requires grocers to stock advertised items in sufficient quantities to meet reasonable anticipated demand. Under the amendments, grocers could comply with the rule by offering rainchecks or substitutes of comparable value when they sell out of advertised items. An alternative proposal would allow grocers to advertise that items are available only in limited quantities or are only available at some store locations.

ENFORCEMENT

In fiscal year 1987, \$2,213,000 in civil penalties was obtained in matters involving violations of Commission rules and federal labeling acts, and over \$5.2 million in consumer redress was ordered in three matters involving the Franchise Rule. The nation's largest franchiser of bookkeeping, accounting, and tax services, Comprehensive Accounting Corp., was charged with violating the Franchise Rule by misrepresenting the earnings and profits of its franchisees. A consent decree requires the company to pay consumer redress, expected to reach \$3.5 million, and prohibits it from making false claims in the future.

Paying amounts ranging from \$2,000 to \$98,000, the sellers of "Mr. Tuff-Tire" franchises were ordered to refund \$1.4 million to consumers who bought 87 franchises. The complaint charged that the sellers misrepresented the annual earnings of the franchises and did not provide pre-sale information required by the Franchise Rule. The Tuff-Tire franchisors were also ordered to pay \$870,000 in civil penalties. Control Technology was ordered to pay \$306,400 in consumer redress and \$430,000 in civil penalties for allegedly misrepresenting the earning

potential of its energy-management systems franchises and also misrepresenting the services it would provide franchisees.

Three companies were charged with violating the Mail Order Rule. Raffoler Ltd., a mail order company selling inexpensive items under several different company names, agreed to pay \$150,000 in civil penalties and not to violate the rule in the future. The company was charged with failing to ship merchandise on time and failing to offer refunds to consumers. PC Network paid civil penalties of \$61,000 to settle charges that it failed to give customers the option to cancel orders that were delayed and failed to honor guarantees promptly. The company is a nationwide mail-order seller of computer hardware and software which offers near-wholesale prices through membership programs.

FBS, a/k/a/ French Boot Shop and Molbe Shoes, agreed to pay \$32,000 in civil penalties. This marketer of clothing is prohibited from deeming orders canceled and offering a company credit for purchases of alternative merchandise, and from violating the Mail Order Rule.

Several other civil penalty consent decrees were entered in district court, including settlement of charges in a matter involving Sears, Roebuck and Co. and Kellwood Co., a Sears supplier. The companies will pay civil penalties of \$200,000 each to settle charges they misrepresented the amount of down filling in garments. Four thermal insulation companies, including TS Industries, were charged with misrepresenting the effectiveness of thermal insulation products. The companies paid \$125,000 in civil penalties and are required to operate a Commission-approved quality control program for five years and comply with the provisions of the R-Value Rule.

The Avanti Group (U.S.A.) Ltd. agreed to an \$80,000 civil penalty to settle charges it violated the Fur Products Labeling Act and the FTC Act. The Georgia-based fur retailer is prohibited from violating the Fur Act in the future, including all requirements relating to labeling, invoicing, and record keeping. Troy Suggs Funeral Home and its owners paid \$20,000 in civil penalties to settle charges that they failed to provide consumers with information required by the Funeral Rule. Similar charges were also filed against two other funeral providers, Dudley Hughes Funeral Co. and Crane-Weiland Funeral Directors.

Two consent decrees settled charges of failing to display properly completed window stickers on used vehicles offered for sale, as required by the Used Car Rule. Robert L. Garvin, former president of a Texas car dealership, paid \$20,000 in civil penalties, and G.B. Enterprises, Inc., a District of Columbia car dealership, paid \$25,000 in civil penalties. A complaint was filed against Crystal Ford also charging violations of the Used Car Rule.

A 1979 consent order with Beneficial Corp., involving the company's

tax preparation services, was modified by deleting or revising several requirements. Provisions of a 1976 consent order with Glendinning Associates, concerning restrictions on contests the company prepares and sells, were altered or replaced, and a prohibition against running skill contests that are not based on "matters of established provable fact" was lifted. A 1979 consent order with Ford Motor Co. and Ford Motor Credit Co., establishing procedures for the sale of repossessed cars and light trucks, was also modified by replacing or eliminating certain provisions.

The Commission took action in several of the rules enforced under this program. The television advertising disclosure provisions of The Home Insulation (R-Value) Rule were deleted, bringing the rule into compliance with a federal court order. Additional rulemaking proceedings on the deleted provisions will not be held.

A study of the Appliance Labeling Rule, comparing the knowledge and attitudes about energy use of consumers who had recently bought clothes washers or refrigerators, was released. Results suggest that energy data is becoming an important factor in consumers' decisions about which brand of appliance to purchase. The latest figures for average unit energy costs for electricity, natural gas, heating oil, and propane were incorporated into the Rule.

A rulemaking proceeding to adopt amendments to the Games of Chance Rule was initiated after the Commission received a number of requests for waivers from current provisions. The Rule requires promoters operating games in food stores and gasoline stations to provide detailed information on the number of prizes available, the odds of winning each prize, the geographic areas covered by the game, and the number of participating retailers.

Based upon reviews required under the Regulatory Flexibility Act, the Commission determined not to amend the Negative Option Rule and the Franchise Rule, and to propose only nonsubstantive modifications to the Cooling-Off Rule. An exemption from the Franchise Rule was granted to Austin Rover Cars of North America.

Staff guidelines to help used car dealers comply with the Used Car Rule were published. The Commission denied petitions for exemption from the rule from 65 auto leasing companies and Alamo Rent-A-Car.

OFFICE OF CONSUMER AND BUSINESS EDUCATION

The Office of Consumer and Business Education plans and develops education programs aimed at providing information to consumers and industry on important Commission programs, statutes, rules and decisions. Consumer and business education allows for informed consumer choice and encourages competitive business practices to function freely in the marketplace. It is a cost-effective way of obtaining compliance with the law.

In fiscal year 1987, the office developed and distributed four television video news releases. As a cooperative effort with the American Association of Retired Persons (AARP) the Commission produced one video concerning financial counseling. It produced another video with the Mortgage Bankers Association of America that addressed mortgage financing. The National Association of Attorneys General and the Commission made a video on telemarketing investment fraud, and a fourth video with the American Society of Travel Agents regarding vacation fraud was produced. At the end of the fiscal year, a fifth news video concerning home equity credit lines was in production. In conjunction with each news video, free consumer brochures on the subject were distributed.

The office also developed and distributed more than 25 new and revised consumer publications, many in joint efforts with other federal agencies and private sector organizations. For example, the office worked with the Associated Credit Bureau, Inc. and the National Foundation for Consumer Credit, on the subject of improving consumer credit ratings; with Citibank N.A., on the subject of lost or stolen credit cards; with AARP, on the issue of credit and older Americans; and with the U.S. Office of Consumer Affairs and the Consumer Information Center (CIC), on the subject of buying and borrowing.

In addition, the office developed and distributed four business publications, involving subjects such as writing readable credit forms, complying with the Commission's credit practices rule, and the federal warranty law. Approximately 1.7 million copies of consumer and business publications were distributed by the Commission, and hundreds of thousands more were distributed through cooperating public and private organizations, such as CIC and AARP.

ECONOMIC ACTIVITIES

The FTC's Bureau of Economics provides economic support to the agency's antitrust and consumer protection activities, advises the Commission about the impact of government regulation on competition, and analyzes economic phenomena in the American economy as they relate to antitrust, consumer protection, and regulation.

The primary mission of the FTC is to enforce the antitrust and consumer protection laws. In 1987, the Bureau of Economics continued to provide guidance and support to those activities. In the antitrust area, economists offered advice on the economic merits of potential antitrust actions. Situations where the marketplace performed reasonably well were distinguished from situations where the market might be improved by Commission action. When enforcement actions were initiated,

economists worked to integrate economic analysis into the Commission's presentation of the case, to provide expert testimony, and to devise remedies that would improve market competition.

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 variety, and overall consumer welfare.

Although the FTC is primarily an enforcement agency, it is also charged with analyzing data and publishing information about the nation's industries, markets, and business firms. Much of this work is undertaken by the Bureau of Economics. In 1987, economists conducted a number of studies on a broad array of topics relating to antitrust, consumer protection, and regulation. Research economists also provided Commissioners with economic advice on pending matters.

ANTITRUST

In the antitrust area, economists participated in all investigations of alleged antitrust violations and in the presentation of cases in support of complaints. Economists also advised the Commission on all proposed antitrust actions. These activities absorbed the bulk of the bureau's resources.

Several studies undertaken by the bureau also support the Commission's antitrust activities. For example, during 1987, economists investigated and published reports on the effects of state antitakeover statutes, international competitiveness and the trade deficit, competition among hospitals, and tax-related motives for corporate mergers.

CONSUMER PROTECTION

In the consumer protection area, economists evaluated proposals for full phase investigations, consent negotiations, consent settlements, and complaints. In addition, economists routinely provided day-to-day guidance on individual matters and made policy recommendations directly to the Commission.

In addition to the bureau's direct support for individual consumer protection matters, staff economists studied and produced reports on consumer protection topics of particular interest to the Commission as well as the Congress. These included examinations of the relationship between advertising and product quality and the effects of dental hygienist practice restrictions on consumer prices.

REGULATORY ANALYSIS

In the regulation area, staff economists actively participated in the

Commission's Competition and Consumer Advocacy Program. As part of this effort, bureau staff reviewed a variety of regulations that raised antitrust or consumer protection issues. In response to invitations to submit comments the staff prepared and, with Commission approval, filed submissions to: the Securities and Exchange Commission on mutual fund advertising rules, the Federal Communications Commission on radio station cross-ownership rules, the Federal Energy Regulatory Commission on extension of import relief for specialty steel producers, the Department of Transportation and the Federal Aviation Administration on airport access and pricing, the state of Maryland on certificate of need laws for ambulatory surgery, and the state of South Carolina on regulation by the Public Service Commission.

A number of major reports published by the Bureau of Economics during 1987 also provided insight into the effects of government regulation on competition and consumer welfare. These reports included studies of international competitiveness and trade restraints, the consumer effects of petroleum import tariffs, and the price effects of restrictions on the use of dental auxiliaries.

EXECUTIVE DIRECTION, ADMINISTRATION AND MANAGEMENT, REGIONAL OFFICES

The Office of Executive Director is responsible for the administrative and management activities of the agency. The Divisions of Personnel, Budget and Finance, Procurement and General Services, Information Services, Automated Systems and the Library are all incorporated within this office. Also, the agency's regional offices receive management direction from the Office of Executive Director.

