

Annual  
Report  
of the **FEDERAL  
TRADE  
COMMISSION**

For the Fiscal Year Ended  
June 30, 1957

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## Letter of Transmittal

FEDERAL TRADE COMMISSION,  
Washington, D. C.

To the Congress of the United States:

It is a pleasure to transmit herewith the Forty-third Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1957.

By direction of the Commission.

JOHN W. GWYNNE,  
Chairman.

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

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## THE YEAR'S HIGHLIGHTS

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This report of the Federal Trade Commission's work during fiscal 1957 presents an encouraging picture of the Commission's purpose and effectiveness.

Postwar peaks in new actions against both deceptive and monopolistic practices were achieved during the year. At the same time, the Commission mobilized its efforts to combat illegal concentrations of power in business. A particular effort was made to identify and proceed against illegal mergers whose effect was to reduce or eliminate competition.

It was a year in which a million dollar increase in appropriations was being translated into effective manpower. The 15 percent increase in funds recommended by the President and granted by the 84th and continued by the 85th Congress made possible a staff increase from 641 to 744. Most of the newcomers were integrated into the field investigative staff, making possible the transfer of many veteran attorneys to anti-merger work. The capacity of the new men—given on-job training during fiscal 1957—will be brought to bear on case work with full effect during fiscal 1958.

Finally, the Commission's year was notable for more intensive scrutiny in particular areas of false advertising. This concentration, achieved with no lessening of effort in other fields, produced a record number of cases against fur and wool dealers who mislabeled and falsely advertised their products, against manufacturers who advertised sure-cure concoctions for arthritis and rheumatism, and against a miscellany of advertisers who would deceive the public by heretofore elusive exaggerations over television and radio.

In numbers of actions taken, the Commission's record for fiscal 1957 continued the rising trend of recent years. Complaints issued totaled 242, compared with 192 in fiscal 1956. Total orders to cease and desist were 179 as compared to 172 the year before. There were a total of 31 antimonopoly orders as compared with 37 antimonopoly orders during the preceding year, a fact attributable in large part to time consumed in prosecuting necessarily complex and stoutly defended anti-merger cases. In the deceptive practice field, the orders to cease and desist totaled 148, whereas in the preceding year there were 132.

Indeed, the nine anti-merger complaints brought during the year equaled the total issued in the previous years following amendment of the Anti-merger Law (sec. 7 of the Clayton Act). It was this amendment that enabled the Commission to attack illegal mergers consummated through the purchase of assets. Named in the new complaints were the world's largest manufacturer of truck trailers, three of the biggest dairy companies in the country, the largest paper company in the world, a major oil company, two of the Nation's principal vending machine companies, and an important producer of sand and gravel.

Illegal concentration of business also was attacked by bringing actions against monopolistic practices that deny equal opportunity to competing firms. For example, the Commission ordered a leading candy manufacturer to stop giving chain retail stores illegal discounts. It also charged two major manufacturers of automobile safety glass were selling to Ford and General Motors at prices that discriminated against independent parts wholesalers. The two manufacturers agreed to cease and desist orders prohibiting these practices.

Similar favoritism was attacked in the case of firms who gave their most profitable customers an advantage over their competitors in promotional allowances. Two of the Nation's biggest cigarette companies were charged with putting on advertising displays in the stores of their best customers while ordering no such advantage to their smaller competitors. In the case of a major cosmetics manufacturer, the Commission found that some favored customers were being given more than eight-times as much money for cooperative advertising as the company's lesser customers.

Elsewhere, FTC's antimonopoly efforts were strengthened by court decisions upholding the Commission's power to issue subpoenas to obtain evidence and testimony required to prosecute Clayton Act violations. There had been no question that the FTC had such power under the Federal Trade Commission Act, but three companies challenged this authority when used to enforce Clayton Act prohibitions against monopolistic practices. The United States Supreme Court declined to review the decisions of the lower courts upholding the Commission's authority, including its right to subpoena records from firms which are not themselves being investigated or prosecuted.

By a 9 to 0 decision, the Supreme Court also sustained the Commission's authority to issue effective orders. This ruling was made in the Commission's case against the National Lead Co. and others in a case involving illegal zone pricing for lead pigments used in paint. The Commission had ordered the sellers to stop such pricing not only as an industry but as individuals. The sellers, on the other hand, contended that the order denied them their individual rights to employ lawful zone pricing. The high court held that the Com-

mission "was justified in its determination to include some restraint; in its order against the individual corporations in order to prevent a continuance of the unfair practices found to exist."

While the business community was most attentive to the Commission's antimonopoly work during the year, much of it went unnoticed by the general public. The reason is obvious; antimonopoly news makes heavy reading. Generally legalistic and technical, it concerns business actions at least one step removed from the ultimate consumer. Not so deceptive practices. In proceeding against false advertising and "gyp" schemes which defraud the credulous, the Commission performs a more readily appreciated service.

A total of 187 complaints and 148 orders to cease and desist were issued against firms for various deceptive practices, mostly false advertising. This was a sharp increase over the 150 complaints and 132 orders in fiscal 1956.

It must be recognized, however, that mere numbers of cases are not an accurate measure of the FTC's effectiveness. Numbers do not distinguish between routine and complex cases, nor do they reveal whether the investigative work involved little or much difficulty. What is important is that the public and honest business be protected regardless of whether or not the particular case is difficult to prosecute. Numbers of cases, taken alone, don't tell the story.

For example, in the monitoring of radio and television advertising, the significant development during the year was the testing of a system of checking on false and misleading advertising. Whereas in years past only a sampling of written scripts was analyzed (and even these were requested well in advance of their broadcast), the new program called for listening to and viewing "commercials"—including the "adlibbing" of radio and television announcers. Each of the FTC's field offices was made responsible for monitoring a certain number of hours of radio and television broadcasts each month. At the same time, the public was informed that it, too, could help by inviting the FTC's attention to dubious claims. By the year's end, six formal complaints had been issued against firms in the drug and cosmetics field, and many other investigations were well under way.

The kinds of deceptive practices are as varied as the ingenuity of hucksters can devise. The "fast-dollar operators" continued to try to sell false hope to the sick and disabled, to the credulous who seek a shortcut to "unbelievable" earnings, and to those citizens who believe reputable merchants charge too much. Such are the eager customers for companies whose advertising and sales methods run into trouble with the law, usually section 5 of the FTC Act which prohibits "unfair or deceptive acts and practices in commerce."

A typical cross section of "Section 5" deceptive practice cases during the year found the Commission ordering two drug makers in



Michigan to stop advertising that their product will cure arthritis and rheumatism. Another order stopped a Brooklyn home improvement company from advertising storm windows for \$8.88 when its real purpose was to get customers for higher priced merchandise. A seller of vending machines in Cleveland, Ohio, was made to stop obtaining customers by advertising in "help wanted" columns of newspapers, and another in Los Angeles was ordered to stop misrepresenting as "amazing" the profits to be made by purchasers of its ball point pen vending machines. Across the country, in New York, a seller of garden flowers was ordered to stop exaggerating their size and beauty and to reveal their common names. At about the same time, a seller of stainless steel cooking utensils in Milwaukee was forbidden to claim that his product would assure good health while other utensils and cooking methods would not. A few days later, a fellow Milwaukeean was ordered to stop representing that the weight reducing concoction he sold would have any effect on a person's weight.

Less varied, but equally important were the Commission's efforts to protect buyers of furs and woolens. In enforcing the Fur Products Labeling Act, the Commission brought complaints against 46 firms as compared to 26 the year before. The violations charged included such chicanery as failing to state in advertising that furs offered for sale were artificially colored and with attaching labels to them that identified the fur as coming from a more esteemed animal than was the fact. Also, the complaints struck hard at fictitious pricing and value claims.

Sharply stepped-up enforcement of labeling and advertising of woolens more than doubled the number of complaints issued in fiscal 1956 (26 compared to 11). Here the principal violation was the failure of manufacturers and dealers to state the true percentage of wool fibers in their products in relation to cheaper and less desirable fibers. Also under Commission attack was the practice of certain manufacturers to provide elaborate price tags carrying exalted prices at which the merchandise never was intended to be sold.

In addition to its formal proceedings which look to the issuance of cease and desist orders, a total of 105 less serious cases were disposed of (with savings in time and money) by stipulated agreements. Here, the respondents, while admitting no violation of the law, agreed to stop the complained of practices. This procedure, which eliminates hearings and other litigation, was employed whenever the Commission had reason to believe a voluntary agreement to abide by the Commission's interpretation of the law would effectively protect the public. The cases so settled were mostly false advertising and mislabeling of products.

Of even greater significance in the field of voluntary enforcement was the issuance of 10 new or revised trade practice rules for entire industries, bringing the total of such rules to 161. Probably the most important of the newly issued rules was for the \$3 billion jewelry industry. For the first time in history the industry can be guided by rules of fair practice that apply to all functional segments of the industry and to all jewelry items and products. That the industry asked for and received such clear guidance undoubtedly will obviate the need for bringing corrective actions against individual firms which might have erred because of ignorance of the law.

A further fulfillment of the Commission's function to study special economic problems and to make reports thereon to the Congress was shown by the progress made on its economic study of the antibiotics industry. Too little is known about the economics of this industry which has developed so rapidly since the last war that economic analysts have been unable to keep pace with it. Consequently, when the public became concerned with the cost of antibiotics, there were no comprehensive data from disinterested sources that would reveal whether the prices are too high. The FTC's economists have obtained a very substantial body of information. This, with certain additional facts being sought, will be developed into a report to Congress.

In broad outline these were the Commission's purposes and accomplishments during fiscal 1957. It was a year of progress in protecting the public and keeping the lanes of business competition free of illegal obstacles. Moreover, it was a year of development of capacity for even greater service.

## SCOPE OF AUTHORITY

### Basic Functions of the FTC

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The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate, of whom no more than three may be of the same political party. The Commission is charged with the responsibility for administering and enforcing laws in the field of antitrust and trade regulation. They deal with prevention of monopoly, restraints of trade, and unfair trade practices. The Commission also has the duty of investigating and reporting economic problems and corporate activity, particularly in relation to the antitrust laws and in aid of legislation. A primary purpose of the laws which the Commission administers is to protect competition in our private enterprise economy. These statutes are briefly described below.

The Federal Trade Commission Act of 1914, including the Wheeler-Lea Act Amendments of 1938

This legislation confers upon the Commission two broad functions. Under the first, the Commission, subject to certain exceptions, is "empowered and directed to prevent persons, partnerships, or corporations,<sup>1</sup> \* \* \* from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce," which are declared by the statute to be unlawful. The Commission is given power to investigate, to hear cases and to make determination of practices falling within this proscription.

Whenever deemed necessary in the public interest to resort to mandatory proceedings, the Commission is authorized to issue complaints against persons, partnerships, or corporations within its jurisdiction which it has reason to believe have been or are using any such unlawful methods, acts, or practices in commerce. If, upon clue proceeding and

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<sup>1</sup> Excepted from the jurisdiction of the Commission under such section are "banks, common carriers subject to the acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Administration Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said act. \* \* \*" Specific exemption from such provision against unfair methods of competition and unfair or deceptive acts or practices in commerce is provided for resale price maintenance contracts or agreements coming within the Federal Fair Trade Act approved July 14, 1952 (15 U. S. C. 47), also known as the McGuire Act.

hearing, the Commission finds that the practices in question violate the act, it is empowered to issue a cease and desist order against the offending party or parties. Such an order may be appealed from the Commission to a United States court of appeals, which is authorized to review the proceeding and to affirm, enforce, modify, or set aside the Commission's order. Thereafter, the case may be taken to the "Supreme Court of the United States upon writ of certiorari.

Originally, the cease and desist orders issued under the Federal Trade Commission Act were enforceable only by the appellate court through contempt proceedings, after its action had transformed the order into a decree of the court. The 1938 Wheeler-Lea amendments provided for a civil penalty action in the United States district court for violation of such final cease-and-desist orders. Under this provision the orders become final either through affirmance by the Court of Appeals or at the end of 60 days in the event no appeal is taken. If the order is violated after becoming final, a civil penalty suit may be instituted by the United States. Such an action is brought by the Attorney General at the request of the Commission, and the district court is authorized to impose civil penalties up to \$5,000 for each offense. Under an amendment enacted in 1950, each day of a continuing violation may be treated as a separate offense.<sup>2</sup>

The Wheeler-Lea Act amendments also conferred special authority upon the Commission for the control of false advertising of foods, drugs, cosmetics and curative or corrective devices. For such purposes the term "false advertisement" is defined to mean "an advertisement, other than labeling, which is misleading in a material respect;<sup>3</sup> \* \* \*." The term also is employed in section 4 of the Oleomargarine Act to any representations or suggestions that oleomargarine is a dairy product. In cases of this type, jurisdiction of the Commission may be grounded in use of the United States mails as well as interstate commerce. When necessary for protection of the public interest, the Commission is authorized to obtain temporary injunctions against the false advertising of foods, drugs, cosmetics or curative devices, pending completion of the cease and desist order proceedings. Where the commodity advertised is injurious to health, or where the advertising is with intent to defraud or mislead, criminal prosecution may also be had with maximum penalties of a \$5,000 fine and 6 months' imprisonment, or double this fine and imprisonment in case of second offenses. The Commission is authorized to certify the facts to the Attorney General for prosecution whenever it has reason to believe any person, partnership or corporation is liable under the criminal provision.

The second broad category of functions conferred upon the Commission under the Federal Trade Commission Act consists of the

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<sup>2</sup> Amendment contained in the Oleomargarine Act (64 Stat. 20).

<sup>3</sup> Sec. 15, Federal Trade Commission Act.

powers conferred by section 6. This section empowers the Commission to gather and compile information concerning, and to investigate from time to time, "the organization, business, conduct, practices, and management of any corporation engaged in commerce, except banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships." The Commission also is empowered to require such corporations to furnish information and to file annual and special reports. When directed by the President or Congress, the Commission is authorized to investigate and report facts relating to any alleged violations of the antitrust acts by corporations; to investigate for the Attorney General, or on the Commission's own initiative, the manner in which antitrust decrees against corporations are being carried out; and further, upon application of the Attorney General, to recommend readjustments of the business of corporations alleged to be in violation of the antitrust acts in order to bring the conduct of such business into accord with the requirements of law.

The Commission is further empowered to investigate from time to time trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States and to make reports thereon to Congress with recommendations. Under those section 6 powers of investigation and reporting, the Commission serves the executive and legislative branches of the Government, particularly in antitrust problems and in aid of legislation.

Section 7 confers authority upon the Commission to act as a master in chancery upon reference from the court to ascertain and report an appropriate form of antitrust decree in equity suits brought by or at the direction of the Attorney General.

The act confers visitorial powers upon the Commission, including specifically the right of access to documentary evidence of corporations, the right to issue subpoenas, examine witnesses, and require the production of testimony and documentary evidence, and the power to make rules and regulations to carry out provisions of the act.

#### The Clayton Act<sup>4</sup>

This antitrust law was enacted in 1914. It designates the Federal Trade Commission as an enforcing agency for the provisions of sections 2, 3, 7, and 8. Procedures are prescribed in section 11 by which, upon complaint and due hearing, corrective action may be applied by the Commission in the form of a cease and desist order or, in merger cases, an order of divestiture.

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<sup>4</sup> Approved October 15, 1914 (38 Stat. 730).

Section 2 of the Clayton Act, amended by the Robinson-Patman Act—Discriminatory Pricing.<sup>5</sup>—Subject to specified justification and defenses, this section provides that it shall be illegal to discriminate in price between different purchasers of commodities of like grade and quality sold for use, consumption, or resale within the United States, where the effect of the discrimination "may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefits of such discrimination, or with customers of either of them."

Exception is provided for differentials which make only due allowance for differences in cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the commodities are sold or delivered. Selection of customers in bona fide transactions and not in restraint of trade are not prohibited. The section, as amended, also specifies exceptions respecting sales necessitated by market conditions, disposition on account of deterioration of perishable goods; obsolescence of seasonal goods; distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned. A defense to a charge of discrimination is also specified in regard to sales "made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

Quantity-Limit Provision.—This is also contained in section 2 of the amended Clayton Act. It confers authority upon the Commission, after due investigation and hearing of all interested parties, to fix and establish quantity limits as to particular commodities or classes of commodities "where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce."

Brokerages, Commissions, Proportionally Unequal Terms or Facilities.—The Robinson-Patman Act also forbids the payment of certain brokerages and commissions except for services rendered to the party making the payment, as well as forbidding the payment by manufacturers or sellers for, or the furnishing of, services or facilities to dealers or resellers in connection with the processing, handling, sale, or offering for sale of the products or commodities sold, unless such payments or the services or facilities furnished are made available to all competing customers on proportionally equal terms.

Inducement of Discrimination.—Another provision of the Robinson-Patman Act makes it unlawful for any person in the course of commerce "knowingly to induce or receive" an illegally discriminatory price.

Tying or Exclusive Dealing Contracts.—Section 3 of the Clayton Act prohibits the lease or sale in the course of commerce of goods,

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<sup>5</sup> Approved June 19, 1936 (49 Stat. 1526).

wares, merchandise, machinery, supplies or other commodities, for use, consumption or resale within the jurisdiction of the United States on the condition, agreement or understanding that the lessee or purchaser shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of competitors of the lessor or seller, where the effect thereof "may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

Anti-Merger Law.—This statute, approved December 29, 1950,<sup>6</sup> is in the form of a revision and restatement of section 7 of the original Clayton Act. It is specific legislation on the subject of suppression of competition through the merger or consolidation of corporations. Such conduct is prohibited, whether brought about by the direct or indirect acquisition of either stock or assets of the acquired corporation, where the effect of the acquisition or merger may be substantially to lessen competition or tend to create a monopoly in any line of commerce in any section of the country. Certain exceptions are provided, including cases in which the stock is purchased solely for investment and not used for voting or otherwise to bring about or attempt to bring about the substantial lessening of competition. The Commission is designated as having enforcement responsibility applicable to commercial enterprises generally but not including specific businesses which are under the regulatory authority of other agencies, such as banks and common carriers.

Interlocking of Corporate Directorates.—Section 8 of the Clayton Act prohibits a person from serving at the same time as a director of two or more corporations, any one of which has capital, surplus, or undivided profits aggregating more than \$1,000,000 when such corporations are or have been competitors under the conditions prescribed, so that the elimination of competition would constitute a violation of any provisions of the antitrust laws.

Specifically excluded from the jurisdiction of the Federal Trade Commission under this as well as other sections of the Clayton Act are certain types of commercial enterprises subject to other regulatory authority, such as common carriers, air carriers, banks, banking associations and trust companies.

#### The Webb-Pomerene Export Trade Act of 1918 <sup>7</sup>

This law authorizes limited cooperative activity among American exporters for the purpose of promoting export trade. Associations engaged solely in export trade are afforded exemption from the Sherman Act within certain strict boundaries set out in the act. To qualify for such exemption, an association must file with the Commission copies of its association papers or articles of incorporation and a

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<sup>6</sup> 64 Stat. 1125.

<sup>7</sup> 40 Stat. 516.

complete description of its organizational structure, and bring this information up to date yearly. The Commission may require submission of additional information relating to the association's business activities at any time. A continuing surveillance of association activities is maintained by the Commission's Division of Export Trade.

Whenever the Commission concludes that an association is not operating within the limits of the antitrust exemption provided by the act, it may make recommendations to the association for readjustment of its practices. Upon failure of an association to comply with such recommendations, the Commission will refer the matter to the Attorney General for appropriate action.

The act also extends the prohibitions of the Federal Trade Commission Act to unfair methods of competition used in export trade against export competitors even though the acts are done outside the territorial jurisdiction of the United States.

#### Wool Products Labeling Act and Fur Products Labeling Act <sup>8</sup>

These laws constitute specific labeling legislation for maintaining the integrity of competition and protection of the buying public against confusion and deception.

Violations are classed as unfair methods of competition and unfair or deceptive acts or practices, within the Federal Trade Commission Act. Informative labeling of wool products and fur products is required. Labels on wool products are required to reveal the respective percentages of "wool," "reprocessed wool," "reused wool" and other constituents of wearing apparel and other articles containing or purporting to contain woolen fiber in whole or in part. Labels on fur products, as well as the advertising and invoicing, are required to disclose to purchasers the true name of the animal from which the fur came. For this purpose, an official Fur Products Name Guide has been prepared by the Commission. Other significant information also is required to be disclosed in the label informing the purchaser whether the fur article is dyed, bleached, damaged, secondhand, or pieced. The country of origin of foreign furs must likewise be disclosed.

The Commission is specifically authorized to inspect and make tests of the merchandise covered, and to issue rules and regulations which have the force and effect of law. When necessary in the public interest, the Commission may resort to court proceedings for condemnation of goods seized as violative, and may apply for temporary injunctions pending completion of cease-and-desist order proceedings against alleged offenders. Suits to collect civil penalties for violation of the Commission's final orders are also available in cases under these acts. For willful violations, misdemeanor prosecutions

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<sup>8</sup> Approved, respectively, October 14, 1940. 64 Stat. 1128, and August 8, 1951, 65 Stat. 175.



may be brought by the United States, and fines of up to \$6,000 or 1 year's imprisonment, or both, imposed by the court. Manufacturers and distributors may issue guaranties of having properly labeled their merchandise. Members of the trade may use such guaranties as a defense to charges of misbranding where the particular guaranty in question was relied upon in good faith. Forms of guaranties are prescribed by the Commission.

Flammable Fabrics Act, approved June 30, 1953, effective July 1, 1954<sup>9</sup>

The purpose of this statute is to afford the public protection from wearing apparel made of fabrics which are so highly flammable as to be dangerous. In the past, such fabrics have brought death or severe injury to many people.

A flammability test method is prescribed and apparel or fabrics which fail the tests are considered dangerously inflammable. It is forbidden by statute to introduce or place such merchandise on the market. In its administration of this act, the Federal Trade Commission is authorized to issue rules and regulations, to conduct tests, and to make investigations and inspections. The Commission is authorized to use its power under the Federal Trade Commission Act, including the cease-and-desist order process, in carrying out its responsibilities for enforcing the act. Offending goods found in the market may be seized and condemned through district court action brought by the Commission. Pending completion of proceedings for issuance of a cease-and-desist order against an alleged violator, the Commission may apply to the court for temporary injunction. Suits for violation of a final cease-and-desist order may be brought to recover civil penalties up to \$5,000 for each offense.

Manufacturers and distributors may guarantee their merchandise as having passed reasonable and representative tests for flammability. Members of the trade who rely in good faith upon these guaranties are afforded certain protection against prosecution. Willful violations of the act, whether in placing prohibited products on the market or in issuing false guaranty, may be prosecuted by the Government as misdemeanors. Upon conviction, fines up to \$5,000 or 1 year's imprisonment, or both, may be imposed by the court.

Regulation of Insurance—Public Law 15, 79th Congress<sup>10</sup>

This act was passed by Congress after the Supreme Court had ruled that the insurance business is subject to Federal jurisdiction under the commerce clause of the Constitution.<sup>11</sup>

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<sup>9</sup> 67 Stat. 111.

<sup>10</sup> Approved March 9, 1945, 50 Stat. 83. Effective June 30, 1948, see amendment approved July 25, 1947, 61 Stat. 448.

<sup>11</sup> United States v. Southeastern Underwriters Association, 332 U.S. 533, June 5, 1944.

Under this statute, the Federal Trade Commission and the Clayton Acts apply to the business of insurance to the extent that it is not regulated by State law.

Lanham Trade Mark Act, approved July 5, 1946 <sup>12</sup>

This authorizes the Commission to proceed before the Patent Office for cancellation of certain trade-marks improperly registered or improperly used in competition, as provided in section 14 of this act.

Defense Production Act of 1950<sup>13</sup> and Small Business Act of 1953 <sup>14</sup>

The former statute authorizes the Commission to make surveys at the request of the Attorney General to determine any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of administration of the Defense Production Act of 1950. The Chairman of the Commission, as provided in section 708, also is consulted regarding voluntary industry agreements and programs which the President is authorized to utilize to further the objectives of the act. Similar consultative responsibilities rest upon the Chairman of the Commission under section 217 of the Small Business Act. After agreements and programs have been subjected to this consultative review and have received official sanction, those participating are afforded immunity from the antitrust laws and the Federal Trade Commission Act.

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<sup>12</sup> 60 Stat. 427

<sup>13</sup> 64 Stat. 708.

<sup>14</sup> 67 Stat. 232.

## ADMINISTRATION

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The five Federal Trade Commissioners determine the agency's broad policies and make its final judgments on casework, voluntary law enforcement efforts, and economic studies. There must, however, be a great amount of work done to assemble the facts on which these judgments are based. This basic work, including the prosecution of cases, is accomplished by the Commission's staff of 740 men and women.

The staff, about half of whom are attorneys, is under general supervision of the Chairman of the Commission. He was given this authority in 1950 as a result of Reorganization Plan No. 8. This plan transferred from the five Commissioners to the Chairman the control of and responsibility for internal administrative functioning of the agency, but left to the full Commission other substantive responsibilities.

The administrative function of the Chairman carries authority to: (1) appoint and supervise staff members, (2) distribute the staff's workload among them, (3) determine how funds should be spent, subject, of course, to legal requirements. His appointment of Bureau heads and other key officials requires approval of the full Commission.

The Executive Director is the chief administrative officer of the agency. As such, he directs the work of most of the staff and coordinates its functioning.

The Commission's bureaus of investigation, litigation, consultation and economics are under the operational supervision of the Executive Director, who also has direct supervision of the Commission's divisions of personnel, budget and finance, management and organization, and general services. The Office of the General Counsel reports directly to the Chairman and the Commission.

### DIVISION OF PERSONNEL

The Division of Personnel initiates, develops, and administers personnel policies and programs in the spheres of recruitment, appointment and placement, training, position classification, efficiency ratings, employee relations, welfare, and health and recreation.

## DIVISION OF BUDGET AND FINANCE

The Division of Budget and Finance is responsible for the preparation and administration of the Commission's budget and maintains the fiscal records of the Commission. This office maintains salary, savings bonds, tax, Social Security, retirement, and annual and sick leave records for all employees of the Commission, including the field offices. This Division performs the audit, prior to payment, of all vouchers covering payment for travel expense, communications, and supplies and equipment. The Fiscal Section maintains the various ledgers and records necessary to reflect the financial position of the Commission at all times, and prepares the various financial statements and reports required by the Commission, the Bureau of the Budget, the Treasury Department, the General Accounting Office and the Congress.

## DIVISION OF MANAGEMENT AND ORGANIZATION

The Division of Management and Organization conducts management surveys and recommends and installs organization changes, management reports, procedures, and establishes staffing patterns that will enable the Commission to operate more efficiently and effectively.

Improvements installed during the past year include: (1) The development of procedures for integrating the inspections and investigations performed under the Wool, Fur, and Flammable Fabrics Acts with the other investigative work of the Commission; (2) The utilization of field investigative staffs in the monitoring of radio and television advertising; (3) A procedural and manpower utilization survey of the Division of Financial Statistics has resulted in a reduction in personnel engaged in this activity from 47 to 35.

In addition, the continuing examination of service functions resulted in improvements in stenographic and typing services and filing operations.

## DIVISION OF GENERAL SERVICES

The Division of General Services is a central administrative unit established for the purpose of publishing the material made public under section 6 (f) of the Federal Trade Commission Act; for the procurement of supplies and equipment; and for supplying other services essential to the functioning of the Federal Trade Commission. The Commission's Library is also located in this Division.