REGIONAL OFFICES

In 1987 the Commission's ten regional offices continued to represent the agency across the country. Their responsibilities encompassed all aspects of the Commission's work, including competition and consumer protection enforcement, consumer and competition advocacy, and business and consumer outreach. Prompted by concern over dwindling staff levels in several of the regional offices, the Commission voted during fiscal year 1987 to reallocate agency resources to strengthen regional offices. The Commission's plan calls for gradually shifting resources from headquarters in order to staff regional offices with an average of nineteen persons each by fiscal year 1990.

PLANNING AND INFORMATION

The Commission made significant progress in office automation during 1987. Major accomplishments included acquisition and installation of a pbx telephone system, a local area network ("LAN") and a large number of personal computers. The installation of the pbx involved designing telephone configurations for each office, installing cabling and phone instruments in each office, implementing a phone mail system, and training and assisting employees on how to use the system.

Over 500 ports were added to the LAN that was installed during 1987. A number of software programs were developed to take advantage of the LAN to integrate end-user computing and Commission-wide computing. Also, the LAN created an efficient method of sharing expensive printer resources among FTC offices and of sharing a variety of the Commission's electronically stored information. As a result, the number of litigation cases supported by office automation increased by 10 percent. Approximately 550 personal computers were installed in both Headquarters and Regional Offices to take advantage of these developments.

The Commission also implemented two significant computer systems during the year. A nationwide computer network supporting the telemarketing complaint system resulted in widespread participation by many state Attorneys General and local law enforcement agencies. This system uses the FTC's Prime computer to store a collective database of consumer complaints and enforcement actions. ALOHA, an integrated library system was also installed. The Acquisitions and Cataloging modules of this system are used for ordering and cataloging all library materials.

BUDGET

The fiscal 1987 budget and finance program consisted of three elements: budget planning and control of funds, accounting of expenditures, and audit of results. Careful control of agency expenditures and workyear usage was necessary to accomplish objectives with decreased resources. The agency used approximately 1007 workyears and spent \$64.8 million in fiscal year 1987. The workyears used were 9.0 percent fewer than in fiscal 1986. Finally, several audits of financial activities were completed in 1987.

HUMAN RESOURCES

The focus of the fiscal 1987 human resource management program was to prepare the Commission and its workforce for the 1990's.

Specific human resource projects included a Legal Education Credit system to ensure that attorneys receive appropriate continuing education credit for attending training, a comprehensive program to brief employees on the new Federal Employees Retirement System, an organizational and management effectiveness plan for major organizations, and new performance systems for SES and GS employees.

In addition to these specific initiatives, other ongoing activities continued. A new employee handbook was developed and issued. Performance standards were updated and refined. A new policy document on incentive awards was issued due to recent regulatory changes. The Employee Assistance Program was also developed in 1987.

Equal Employment Opportunity continued its efforts to strengthen FTC management functions with respect to EEO concerns. Emphasis was placed on synthesizing information obtained through a wide array of agency wide EEO activities, evaluating the information for EEO implications, and proposing the development of management systems to avoid pitfalls and reinforce accomplishments. Specific initiatives included proposing the development of a policy for the conversion of nonlegal employees to legal positions; developing a procedure for expanding the involvement of organizations in conciliation efforts; and establishing a mechanism for obtaining recruitment referrals from law firms.

BUILDING MAINTENANCE

The Division of Administrative Services accomplished several significant projects during 1987 in addition to routine building maintenance. These projects included asbestos removal in the headquarters building and construction of locker and shower rooms in the headquarters building.

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PART II (INVESTIGATIVE STAGE)
CONSENT AGREEMENTS ACCEPTED
AND PUBLISHED FOR PUBLIC COMMENT

MAINTAINING COMPETITION MISSION

Supermarket Development Corporation

Furr's Inc., a wholly-owned subsidiary of Supermarket Development Corporation, agreed to divest grocery stores in twelve cities throughout New Mexico and Texas to a Commission-approved acquiror within nine months. According to the complaint accompanying the agreement, the acquisition of Safeway's El Paso division could otherwise substantially lessen competition in Fort Stockton and Pecos, Texas and in the New Mexico cities of Alamogordo, Artesia, Clovis, Espanola, Hobbs, Las Vegas, Lovington, Portales, Roswell and Silver City. In addition, for a period of ten years, Furr's is prohibited from acquiring any grocery store or other specified assets in 19 cities in New Mexico and West Texas without prior Commission approval.

Tarrant County (Texas) Medical Society

The Tarrant County Medical Society of Forth Worth, Texas agreed not to restrict its members' truthful advertising. The complaint accompanying the agreement charged that the society through its Board of Censors imposed limitations on the size and duration of newspaper advertisements and telephone listings by its members. It also alleged that the conspiracy restricted competition among physicians and deprived consumers of truthful information about physicians' prices, services, and qualifications.

CONSUMER PROTECTION MISSION

Aquanautics Corp.

Aquanautics, manufacturer of a marine survival suit, agreed to notify owners and users of the suit of a safety defect that is potentially life threatening. The company agreed to send each user a free kit that can be used to retrofit the suit to work as intended.

C&D Electronics, Inc., et al.

C&D Electronics agreed not to sell its cable television decoders to unauthorized persons in the future. C&D agreed to state in its catalogs and sales materials that the unauthorized use of cable television equipment is against the law. The company also agreed not to make any representations contrary to that statement.

Cosmo Communications Corp.

Cosmo Communications, a manufacturer and nationwide seller of telephones, agreed not to misrepresent the capabilities of its telephones and to disclose that its touch-pulse telephones do not generate tones. Cosmo's push button telephones look like touch tone telephones but produce only pulses like rotary dial telephones. The company agreed not to misrepresent the compatibility of its phones with tone-accessed services, including alternative long distance service and home accessed computer services.

GCS Electronics, Inc., et al.

GCS Electronics, agreed not to make misleading claims about the capabilities of its portable Mark 11 Executive Phone. The company also agreed not to misrepresent the range of radiotelephone communications devices or their ability to transmit and receive messages simultaneously. The agreement prohibits GCS from making range related claims using phrases such "up to," unless the range can be obtained by an appreciable number of consumers.

International Masters Publications, Inc., et al.

International Masters Publications, the mail order seller of "My Great Recipes," agreed to honor cancellation and return requests in a timely manner and not to misrepresent its return and cancellation policies. The company agreed to send each new customer a notice explaining its return and cancellation policies.

J.C. Penney Company, Inc.

J.C. Penney, the nation's third largest retailer, agreed not to bring any debt-collection cases in judicial districts other than those in which a customer lives or signed the disputed sales contract. The company was charged with filing cases in courts far from where

customers lived, unfairly depriving them of the right to defend themselves.

McCoy Industries, Inc., et al.

McCoy Industries and Reliance Treated Wood agreed not to make misrepresentations about the flame retardant value of "Flameguard" wood. They are required to give Reliance Wood Preserving a list of customers who bought the wood before April 15, 1985, so it can notify purchasers that the treated wood may not meet safety standards.

New Medical Techniques, Inc.

New Medical Techniques, manufacturer and distributor of counter-top water distillers, agreed not to misrepresent the ability of its devices to provide pure water. The company also agreed to stop falsely representing that its devices are approved or endorsed by any person or organization.

Plas-Tix USA, Inc.

Plas-Tix USA, manufacturer and seller of lighter-to-lighter automobile battery chargers, agreed not to make false, misleading and unsubstantiated claims about its "Safe-T-Start" product in the future. The company agreed not to claim that its battery chargers are jumper cables or that they can restart a disabled vehicle as quickly as jumper cables. The agreement requires Plas-Tix to prominently display certain statements on its packaging and in ads for any lighter-to-lighter chargers it sells.

Puritan-Bennett Aero Systems Co., et al.

Puritan-Bennett Aero Systems, a seller of fire and smoke protection masks, agreed not to make certain claims in its ads unless the claim is true and supported by a reliable scientific test. The Commission charged the company with deceptive advertising for failing to disclose the masks do not filter carbon monoxide, one of the most dangerous gases encountered in fires.

Reliance Wood Preserving, Inc., et al.

Reliance Wood Preserving and its owner, Daniel Roy Dorman, agreed not to make misrepresentations about the flame retardant

value of its "Flameguard" wood. They also agreed to notify purchasers of "Flameguard" manufactured before April 15, 1985 that some of the wood may not meet established safety standards.

Solar Age Industries, Inc.

Solar Age agreed not to misrepresent the capabilities of its solar energy heater or any other solar product. The company further agreed not to use the phrase "up to" in energy-related claims, unless the upper limit of potential savings indicated in the claim can be achieved by an appreciable number of consumers.

Viobin Corp.

Viobin, a subsidiary of A. H. Robbins, agreed not to make false and unsubstantiated claims about its wheat germ oil products. The company must inform consumers that the benefits claimed in its long-running advertising campaign are not supported by scientific evidence. Both companies agreed not to misrepresent the ability of wheat germ oil products to improve physical fitness or performance.

Walgreen Co.

Walgreen Co., one of the nation's largest retail drugstore chains, agreed not to make unsubstantiated claims for Advil or other analgesic products. The Commission charged that the company did not have a reasonable basis for claims that Advil is an effective anti-inflammatory drug for arthritis and that it can be substituted for prescription forms of, ibuprofen, the product's active ingredient.

PART II (INVESTIGATIVE STAGE)
CONSENT ORDERS ISSUED

MAINTAINING COMPETITION MISSION

Alleghany Corporation

The Commission approved Alleghany Corporation's acquisition of Safeco Title Insurance Co. after Alleghany agreed to divest two title plants. Safeco's title plant in Cook County, Illinois must be divested in twelve months and Safeco's title plant in Los Angeles County, California or Alleghany's interest in the TRI plant in Los Angeles County must be divested in fourteen months. According to the complaint, the acquisition as originally proposed could reduce competition in the production and sale of title plant information, available for a fee, relating to the ownership of real property in the two counties. Safeco and Alleghany's Chicago Title Insurance Co, respectively, are the second and third largest title insurance companies in the United States. Under the terms of the order, Alleghany agreed for a period of ten years not to acquire any interest in a title plant that serves Cook or Los Angeles County, or an interest in any company that owns an interest in such a title plant, without prior Commission approval. In addition, Alleghany must also provide the Commission with 30 days' advance notice before acquiring any interest in any title plant that serves a geographic area already covered by a title plant in which Chicago Title or any other company owns an interest.