### Publication Branch

The Publication Branch of the Division of General Services is a service established by the Commission to clear for format, economy

of reproduction and distribution, all material printed or duplicated by the Federal Trade Commission within the limitations of the laws and regulations as applicable thereto. This Branch also operates a Class Printing Plant established under the provisions of the regulations by the Joint Committee on Printing of the United States Congress; and provides photographic, photostat, and drafting services. These services are performed by the following sections:

The Stenographic and Composition Section edits for format and typography, material to be printed at the Government Printing Office or printed or duplicated in the Federal Trade Commission Printing Plant and provides stenographic services when bureau pools are overburdened. During fiscal year 1957 over 4,300 pages of copy were produced by this activity for lithographic reproduction in the printing plant.

The Photographic Section provides the Commission with photographic and photostat services for use in connection with the Commission's legal proceedings and economic reports. Production reports for this section show that over 153,000 photographic and photostat prints were produced during fiscal year 1957.

Functions of the Printing Plant are the printing of the Commission's orders, press releases, legal and economic reports, speeches, Trade Practice Rules, pamphlets, forms, letters, etc. Production during the fiscal year 1957 was more than 10,400,000 lithographed impressions.

## Library

The Library consists of a specialized collection of more than 100,000 bound volumes, and extensive vertical files containing 30,000 to 35,000 legislative documents and statistical publications organized for easy accessibility. In addition there are several thousand current issues of legal, economic, and technical periodicals which collect annually from the inflow of more than 200 titles on a daily, weekly, monthly, or other frequency basis. Loose issues of most pertinent titles are collected and bound at the end of each year. Because of the increase in the economic and legal staffs of the Commission the demand for reference and research increased substantially during fiscal 1957 and this resulted in increased circulation of books and materials. This is reflected in the number of reference questions which was approximately 50,000 this year. The book circulation topped 60,000 items.

## Procurement and Services Branch

The Procurement and Services Branch of the Division of General Services is responsible for providing services and controls in the necessary housekeeping functions as follows: procurement and maintenance of supplies, equipment, furniture, etc.; space control and

building maintenance; communications including mail, telephone and telegraph, and messenger.

## OFFICE OF THE SECRETARY

The Secretary and his immediate office receive and handle mail on all phases of the Commission's work. He signs all orders and certain other official papers. He also is responsible for liaison with the Congress and Government agencies and for decisions on informal cases not submitted to the Commission.

The Assistant Secretary for Minutes attends, takes minutes of, and records the executive meetings of the Commission, prepares directives for the signature of the Secretary and keeps the calendar of pending matters.

### Office of Information

This office issued a total of 946 press releases during the fiscal year, compared with 873 in fiscal 1956. They covered news of Commission complaints, answers by respondents, initial decisions by Hearing Examiners, orders, compliance actions, and newsworthy interlocutory rulings by the Commission. In addition, many oral and written inquiries from the press and public were answered each day.

### Legal and Public Records

This office has responsibility for the legal records of the Commission. This includes receiving, serving, docketing, indexing, and filing legal papers in connection with proceedings before the Commission as well as Commission actions in the Federal courts.

The office also is responsible for the publication of the volumes of the "Federal Trade Commission Decisions" and its "Statutes and Decisions," the latter including court decisions in Commission cases; for the codification and editorial preparation of Commission material published in the Federal Register; and for the collection and dissemination of relevant court decisions.

Commission publications, forms and other material are distributed by this office to the staff and to the public.

## INVESTIGATION

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Most Commission cases can be traced to any morning's mail. It will contain a score of complaints from people indignant at having been bilked in their purchases or from businessmen convinced their competitors are undercutting them and the law.

These letters, called applications for complaint, go to the Bureau of Investigation, which is the starting point for all casework. This Bureau obtains the evidence needed by the Commission to prevent unfair, discriminatory, monopolistic and deceptive trade practices. To a very great extent, the Commission's effectiveness depends upon the number and quality of investigations.

The legal investigational work is performed under general supervision of the Bureau Director and the guidance of the Chief Project Attorney, his staff of project attorneys, and managers of branch offices. Specialized investigative or advisory functions are performed by the Division of Wool, Fur and Flammable Fabrics, the Division of Accounting, the Division of Scientific Opinions, and the legal advisor in charge of investigating mergers and acquisitions. The work of these groups will be discussed separately.

Most requests for investigation are received from businessmen, consumers, trade groups, members of Congress, Congressional committees, and governmental agencies, both Federal and State. Other investigations are begun on the Commission's own initiative, particularly those involving mergers and acquisitions and those arising from surveys of advertising and the monitoring of radio and television programs.

No formal procedure is required in making an application for complaint to the Commission. Any individual or business organization may apply by a letter describing the grievance. Since the Commission acts only in the public interest, the identity of the complaining party or so-called applicant is never divulged.

Matters presented for investigation are first evaluated to eliminate those lacking in jurisdiction or other essential elements. This task is performed by project attorneys under whose supervision a case progresses from its inception to final disposition. Among the factors to be considered in the evaluation process are the amount of public

interest involved, the time and expense required for investigation, whether the matter involves a private controversy, and the extent to which a successful proceeding may result in effective corrective action.

Another factor to be considered relates to the concurrent jurisdiction exercised by the Commission and the Department of Justice in restraint of trade matters. Both agencies are charged with the enforcement of the Clayton Act, as amended, and the courts have ruled that violations of the Sherman Act also constitute unfair methods of competition or unfair acts or practices which are prohibited by the Federal Trade Commission Act. It is necessary, therefore, to maintain close and effective liaison with the Antitrust Division of the Department of Justice in order to avoid duplication of effort or overlapping in the investigation of matters over which both agencies possess jurisdiction.

When it has been determined that an investigation should be conducted, the matter is referred to one of the Commission's nine branch offices for field investigation. This requires investigation at the offices of the proposed respondent and may include interviews with the applicant or complaining party, competitors, customers, suppliers, and members of the public.

When feasible in false and misleading advertising cases, the necessary facts are obtained by correspondence, without field investigation, at greatly reduced expense. Throughout the investigation, economic, marketing and accounting data from the Commission's records, and accounting and scientific assistance from the staff and from other Government agencies are used where necessary.

In some instances, proposed respondents refuse to permit access to business records and documents which must be examined in order to reach an informed determination concerning the legality of the practice under investigation. Therefore, it is necessary to resort to the use of compulsory legal process which may take the form of a subpoena ad testificandum, a subpoena duces tecum, a notice to produce, or a special report.

Upon completing an investigation, the examining attorney summarizes the facts and recommends appropriate disposition of the case. This report is reviewed by the Branch Manager, then forwarded to Washington for consideration by the project attorney in charge of the case. It then may be referred to the Bureau of Litigation with a recommendation for issuance of a complaint, to the Bureau of Consultation with recommendation for negotiation of a stipulation, or to the Commission with a recommendation for closing.

During fiscal 1957, incoming applications for complaint numbered 3,683, including 822 restraint of trade matters and 2,861 deceptive practice matters. This represents a percentage increase of 31 percent over the number received during the previous fiscal year and reflects



a growing awareness on the part of industry and the general public of the important role played by the Commission in the preservation of free competitive enterprise and the prevention of unfair and deceptive acts and practices.

In addition to handling new matters, the Bureau spends substantial time conducting investigations to determine whether compliance with previously issued cease and desist orders and stipulations is satisfactory. Investigations of order compliance require special care and attention since evidence of violation must be assembled to support civil penalty or contempt proceedings.

Investigations also are conducted to aid litigation of cases in which complaints have been issued. Defenses asserted by respondents in such cases frequently raise new issues which require additional investigation.

The types of violations involved in both new matters and compliance cases fall into two broad categories—restraint of trade and deceptive practices.

During fiscal 1957, a total of 277 investigations were made in restraint of trade matters, including 55 in which complaints were issued during the year.

Under section 5 of the Federal Trade Commission Act, the Bureau investigated allegations of such unfair trade practices as price fixing by agreement, collusive bidding, interference with sources of supply, resale price maintenance, and selling below cost with the intent and effect of eliminating competition. These investigations covered a wide range of products and industries and required work in all sections of the country.

Numerous important investigations also were conducted under section 2 of the Clayton Act, as amended by the Robinson-Patman Act. Although the products involved ranged from bubble gum to furnaces, the majority of investigations covered alleged unlawful discriminations in price in the sale of such staples as bread, milk, ice cream and gasoline, which are sold at keenly competitive prices. Also investigated were exclusive dealing and tying arrangements violative of section 3 of the Clayton Act.

During the year the Bureau completed an extensive investigation of trading stamps, the results of which were under active consideration at the year's close with a view to determining whether any element of illegality was involved in their distribution and use.

The Bureau also initiated the first contested petition to cancel the registration of a trademark under the provisions of the Trademark Act of 1946, which gives the Federal Trade Commission the status of a plaintiff in an adversary action against a defendant registrant before the Commissioner of Patents. This proceeding involves the registration of the term "Fiocco" which is used by the Italian textile industry

to indicate staple rayon, a commodity which is imported into this country in large quantities. It is alleged that monopolization of this term by the registrant will have and has had an adverse effect upon individuals and firms other than the registrant in matters of customs declaration and subsequent advertising to the trade.

A total of 836 deceptive practice investigations was made during: the year. These involved such matters as false and misleading advertising with respect to composition, quality, origin and price of a wide variety of products, from shoes to hats, and from baby cribs to burial vaults. They also included investigations made in pursuance of the Commission's more detailed authority to prevent false advertising of food, drugs, cosmetics and therapeutic devices.

A good start was made during fiscal 1957 in the monitoring of radio and television advertising. Whereas in years past, only the written scripts (requested in advance of their broadcast) were examined for false and misleading claims, the present system of monitoring programs as they come over the air assures more comprehensive coverage, including ad-lib claims and visual deception on TV. screens. The six formal complaints issued attracted very considerable interest in the press and in the radio and television advertising fields. Also, the public, alerted to the Commission's monitoring, is giving useful assistance in spotting dubious advertising.

## MERGER INVESTIGATIONS

The Commission's highest priority effort is to halt illegal corporate mergers. Intensified in fiscal 1957 by nearly a million dollars of increased appropriations, the antimerger drive developed momentum this fiscal year and promises to continue even more effectively in fiscal 1958.

The Bureau of Investigation has responsibility for examining all reported corporate mergers and acquisitions, to identify those that might violate section 7 of the Clayton Act, as amended. These investigations seek to determine the probable competitive effects of significant mergers and acquisitions.

Under the Commission's premerger clearance procedure, interested parties may request advice of the Commission with respect to a proposed merger or acquisition. Facts relating to the proposed transaction may be submitted in writing or in conference. On the basis of the facts submitted by the parties, as well as other information available to the Commission, the parties are informed as to whether or not consummation of the merger would be likely to result in further action by the Commission.

There is, however, no legal requirement that the Commission be notified of corporate mergers or acquisitions either before or after consummation. Except in rare instances where a complaint against a

particular merger is received, the Commission must rely on financial newspapers, trade journals, manuals of investments, and the like for information that a merger has occurred or is contemplated. An information sheet containing such readily available data is prepared for each merger. About 20 of these information sheets are prepared each week. These are referred to project attorneys who, after assessing this information and consulting with economists and other experts, recommend on whether the mergers are likely to have the adverse effects prohibited by the statute.

Investigations to determine the competitive effects of corporate mergers and acquisitions are more complex, time consuming and expensive than most other investigations conducted by the Commission. In other kinds of investigations the problem generally is to determine whether a particular act or practice occurred and what effect it had. In section 7 investigations the problem generally is to determine what probably will happen in the future. Despite the complexity of these investigations, it is necessary that they be conducted with dispatch because of the likelihood that the assets and operations of the merging companies will be so intermingled as to make difficult or impossible an effective order of divestiture.

During fiscal 1957 more than 1,000 information sheets were prepared, and 103 comprehensive investigations were begun.

### DIVISION OF SCIENTIFIC OPINIONS

This division furnishes the Commission's legal staff with scientific facts and opinions concerning the composition and efficacy of foods, drugs, medical devices, cosmetics, and related commodities where questions of science arise in regard to advertising claims. It arranges for analyses or other tests of products under investigation and gathers information on their composition, nature, effectiveness, and safety. The Division provides scientific opinions and information needed in (1) considering matters under investigation, (2) negotiating stipulations, and (3) preparing complaints. It also assists the Commission's legal staff in preparing for and provides technical consultation at hearings involving questions of science and secures the services of expert scientific witnesses.

During fiscal 1957 the division prepared 264 written and 680 oral scientific and medical opinions. On July 1, 1956, there were 37 requests for scientific and medical opinions awaiting study and report in the division and on June 30, 1957, the number pending was 31. On June 30, 1957, there were outstanding 23 formal complaints involving matters in which the division was expected to furnish advice to Commission attorneys and to obtain expert scientific and medical witnesses.

The written opinions rendered involved: Foods, drugs, cosmetics, devices, economic poisons, and miscellaneous. The opinions dealt with many kinds of foods, livestock feeds, vitamin preparations, weight reducing preparations and regimens, cold remedies, hay fever and asthma remedies, skin preparations, sunburn preventatives, hair preparations, depilatory preparations and devices, feminine hygiene preparations and devices, air filters, trusses, contact lenses, eyeglasses, health. books, cooking utensils, insecticides, disinfectants, bleaches, fertilizers, and many other preparations and devices. Among the unusual matters considered were plastic screens to be placed in front of the picture tube of a black and white television set claimed to produce color television and eliminate eye strain. Various devices designed to eliminate static electricity from phonograph records, photographic film and other articles containing small amounts of radium or other radioactive substances were also considered from the standpoint of possible health hazards.