American Hoechst Corporation

The Commission accepted a final order that permitted American Hoechst to acquire Celanese Corporation. Under the terms of the order, American Hoechst agreed to divest its own polyester textile fiber assets or certain textile assets of the Celanese Textile Fibers Business Group within one year. The complaint issued with the consent order charged that the proposed acquisition would eliminate competition between American Hoechst and Celanese in the manufacture and distribution of polyester staple and textile polyester filament in the United States. The companies agreed to maintain the Celanese polyester textile fiber assets separately until all divestitures were completed. The order also requires, for a period of ten years, American Hoechst to obtain prior Commission approval before acquiring the assets or stock of any company engaged in the

manufacture, distribution, or sale of polyester staple and textile filament fibers in the United States.

L'Air Liquide Societe Anonyme Pour L'Etude Et L'Exploitation Des Procedes Georges Claude

L'Air Liquide S.A. agreed to divest certain assets to resolve antitrust concerns stemming from its \$1.2 billion proposed acquisition of Big Three Industries Inc. According to the complaint issued with the order, the acquisition could reduce competition in the production and sale of liquid gases: argon, oxygen, and nitrogen. The order required L'Air Liquide to divest contracts and air separation gases plants in Texas, Florida, New Mexico and Alaska to a Commission-approved acquirer within nine months. In addition, for a period of three years, L'Air Liquide is required to supply liquid oxygen and nitrogen to customers in North Texas. The order also requires L'Air Liquide to obtain prior Commission approval for ten years before acquiring any interest in firms that produce or sell liquid argon, oxygen, or nitrogen.

Max Factor & Co.

Under the terms of a consent order, Max Factor & Co. is required to make promotional allowances available on proportionally equal terms to all of its customers and in particular to make alternatives available to customers for whom its basic promotional plans are not usable or economically feasible. The complaint accompanying the order charged that Max Factor violated the Robinson-Patman Act by discriminating against some customers by not making promotional allowances available on proportionally equal terms to all of its customers. Under the order, Max Factor must offer specific alternatives, such as handbills or other in-store promotional activities, to stores that cannot use allowances. The order also requires Max Factor to notify all its customers that the promotional payments and alternatives are available.

Physicians in Meadville, Pennsylvania

Sixty-two physicians in Meadville, Pennsylvania agreed not to conspire to refuse to deal with health care providers or hospitals and agreed not to conspire to withhold patient referrals from any physicians. The Commission's complaint charged that the Meadville doctors threatened not to refer patients to physicians practicing at the St. Vincent Health Center in Erie, Pennsylvania after the St.

Vincent physicians announced plans to established a medical office near Meadville. The St. Vincent physicians suspended their plans to open the new medical facility. The order also prohibits the Meadville physicians from attempting to induce any person to refuse to deal with or withhold patient referrals.

PART III ADMINISTRATIVE COMPLAINTS

MAINTAINING COMPETITION MISSION

New York State Chiropractic Association

The Commission's complaint charged that the New York State Chiropractic Association agreed with some of its members to act as a united front to demand an increase in fees paid its members through a health benefits program supplied by Group Health, Inc., a health insurance company. According to the complaint, the association solicited its members to resign from participation in GHI's program after the health insurer refused to increase the payment levels for chiropractic services. The Commission charged that the association's actions were a conspiracy to fix prices and to conduct a boycott in violation of the federal antitrust laws.

CONSUMER PROTECTION MISSION

Kraft, Inc.

The Commission's complaint charged Kraft with misrepresenting the calcium content of its Kraft Singles product in advertisements. The complaint alleged that Kraft falsely claimed in ads that a slice of Kraft Singles contains the same amount of calcium as five ounces of milk and contains more calcium than do most imitation cheese slices. The complaint further charged that Kraft represented that it possessed substantiation for these claims when, in fact, it did not.

North American Philips Corp.

The Commission's complaint charged North American Philips with making false and unsubstantiated advertising claims for its Norelco brand Clean Water Machine. The complaint alleged the company claimed the machines would make tap water clean or cleaner, when in fact, the machine's filters actually added a chemical that is potentially hazardous to consumers health.

PART III (ADJUDICATIVE STAGE)
CONSENT AGREEMENTS ACCEPTED
AND PUBLISHED FOR PUBLIC COMMENT

CONSUMER PROTECTION MISSION

Jerome Milton, Inc., et al.

Jerome Milton, maker of Shane toothpaste, agreed to have one scientific test to substantiate claims that Shane cures or alleviates the symptoms of canker or cold sores, or reduces tooth sensitivity. The agreement requires Milton to have at least two scientific tests to substantiate claims of superiority in reducing plaque or alleviating gum problems associated with gingivitis or periodontitis.

Volkswagen of America, Inc., et al.

Volkswagen of America agreed to establish an arbitration program for owners of certain Volkswagens and Audis with faulty valve seals and other oil consumption related problems. This agreement could potentially involve one million automobiles. The costs for repairing oil consumption related problems range from \$125 to \$2,000.

PART III (ADJUDICATIVE STAGE)
CONSENT ORDERS ISSUED

MAINTAINING COMPETITION MISSION

Amerco

U-Haul International, Inc. and its parent company, AMERCO, agreed not to participate in any judicial or administrative proceeding in which their main purpose is to harass or injure a competitor or potential competitor. The agreement settled a 1985 complaint that charged U-Haul, the nation's largest renter of trucks and trailers, with using "sham litigation", during Jartran Inc.'s Chapter 11 reorganization proceedings, in an attempt to delay or prevent Jartran from competing in the one-way moving equipment market. Under the terms of the agreement, U-Haul and its parent must give prior notice to the Commission before participating in any bankruptcy or other judicial or administrative proceedings of a competitor. In addition, the companies are prohibited from acquiring certain assets or stocks in or any legal claims against a competitor.

Detroit Auto Dealers Association

Fifty Detroit-area motor vehicle associations, dealerships, or dealers agreed to settle charges that they had illegally conspired not to advertise in the classified sections of newspapers or not to advertise vehicle prices at all. The consent orders settled Commission charges that the advertising restrictions injured consumers by illegally reducing competition among the dealers. Such restrictions can reduce consumers' access to important information and increase dealers' ability to maintain higher prices. According to the orders, the dealerships, associations, and individuals are prohibited from restricting or conspiring to restrict any motor vehicle advertising in the classified section of any newspaper or the advertising of any price, term, or condition of sale of any motor vehicle.

First American Title Insurance Company

First American Title Insurance Company agreed not to seek the prices charged for title search and examination services or settlement services through rating bureaus in Arizona, Connecticut, Idaho, Montana, Ohio and Wisconsin. The consent order allows First American to set the prices charged for title searches and related services through independent rating bureaus only in states with

established policies permitting and supervising collective rate filing through rating bureaus. First American also agreed to withdraw from a law suit, that challenges the Commission's authority to issue the complaint in this case, filed by the title insurance companies named in the Commission's 1985 complaint. To insure that First American would not be subject to a greater burden than that which may be imposed later on the five other companies named in the Commission's complaint, the agreement contains a provision to allow First American to accept any final order or judgment which may be entered against any of the other insurance companies.

Roswil Inc.

Roswil Inc. agreed to refrain from engaging in concerted action that restricts the gathering or reporting of comparative grocery-price data. The consent order settled charges that Roswil and other grocers conspired to suppress price competition and deprive consumers of comparative price information. According to the complaint, Roswil and two other area grocers had agreed to prevent an independent firm from conducting comparative price surveys in their Springfield, Missouri stores unless the survey firm bought the items it checked. The Commission alleged that the requirement to pay for items whose prices it checked made the survey prohibitively expensive, and the grocers' concerted action led to the termination of the program. Under the consent order Roswil may not: require price checkers to buy the surveyed items; deny price checkers the same access to Roswil's stores as customers; or coerce any price reporting. Roswil must also take several steps to increase the likelihood that price surveys will be resumed in Springfield. According to the order, the company must reimburse the local cable television station up to \$1,000 of its costs if it decides to broadcast a comparative grocery-price program. Roswil must also notify the public that such a program is being aired.

CONSUMER PROTECTION MISSION

Buckingham Productions, Inc., et al.

Buckingham Productions, marketers of the "Rotation Diet" and several other weight-reduction plans, agreed to stop misrepresenting the effectiveness of its programs, products, and services. The agreement also restricts Buckingham's use of endorsements and requires that it disclose any relevant relationship between an endorser and the company.

Electronic Systems International, Inc.

Electronic Systems International, maker of "Savit" duty cyclers, agreed to stop making unsubstantiated efficacy claims about its products and services. Duty cyclers are devices that allegedly increase the efficiency of home heating and cooling units by causing the thermostat to turn the units on and off more frequently than it would ordinarily. Duty cyclers retail for \$400 to \$500.

INITIAL DECISIONS

MAINTAINING COMPETITION MISSION

Detroit Auto Dealers Association, Inc.

An Administrative Law Judge dismissed charges that Detroit-area motor vehicle dealers and dealer associations illegally conspired to limit consumers' ability to shop and compare the motor vehicle prices of a number of dealers. According to the 1985 complaint, the dealers and associations hurt consumers and reduced competition among Detroit-area dealers by conspiring to limit their hours of business. The judge found that the weeknight and Saturday closings were the result of a labor dispute between the sales employees and their unions and the dealerships and their associations and that there was no evidence that the limited hours eliminated competition among the dealers by increasing the retail prices of cars sold in the Detroit area. The judge further ruled that, although consumers were inconvenienced by the shorter hours, the efforts to restrict business hours were covered by the labor exemption to the antitrust laws because the closings eliminated competition over hours and working conditions.

Motor Transport Association of Connecticut, Inc.

An Administrative Law Judge dismissed a 1984 complaint against Motor Transport Association of Connecticut Inc. The complaint alleged that the association, a transport rating bureau, illegally conspired with its members to set and collectively file transportation prices for property shipped by motor carriers in the state of Connecticut. The judge ruled that while the association's price fixing activities were illegal, the activities were exempt under the 11 state action" doctrine since collective rate making is authorized and monitored by Connecticut's Department of Public Utility Control. The judge found that the DPUC was delegated the

authority to review all rates filed and exercised its power to refuse a filing if certain rate increases were not justified or if the rates did not satisfy the state's tariff regulations and requirements.

Ticor Insurance Co.