Continued attention was given to preparations ordered for the treatment of arthritis, rheumatism and related conditions. This project was expanded to include not only pills and other internal preparations but also salts intended for use in bath water and various types of external preparations such as liniments and ointments. The investigation and litigation of cases involving products or courses of treatment offered for the prevention and cure of baldness required a very considerable amount of time, as did the investigation of products offered for the treatment of piles and for the relief of headaches, neuralgia and other painful conditions.

The matters referred to the division for scientific opinion became increasingly complex and difficult to resolve. A steadily increasing number of drugs and cosmetics contain one or more ingredients regarding whose virtues and limitations the published medical and scientific literature provides, at most, only fragmentary and inconclusive reports. Consequently, the division must locate and confer with the medical specialists and other scientists who have firsthand knowledge of the therapeutic and other properties of the drugs and cosmetics. In many instances, advertisers seize upon preliminary favorable scientific reports, published or unpublished, and make them the basis for extensive advertising campaigns. Authorities in a particular field, when contacted, may characterize the reports as inadequate, preliminary and inconclusive; but, having had no actual experience with the product in question, they are unable to state categorically that the claims based upon the preliminary reports are false. Under such circumstances, the only hope of accurate appraisal, and where necessary, effective regulation of the advertising, is to have the products tested clinically. Conferring with scientists regarding new products and ingredients, and planning and arranging for clinical tests is time consuming work, frequently entailing considerable travel.

## DIVISION OF ACCOUNTING

This division furnishes accounting services in connection with the investigation and trial of legal cases and in general economic investigations.

The division's work consists of accounting analyses and studies of the pricing policies of respondents or proposed respondents to: (1) establish evidence of alleged price discrimination under section 2 of the Clayton Act as amended by Robinson-Patman Act; (2) evaluate cost data submitted by respondents in justification of alleged price discrimination under the Robinson-Patman Act; (3) establish evidence of alleged price-fixing in cases arising under section 5 of the Federal Trade Commission Act; (4) establish evidence of sales below cost in violation of section 5 of the Federal Trade Commission Act; (5) compile production and sales statistics and analyze financial data of companies and their competitors involved in mergers, in cases arising under section 7 of the Clayton Act; and (6) compile statistics concerning costs, prices, and profits, and the financial position of companies under section 6 of the Federal Trade Commission Act.

During the year accounting services were furnished in connection with 68 legal cases and investigations. These included 29 Robinson-Patman cases, 13 other Clayton Act cases, and 26 section 5 Federal Trade Commission Act cases.

In addition, accounting services were furnished in connection with the Commission's financial and statistical activities. A study was made of the profitableness of identical companies in selected manufacturing industries during the years 1940, 1947-55. A report was prepared on rates of return (after taxes) for identical companies which comprised in 1940 the major part of each of 25 manufacturing industries, and for the 12 largest companies in each of 39 industries for the years 1954 and 1955.

The Division of Accounting also participated in the Commission's study of the Antibiotics Industry, particularly with reference to the accounting methods and costs and profits of the companies in the industry.

## DIVISION OF WOOL, FUR, AND FLAMMABLE FABRICS

The Commission is charged by Congress with administering three separate and important pieces of consumer legislation—the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, and the Flammable Fabrics Act. Their purposes are to protect consumers, manufacturers, and distributors from misbranded wool and fur products and from false invoicing and advertising of fur products and furs, as well as from the dangers surrounding the use and marketing of highly flammable wearing apparel and fabrics.

The Wool Products Labeling Act and the Fur Products Labeling Act provide for informative labeling of wool and fur products. The requirements of the Fur Act also extend to invoicing and advertising of fur products and furs. Under the terms of the Flammable Fabrics Act, wearing apparel or fabrics not meeting standards of flammability set out in the statute, must be entirely removed from the market.

Where necessary, actions for condemnation and injunction, as well as criminal prosecution for willful violations, are available in the Federal courts. These actions are in addition to the Commission's regular cease and desist order procedure.

Under each of these statutes, the Commission has issued rules and regulations necessary and proper for the administration and enforcement of the Acts. These regulations, which become substantive law, have been issued and are being maintained by the Division of Wool, Fur, and Flammable Fabrics as integral parts of the legislation.

The very nature of these three pieces of consumer legislation, which, differ materially from the other statutes administered by the Commission in view of their affirmative requirements, necessitates compliance inspection and industry counseling work throughout the entire United States. Such inspection work is conducted at all levels of merchandising, including manufacturing wholesaling, and retail distribution. Under planned programs of inspection, the compliance of those amenable to the statutes is periodically checked and assistance given in making on-the-spot correction of deficiencies under the Acts and regulations. Counselling service also is given. Where substantial violations of the statutes are found, full investigations of the practices are made and formal action recommended against offenders.

Approximately 70 industries are engaged in the manufacture of products subject to the provisions of the Wool Act. Members of these industries approximate 25,000 manufacturers and 260,000 distributors. Subject to the Fur Act are approximately 40,000 manufacturers and over 30,000 distributors are subject to the provisions of the Flammable Fabrics Act, which covers the entire fields of wearing apparel and fabrics for use therein.

Highly competitive conditions in the wool industry, together with the general rising prices of consumer goods, have caused and are causing many manufacturers to resort to the use of substitute materials and fibers of lower quality and cost in maintaining established price structures for their products.

Inspections during the year revealed an increase in misbranding of wool products and the need for an accelerated compliance inspection program, including the examination of fiber content records required of all wool product manufacturers. Especially is this true in the interlining, wool batting, and comforter industries, as well as the suppliers

of reprocessed and reused wool fiber stocks, which under such conditions have been and are being upgraded to higher classifications.

There has been an increasing demand for fabrics and garments made from specialty fibers such as cashmere, vicuna, camel hair, alpaca, and llama, as well as fabrics made from a blend of wool and fur fibers taken from expensive fur-bearing animals. The scarcity of these fibers, together with the premium prices, has resulted in many cases in the substitution of less desirable fibers and the misbranding of wool products.

Since the European and Asiatic countries producing yarns, textiles, and knitted goods have recovered from World War II, wool products are being imported into the United States in ever-increasing volume. These manufactures are beyond the jurisdiction of the Federal Trade Commission so far as inspection of plants and records is concerned. Therefore, closer watch must be maintained by Commission investigators on foreign imports with the cooperation of the Bureau of Customs.

During the past year many imported wool products have been found to be misbranded as to fiber content, and complaints have been issued by the Commission against the importers.

During the past year there have been many instances of violations under the Fur products Labeling Act and its rules and regulations. Because of the superiority of American mink which comes from our fur farms throughout the country, there have been numerous cases where imported mink, which is generally of an inferior quality, has been passed off as domestic mink. In addition, low grade mink is tip-dyed so that it will have the appearance of high quality mink and is passed off to the American woman as natural mink. There have been numerous cases where false advertising of value with respect to fur products has been made in violation of Rule 44 of the Regulations under the Fur Act.

In the enforcement of the Flammable Fabrics Act, it is necessary to exercise close surveillance over those sections of the industry that might normally produce potentially dangerous products, such as the fine sheers and high pile or highly brushed cellulose fiber fabrics, including chenilles, brushed rayons, nets, lawns, organdies, etc. In addition to carrying on inspections of our domestic manufacturers, it also is quite necessary to keep a sharp eye on imports made of potentially dangerous fabrics.

The \$50,000 in appropriations for enforcement of the Fur Products Labeling Act during fiscal 1957 made possible intensified inspection, particularly in New York and Chicago. In addition, training programs in inspection work were conducted in each branch office to acquaint all Federal Trade Commission investigators with special problems involved in such work.

Work Load Statistics for Fiscal Year 1957

I.	Field inspections and industry counseling:	
	Wool Act:	
	Number of concerns inspected .....	2, 867
	Number of wool products inspected (sampling method) .....	6, 387, 129
	Fur Act:	
	Number of concerns inspected .....	1,372
	Number of fur products inspected .....	104,710
	Number of advertisements examined .....	29,319
	Flammable Fabrics Act:	
	Number of concerns inspected .....	2,686
II.	Interpretations and opinions rendered concerning Wool, Fur, and Flammable Fabrics Acts and Regulations thereunder:	
	Wool Act .....	1,319
	Fur Act .....	1,127
	Flammable Fabrics Act .....	321
III.	Informal cases involving minor Wool and Fur Act deficiencies handled administratively. These include matters involving infractions of the Acts and Regulations wherein formal action does not appear necessary and compliance is effected on a cooperative basis .....	7,648
		=====
IV.	Special compliance investigations relating to Commission orders and stipulations completed and reported on during the fiscal year:	
	Wool Act .....	17
	Fur Act .....	38
	Flammable Fabrics Act .....	6
		-----
		61
		=====
V.	Investigations completed with recommendation for:	
	Complaint:	
	Wool Act .....	25
	Fur Act .....	54
	Flammable Fabrics Act .....	1
	Sec. 5 (FTC Act) .....	8
		-----
		88
		=====
	Stipulation:	
	Wool Act .....	13
	Fur Act .....	38
		-----
		51

BRANCH OFFICES

The Commission's nine branch offices constitute the frontline in its battle against deception and discrimination. Attorney-investigators assigned to these offices dig out, the facts upon which all future casework depends.

The branch offices also serve importantly in providing businessmen throughout the country with advice on the protection ordered



by the laws administered by the FTC and their requirements. The offices also are a source of highly desirable contact with the general public.

In addition to their regular investigative work, all of the branch offices undertook during fiscal 1957 to train new investigators assigned them as a result of increased appropriations for antimerger work and for stepped-up policing of the Fur Products Labeling Act. The year also saw the establishment of a new branch office at Atlanta, Ga., to serve better the States of Georgia, South Carolina, and portions of North Carolina, Tennessee, Alabama, and Florida.

Highlights of branch office activity are as follows:

New York.—Completion of 501 assignments represented a 51 percent increase over the 331 completed in fiscal 1956.

Chicago.—Per man production of case investigations was 15.8 per attorney adviser. This was achieved despite the fact that about 20 percent of their working time was devoted to expanding wool, fur and flammable fabrics inspection and investigation. Also, during the year, increasing use was made of letters and questionnaires to develop facts required in investigations.

San Francisco.—An increased workload confronted the office, yet training of new men proceeded satisfactorily. Considerable effort was devoted to acquainting business and the public with the FTC's function and the requirements of laws it administers.

Atlanta.—The new office was established in February. In addition to regular investigational work, efforts were made to acquaint businessmen in the area with the office's newly available services.

Kansas City.—With the workload rising steadily, the office nevertheless achieved a case completion record of approximately 75 percent of its total assignment. Considerable counselling on Wool and Fur Act requirements was offered manufacturers and retailers.

Nev Orleans.—Principal work was antimonopoly investigations of cases involving flour, petroleum, scrap iron, molasses, etc., and the investigation of possible illegal mergers. A business advisory service produced 19 new applications for complaint.

Seattle.—This office completed 82 investigations, which is an average of about one and half cases per man per month. Its work included some of the largest of the Commission's Robinson-Patman cases involving the fish industry. Extensive effort also was made to give business and the public a better idea of the Commission's services.

Washington.—A steadily increasing workload has been met to a marked degree by increasing per capita production of the attorney-investigators, both from a qualitative and quantitative standpoint.

Cleveland.—In this highly industrialized area, the office's work was devoted principally to antimonopoly investigations.

Investigations: General Statistics by Principal Violation Charged for the Fiscal  
Year 1957

Principal violation charged	Pend- ing July 1, 1956	Sched- uled for investi- gation	Re- opened	Disposed of				Pending June 30, 1957
				Com- plaints issued	Stipu- lations accepted	Closed	Total	
Investigations: Total -----	1,287	1,113	5	242	104	686	1,032	1,373
Restraint-of-trade investigations: Total -----	455	277	1	55	-----	238	293	440
Federal Trade Commis- sion Act -----	122	36	-----	8	-----	43	51	107
Insurance -----	1	-----	-----	-----	-----	-----	-----	1
Clayton Act:								
Sec.2 -----	184	124	1	37	-----	64	101	208
Sec.3 -----	10	11	-----	2	-----	7	9	12
Sec.7 -----	135	103	-----	8	-----	124	132	106
Lanham Act -----	3	3	-----	-----	-----	-----	-----	6
Deceptive-practice investigations: Total -----	832	836	4	187	104	448	739	933
Federal Trade Commis- sion Act -----	678	604	3	116	63	438	617	668
Insurance -----	73	-----	-----	-----	-----	-----	-----	73
Wool Act -----	28	102	-----	26	10	3	39	91
Fur Act -----	51	130	1	44	31	6	81	101
Flammable Fabrics Act	2	-----	-----	1	-----	1	2	-----

## LITIGATION

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Armed with facts produced by the investigation, this Bureau develops and perfects a case for presentation to the Commission, including a draft of formal complaint whose issuance the Bureau recommends. If the Commission agrees and the complaint is issued, trial attorneys of the Bureau take over its prosecution, to the end that a cease and desist order be entered.

Unless the respondent consents to an order prohibiting the violation, the issues are tried before a hearing examiner in much the same way as an equity suit or other civil action is tried before a judge without a jury.

In the course of such proceedings, the Bureau's trial attorneys prepare comprehensive trial briefs; engage in settlement negotiations and pre-trial conferences; examine the Commission's witnesses in presentation of the case in chief, and cross-examine respondent's witnesses, including expert witnesses testifying, in regard to highly technical, scientific and economic subjects; introduce physical exhibits into evidence; and argue orally in support of or in opposition to motions, petitions and appeals before both the hearing examiners and the Commission.

On the basis of this record, an order is issued by the Commission. If it is an order against the respondent and he appeals to a United States Court of Appeals, the record as made by the Bureau of Litigation must serve to support the order in all respects.

In fiscal 1957 the Commission issued a total of 242 complaints, and as a result of litigation or of consent settlement negotiations entered 179 orders to cease and desist.

While substantially all work engaged in by the Bureau involves the trial of matters within the Commission, instances arise when the Bureau's attorneys are required to institute proceedings in United States district courts. For example, during the course of hearings, a witness may refuse to testify or produce records necessary to the presentation of the Commission's case and a court order may be sought to compel compliance with the subpoena.

New case law was made during the year in this area as a result of refusals to testify and produce documents by witnesses subpoenaed in

six proceedings brought under the Clayton Act. For the first time in the Commission's 42-year existence, it was contended in court that because subpoena power had not been specifically conferred upon the Commission by Congress in the Clayton Act, the agency could not issue a subpoena in a Clayton Act proceeding pursuant to the power granted it in the Federal Trade Commission Act. The final decisions in all cases upheld the Commission's subpoena power.

The Bureau is headed by a Director who exercises general supervision over its work, aided by an Assistant Director and an Assistant to the Director. At the end of fiscal 1957, the Bureau had 63 trial attorneys, including 6 legal advisers. Four of the legal advisers are specialists in the field of antimonopoly law, the other two being specialists in antideceptive practice law. There is a secretarial, stenographic, and administrative staff of 26.

## CASE WORK IN 1957

In general, proceedings before the Commission may be classified either as antimonopoly or as antideceptive practice.

The antimonopoly cases are those in which the complaint charges restraint of trade or monopolistic practice in violation of section of the Federal Trade Commission Act, or in violation of sections 2, 3, 7, or 8 of the Clayton Act. In this category fall the Commission's cases involving unlawful price fixing agreements, price and other discriminations, full line forcing, tying and exclusive clearing agreements, corporate mergers and interlocking directorates.

The antideceptive cases are those in which the complaint charges false advertising or other unfair or deceptive business practices in violation of the Federal Trade Commission Act, or a violation of one of three statutes relating specifically to wool products, furs, and flammable fabrics.

A few of the many significant actions in litigation during the year are as follows:

### ANTIMONOPOLY CASES

#### Mergers

Proceedings brought in the merger field were nearly double those of the previous year. In its continuing drive against illegal mergers and consolidations, the Commission instituted the following cases under section, 7 of the Clayton Act:

Docket 6608—Fruehauf Trailer Co.

The world's largest manufacturer of truck trailers has been charged with violating the antimerger law through its acquisition of four manufacturers of truck trailers and one manufacturer of tank shells for trailers. The complaint alleges that in competition against some 100 smaller competitors Fruehauf has, since the acquisitions, so

strengthened its position of industry dominance that its new truck trailer sales jumped from 37 percent of the market to 48 percent. Competition in the industry is threatened, according to the complaint, which also charges unfair practices in violation of the Federal Trade Commission Act.

Docket 6651—National Dairy Products Co.

Docket 6652—The Borden Co.

Docket 6653—Beatrice Foods Co.

The Commission has issued separate complaints against these three giants of the dairy industry, charging that their acquisitions of all or part of the stocks or assets of a combined total of 251 dairy companies over a recent 10-year period have had an illegal impact on competition.

Among the allegedly adverse competitive effects are the following:

The acquisitions provided additional facilities that may be used to extend to customers or potential customers such inducements as non-interest-bearing loans, sale of equipment at prices lower than market value, and discriminatory prices;

Industrywide concentration has been increased:

Independent business concerns have been eliminated from the industry;

Actual and potential competition in the purchase, manufacture, processing, and distribution of dairy products may be substantially lessened.

Docket 6676—International Paper Co.

On November 5, 1956, the stockholders of International Paper Co., Long-Bell Lumber Corp., and Long-Bell Lumber Co., voted to merge all Long-Bell holdings into International in exchange for stock in the latter. On November 6, the Commission issued a complaint against International alleging the acquisition violated the antimerger law.

According to the complaint, International ranked as the world's largest paper company, owning or having access to more than 21 million acres of forest land in the United States and Canada, and having a production capacity in paper and paperboard which is over three times that of its largest competitor.

On June 25, 1957, the Commission entered an order, consented to by International, whereby International must divest itself absolutely of the stock interest Long-Bell had held in one of the leading paper companies on the west coast—Longview Fibre Co. When International does enter the west coast market, Longview thus will be a competitor.

The order further prohibits International from acquiring any interest in competitors for the next 10 years and also requires that during such period it must sell at least 40 percent of the paper and

paperboard production of its proposed west coast mill to independent, nonintegrated wholesalers, converters, and other purchasers located in Western States.

#### Docket 6689—Gulf Oil Corp.

One of the largest oil companies in the Nation has been charged with violating the antimerger law by acquiring Warren Petroleum Corp. of Tulsa, Okla.

According to the complaint, Gulf has acquired, in Warren, the country's largest independent producer of natural gasoline and liquefied petroleum gas (LP-Gas). Natural gasoline is used by refiners of crude oil in the production of finished motor and aviation fuels, and LP-Gas has wide use in the manufacture of chemicals, synthetic rubber and plastics, and as fuel in farm tractors, trucks and buses, as well as for domestic heating.

It is alleged that inasmuch as Warren was the principal source of supply of these liquids for independent refiners, petrochemical manufacturers and LP-Gas distributors, its acquisition by Gulf means that these independents may be forced to deal with integrated companies with which they compete.

#### Docket 6820—Automatic Canteen Co. of America

In this case, the country's principal operator of machines that vend cigarettes, candy, gum, beverages, nuts, and ice cream, has been charged with unlawfully acquiring The Rowe Corp., a major competitor and a leading manufacturer of vending machines. There now remain, according to the complaint, only one other vending machine operator doing business on a national scale.

The effects of the merger, it is alleged, are or may be adverse in several ways to the interests of several thousand small, local, nonintegrated and nondiversified vending machine operators and thus injurious to competition.

Other merger cases in which complaints issued during the year involved the acquisition of a major competitor by The Vendo Co., the largest manufacturer of bottled soft drink vending machines in the country (Docket 6646), and acquisitions by Erie Sand & Gravel Co., by which it allegedly acquired 92 percent of the market in lake sand on the southern shore of Lake Erie and a complete monopoly in three cities in the area (Docket 6670).

#### Price Fixing

##### Docket 6623—California Fish Cannery Association, Inc., et al.

A complaint was issued in this matter alleging that a canner association, 7 boat owner associations, 8 unions, and 128 additional companies and individuals are engaged in a conspiracy to fix tuna prices and to prevent competition among themselves and with others in the purchase of raw, canned, and frozen tuna. It is estimated that the

alleged conspiracies affect about 90 percent of the Nation's tuna pack, having an annual wholesale value of \$200 million. The ultimate result of the conspiracies, the complaint states, is that the public must pay more for the tuna it eats.

In another price fixing case, an order to cease and desist was issued against Florida Citrus Mutual, Docket 6074, prohibiting this nonprofit marketing association of 7,000 growers of 85 percent of the citrus fruit grown in Florida from attempting to control the price or interstate shipment of fruit after grower-members have sold it to handlers and processors.

#### Price Discrimination

Docket 6560—Stephen F. Whitman & Son, Inc.

A consent order to cease and desist was issued prohibiting this leading candy manufacturer from granting quantity purchase discounts to individual chain retail stores greater than discounts allowed independents, through the device of basing discounts to the former on the aggregate purchases of the entire chain.

In another price discrimination case, a complaint against Sperry Rand Corp. (Docket 6701) alleges that this largest producer of electric shavers in the Nation discriminates unlawfully in favor of certain retail chains in its sale of shavers. The complaint also alleges other unfair competitive practices in violation of the Clayton Act and section 5 of the Federal Trade Commission Act.

In two other cases the Commission prohibited the Nation's two major manufacturers of automobile safety glass (Pittsburgh Plate Glass Co., Docket 6699, and Libbey-Owens Glass Co., Docket 6700) from selling such glass to Ford Motor Co. and General Motors at prices lower than those charged independent parts wholesalers who compete with the automobile companies in the resale and distribution of such glass. Complaints issued in January 1957, and the Commission approved the entry of consent orders 3 months later.

#### Illegal Brokerage

Docket 6606—E. A. Aaron & Bros., Inc., et al.

The Commission charged in a complaint issued in July 1956, that Seabrook Farms Co., an east coast packager of frozen foods, illegally paid brokerage to the Aaron Co., a Chicago wholesale distributor, on goods purchased for its own account through Mid-States Frozen Food Marketers, Inc., Aaron's wholly owned brokerage firm. The Commission issued a consent order to cease and desist 4 months after issuance of the complaint.

#### Discriminatory Promotional Allowances

Docket 6642—Ligget & Myers Tobacco Co.

This major cigarette manufacturer has been charged with discrimination among its customers in granting promotional allowances. As

an example of discrimination, the complaint alleges, the respondent paid out over \$1 million in 1955 to certain retail customers for the placement of advertising materials in their places of business while giving no allowances to customers competing with them. Section 2 (d) of the Clayton Act requires that promotional allowances be made available to all competing customers on proportionally equal terms.

Another leading cigarette manufacturer, P. Lorillard Co., also has been charged with a similar violation in Docket 6600.

Among other cases involving violation of the same section of the statute, was Docket 6635, Bourjois, Inc. This manufacturer of the Bourjois and Barbara Gould lines of cosmetics consented to the entry of an order prohibiting it from discriminating among its customers in granting promotional allowances for cooperative advertising. According to the complaint, discounts to favored customers ranged as high as 210 percent over the normal 25 percent given in the company's standard promotional program.

#### Discriminatory Promotional Services

Docket 6221—Simplicity Pattern Co., Inc.

This company, one of the largest producers of dress patterns in the country, has been ordered to stop giving favored customers special promotional services not made available to competitors. The Commission found that, among other things, the company had supplied counter catalogs, supply cabinets, and other equipment free to larger customers such as five-and-ten-cent stores, while charging smaller customers for them.

#### Inducement of Illegal Price Discrimination

Docket 6765—Hunt-Marquardt, Inc., et al.

Fourteen automotive replacement part jobbers and 39 individual owners and officers of the companies located in New York and the New England States have been charged with soliciting unlawful price favoritism from suppliers through a mutual buying association. The complaint alleges that the respondents formed an association which nothing more than an agency through which the influence of combined purchasing power could be exerted on suppliers to require the giving of special prices, discounts, allowances, rebates and terms of sale. Knowing inducement and receipt of discriminatory terms and prices is illegal under section 2 (f) of the Clayton Act.

#### Exclusive Dealing

Docket 6673—Culligan, Inc.

This respondent is the nation's dominant manufacturer of water conditioning products for domestic use, having in operation more water softening service units than 200 of its competitors combined.



The company consented to the entry of an order prohibiting it from requiring its retail dealers to agree not to handle competing products.

## ANTIDECEPTIVE PRACTICE CASES

Antideceptive practice matters long have accounted for well over half the Commission's cases, and fiscal 1957 was no exception. Moreover, the year's output continued the trend of steady annual increases since fiscal 1954. Fiscal 1957's 187 complaints and 153 orders on deceptive practices contrast with 150 complaints and 133 orders the previous year.

Following are some of the significant cases that give a general idea of the scope of the Commission's work in this field:

### Docket 6791—American Chicle Co.

This is one of several complaints issued as a result of the work of the Commission's new Radio-TV monitoring unit established in October 1956.

The complaint alleges that the respondent in its television advertising of an alkalizer known as "Roloids" misrepresented the acid neutralizing properties of the product, disparaged the effectiveness of competing products, and represented falsely that doctors or the medical profession generally recommend its use.

Other pending cases in which the allegations in the complaints relate specifically to audiovisual representations on television involve three widely advertised liniments and rubs recommended for use by arthritics, called Mentholatum Rub, Heet, and InfraRub (Dockets 6754 and 6755).

### Docket 6678—Tri-State Printers, Inc.

Here an order was issued requiring respondents to stop engaging in what the hearing examiner described as "a monumentally fraudulent racket."

The company and its two individual owners were found to have engaged in a scheme whereby they had obtained hundreds of thousands of dollars in 1954, 1955, and 1956 from women's church, patriotic, charitable, and social groups located in small towns and rural communities throughout the country. The fraud consisted of company agents' enlisting the cooperation of the women's groups in obtaining prepaid advertising contracts from friendly local merchants, for advertising that was to appear in recipe books and calendars thereafter to be published by respondents between special covers which would indicate that the publications were sponsored by the particular groups. A group would be told it would receive 50 "free" copies of the publication in return for obtaining a company agent's entree to local merchants, and that the organization then could sell the books at a dollar a copy to other friends of the neighborhood, as a means of

raising money for organizational projects. Delivery of books and calendars was promised in from 30 to 90 days. It was not uncommon for an agent to take \$400 to \$500 under this plan from businessmen in a single small community. Numerous organizations had waited upwards of 2 years with still no delivery of books. Others who did receive books or calendars found them greatly inferior to handsome display samples.

Docket 5903—Necchi Sewing Machine Sales Co.

Docket 6685—Singer Sewing Machine Co.

These nationwide distributors of sewing machines were prohibited from falsely representing the characteristics and qualities of their products.

Singer was ordered to stop its salesmen from representing that machines which have been repossessed, exchanged or used for teaching purposes are new, and that repossessed machines are demonstrators or floor samples.

Necchi is prohibited from representing contrary to fact that its machines do genuine hand rolling and certain types of stitching, and possess features not found in other machines.

Docket 6712—Dictograph Products, Inc.

Docket 6811—Federal Fire Protection Service, Inc.

Complaints were issued against these two unrelated companies and various individuals responsible for their practices, alleging that, in connection with the direct selling of home fire-alarm systems, the respondents unfairly exhibited horror pictures to parents for the purpose of arousing them emotionally concerning the need to purchase the alarm system in order to protect their children from fire.

Other charges in the complaints were that salesmen falsely represented themselves to be associated with the fire department or that they were present to make a fire prevention talk, as a guise for gaining admittance to a household; misrepresented the true price of the alarm system; and misrepresented the terms of purchase.

Docket 6614—Emerson Radio & Phonograph Corp.