An Administrative Law Judge ruled that five title insurance companies illegally combined to set the prices charged for title search and examination services or settlement services through rating bureaus in two states. The judge ordered the companies not to use rating bureaus in Connecticut or Wisconsin since companies' activities in the two states were not protected by a state action doctrine, which exempts anticompetitive activities from the federal antitrust laws if the activities were authorized and supervised by the state. The judge further ruled that the examination and settlement services did not constitute the "business of insurance" under the McCarran-Ferguson Act, which exempts the state-regulated "business of insurance" from the federal antitrust laws. The decision upheld in part a 1985 complaint against Ticor Insurance Co., Chicago Title Insurance Co., Safeco Title Insurance Co., Lawyers Title Insurance Corp., Stewart Title Guaranty Co. and First American Title Insurance Co. First American entered into an agreement with the Commission and a consent order was issued in 1987.

New England Motor Rate Bureau, Inc.

An Administrative Law Judge upheld in part a 1984 complaint that charged the New England Motor Rate Bureau, Inc. with illegally conspiring with its members to fix and maintain collective rates charged for the intrastate freight transportation of property or related services in the states of Massachusetts, New Hampshire, Rhode Island and Vermont. The order prohibits the NEMRB from interfering with the rates charged by motor carriers for the intrastate transportation of property within the Commonwealth of Massachusetts and the State of New Hampshire. The order requires each member carrier to set its own rates, independently, for transportation within these states and the order permitted the use of NEMRB as a tariff publishing agent. The judge also found that collective rate making in the state of Rhode Island was exempt from the federal antitrust laws under the state action doctrine since the activities are regulated and enforced by the Rhode Island Public Utilities Commission. The judge dismissed charges relating to the State of

Vermont since tariff filings by motor carriers in that state are no longer required.

CONSUMER PROTECTION MISSION

Removatron International Corp.

An Administrative Law Judge ruled that Removatron, the largest maker of high-frequency, tweezer-type hair-removal devices, deliberately made false and unsubstantiated advertising claims that the product could permanently remove hair. The judge issued an order prohibiting such claims in the future. The matter was appealed to the Commission.

FINAL COMMISSION ORDERS

CONSUMER PROTECTION MISSION

Orkin Exterminating Co.

The Commission ruled that Orkin Exterminating Co. unfairly raised the annual renewal fees on termite guarantees for customers whose contracts called for fixed annual fees. According to the decision, Orkin's contracts between 1966 and 1975 provided for a guarantee against termites for the life of the covered premises if the consumer paid a specified, fixed annual fee. In 1980, however, the company raised fees on those pre-1975 contracts without providing increased benefits. The Commission ordered Orkin to roll back the annual fees on these contracts to their pre-increase level and to notify each affected customer.

ORDER MODIFICATIONS

MAINTAINING COMPETITION MISSION

Advertising Checking Bureau, Inc.

The Commission set aside a 1979 order against the Advertising Checking Bureau, Inc. so that the company could administer cooperative advertising programs. The order settled charges that the Bureau had audited price restrictive cooperative programs that had the effect of fixing the resale prices of merchandise and eliminating discount prices. The Commission ruled that the order was no longer justified and its application harmed the Bureau's ability to participate in cooperative advertising programs that were likely to be

lawful even though they contained restrictions on prices advertised. In conjunction with this action, the Commission also withdrew its "Policy Statement Regarding Price Restrictions in Advertising Programs".

Albertson's, Inc.

The Commission set aside a 1981 consent order that required Albertson's Inc. to obtain prior approval before acquiring certain grocery stores. The order settled charges that Albertson's acquisition of Fazio's, the California Division of Fisher Foods, Inc. retail grocery store business in Los Angeles and Orange Counties, California, violated the federal antitrust laws. The Commission ruled that there is no longer a need for the order because the market on which the complaint focused is relatively unconcentrated, and any trend toward concentration that may have existed at the time the order was issued appears to have been arrested.

Allied Corp.

The Commission modified a 1983 order with Allied Corp. by deleting a requirement for prior approval of acquisitions in the high-purity acid market. The order settled charges that Allied's acquisition of Fisher Scientific Co. reduced competition in three high-purity acid markets. The Commission terminated the prior approval provision because Allied no longer retains the business that was covered by the order. The order now provides that, until 1993, the successors to Allied must obtain prior approval before acquiring any interests or assets of a high-purity acid maker. Allied was acquired by The Henley Group in 1986.

American Standard, Inc.

The Commission granted in part a request by American Standard, Inc. and modified an order to permit American Standard, as a successor to Westinghouse, to engage in activities necessary to participate in lawful joint ventures. American Standard's petition to vacate the order entirely was denied because the Commission ruled that the company did not adequately show that changed conditions of fact or law, or the public interest, justified the termination of the other prohibitions. The 1964 consent order settled charges that Westinghouse Air Brake and General Railway Signal Co. fixed prices for railroad signaling products and discriminated in price among different purchasers of signaling products.

Interco, Inc.

The Commission modified a 1978 consent order with Interco, Inc. and its Londontown Corp. and Queen Casuals, Inc. subsidiaries by deleting the exclusive dealing prohibitions. The order settled charges the companies fixed prices and unlawfully prohibited retailers from purchasing footwear from other manufacturers.

McKesson Corp.

The Commission granted in part and denied in part a petition filed by McKesson Corp. (formerly Foremost-McKesson) to reopen and set aside a 1973 consent order. The partial modification of the order deleted the provisions that prohibited McKesson from offering customers any compensation to attend its trade shows if the inducement depended on the volume of the customers' purchases from McKesson. The Commission denied the request to vacate the other two provisions of the order.

National Fire Hose Corp.

The Commission set aside a 1979 consent order that prohibited National Fire Hose Corp. from restricting the customers or territories in which a distributor could sell National's products. The Commission ruled that prohibiting National from imposing otherwise lawful territorial restrictions on its fire hose distributors appeared to lessen the efficiency of National's distribution system and to discourage distributors from carrying and promoting National's products.

Union Carbide Corp.

The Commission approved in part a request by Union Carbide Corp. to reopen and modify a 1977 consent order. The Commission granted Union Carbide's petition to delete all references to welding products and gas welding apparatus and denied Union Carbide's request that it be allowed to enter into long term contracts that require industrial gas distributors to buy all of their gases from Union Carbide. In addition, the Commission denied the request to delete the prior-approval provision for certain acquisitions and to instead allow the company to give the FTC 30 days notice.

CONSUMER PROTECTION MISSION

Beneficial Corp.

The Commission modified a 1979 consent order with Beneficial Corp. concerning the company's income tax preparation services. A prohibition on the use of their term "instant tax refund" was removed, but Beneficial is required to disclose that a fee is involved and must make the refund within five days. The company is also required to disclose that its offer to pay obligations resulting from the company's errors does not include payment of taxes that its customers owe. In addition, the Commission deleted a prohibition against advertising the expertise of Beneficial's tax preparers, modified an absolute prohibition against advertising the percentage of customers that receive income tax refunds, and modified a prohibition against the disclosure of confidential taxpayer information, allowing disclosure under IRS procedures.

Ford Motor Company, et al.

The Commission modified a consent order issued against Ford Motor Co. and Ford Motor Credit Co. that established procedures for the sale of repossessed cars and light trucks. Under the modifications, the Commission replaced the repossession accounting procedure with a "repossession guide" that Ford must provide its dealers to give them guidance in handling repossessions in various states. In addition, the modified order eliminates specific limitations on deductions dealers are allowed to take when calculating surpluses, and substitutes a provision permitting them to deduct costs allowed under state law.

Glendinning Associates, Inc.

The Commission modified a 1976 consent order with Glendinning Associates concerning restrictions on contests the company prepares and sells. The Commission lifted a prohibition against running skill contests that are not based on matters of established provable fact. It also altered provisions requiring skill contests to be based on reference materials that are available in the typical public library and requiring disclosure of the names of the particular reference books containing the answers. The Commission replaced those provisions with new ones requiring that correct answers be ascertainable from authoritative reference works and that contestants be informed of that fact.

PRELIMINARY AND PERMANENT INJUNCTIONS

MAINTAINING COMPETITION MISSION

American Hoechst Corp.

The Commission authorized its staff to seek a preliminary injunction to bar the proposed acquisition of Celanese Corp. by American Hoechst Corp. The Commission alleged that the proposed acquisition could reduce competition in the production of textile fiber in the United States. Prior to filing for an injunction, the Commission accepted a consent agreement with American Hoechst that resolved the antitrust concerns.

E.I. DuPont de Nemours and Co.

The Commission authorized its staff to seek a preliminary injunction barring the proposed acquisition of Asamera, Inc.'s Denver area refinery and other assets by Conoco, Inc. Conoco, a subsidiary of Dupont, proposed to acquire Asamera Pipe Line Inc., its one-third interest in the Antelope Pipe Line System, a petroleum refinery in Commerce City, Colorado, and other petroleum assets in Colorado and Wyoming. The Commission alleged that the proposed acquisition could substantially lessen competition in the purchase and transportation of crude oil in the Denver area and increase prices for gasoline, diesel fuel, and other refined products in Denver and in eastern Colorado. The parties canceled the transaction before the motion for an injunction could be filed in federal district court.

Invacare Corp.

The Commission authorized its staff to seek a preliminary injunction to block Invacare Corporation's proposed merger of Huntco Health Care Inc. The Commission alleged that the merger could substantially reduce competition in the production and sale of home care beds, portable health-care beds leased by consumers for home use. Invacare and Huntco are the two largest domestic manufacturers of home care beds. The merger was abandoned before the motion for a preliminary injunction could be filed in federal district court.

Kidde Inc.

The Commission authorized its staff to seek a preliminary injunc-

tion to block the proposed acquisition of Harnischfeger's crane business by Kidde Inc. The Commission alleged that the proposed acquisition would reduce competition in the sale of mobile hydraulic cranes used in the construction of multi-story buildings. Kidde's Grove Manufacturing Co. subsidiary and Harnischfeger are the two largest suppliers of mobile hydraulic cranes in the United States. The companies abandoned the transaction prior to the filing of the injunction action.

Pacific Resources, Inc.

The Commission authorized its staff to seek a preliminary injunction to bar the acquisition of Shell Oil Co.'s petroleum distribution and marketing assets in the State of Hawaii by Pacific Resources Inc. The Commission alleged that the acquisition could substantially reduce competition in the distribution of gasoline from terminals and increase the ability of other Hawaiian refiners to raise prices at the terminal level.

Supermarket Development Corp.

The Commission authorized its staff to seek a preliminary injunction to bar Furr's Inc., a wholly-owned subsidiary of Supermarket Development Corp., from acquiring Safeway's El Paso division. The Commission alleged that the proposed acquisition of grocery stores and other assets in south and west Texas and New Mexico could substantially reduce competition among grocery stores in the area. Prior to filing the injunction action, the Commission accepted a consent agreement with Supermarket Development that resolved the competitive concerns.