This manufacturer and national distributor of radios consented to an order forbidding it to continue representing that its radios containing vacuum tubes are "transistor radios."

Docket 6757—Otarion, Inc.

This manufacturer of hearing aids advertised it had developed a hearing aid which, when worn, gave the appearance of being nothing more than ordinary eyeglasses.

A complaint challenged this claim, alleges that the hearing aid is not completely contained in the eyeglasses, parts of the instrument can be seen, and its use requires that a plastic tube or cord run from the eyeglass frame into the ear.

Docket 6638—Exposition Press, Inc.

In the first action of its kind, the Commission issued a complaint charging this company had falsely advertised to aspiring writers that it would publish their manuscripts in book form and promote them on a cooperative basis. Among more than 40 challenged advertising claims were statements that the respondent would recommend publication only after critical staff appraisal of a manuscript established the manuscript's literary merit and sales appeal; that it would share with the author the expenses of publication, promotion and sale; that its promotional efforts would result in sufficient sales of the first printing to repay the author for his expenses connected with publication, distribution and sale; that in all probability additional printings would be required; and that the promotion given an author's work would be the same as that afforded by the largest book publishers to their most important writers.

Docket 6634—C.H. Stuart Co., Inc., et al.

This case involved deceptive practices in the sale of nursery stock. A consent order was entered against the Stuart company, five affiliates and 39 corporate officers individually. It prohibits misrepresentations that salesmen are qualified to render professional or expert landscaping or horticultural advice or service. Among other prohibited acts are the use of misrepresentations that ordered stock will be received during planting season; that orders may be canceled without cost; and that stock which fails to grow or bloom will be replaced without expense to the customer.

Docket 6538—R.H. Macy Co., Inc.

This was one of 60 cases in litigation during the year involving alleged violations of the Fur Products Labeling Act.

A consent order entered against Macy in December 1956 prohibits the company from failing to disclose the names of the animals producing advertised furs, and using fictitious pricing and value claims in advertising.

The litigation docket also consisted of numerous other cases involving the following types of practices: false advertising of health and accident insurance policies, automobile batteries and tires, cookware, perfumes, "hair growers," mail order eyeglasses, weight reducers, vitamins, home study courses, a fishing lure, girdles, a process for making mirrors, lawn mowers, photograph albums, pre-cut blouses, real estate brokerage services, shoes, aluminum storm windows, television sets and accessories, watches and watch cases, shoe brushes and paint brushes, food freezers, pianos, raincoats, awnings, military clothing, mushroom spawn, phonograph records and puzzle contests; untruthful disparagement of slidefilm projectors; nondisclosure of

the foreign origin of hypodermic syringes, lawn sprinklers, and cutlery; nondisclosure that clothing had been worn; nondisclosure that automotive crankcase oil was reclaimed used oil; nondisclosure that book reprints were abridged and had been published under other titles; and sale of lottery devices intended for use in the distribution of merchandise.

## HEARING EXAMINERS

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When the Commission issues a formal complaint, it does not prejudge whether the charges of law violation are true. The decision in the case is based upon the evidence introduced in the formal proceeding. If the weight of the evidence shows law violation, an order is issued to prevent any recurrence.

Thus, following issuance of a complaint, the next step is to bring out the facts and pertinent law at public hearings presided over by a hearing examiner. Twelve examiners, including the chief hearing examiner, serve the Commission, which has administrative supervision over them. Their appointment and tenure, however, are under the sole authority of the Civil Service Commission.

A hearing examiner takes the testimony and considers the arguments by attorneys for FTC's Bureau of Litigation and those of the respondent, then makes his findings of fact and issues an initial decision. This will become the Commission's decision at the end of 30 days unless by a majority vote the Commission decides to modify or reverse it or return the case to the examiner for further hearings.

The examiner is in full charge of a case from the time the Commission issues its complaint until he renders his initial decision. His responsibilities include ruling upon offers of proof and receiving evidence, regulating the course of hearings, and holding conferences for such purposes as settlement or simplification of the issues. Of no small significance is his right to rule upon all procedural and other motions appropriate in adversary proceedings. Once all such minor decisions had to be made by the Commission itself prior to the enactment of the Administrative Procedure Act in 1946; they now are disposed of quickly by the hearing examiner, except under rare circumstances.

The importance of the hearing examiner's function in casework should not be underestimated. His forcefulness in the conduct of a hearing determines to great degree the dispatch with which the case is handled, and his judgment of the facts and the law in the case determines the soundness and adequacy of his initial decision.

Particularly can his conduct of a hearing serve to reduce delay. By refusing to permit unjustified delays in the scheduling of hear-

ings, by alertness in halting introduction of extraneous issues into the case, and by preparing their own findings with dispatch, the hearing examiners make major contribution to the speed with which the Commission can act.

Performance during fiscal 1957 gave evidence that the Commission's hearing examiners continued their increasing capacity to handle cases. The following table illustrates this.

Fiscal year	On hand	Received	Total handled	Disposed of	On hand	Hearing days
1954 .....	90 (July 1, 1953)	130	220	94	126 (June 30, 1954)	325
1955 .....	126 (July 1, 1954)	165	291	124	167 (June 30, 1955)	611
1956 .....	167 (July 1, 1955)	201	368	187	181 (June 30, 1956)	670
1957 .....	181 (July 1, 1956)	250	431	232	199 (June 30, 1957)	733

## OFFICE OF THE GENERAL COUNSEL

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The final step in casework are taken by the General Counsel's office in defending and prosecuting the Commission's decision before the courts and in policing compliance with all of its orders.

In addition, the General Counsel and his staff perform other services vital to the Commission's effectiveness. He is the Commission's chief law officer and principal legal adviser to the Commission and its staff. He and his staff analyze new legislation and represent the Commission before Congressional committees. They also administer the Webb-Pomerene Export Trade Act, review all trade practice rules, advise businessmen informally on trade regulation matters, supervise the work of special legal assistants to the Commission, and integrate cease and desist order compliance with programs for securing compliance with voluntary stipulations and trade practice rules. The General Counsel also advises the Chairman of the Commission on clearance of voluntary industry agreements sponsored by other agencies in carrying out the Defense Production Act and the Small Business Act of 1953. a final function is to prepare legal manuals and studies for the Commission's staff.

### DIVISION OF APPEALS

A principal function of the Division of Appeals is to defend or prosecute proceedings instituted in Federal courts in which the Commission is a party.

Any party against whom a cease and desist order is issued may seek review of that order by filing a petition in a United States Court of Appeals. Furthermore, any person aggrieved by a final action of the Commission for which review is not specifically provided by statute may challenge that action in a United States District Court. In Clayton Act cases, if the Commission's order to cease and desist is not obeyed, the Commission may seek affirmance and enforcement of that order in a United States Court of Appeals.

The Division of Appeals handles all phases of such litigation as well as appeals arising from other types of proceedings instituted in Federal district courts, including the briefing and argument of cases before the courts. It also participates with the Office of the Solicitor

General on any of these matters that reach the United States Supreme Court upon petition for writ of certiorari.

Another major function of this Division is to prepare drafts of reports by the Commission upon legislative proposals concerning which Committees of the Congress or the Bureau of the Budget want the Commission's views. It also drafts legislative proposals the Commission wishes to submit to the Congress. The Division also prepares opinions and recommendations on questions of substantive and administrative law or procedure arising from Commission and court proceedings.

During fiscal 1957 the Division completed litigation in circuit courts of appeals in 38 cases, 14 of which were antimonopoly cases, 19 were antideceptive practice cases, and 5 involved the Commission's subpoena powers. Three cases, including two pending at the start of the year, were decided by the Supreme Court. Four cases went to the Supreme Court upon petitions for writs of certiorari on behalf of the Commission. Three were granted, of which one was decided in the Commission's favor and two are pending for review. The fourth is pending upon the petition. Fourteen petitions were filed by other parties, of which one is pending upon certiorari granted, eight were denied, and five are pending upon the petitions.

At the close of the fiscal year action was pending in 9 cases in the Supreme Court and 23 in courts of appeals. These included 13 antimonopoly cases, 12 antideceptive practices cases, 5 subpoena cases, 1 contempt case, and 1 case involving an interlocutory order. The Division prepared 28 briefs on the merits, participated in 20 petitions for certiorari, presented 30 arguments, handled 99 interlocutory matters in pending cases, and prepared draft reports upon 50 legislative proposals.

## ANTIMONOPOLY CASES IN FEDERAL COURTS

### In the Supreme Court

#### Decisions

Two cases pending at the beginning of the fiscal year have been concluded: National Lead Co., et al., and American Crayon Co.

In National Lead<sup>1</sup> the Court reversed the court of appeals upon the question presented, which was of great importance to the power of the Commission to issue effective and adequate orders. The decision affirmed the authority of the Commission to include in its order to cease and desist a prohibition against acts and practices not in themselves necessarily unlawful, when necessary, in order to correct conditions created by past unlawful acts and practices of those subject to the order.

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<sup>1</sup> 352 U.S. 419.



American Crayon had been before the court previously upon petition to review that portion of the decision of the court of appeals which had set aside a part of the Commission's order. That petition had been granted and the judgment reversed, but the court of appeals thereupon had reversed its entire decision, including the portion which had affirmed and enforced the rest of the Commission's order. The Supreme Court granted the second petition for certiorari, reversed the decision, and remanded to the court of appeals with directions to affirm and enforce the part of the Commission's order not the subject of the earlier petition, and to consider and pass upon the Commission's petition for affirmance and enforcement of the remainder.

## Pending Cases

Petitions to review have been granted in Standard Oil Co., C. E. Niehoff, and Moog Industries, Inc. Petitions are awaiting action in E. Edelmann, Harlem Paper Products, and Metropolitan Bag & Paper Distributors Association.

### In Circuit Court of Appeals

#### Decisions and Other Disposition

All but one of the 11 antimonopoly cases pending at the beginning of the year proceeded to decision before its close. In five cases involving price discrimination in the sale of automotive parts, Moog Industries, St. Louis, Mo. (Eighth Circuit), Whitaker Cable, North Kansas City, Mo., E. Edelmann, Chicago, Ill., P. and D. Manufacturing Co., Long Island City, N. Y., and C. E. Niehoff, Chicago, Ill. (all Seventh Circuit), the Commission's order to cease and desist was affirmed. In the last-named case, the order was modified to stay its effective date. (Certiorari has been granted to review this modification.) P. Sorensen Manufacturing Co., New York, another auto parts price discrimination case, arose (District of Columbia Circuit) and the Commission's order was affirmed.

Harlem Paper Products Corp., Bronx, N. Y., Metropolitan Bag & Paper Distributors Assn., Inc., New York, N. Y., and Robins Paper Co., Baltimore, Md. (Second Circuit), involved conspiracy in restraint of trade in fine and wrapping paper. The Commission's orders were set aside as to certain petitioners and affirmed and enforced as to the rest.

Union Circulation Co., Inc., New York, N. Y. (Second Circuit) agreements in restraint of trade in the distribution of magazines, and Advertising Specialty National Association, Washington, D.C. (First Circuit, agreements in restraint of trade in the sale of advertising novelties. Commission's orders were affirmed and enforced.

Maryland Baking Co., Baltimore, Md. (Fourth Circuit), price discrimination in sale of ice cream cones. Commission's order affirmed as modified at Commission's request.

American Crayon Co., Sandusky, Ohio (Sixth Circuit), price discrimination and unlawful promotional allowances in sale of school supplies. Upon remand from the Supreme Court the court of appeals affirmed and enforced the entire order of the Commission.

Fruitvale Canning Co., Oakland, Calif. (Ninth Circuit), price discrimination in the sale of canned fruits, was dismissed at petitioner's request.

#### Pending Cases

Chain Institute, Inc., Chicago, Ill. (Seventh Circuit), restraint of trade and price discrimination in sale of chain products, remained pending throughout the year. (The Commission's order was affirmed 3 days after the year's close.)

Petitions to review were filed and are pending in Stokley-Van Camp, Inc., Indianapolis, Ind. (Seventh Circuit), a combination to restrain trade, in Atlanta Trading Corp., New York, N. Y. (Second Circuit), unlawful promotional allowances in the sale of canned meat products and in Simplicity Pattern Co., Inc., New York, N. Y. (Second Circuit), restraint of trade and granting of discriminatory services in the sale of dress patterns.

### DECEPTIVE PRACTICE CASES IN THE FEDERAL COURTS

#### In the Supreme Court

##### Decisions

There were no such cases pending in the Supreme Court at the start of the year. In *James H. Sewell* the court granted certiorari on behalf of the Commission and reversed the decision of the court of appeals, which had modified the Commission's findings and order.

##### Petitions for Certiorari Denied

In *E. F. Drew & Co., Inc., Carl Drath, and General Products*, the court denied certiorari to review decisions affirming and enforcing orders of the Commission.

##### Pending Cases

Petition of *Barclay Home Products* to review a decision affirming the Commission's order.

#### In Circuit Courts of Appeals

##### Decisions and Other Disposition

All of the 14 cases pending at the start of the year proceeded to decision.

Eight of these cases involved misrepresentations of the down content of pillows. In *Northern Feather Works, Inc., Newark, N. J., Bernard H. Sumergrade, New York, N. Y.* (both Third Circuit), *L. Buchman Co., Brooklyn, N. Y., Louis Buchwalter, Brooklyn, N. Y.* (both Second Circuit), *Sanitary Feather & Down Co., Kings County, N. Y.* (Eighth Circuit), and *Buryl J. Lazar, Chicago, Ill.* (Seventh Circuit),

the Commission's orders were affirmed and enforced. In *Barclay Home Products, Cohoes, N. Y.* (District of Columbia Circuit), the Commission's order was affirmed but enforcement has been stayed pending disposition of Barclay's petition for certiorari. In *Burton-Dixie Corp., Chicago, Ill.* (Seventh Circuit), the Commission's order was set aside. (The Solicitor General has determined not to petition for certiorari.)