Svenska Cellulose AB

The Commission authorized its staff to seek a preliminary injunction to block the proposed acquisition of the Impco division of Ingersoll-Rand Co. by Sunds AB. Sunds AB is a subsidiary of Svenska Cellulose AB of Sweden and United Paper Mills of Finland. The Commission alleged that the proposed acquisition could substantially reduce competition in the production and sale of equipment used to bleach wood pulp to be made into paper. Sunds Defibrator Inc., Sunds' American subsidiary, and Impco both sell equipment used to bleach chemical pulp in the United States. The parties abandoned the transaction before the filing of the injunction action.

CONSUMER PROTECTION MISSION

Alaska Land Leasing, Inc., et al.

The Commission obtained a permanent injunction against Alaska Land Leasing, Federal Lease Filing Corp., and nine other corporate and individual defendants for fraudulently selling oil and gas leases, in Alaska, that have little or no value. The defendants sales were approximately \$18 million. Consumers will receive \$1,980,000 in refunds under the settlement reached with the defendants.

American National Cellular, Inc., et al.

The Commission obtained a settlement with American National Cellular requiring defendants not to mislead potential investors about the chances of winning federal lotteries for the right to build cellular telephone systems and the profits to be made from owning and operating such a system. The defendants had 5,500 customers and total sales of \$22.9 million. The settlement also provided consumers with redress exceeding \$5 million, including \$1 million in cash.

AMREP Corp.

The Commission filed a complaint against AMREP Corp. seeking redress for certain customers who bought undeveloped land the company sold in New Mexico and Florida using false and misleading claims. The complaint charged that AMREP's "dishonest or fraudulent conduct" led over 20,000 consumers to spend more than \$35 million on land that has little or no resale value or investment growth. An order against AMREP became final in 1986, this complaint was filed to obtain consumer redress.

Amy Travel Service, Inc., et al.

The Commission filed a complaint charging three nationwide telemarketers of "Vacation Passports" with misleading consumers about the price of vacations and billing consumers' credit cards without their consent. The federal district court issued a temporary restraining order prohibiting these practices to prevent further consumer injury while the case is being litigated. The Commission is seeking permanent injunctions and consumer redress.

Atlantex Associates, Ltd.

The Commission filed a complaint charging Atlantex, a Miami-based telemarketing firm, with falsely claiming it could guarantee investors long-term, low-risk, high-level income from oil and gas drilling partnerships. The Commission alleged that consumers lost more than \$8 million of their investments in the drilling partnerships. A temporary restraining order was issued and a freeze of defendant's assets was ordered. The Commission is seeking permanent injunctions and consumer redress.

Charles Michael Fischer

Charles Michael Fischer, a defendant in the American National Cellular case, pled guilty to criminal contempt charges and was sentenced to six months imprisonment. Mr. Fischer was charged with violating a 1985 injunction prohibiting misrepresentations in connection with the marketing of services for preparing cellular telephone lottery applications.

Comprehensive Accounting Service Co.

The Commission obtained a settlement with the nation's largest franchiser of bookkeeping, accounting, and tax services, for violating the law by misrepresenting the earnings and profits of its franchisees. The company will provide former and current franchisees 25 percent of their original franchise fee, for an estimated total of \$3.5 million. Comprehensive Accounting has sold more than 800 franchises over the last two decades, and has approximately 350 currently in operation.

Copy Data Systems, Inc., et al.

Under a settlement, Copy Data Systems agreed to pay \$300,000 in consumer redress and to stop its challenged practices. The complaint charged the company with making repeated misrepresentations in selling photocopy supplies over the telephone to small businesses and nonprofit organizations around the country.

Crane-Weiland Funeral Directors

The Commission filed a complaint in federal district court charging the owners of Crane-Weiland Funeral Directors with failing to provide consumers with information required by the Funeral Rule.

The Commission asked the court that the funeral directors be ordered to pay civil penalties and be enjoined from violating the rule in the future.

Credit-Masters, et al.

The Commission obtained a settlement with John Liberto, owner of a mail order credit company prohibiting him from misrepresenting his services and requiring him to provide redress in the form of public service announcements that warn consumers about potentially deceptive credit services. Mr. Liberto conducted business under several names, including Credit-Masters, and advertised the availability of loans and major credit cards for consumers in more than 25 nationwide journals and newspapers.

Crystal Ford Ltd., et al.

The Commission filed a complaint against Crystal Ford and its president for violating the Used Car Rule by failing to display properly completed window stickers on the used vehicles it offered for sale to consumers. The Commission asked the court to order the Maryland car dealership to pay civil penalties and not to violate the rule in the future. This was the first time the Commission brought charges for violations of the used car rule since it went into effect in May 1985.

Dudley Hughes Funeral Home

The Commission filed a complaint in federal district court charging the owner of Dudley Hughes Funeral Home with failing to provide consumers with information required by the Funeral Rule. The Commission asked the court that the company be ordered to pay civil penalties and be enjoined from violating the rule in the future.

Hopkins Dodge and Freeway Dodge

A federal district court found that Hopkins Dodge and Freeway Dodge had violated the Truth-in-Lending Act's credit advertising rules. The Commission had charged the two Minneapolis-St. Paul automobile dealers with giving consumers incomplete information in their ads, even after staff contacted the dealers, gave them copies of the law, and explained what was wrong with their ads and how to correct them. The court permanently enjoined the defendants from violating the Act in the future.

Jerald Woods

Jerald Woods pled guilty to criminal contempt charges for violating a 1985 injunction issued in the American National Cellular case. Mr. Woods was sentenced to a suspended six month prison term and three years of supervised probation for violating a 1985 injunction prohibiting misrepresentations in connection with the marketing of services for preparing cellular telephone lottery applications.

Michael Godfree

Michael Godfree, former president of American National Cellular, was found guilty of criminal contempt of court for wilfully disregarding a 1985 court order freezing his assets. He was sentenced to a suspended term of six months in prison, given five years probation, required to pay \$28,000 in restitution, and ordered to devote 500 hours to community service.

Numis Group, Inc.

The Commission obtained a temporary restraining order and asset freeze against Numis Group, a nationwide seller of coins for investment, with total sales of several million dollars a year. The complaint charges the company with misrepresenting the value and investment potential of its coins. The Commission is also seeking preliminary and permanent injunctions and an order to pay consumer redress against Numis Group, its predecessor Schoolhouse Coins, and three individuals. The court appointed a temporary receiver to take control of the assets of the two corporations.

Rainbow Enzymes, Inc., et al.

The Commission filed a complaint in federal district court against Rainbow Enzymes, charging that it misled consumers into paying \$3,000 each to participate in manufacturing a cleaning fluid, and made false claims about the quality, composition and value of its product. The court granted the Commission's request for a temporary receiver, and an asset freeze. The complaint also charged that the defendants falsely claimed that major companies and government agencies had endorsed the cleaner.

Rare Coin Galleries of America, Inc., et al.

The Commission obtained an agreement requiring that owners of three nationwide rare coin companies transfer most of their personal assets to a bankruptcy trustee for payment of creditors, including consumers. The agreement settles charges that the coin dealers misrepresented the grade and investment value of the coins they sold. Under the settlement, the defendants are permanently prohibited from selling rare coins to the public and from grading rare coins that are for sale to the public.

Security Rare Coin & Bullion Corp.

The Commission filed a complaint in federal district court charging Security Rare Coin & Bullion, a leading manufacturer of coins for investment, with misrepresenting the value and investment potential of the coins. The Commission alleged that many of the coins graded by the company were substantially inferior to similarly graded coins available from other dealers. The Commission asked the court to grant a temporary restraining order, asset freeze, preliminary and permanent injunctions, and an order to pay consumer redress.

Southwest Sunsites, Inc., et al.

The Commission filed a complaint seeking redress for consumers who bought undeveloped land in Texas from Southwest Sunsites and continued to make payments on the land as a result of false and misleading claims. Southwest Sunsites is under a 1985 Commission order requiring it to cease and desist from its unfair and deceptive practices. The Commission charged that there is little or no resale market for the purchased lots, and many of the consumer have been unable to use the land as represented or to recoup even their initial investment.

Standard Financial Management Corp., et al.

The Commission obtained a settlement with Standard Financial Management, which does business as New England Rare Coin Galleries, providing at least \$1.5 million in refunds to consumers. The complaint charged defendants with misrepresenting the value and investment potential of coins it sold. Defendants agreed not to misrepresent the grade, quality, or value of any coins they sell in the

future, and also agreed to disclose material facts about the grading and investment value of rare coins.

Theodore Weiswasser

The Commission filed a settlement with Theodore Weiswasser, prohibiting him from having any further connection with timeshare businesses. Weiswasser was charged with misrepresenting vacation timeshare interests in Hawaii, Lake Tahoe, Nevada, and the state of Washington. He is currently serving a three year prison term for criminal contempt for his operation of timeshare programs in Texas in violation of a 1981 preliminary injunction.

Trans Alaska Energy Corp., et al.

The Commission obtained a permanent injunction and order requiring Trans Alaska to pay \$2.1 million into a consumer redress fund to settle charges it misled customers into buying worthless oil and gas leases. The Commission charged that the defendants used a fraudulent telemarketing scheme to induce consumers to invest thousands of dollars each by misrepresenting the value of oil and gas leases on federal land located in Alaska and Wyoming.

Volcano Mines, Inc., et al.

The Commission charged in federal district court that the Volcano Mining Project was a bogus investment scheme. Several of the defendants in the matter agreed to pay \$65,000 into a consumer redress fund. According to the complaint, Volcano Mining sold unmined ore from a mine in New Mexico to consumers as an investment, falsely claiming that gold and silver had been processed from the mine and that consumers would receive a return of \$45,000 to \$100,000 on a \$9,600 investment.

World Travel Vacation Brokers, Inc.

The Commission charged that World Travel Vacation Brokers misled consumers about the price of the Hawaiian vacations it offered, and did not give refunds to consumers who canceled their purchases. The federal district court issued a temporary restraining order prohibiting these practices and froze the defendant's assets. The Commission is seeking a permanent injunction against these practices. The complaint charged that the company told consumers that they had to pay only \$29 for a travel certificate that would

entitle them to one round trip airfare to Hawaii. In fact, consumers had to purchase accommodations from World Travel, which then added the actual cost of the airfare to the rates charged for accommodations.