*E. F. Drew & Co., Inc., New York, N. Y.* (Second Circuit), deceptive advertising of oleomargarine. The Court affirmed and enforced the Commission's order as modified at the Commission's request.

*General Products, Chicago, Ill.* (Seventh Circuit), deceptive practices in the sale of photo albums and certificates. The Commission's order was affirmed and enforced.

*James H. Sewell, Santa Ana, Calif.* (Ninth Circuit), false advertisements of a device for insertion in shoes. The Commission's findings and order were modified. (This decision was reversed by the Supreme Court. )

*Carl Drath, New York, N. Y.* (District of Columbia Circuit), merchandising by lottery device. affirmed and enforced.

*A. A. Goodman. (Weavers Guild), Los Angeles, Calif.* (Ninth Circuit), deceptive practices in the sale of a home-study course. Affirmed and enforced.

*American Hospital and Life Insurance Co., San Antonio, Tex.* (Fifth Circuit), deceptive practices in sale of life insurance. The Commission's order was set aside. (The Solicitor General has been asked to petition for certiorari.)

Four cases arose and proceeded to decision during the year. *Jacques De Gorter (Pelta Furs), Los Angeles, Calif.* (Ninth Circuit), deceptive practices in the sale of furs. Affirmed and enforced. *William H Wise Co., Inc. New York, N. Y.* (District of Columbia Circuit), deceptive practices in debt collection. Affirmed and enforced. *National Casualty Co., Detroit, Mich.* (Sixth Circuit), deceptive practices in sale of health and accident insurance. The Commission's decision was set aside and the case remanded for further proceedings. (The Solicitor General has been asked to petition for certiorari.) *J. C. Martin Corp., New York, N. Y.* (Seventh Circuit), lottery merchandising. The Commission's decision was set aside. (The Solicitor General has determined not to petition for certiorari.)

*Blanton Co., St. Louis, Mo.* (Eighth Circuit), deceptive advertisements of oleomargarine, was dismissed at petitioner's request.

#### Pending Cases

*Travelers Health Association, Omaha, Nebr.* (Eighth Circuit), *North American Accident Insurance Co., Chicago, Ill.* (Fifth Circuit), and *American Life and Accident Insurance Co., St. Louis, Mo.* (Eighth Circuit), misrepresentation of insurance policies.

Carter Products, Inc., New York, N. Y. (Ninth Circuit), false advertisement of a drug product.

Arrow Metal Products Corp., Haskell, N. J. (Third Circuit), deceptive practices in sale of awnings and component parts.

## SUBPENA CASES IN FEDERAL COURTS

### In the Supreme Court

Four petitions for certiorari were filed seeking review of decisions of lower courts in subpena cases. One, James F. Crafts, was filed on behalf of the Commission. The court has not acted upon that petition, or upon the petition of William T. Reed. Petitions of W. W. Tuttle and John T. Menzies, et al. were denied.

### In Circuit Courts of Appeals

#### Decisions

One case was pending at the start of the year. James F. Crafts (Ninth Circuit), upon appeal from a district court order (Northern District of California), enforcing a Commission subpena in an insurance case. Decision reversed.

John T. Menzies, et al., Baltimore, Md. (Fourth Circuit), on appeal from decision of district court (District of Maryland) enforcing Commission's subpena. Affirmed.

W. W. Tuttle, Boston, Mass. (Second Circuit), appeal from district court decision (Southern District of New York) denying enforcement of Commission's subpena. Reversed.

William T. Reed, Chicago, Ill. (Seventh Circuit), appeal from district court decision (Northern District of Illinois), enforcing Commission's subpena. Affirmed.

William B. Rubin, Hoboken, N. J. (Second Circuit), appeal from district court decision (Southern District of New York), denying Commission's application for order enforcing its subpena. Decision reversed.

#### Pending Cases

Scientific Living, Inc., Scranton, Pa. (Third Circuit), appeal from district court decision (Middle District of Pennsylvania) enforcing Commission's subpena.

Fred J. Bowman, Chicago, Illinois (Seventh Circuit), appeal from district court decision (Northern District of Illinois) enforcing Commission's subpena.

## CONTEMPT PROCEEDINGS IN FEDERAL COURT

In Dolcin Corporation, New York, N. Y. (District of Columbia Circuit), false advertising of a drug product, the corporation and three officers were found guilty of criminal contempt of the court's mandate directing compliance with the Commission's order to cease and desist.

The court imposed fines of \$15,000 upon the corporation, \$2,500 on its President, \$1,000 on the Treasurer, and \$750 on the Secretary. The Supreme Court has denied petitions by the corporation and its President for certiorari to review their convictions.

### INJUNCTION PROCEEDINGS IN FEDERAL COURTS

In *Carl Drath*, New York, N. Y. (District of Columbia Circuit), lottery merchandising, the court granted the Commission's application for an injunction commanding obedience to the Commission's order pending disposition of Drath's petition to review that order.

In *International Paper Co.*, New York, N. Y. (Second Circuit), the court dismissed the Commission's petition for an injunction to maintain the status quo pending completion of an administrative proceeding against an alleged unlawful merger.<sup>2</sup>

### INTERLOCUTORY ORDERS CASES IN FEDERAL COURTS

In *Renaire Corporation* (Pennsylvania), Springfield, Pa. (Third Circuit), the court dismissed for want of jurisdiction Renaire's petition for a writ of prohibition and mandamus against the Commission, and its petition for review of an interlocutory order of the Commission. Thereafter it denied also Renaire's petition for a stay of the Commission's proceeding pending filing of a petition for certiorari.

In *Renaire Corporation* (Pennsylvania), Springfield, Pa. (District of Columbia Circuit), the court dismissed Renaire's petition for a writ of prohibition and mandamus against the Commission.

### DIVISION OF COMPLIANCE

This Division obtains and maintains compliance with the Commission's cease and desist orders. Without continuous surveillance, the Commission is unable to know whether or not its orders are being obeyed.

Each respondent is required to report how he is complying with these orders and intends to do so in the future. The Division evaluates these reports and augments them where necessary by conferences, supplemental reports, or by investigation immediately following the entry of an order. Other principal duties of the Division are:

To request and analyze results of investigations of complaints of violation of orders.

To represent the Commission in collaboration with district attorneys in United States District Courts in civil penalty suits, preparing the complaint, and trial memoranda, taking necessary depositions and participating throughout the litigation.

To work out acceptable voluntary compliance programs.

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<sup>2</sup> (Compiler: Add cross-reference to Bureau of Litigation's report of proceedings before Commission in this case.)

## Civil Penalty Suits

To discover violations and speed prosecution of the penalty provision of the Federal Trade Commission Act are imperative in the public interest.

Violation of a Federal Trade Commission Act order makes a respondent liable to civil penalty up to \$5,000 for each violation. Where the violation continues, each day of its continuance is a separate offense.

Penalty proceedings during fiscal 1957 were as follows:

Pending July 1, 1956 .....	8
Filed during year .....	10
Disposed of during year .....	18
Pending June 30, 1957 .....	5
Certified, not yet filed .....	13
Penalty investigations under review, including 1 on suspense at direction of Commission .....	25

Since the Division's creation in 1947 the summary of civil penalty suits is:

Fiscal Year	Total Judgments and settlements	Number of suits certified to the attorney general
1947 .....	\$38,000.00	1
1948 .....	.....	0
1949 .....	16,000.00	0
1950 .....	7,000.00	9
1951 .....	<sup>1</sup> 80,000.00	1
1952 .....	11,600.00	5
1953 .....	59,538.00	3
1954 .....	8,950.00	2
1955 .....	40,132.69	11
1956 .....	19,342.70	9
1957 .....	24,704.60	12
Total .....	306,168.19	.....

<sup>1</sup>Morton Salt case—\$100 a day penalty, failure to obey order to report

### Civil Penalty Cases Concluded

Air Conditioning Training Corp. (S. D. Calif.).—Misrepresentation of a correspondence course designed to train purchasers thereof for positions in the air conditioning industry. Dismissed upon payment of \$10,000 in compromise settlement.

Masterkraft Guild Weavers, Inc. (D. N. J.).—Failure to disclose foreign origin of rugs. Penalty of \$1,000 assessed and mandatory injunction entered restraining further violations of the order to cease and desist.

Robert Hall Clothes, Inc. (S. D. N. Y.).—Misrepresentation of the regular price of articles of clothing and the savings to be afforded to purchasers thereof. Dismissed upon the payment of \$10,000 in compromise settlement.

Sears, Roebuck & Co. (N. D. Ill.).—Misrepresentation of savings and discounts to be afforded purchasers of automobile tires. Judgment for \$537.20.

Western Auto Supply Co. (W. D. Mo.).—Misrepresentation of savings and discounts to be afforded purchasers of automobile tires. Judgment for \$3,150 entered.

#### Civil Penalty Cases Pending

International Research Co. (Seventh Circuit).—Sale and use of deceptive materials designed to obtain by subterfuge information concerning alleged delinquent debtors. On appeal from a judgment entered in the Northern District of Illinois assessing a penalty of \$1,500 and costs.

Hauptman Feather Co. (E. D. N. Y.).—Misrepresentation of feather and down content of pillows.

Hollywood Film Studios (N.D. Ill.).—Deceptive practices in connection with the sale of photographic enlargements and frames therefor.

Seydel Chemical Co. (D. N. J.).—False representations concerning the value of a drug preparation designed for use in the treatment of arthritic and rheumatic conditions.

Snappy Fashions, Inc. (E. D. N. Y.).—Failure to label wool products as required by the Wool Products Labeling Act of 1939.

The Capitol Service, Inc. (W. D. Mich.).—Misrepresentation of a correspondence course designed to train purchasers thereof for civil service positions.

Mueller Hair Experts (S. D. Tex.).—Misrepresentation of the merits of a drug preparation designed for use in the treatment of hair and scalp conditions.

Paul R. Dooley, Inc. (S. D. Calif.).—Misrepresentation of the merits of a drug preparation designed for use in the treatment of hair and scalp conditions.

America Greetings Corp. (N. D. Ohio).—Unfair methods of competition in connection with the sale of greeting cards.

Duon, Inc. (S. D. Fla.).—Unfair methods of competition in connection with the sale of cosmetic supplies.

The B. F. Goodrich Co. (N. D. Ohio).—Misrepresentation of savings and discounts to be afforded purchasers of automobile tires.

Bostwick Laboratories, Inc. (Conn.).—Misrepresentation of a mothproofing preparation.

Maryland Distributors (Md.).—Misrepresentation of watches.

In all civil penalty cases the Division prepares for transmission with the certification to the attorney general, for filing in the United States District Court, all the necessary pleadings and a trial memorandum,

and offers full aid of its attorneys in prosecution and trial of the case. Usually the offer is accepted and the division attorneys not only fully participate but often solely conduct the trials. They also prepare all necessary further pleadings and briefs for filing with the court, which include requests for admissions, interrogatories, objections, motions, and court findings, and personally arrange and take all necessary oral depositions of those witnesses who cannot be subpoenaed to appear personally.

The primary objective is to obtain compliance with orders rather than to exact a large number of civil penalty judgments. This cannot be achieved without prompt application of civil penalty procedures when compliance apparently cannot be obtained otherwise.

Experience shows that a respondent may be in compliance today and in violation 3 or 4 years hence, and that without the reasonable and continued surveillance approximately 70 percent of such orders would have no meaning of effect. In at least 70 percent of the compliance cases handled, it is necessary to do much more than analyze and file reports. In about two-thirds of the cases which involve continued work, they do so either because the original reports of compliance later prove unsatisfactory, or new violations are discovered.

Most orders involving restraints of trade are issued under the Clayton Act and have no finality until enforced by decree by the United States Court of Appeals after proof of violation, and proof of a further violation is necessary for a fine in criminal contempt. Since 1947, there have been no such fines. Only three judgments have been recovered, one in 1937, one in 1940, and one in 1945.

During fiscal 1957 this Division initiated four formal investigational hearings, looking toward enforcement of Robinson-Patman orders (Curtis Candy Co., D. 4556, Kay Windsor, D. 5735, Washington Fish & Oyster Co., D. 5228 and Booth Fisheries, D. 4414). Work on these cases continues.

In collaboration with the Bureau of Economics, the Division is obtaining supplemental information re compliance in the Commission's 1948 Cement case with a view to a joint economic and legal analysis and evaluation of the current price structure in that industry.

The Division has initiated and has outstanding 24 investigations of compliance with orders issued under the Clayton Act.

During fiscal 1957 a total of 157 compliance investigations were instituted and supervised by the Division, 42 of which were in connection with antimonopoly matters. This 157 is an increase of 13 compliance investigations over the preceding fiscal year.

#### Progress on Review of Old Orders

Since its organization, the Commission has issued approximately 4,955 cease and desist orders. Prior to 1954 the Compliance Division,



established in 1947, had been able to deal adequately with order compliance primarily only as to those orders issued since 1947, of which there are now less than 900. In August 1954 a survey of the status of compliance by respondents with the more than 4,000 previous orders was begun. Its status follows:

	Fiscal year 1957	Cumulative to July 1, 1957
Examined . . . . .	748	2,560
Screened as requiring no action . . . . .	375	1,063
Supp. reports requested . . . . .	268	1,007
Compliance brought current . . . . .	259	1,003

Of the 1,495 old orders not yet surveyed, more than 400 involve restraints of trade, Clayton Act violations, price-fixing conspiracies and other complicated problems. These orders are directed against evils found in many of the country's most vital industries. Many involve hundreds of respondents, each of whom must report. During fiscal 1957 some 100 of such orders were under review to ascertain which are active; which should be activated by supplemental reports or field investigation; and which, if any, need no further present attention. Fifteen spot-check investigations have been initiated, 60 supplemental compliance reports requested and compliance information at time of writing is current in 13 of these cases.