CIVIL PENALTY ACTIONS

MAINTAINING COMPETITION MISSION

American Hospital Supply Corporation

The U.S. District Court for the Northern District of Illinois ordered American Hospital Supply Corporation to pay \$600,000 in civil penalties for violating a 1981 consent order. According to the complaint, American Hospital Supply acquired eight firms engaged in the sale of urological catheters between June 30, 1981, and May 31, 1983, in violation of a consent order that prohibited the company from acquiring companies engaged in the manufacture and distribution of catheters. The 1981 consent order settled charges that American Hospital Supply's acquisition of American Cystoscope Makers, Inc. would create a monopoly in the urological industry. The consent ordered the divestiture of American Cystoscope and placed American Hospital Supply under a prior approval provision for a ten-year period. The complaint further alleged that American Hospital Supply filed four false compliance reports between 1981 and 1983, stating that the company has not made any acquisitions for which prior approval was required.

Union Carbide Corp.

The Commission charged Union Carbide Corp. with violating a 1977 consent order by offering or entering into contracts prohibited by the order. According to the complaint filed in the U.S., District Court for the Southern District of New York, Union Carbide entered into, or offered, at least 34 contracts or agreements requiring its distributors to purchase industrial gas over an initial term in excess of one year. The consent order prohibited Union Carbide for a period of 20 years from entering into such contracts, unless the contract had an initial term of less than one year and was also terminable annually upon not more than ninety days notice. The complaint sought maximum civil penalties and other injunctive relief.

CONSUMER PROTECTION MISSION

ACB Sales & Services, Inc., et al.

ACB Sales & Services, a major debt collection organization, was ordered to pay \$350,000 in civil penalties as a result of charges that it violated the law by using abusive, deceptive, and unfair practices in collecting debts. The company was charged with violating a 1974 order and the Fair Debt Collection Practices Act.

Alan F. Goda

Alan F. Goda, one of eleven defendants named in the Trans Alaska Energy Corp. complaint, agreed to pay \$100,000 in civil penalties to settle Commission charges of defrauding consumers by inducing them to invest in worthless oil and gas leases in Alaska and Wyoming. Goda was also permanently enjoined from future violations of the FTC Act.

Allied Stores Corp.

Allied Stores Corp. agreed to pay \$25,000 as an additional civil penalty under an agreement filed in court amending a 1984 consent decree. The 1984 decree settled charges that Allied's Gertz division violated federal credit laws and required Allied to pay a civil penalty of \$122,000. Under the amendment, the Commission agreed to delete a notice requirement of the original decree and Allied agreed to pay an increased penalty.

Avanti Group (U.S.A.) Ltd.

A consent decree requires the Avanti Group, a Georgia based fur retailer, to pay civil penalties of \$80,000 to settle Commission charges. The complaint charged the company with violating the Fur Products Labeling Act and the FTC Act by selling used fur garments as new and by mislabeling furs.

Central Adjustment Bureau

Central Adjustment Bureau, one of the nation's largest debt collection agencies, was ordered to pay a civil penalty of \$150,000 for violating the Fair Debt Collection Practices Act. The company was charged with making false threats of legal actions and harassing consumers.

Control Technology, Inc.

Control Technology, seller of franchises for energy-management systems, was ordered to pay \$870,000 in consumer redress and \$430,000 in civil penalties for misrepresenting the earning potential of its franchises and the services it would provide franchisees. Consumers paid from \$5,000 to \$12,500 for the franchises.

G.B. Enterprises, Inc.

G. B. Enterprises, a District of Columbia automobile dealership, agreed to pay \$25,000 in civil penalties for violating the Used Car Rule. The company was charged with failing to post Buyers Guides or posting guides that failed to include all required information on any warranty being offered on a vehicle.

Jeffrey K. Williams

Jeffrey K. Williams, owner and officer of Coast Credit Recovery, Inc. and National Credit Bureau, Inc., was charged with violating the Fair Debt Collection Practices Act in collecting consumer debts. In addition, he was charged with violating the FTC Act in collecting commercial debts. Under a consent judgment Mr. Williams will pay \$5,000 in civil penalties to settle Commission charges.

Kellwood Co.

Kellwood Co., a supplier of Sears, Roebuck & Co., agreed to pay \$200,000 in civil penalties to settle Commission charges that it misrepresented the amount of down filling in garments. Kellwood agreed not to misrepresent the kind or type of filling material in any down garment it sells. The consent decree will expire ten years after Kellwood stops making down garments.

Landmark Financial Services, Inc.

Landmark Financial Services, a consumer finance company, agreed to pay \$90,000 in civil penalties to settle charges it knowingly discriminated against elderly credit applicants because of their age. The company was charged with violating the Equal Credit Opportunity Act, which prohibits discrimination in the granting of credit.

Molbe Shoes, Inc.

Molbe Shoes, a nationwide mail order marketer of clothing, agreed to pay \$32,000 in civil penalties to settle Commission charges it violated the Mail Order Rule. The company, also known as French Boot Shop and FBS, is prohibited from violating the rule, and specifically prohibited from deeming orders cancelled and offering a company credit for purchases of alternative merchandise.

North American Office Systems, Inc., et al.

North American Office Systems was ordered to pay \$60,000 in civil penalties to settle charges it deceptively marketed and sold photocopy supplies through a telephone boilerroom operation. The complaint charged that the company misrepresented its affiliation, the brand of products it sold, and the price of products to small businesses and nonprofit organizations around the country.

Norwest Financial, Inc.

Norwest Financial, one of the largest consumer finance companies in the country, agreed to pay \$135,000 in civil penalties for violating federal credit statutes. The company was charged with failing to give consumers required information when they were denied credit, which is in violation of the Equal Credit Opportunity Act and the Fair Credit Reporting Act.

PC Network, Inc.

PC Network, a nationwide seller of computer hardware and software, was charged with violating the law by failing to give customers the option to cancel orders that were delayed, and failing to honor guarantees promptly. A consent decree settling the charges requires the company to pay \$61,000 in civil penalties. It also prohibits it from violating the Mail Order Rule and the FTC Act in the future, and requires it to honor any membership or product guarantee it offers.

Raffoler Ltd., et al.

Raffoler, a New York mail order company, agreed to pay \$150,000 in civil penalties to settle charges it violated the Commission's Mail Order Rule by not shipping merchandise on time and by not offering consumer refunds. The company sells inexpensive items

such as watches and telephones through newspaper advertisements.

Robert L. Garvin

Robert Garvin, president of Quality Cars, agreed to pay \$20,000 in civil penalties for violating the Used Car Rule by failing to display properly completed Buyers Guide window stickers on used vehicles offered for sale. Mr. Garvin was also charged with failing to provide all required information on Buyers Guides that were posted, and failing to give purchasers of used vehicles a copy of the Buyers Guide.

Sears, Roebuck & Co.

Sears, Roebuck and Co. agreed to pay \$200,000 in civil penalties to settle Commission charges that it misrepresented the amount of down filling in garments. Sears agreed not to sell any down garment that is mislabeled as to down or down and feather content. It also may not misrepresent the filling content of any down garment in an advertisement. Sears also agreed to provide the Commission, on request, with down garments to be tested by an independent laboratory.

Sheldon Friedlich Marketing, et al.

Seven mail order companies and three individual respondents agreed to pay \$600,000 in civil penalties for violating the Mail Order Rule. The defendants also agreed to a permanent injunction to settle charges that they made misrepresentations in the sale of many nationally advertised products.

Troy Suggs Funeral Home, et al.

Troy Suggs Funeral Home agreed to pay \$20,000 in civil penalties to settle charges it failed to give consumers information required by the Funeral Rule. The owners of the Dallas funeral home were charged with failing to give consumers all required price information when they made funeral arrangements.

TS Industries, Inc.

TS Industries agreed to pay \$125,000 in civil penalties under a consent judgment settling Commission charges it misrepresented

the effectiveness of its thermal insulation products. The consent judgment prohibits the defendants from violating the Insulation (R-Value) Rule in the future.

Tuff-Tire America, Inc.

The sellers of "Mr. Tuff-Tire" franchises were ordered to pay \$870,000 in civil penalties and \$1.4 million in refunds to consumers who bought 87 franchises based on misrepresentations by the sellers. Purchasers of the franchises paid amounts ranging from \$2,000 to \$98,000. Defendants were also ordered not to violate the Franchise Rule in the future.

Walser Motors

Walser Motors, a Minneapolis-St. Paul automobile dealer, was permanently enjoined from violating federal credit statutes. The complaint charged the company with failing to comply with the Truth-in-Lending Act in its ads, after receiving from Commission staff, copies of the law and an explanation of what was wrong with its ads and how to correct them. Walser may be required to pay a civil penalty of \$60,000 depending on the outcome of litigation against two other automobile dealers.

APPELLATE COURT DECISION

Hospital Corporation of America

On December 18, 1986, the United States Court of Appeals for the Seventh Circuit affirmed and enforced the Commission's order against Hospital Corporation of America that required the divestiture of two acute care hospitals in Chattanooga, Tennessee.

Louisiana-Pacific Corp.

On February 5, 1987, the United States District Court for the District of Oregon ruled that the Commission's denial of Louisiana-Pacific's 1980 petition to reopen the 1979 order violated the Administrative Procedure Act. The Court remanded the matter to the Commission with instructions to reopen the order and to consider whether the order should be modified. The Commission appealed this ruling to the United States Court of Appeals for the Ninth Circuit.

Owens-Corning Fiberglas Corp.

On February 2, 1987, the United States District Court for the Northern District of Ohio reversed a 1985 Commission decision approving the proposed divestiture of two Owens-Corning asphalt roofing plants to U.S. Roofing. The court ruled that U.S. Roofing would not be able to manage and operate the divested assets successfully and terminated Owens-Corning divestiture obligations under the 1984 final judgment.

SUPREME COURT DECISIONS

Hospital Corporation of America

On May 4, 1987, the Supreme Court denied Hospital Corporation of America's petition for certiorari to review a decision of the United States Court of Appeals for the Seventh Circuit affirming and enforcing a Commission order to divest two hospitals and one hospital management contract in the Chattanooga, Tennessee area.

ECONOMIC REPORTS COMPLETED

Economic reports usually entail original research concerning an issue relevant to current or long term policy.

State Regulation of Takeovers and Shareholder Wealth: The Effects of New York State's 1985 Takeover Statutes, Laurence Schumann, April 1987.

A Critical Evaluation of Petroleum Import Tariffs: Analytical and Historical Perspectives, Keith B. Anderson and Michael R. Metzger, April 1987.

Competition Among Hospitals, Monica Noether, May 1987.

Restrictions on Dental Auxiliaries, J. Nellie Liang and Jonathan Ogur, May 1987.

International Competitiveness and the Trade Deficit, John C. Hilke and Philip B. Nelson, May 1987.

The Potential for Tax Gains as a Merger Motive: A Survey of Current Knowledge and Research Opportunities, Denis A. Breen, July 1987.

WORKING PAPERS

Economic Working Papers are preliminary, unpublished work products of the Bureau of Economics, resulting from original research by Bureau staff, either in connection with ongoing agency activities or independent analyses. The papers usually entail relatively minor allocations of official time.

Mergers, Event Studies, and Systematic Risk, (WP #145), Paul Kupiec and Alan Mathios, October 1986.

Advertising and Product Quality: The Role of the Bonding Characteristics of Advertising, (WP #148), Pauline M. Ippolito, December 1986.

Why Price Correlations Do Not Define Antitrust Markets: On Econometric Algorithms for Market Definition, (WP #149), Jonathan B. Baker, January 1987.

Free Trading or Free Riding: An Examination of the Theories and Available Empirical Evidence on Gray Market Imports, (WP #150), John C. Hilke, February 1987.

An Empirical Conjectural Variation Model of Oligopoly, (WP #151), J. Nellie Liang, February 1987.

A Note on joint Ventures in Which Firms Contribute Complementary Inputs, (WP #152), Louis Silvia, May 1987.

A Note on Obtaining Estimates of Cross-Elasticities of Demand, (WP #153), David G. Tarr, May 1987.

Buyers and Entry Barriers, (WP #154), David T. Scheffman and Pablo T. Spiller, August 1987.

Price Leadership with Incomplete Information, (WP #155), Richard S. Higgins, William F. Shugart II, and Robert D. Tollison, September 1987.

Capital-Goods Market Definition, (WP #156), Richard S. Higgins, September 1987.

MISCELLANEOUS ECONOMIC POLICY PAPERS

Miscellaneous Economic Policy Papers result from basic research, and

generally entail small amounts of agency resources. These papers may be prepared by FTC staff economists or by outside individuals who have been granted access to economic data compiled by the FTC. These papers usually explore well-defined industrial organization and management strategy questions of interest to the broad policy concerns of the Commission.

Divisional Sell-Off: A Hazard Function Analysis, David J. Ravenscraft and F.M. Scherer, October 1986.

The Effect of Industry Heterogeneity in Structure-Performance Studies, David R. Ross and Ralph M. Bradburd, March 1987.

Unionization and industry R&D Intensity, Jane Pietrowski, October 1986.

Do Markets Differ Much?: Comment, David R. Ross, November 1986.

Do Firms Differ Much?: Some Additional Evidence, Ioannis Kessides, January 1987.

Testing the Effect of Activity Mix on the Profitability of Size, Ralph M. Bradburd and David R. Ross, January 1987.

Innovation and Learning: The Two Faces of R&D - Implications for the R&D Investment, Wesley M. Cohen and Daniel Levinthal, January 1987.

The Profitability-Concentration Relation: Applying a U.K. Test to U.S. Data, David R. Ross, March 1987.

Diversified Entry By Established Firms, Cynthia A. Montgomery and S. Hariharan, February 1987.

When It's Good Management to Give Up Market Share, Cathy L. Anterasian, March 1987.

Profits, Concentration and Raw Materials-Based Manufacturing, David Ross, June 1987.

CONSUMER AND COMPETITION ADVOCACY

OFFICE OF CONSUMER AND COMPETITION ADVOCACY

In fulfilling its competition and consumer protection missions, the Commission seeks to prevent or lessen consumer injury caused by private or governmental interference with the proper functioning of the marketplace. Growth in number and reach of laws and regulations have made legislative and other governmental bodies important participants in the market economy. In some instances, laws or regulations may have injured consumers by restricting entry, protecting market power, chilling innovation, limiting competitive responses of firms, and wasting resources without providing countervailing benefits. These results may occur because the interests of consumers often are not well represented in the regulatory process. The basic goal of the staff's advocacy program is to reduce these adverse effects on consumers by assisting appropriate governmental entities in understanding the potential effects on the market and on consumers, of proposed legislation or regulations. The Office of Consumer and Competition Advocacy is the central source of planning, coordination, review, and information for the staff's work in this area.

In fiscal year 1987 the staff submitted 102 comments on a variety of issues in such areas as advertising, antitrust, communications, environment, finance and credit, health care, international trade, occupational licensing, product labeling, professional conduct, rent control, transportation, and vertical restraints.¹

ADVERTISING

The staff suggested ways in which the SEC could meet its goals without sacrificing the consumer benefits associated with truthful, nondeceptive ads.

The Commission filed a brief before the Superior Court of New Jersey in *Coldwell Banker v. N.J. Real Estate Commission* that discussed a state regulatory agency's potential interpretation of an ambiguous regulatory rule. The interpretation would have prohibited real estate brokerage firms from competing for consumers' business by means of publicly advertised coupons offering buyers and sellers of residential real estate discounts on retail goods and services. The Commission argued that such an interpretation would be unlikely to protect consumers, but could lessen price competition.

See also Professional Conduct and Health Care.

¹ The number of comments discussed above is less than 102 because pre-hearing briefs and petitions were counted as comments, but not summarized separately.

ANTITRUST ISSUES

The staff submitted comments or letters to the National Association of Attorneys General (NAAG), the Department of the Interior, the Department of Transportation, the Federal Energy Regulatory Commission, New York, and Wisconsin, and filed two amicus briefs on antitrust matters.

The staff submitted comments on NAAG's proposed Horizontal Merger Guidelines, and discussed the benefits of focusing the analysis upon the questions of whether a merger will increase the probability that firms will be able to exercise market power. The staff submitted comments to the Department of the Interior on the competitive impact of proposed regulations of the Minerals Management Service concerning prelease prospecting within the Outer Continental Shelf for minerals other than oil, gas, and sulfur.

The staff submitted comments to the Department of Transportation (DOT) on a proposal that air carriers be given limited antitrust immunity to discuss scheduling overlaps at congested airports. The staff opposed this proposal, and suggested that DOT impose limits on airport operations as needed and permit the resulting landing rights (slots) to be exchanged for cash.

The staff submitted, to the Federal Energy Regulatory Commission (FERC), comments on the propriety of allowing pipelines to own and operate their own (unregulated) marketing affiliates. The staff noted that consumer welfare-reducing behavior would be a problem only where market power existed. The staff said that FERC could consider limiting its remedy to those markets in which buyers and sellers of gas lacked alternatives to an integrated firm. The staff also commented to FERC that firms may be able to raise the costs of their rivals by using the FERC's administrative procedures in an anticompetitive manner. The FTC staff, referring specifically to a petition of two natural gas pipeline companies filing to block entry of a third, suggested that such activity could raise the cost of delivered natural gas.

The staff, in two letters to the New York State Assembly Committee on Agriculture, submitted comments on proposed legislation that would revise licensing law restrictions on the distribution of milk. The FTC staff supported one bill's deletion of the "destructive competition" and below-cost pricing entry barriers because of their potential to stifle competition.

The staff submitted comments, in a letter to the State Senate, on a repeal of Wisconsin's Unfair Sales Act. The FTC staff supported repeal of the Act, which prohibited sales below cost and required fixed markup for certain merchandise. The staff argued that the Act was contrary to the public interest and unnecessarily restrained competition.

The FTC staff and the Department of Justice argued, in briefs on *Indian Head v. Allied Tube & Conduit Corp.* before the U.S. Court of Appeals for the Second Circuit, and *Sessions Tank Liners, Inc. v. Joor Manufacturing, Inc.* before the U.S. Court of Appeals for the Ninth Circuit, that attempts to influence private standards organizations are not immune from antitrust scrutiny under the Noerr-Pennington doctrine.

COMMUNICATIONS

The staff submitted comments to the Federal Communications Commission on the costs and benefits of a proposal to auction certain unused frequencies in the radio spectrum. The staff concluded that the Congress should enact the proposal with the auctions limited to the initial sale of frequencies.

The staff also submitted comments to the FCC on a revision of rules that prohibited common ownership of more than one AM station, one FM station, or one AM/FM combination in a given market. The staff provided analytical arguments that tended to support the FCC proposal and, in addition, provided empirical estimates of the cost savings which could result from the rule change.

In comments submitted to the Copyright Office of the Library of Congress, the staff noted that any compulsory licensing of satellite master antenna systems is likely to harm consumers. The staff qualitatively identified the costs and benefits associated with the extension of the compulsory license, and encouraged the Copyright Office to consider them.

ENVIRONMENT

The staff submitted comments to the Environmental Protection Agency on a proposed certification program for the averaging, trading, and/or banking of credits for emissions of nitrous oxides and diesel particulates from heavy duty truck engines. The staff supported the use of trading because it might help alleviate any competitive problems associated with averaging that might accrue to "full line" producers and might increase consumer welfare.

FINANCE/CREDIT

The staff submitted comments in California, Illinois and New Mexico on proposed interest rate ceilings on credit cards and other credit transactions. A rate floor was also proposed in California. The staff argued that the rate limitations cause lenders to seek to maintain profits in other potentially less desirable ways. An interest rate ceiling may reduce the flow of credit to high-risk borrowers and a floor may diminish competition in the credit market.

The staff submitted comments in New York supporting continued deregulation of interest rates and service charges and favoring required disclosure of certain credit terms in credit card applications. The staff suggested modifications to make the proposed mandatory disclosure less costly, however.

HEALTH CARE

Advertising

The staff submitted comments on advertising by health-care professionals in Florida, Kentucky, Louisiana, Missouri, New Jersey, New Mexico, South Carolina, Tennessee, and Virginia.

In letters on regulation of advertising of dental services in Florida, Kentucky, Louisiana, Missouri, New Jersey, Tennessee, and Virginia the staff suggested that some regulation may deprive consumers of useful information about dentists and their services and hinder competition among providers of dental services. The staff urged that an licensed dentists be permitted to advertise the services they may legally provide in truthful, nondeceptive ways, without overly burdensome disclosure requirements.

The staff submitted comments in letters on regulation of advertising by optometrists in New Mexico and South Carolina. Restrictions on truthful, nondeceptive advertising may raise prices above levels that would otherwise prevail and decrease the quality of care, possibly without countervailing benefit to consumers. The staff recommended that states consider repealing or amending restrictions on eye care professionals' truthful advertising and on the commercial form of their practice.

Also in South Carolina, the staff suggested that restrictions on advertising by physical therapists, occupational therapists, psychologists, speech pathologists, and podiatrists be repealed or modified to allow truthful, nondeceptive advertising. The staff recommended the repeal or modification of restrictions on certain other business practices of these professionals.

In New Mexico, the staff generally supported certain changes which would eliminate restrictions on chiropractors' advertising, but suggested two modifications.

Pharmaceutical Restrictions

The staff submitted comments to the Department of Health and Human Services on three proposals to change the payment scheme for drugs obtained through the Medicaid Program. The staff praised the efforts to encourage the distribution of lower cost drugs and offered

suggestions for alterations to the program that would give patients the incentive to shop for lower priced drugs while maintaining the patient's ability to purchase their brand of choice via a copayment mechanism.

The staff submitted comments in California, Georgia (twice), and Maryland regarding regulations concerning physician dispensing of drugs. The staff noted that physician dispensing increases service and price competition and offers consumers greater choice and convenience. The second comment in Georgia supported an amendment to require dispensing practitioners to meet health and safety standards similar to those imposed on pharmacists.

Restrictions on Professional Practices

The staff submitted comments to California, Georgia, New Jersey, New York, and Nevada concerning restrictions on the practices of health care professionals.

In California, a bill was proposed to repeal the state's two-office limitation on dentist branching. The staff suggested that the existing law deters the establishment of high-volume practices, prevents dentists from efficiently allocating their time, and may contribute to higher prices.

The staff submitted comments in Georgia that recommended the repeal of rules that unnecessarily restrict the manner and commercial form in which dentists, optometrists, and podiatrists may practice. Repealing or amending some of these suggested laws would remove constraints on innovative forms of practice and advertising by these professionals.

In New Jersey, the staff submitted favorable comments on legislation to permit opticians to fit contact lenses. The staff said that allowing opticians to enter this market could be expected to force all types of providers of contact lens fitting services to lower their prices without adversely affecting quality. The staff also recommended that certification requirements should be as narrow and specific as possible so as not to restrict competition unnecessarily.

The staff submitted comments on prohibitions on physician employment of physical therapists in Nevada and New Jersey. The staff suggested that the limitations might reduce competition between independently practicing physical therapists and other health care providers, thereby denying consumers the benefits of the full range of service, price, and quality options.

Also in Nevada, the staff suggested that a prohibition on health maintenance organizations (HMOs) entering into contracts with their participating physicians to prevent the physicians from affiliating with other HMOs, or, in some cases, with preferred provider organizations,

could impair the ability of HMOs to compete effectively with one another and with other health care plans.

Regulation of Hospital Practices

The staff submitted comments to Hawaii and Maryland on Certificate of Need regulations. The staff supported the elimination of requirements that hospitals obtain a certificate of need before building new facilities or expanding existing ones because the restrictions may contribute to higher health costs by restricting the supply of hospital services.

The staff submitted comments in New York on a proposal to require that hospitals in New York City be encouraged or required to reduce total general acute care hospital capacity. The staff said that such a reduction would stifle competition by making it difficult for hospitals to improve their market shares through lower prices or improved quality.

The staff submitted comments in New York to support a proposal to permit over-the-counter sale of magnification reading glasses. The staff said the bill would lower cost and increase convenience for consumers, but expressed concern that the proposed detailed disclosure could obliterate consumers' cost savings.

INTERNATIONAL TRADE

The Commission submitted briefs in cases before the Court of International Trade, the International Trade Commission (ITC), and the Department of Commerce on matters concerning international trade.

In a brief before the Court of International Trade in the appeal by Oki Electric Co., Ltd., from the 64K DRAM Antidumping decision by the Department of Commerce (DOC), the Commission argued that the Japanese market for DRAMs might be competitive, based upon an examination of certain market practices. Further, it was recommended that the Court remand the case to DOC for reconsideration of certain technical market definition questions.

In a preheating brief, on a countervailing duty matter involving an alleged governmental subsidy to the Canadian producers of softwood lumber, the Commission suggested that the low fee charged by the Canadian government for trees harvested from public land does not affect the total quantity of Canadian lumber production and therefore does not have serious adverse effect on American companies.

In a brief before the ITC on a case alleging a monopoly and attempted monopolization of the domestic market in electrically resistive monocomponent toner compatible with Canon copier machines, the Commission urged the ITC to apply established legal and economic principles to resolve the alleged monopolization issues presented.

The Commission argued in a brief to the ITC on the maintenance of

existing import relief for steel that the continuation of the restrictions could adversely affect competition in the domestic industry. Further, the Commission estimated that each job that is protected domestically costs U.S. consumers an average of \$83,000 per year, for a total of \$44 million annually.

OCCUPATIONAL LICENSING

The staff opposed a bill in New Mexico that provided for the licensing of interior designers, because it would inhibit entry into the profession and, therefore, would likely cause the price of design services to rise.

The staff submitted comments in Oklahoma on a bill that provided for the licensing of dry cleaners and the establishment of a regulatory board. The staff argued that the entry barriers would harm both competition and consumers, and the board's authority to set prices could eliminate price competition.

In Virginia, the staff submitted comments on the competitive effects of several proposed and existing regulations on licensure requirements and business restrictions on real estate brokers. The staff supported the proposal to allow real estate brokers to operate with more than one brokerage firm, but suggested that licensing standards and restrictions on a broker's use of his or her residence as a place of business be amended or deleted.

The staff submitted comments in Oregon on a proposed bin to require certification for pre-need funeral service sellers and to regulate the sale of such services. The staff expressed concern about the certification because it appeared to impose unnecessary restraints and could be used to keep out qualified sellers. The staff also suggested that a proposed reduction in the 100% trusting requirements might be beneficial and encourage increased sales.

The staff submitted comments to the Department of Labor on a proposal to replace a ban on the use of homeworkers in six industries with a certification system that would allow homework but would insure compliance with minimum wage laws. The staff concluded that the homeworker ban has likely resulted in inefficient production, and that gains to consumers and producers from removing the ban would be on the order of \$28-\$15 million per year.

PRODUCT LABELING

The staff submitted comments on issues surrounding labeling of products to the Bureau of Alcohol, Tobacco and Firearms, the U.S. Department of Agriculture and U.S. Customs.

The staff submitted comments on two issues to the Bureau of Alcohol, Tobacco and Firearms (BATF) concerning labeling. The FTC staff

generally supported a proposal to amend BATF's regulations regarding the advertising and labeling of "light" alcoholic beverages, but suggested several ways in which the regulations could be altered to allow more truthful advertising and to avoid unnecessary mandatory disclosures. The FTC staff opposed a BATF proposal to promulgate regulations that reaffirmed and further codified its policies restricting the use of the term "beer" in labeling and advertising of malt beverages on the grounds that the restrictions may deprive consumers of valuable information.

The staff submitted comments to the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture on the intended revision of standards for cooked sausages and frankfurters, and on the general issue of whether market failures create the need for an identity standard. The FTC staff provided an analysis of types and costs of market failures which could exist in this market. The staff concluded that mandatory disclosures of fat content would be preferable to a recipe (identity) standard.

The staff submitted comments to the U.S. Customs Service on a proposal that gray market imports be labeled as unauthorized imports or that all trademarks be removed. The FTC staff presented a theoretical discussion and summary of evidence on gray market activity, and suggested that private remedies or policies aimed at curtailing deception might be more appropriate than the proposal.

PROFESSIONAL CONDUCT

The staff sent letters to the American Bar Association House of Delegates and Commission on Advertising, as well as to legislatures and courts in Alabama, California, Florida, Georgia, Hawaii, Illinois, Kansas, Kentucky, Massachusetts, North Dakota, Oklahoma, West Virginia, and Wisconsin on the issues of solicitation and advertising by attorneys. The staff suggested that such activities were generally beneficial to consumers as long as they were truthful and nondeceptive since they provided additional information that would be relevant to a purchase decision. The staff therefore recommended that the state rules permit solicitation, except in circumstances suggesting a relatively specific risk that the customer would be subject to undue influence. The staff also recommended that attorney advertising not be burdened with too many affirmative disclosure requirements that would discourage its use. In Hawaii, the FTC staff suggested that trade names might give law firms an economical method for conveying information to consumers.

The staff submitted comments to the National Association of State Boards of Accountancy (NASBA) on a proposed new Model Code of Conduct and to the Governor of New Mexico on revisions of the New Mexico Public Accountancy Act of 1947. The staff suggested that some of NASBA's provisions be modified to protect consumers, urged that

NASBA reconsider an ambiguous restriction on abusive solicitation, and supported a proposal to allow the use of nondeceptive trade names. The FTC staff opposed the New Mexico bill because the restrictions on accountant solicitation might prohibit truthful, nondeceptive communications.

For issues concerning the conduct of health-care professionals, see Health Care.

RENT CONTROL

The staff submitted comments opposing rent control on commercial property in New York City and mobile homes in Washington. The staff said that rent control would reduce the supply of space available. The staff suggested that a better approach would be to ease zoning requirements.

TRANSPORTATION

Airlines

The staff submitted comments to the Federal Aviation Administration on a proposal to adjust landing fees and other charges at National and Dulles airports. The staff suggested that economically efficient pricing will benefit air travelers.

Taxicabs

In California, Illinois, Massachusetts, New York, and Washington, the staff submitted comments that supported open entry into the taxicab market. In those markets with taxicab permits, the staff suggests increasing the number of permits. Free entry and unrestricted fare competition, the staff said, are in the best interests of consumers.

Other

The staff submitted comments to a "sunset" review in South Carolina. The review examined the empirical evidence relevant to the economic regulation of trucks, buses, railroads, electrical utilities, and other areas of interest. The staff suggested several areas where South Carolina might be able to improve its regulations in order to avoid restrictive or anticompetitive practices.

VERTICAL RESTRAINTS

Dealerships

The staff submitted comments to Illinois (twice) and Texas on

restrictions on fleet sales of automobiles. The staff argued that competition is best served if it is free to operate without unnecessary regulation. The probable effect of such legislation is to reduce competition among used car dealers and to increase the prices consumers pay for used cars.

The staff submitted comments in Ohio and Wisconsin on automobile dealer entry restrictions. The staff cited the FTC's Bureau of Economics Staff Report on the effects of dealer entry regulations, which found that such laws raise automobile prices and have anti-competitive effects.

Distributorships

The staff submitted comments in Maryland and Nevada on restrictions on liquor/wine suppliers' ability to change or terminate their wholesale distributors. The staff argued that such restrictions would make it difficult for suppliers to distribute their products efficiently, and make it difficult to respond to changed market conditions.

Retail Divorcement

The staff submitted comments in California, Georgia, and Nevada on legislation that would prohibit petroleum refiners from owning retail gasoline outlets. The staff suggested that the prohibition would be anti-competitive and harmful to consumers because of higher prices for gasoline.

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