#### Current Order Compliance

The most substantial portion of the Division's work consists of securing compliance reports and, where necessary, enforcing compliance with orders currently issued. As each order is issued the Division must study and analyze reports to insure that respondents adjust their business practices to conform to the Commission's cease and desist orders, and where voluntary compliance cannot be obtained, to initiate and pursue enforcement in the Court.

#### Statistics on Matters Handled in Fiscal 1957

"Matters" consist of (a) reports of compliance for processing; (b) complaints of alleged violation of orders; (c) conferences and opinions regarding compliance; and (d) initiating and processing preliminary inquiries into compliance. Each category of these "matters" is a distinct operation requiring substantial man-hours. In other words the same case often requires handling several times, as is apparent from the following table showing the number of "matters" and the number of "cases" handled, and disclosing that 1,273 "matters" handled involved but 602 "cases."

*Matters*

Total pending July 1, 1956 .....	992
Received during year .....	<u>1,687</u>
Total for disposition during year .....	2,679
Disposed of during year .....	<u>1,273</u>
Total pending June 30, 1957 .....	1,406

*Cases*

Cases pending July 1, 1956 .....	348
Received during year .....	<u>683</u>
Total for disposition during year .....	1,031
Disposed of during year .....	<u>602</u>
Cases pending June 30, 1957 .....	429

### DIVISION OF SPECIAL LEGAL ASSISTANTS

The principal work of this division is the preparation of documents needed to implement Commission decisions in adjudicative proceedings. The work includes the examination of formal records and reporting on them to the Commission or to individual Commissioners.

Division attorneys consult with Commissioners and staff members on questions of law, policy and procedure in connection with all phases of the Commission's work. They prepare reports and recommendations on a wide variety of subjects, including questions of substantive law, proposed trade practice rules, and proposed reports to the public.

During fiscal 1957 the division prepared drafts of 256 decisions, of which 56 were final decisions and 200 were interlocutory depositions. It prepared 22 miscellaneous reports with recommendations, and replies to 65 items of legal correspondence.

#### Defense and Small Business Services Respecting Voluntary Agreements and Programs

Section 708 of the Defense Production Act of 1950, as amended, authorizes the use of voluntary industry agreements and programs sponsored by other agencies of the Government to further the objectives of the National Defense Program. It further provides that the Chairman of the Federal Trade Commission and the Attorney General must be consulted before the agreements and programs are put into effect. When such agreements and programs have been approved by the Attorney General, participating industry members are accorded immunity from the antitrust laws and the Federal Trade Commission Act.

Before clearance is granted, the Chairman of the Commission examines the proposed agreements and programs with a view to minimize or eliminating, without interference with the defense effort, any factors which may tend to suppress competition, create or

strengthen monopolies, injure small business or otherwise promote undue concentration of economic power.

Production pools of small business and voluntary industry agreements and programs under the Small Business Act of 1953, as amended, are subject to similar requirements for consultation and clearance by the Chairman of the Commission.

Twenty-seven such industry agreements and programs were in effect at the close of the fiscal year, seven of which were under the Small Business Act of 1953.

The Office of the General Counsel advises the Chairman of the Commission in connection with his consultative and clearance functions under both statutes.

## ADMINISTRATION OF THE WEBB-POMERENE ACT

### Office of Export Trade

This Office performs legal and related services incident to the administration of the Webb-Pomerene (Export Trade) Act (15 U.S.C. § 61 - 65).

The Webb-Pomerene Act permits American business competitors to organize an association to engage solely in the sale of goods outside the United States. Every export trade association thus created and registered with the Commission is privileged to claim immunity from prosecution under the Sherman Act. This legal dispensation, however, is not absolute. The association is required to abstain from various practices which are expressly denounced by the act. Departure from the legal requirements is subject to corrective action by the Commission and enforcement or penalty proceedings by the Attorney General.

Under section 4 of the act the Commission is empowered to prohibit unfair methods of competition in foreign transactions. Corresponding authority is conferred to investigate trade conditions in foreign countries under section 6 (h) of the Federal Trade Commission Act. Thus, the Office of Export Trade advises other bureaus within the Commission and confers with the Departments of Justice and State on antitrust matters and United States policies in international trade.

Thirty-six associations comprising 428 American exporters are now registered with the Commission. Usually, an export association is formed to gain economic advantages for its members derived from increasing their business opportunities in global markets, pooling their resources and abilities, strengthening their bargaining power with competing cartels, abating foreign trade barriers, qualifying for special tax concessions, and for other reasons. The associations function chiefly as central selling agencies or perform a variety of services comparable to conventional trade associations. Thus one association is composed of seven corporations which collectively account for 90

percent of the United States production of a chemical used by agriculturists. This association serves as an exclusive sales agent for each of its members who export to most world markets. The Webb-Pomerene Act which permits these American producers to do business cooperatively thereby enables them to penetrate markets controlled by a European cartel which would be inaccessible to a single American exporter.

There is a wide range among the membership of the associations. Some are composed of large American manufacturers, some are small business components, and others are a mixture of both large and small producers. The nature of commodities shipped to foreign markets is equally broad. One association consists of numerous growers of fruit who participate in exporting in connection with the Governments' foreign agricultural assistance and disposal programs while another association representing only a few manufacturers deals extensively in exporting heavy industrial machinery.

The business conduct involved in distributing products overseas presents antitrust considerations similar to commercial practices followed in domestic trade. Problems for consideration are exclusive and restrictive sales agreements, unfair acts injuring other American exporters, patent pooling arrangements, price fixing within the United States and other behavior which by precedent has been ruled illegal by the Commission.

American businessmen during 1956 have been stimulated to expand and find new opportunities abroad for United States products. The approximate value of foreign shipments attributable to Webb-Pomerene associations within the last 3 years is as follows:

	1954	1955	1956
Metal and metal products . . . . .	\$34,021,332	\$51,838,736	\$74,775,522
Products of mines and wells . . . . .	23,618,855	31,125,327	47,816,616
Lumber and wood products . . . . .	5,625,932	8,339,244	7,520,496
Foodstuffs . . . . .	108,357,541	148,904,921	158,804,988
Miscellaneous—including abrasives, motion pictures, pencils scientific instruments, textiles, and typewriters	<u>619,840,517</u>	<u>576,122,114</u>	<u>613,731,138</u>
Total . . . . .	791,464,177	816,330,342	902,648,760

## CONSULTATION

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This Bureau undertakes to obtain maximum voluntary compliance with the laws administered by the Commission.

The Bureau is composed of the Divisions of Trade Practice Conferences, Stipulations, and Small Business. Its functions are: (1) to obtain voluntary compliance with the laws administered by the Commission by means of trade practice rules, conferences, stipulations and other types of informal procedures; (2) to give informal advice in matters under trade practice rules and stipulations; and (3) to advise small business informally on matters over which the Commission has jurisdiction.

### OFFICE OF THE DIRECTOR

Direction of the work of the Bureau is centralized in the office of the Director who exercises general supervision over the activities of the three Divisions.

On September 15, 1955, the Commission approved a set of Cigarette Advertising Guides for use of its staff in evaluating cigarette advertising and directed this Bureau to continue consulting with industry members to assist them in complying therewith. The work of the Bureau under the Guides has been under the immediate supervision of the Director and has entailed the review of all available newspaper, periodical, radio, and television cigarette advertising, consultation with industry members, and the institution of the action necessary to cause the voluntary discontinuance of representations deemed questionable under the Guides and Commission law. This Work has resulted in the discontinuance of numerous claims and vigorous efforts in this respect will be continued.

### DIVISION OF TRADE PRACTICE CONFERENCES

This Division administers the trade practice conference program of the Commission. This provides for:

Establishment and revision of trade practice rules for industries in cooperation with their members;

Furnishing of advice and guidance on requirements of the rules; and  
Obtaining of voluntary compliance with the rules of an individual as well as an industrywide basis.

Trade practice rules interpret and clarify the requirements of laws administered by the Commission as they apply to a particular industry. The rules effect widespread voluntary observance of laws administered by the Commission, thus lessening the need for individual complaint proceedings and substantially reducing the cost of law enforcement.

Industries usually ask for the rules. The Division studies the request and recommends whether it should be approved. If the Commission approves, the Division conducts industrywide conferences at which industry members suggest and discuss rules. Proposed rules are then drawn and discussed at public hearings, following which the Division recommends final rules for Commission approval and promulgation.

Of equal importance to its "rule making" work are the Division's activities in securing and maintaining industrywide compliance with promulgated rules through vigilant administration of their provisions.

Trade practice rules for industries consist principally of group I rules which inhibit practices considered by the Commission to be illegal under the statutes it administers.

Rules promulgated for industries may also include group II rules. These are not, and do not purport to be, interpretive of legal requirements. Compliance with them by industry members is wholly voluntary. Such rules reflect recommendations of the industry and are accepted by the Commission only when it appears that they will advance the best interests of the industry on sound competitive principles.

The consultative work of the Division entails answering many inquiries about requirements of the rule and the propriety of proposed or current practices in industries subject to rules. These inquiries are received from industry members, trade associations, members of Congress, Better Business Bureaus, consumer groups and others interested in or affected by the rules. Since present day rules are more definitive and afford wider and more adequate coverage of the law, inquiries present many complex legal problems involving such practices as price discrimination, exclusive dealing, discriminatory promotional allowances, illegal brokerage, price-fixing, conspiracies, and other types of monopoly, restraint of trade, deceptive or un-fair practices.

## Accomplishments During Fiscal 1957

Statistics on rule making activities of the Division follow:

Trade practice rules in force on July 1, 1956 .....	160
Industries for which new or revised rules were promulgated during the year .....	10
Industries for which rules were rescinded, revised (or consolidated with other rules) .....	9
Applications for trade practice conference proceedings denied .....	3
Trade practice rules in force on June 30,1957 .....	161
Trade practice conference proceedings for industries pending July 1, 1956 .....	37
Trade practice conference proceedings for industries pending on June 30,1957 .....	25
(A substantial number of these proceedings were advanced during the year.)	
Rules for industries given attention during the year with the view of determining the need for revision and supplementation (proceedings for some of these likely to be instituted in fiscal 1958) .....	33

During fiscal 1957 the Commission promulgated new and revised rules for 10 industries, namely: Jewelry, Paint and Varnish Brush Manufacturing, School Supply and Equipment, Engraved Stationery and Allied Products Industry of the New York City Trade Area, Combination Storm Window and Door., Commercial Dental Laboratory, Buff and Polishing Wheel Manufacturing, Steel Bobby Pin and Steel Hair Pin Manufacturing, Environmental Testing Equipment Manufacturing, and Metal Awning Industry.

The promulgation of rules for the \$3 billion jewelry industry effected a consolidation and revision of rules previously promulgated for certain industry segments, the termination of pending trade practice conference proceedings for other segments, and supplied needed coverage of still other industry segments and kinds of products for which rules had not been previously promulgated. For the first time, trade practice rules are now applicable to all functional segments and to all kinds and types of jewelry items and products. The establishment of this comprehensive set of rules was a considerable task, involving reconciling divergent views of various industry segments on the proper use of many quality markings and descriptions.

The detailed guidance afforded the entire industry in these comprehensive rules, the educational benefits received by the numerous industry members during the proceeding leading to their promulgation, and the consultative and compliance work under the rules will reduce to a minimum the need for formal complaint actions against members of this industry.

The rules for the Metal Awning Industry, a comparatively new but rapidly expanding industry, supply definitive guidance needed for the protection of the public as well as members of the industry. Since the principal sales appeal of products of this industry is their resistance to damage from all year exposure to the elements, the rules re-

lating to use of the terms "windproof," "stormproof," and "rustproof," and terms of similar import, are of particular significance. Equally important is a rule inhibiting misrepresentation of the efficacy of the products in reducing or controlling temperature in areas protected by the products, or in reducing the operating cost, or increasing the effectiveness, of air-conditioning equipment.

For the highly competitive School Supply and Equipment Industry, the rules discourage, among other things, the practice of demonstrating obsolete models of a competitor's products and tampering with them so as to disparage them in the eyes of prospective customers.

The Combination Storm Window and Door Industry, a relative newcomer in the industrial field, early became plagued by widespread unlawful practices. Bait advertising was demoralizing the industry. Also, misuse of such terms as "custom built," "factory to you," "burglar proof," and "aircraft aluminum" as descriptive of industry products confused prospective purchasers.

The Steel Bobby Pin and Steel Hair Pin rules primarily afford extensive and detailed clarification of the requirements of the Robinson-Patman Act for an industry which admittedly was in sore need of guidance.

Trade practice conference proceedings advanced during the year were those for the following industries: Rabbit and Cavy Breeders, Cut and Wire Tack, Sun Glass, Barre Granite, Canvas Cover, House Dress and Wash Frock Manufacturing, Floor Machinery, Mastic and Texture Sprayed Coatings, Direct Selling, and Watch Attachment.

## COMPLIANCE WORK

Rule compliance activities of the Division during fiscal 1957 follow:

Compliance Matters pending July 1, 1957 .....	296
New compliance matters initiated during the year .....	589
Total for disposition .....	885
Disposed of during year .....	595
Pending June 30, 1957 .....	290

These compliance activities included:

Poultry Hatching and Breeding Industry.—Misuse of the term "hatchery," the substitution of chicks for different kind and breed than those ordered, the use of "bogus independents," and misuse of "AAAA" and similar designations, were given attention and their discontinuance effected.

Radio and Television Industry.—Unlawful practices, such as deceptive methods of describing sizes of television receiving sets and failure to disclose that industry products (or parts) have been previously used, which were deeply ingrained in the industry's business



methods, are steadily being eliminated through administration of the rules.

Diamond Industry.—Concentrated efforts were made to stop catalog houses from misrepresenting diamonds as "blue white," "flawless," "perfect" and "guaranteed," and from misrepresenting their weight.

Brick and Structural Clay Tile and Allied Products Industry.— Deceptive use of the term "brick" to describe other kinds of building materials has been substantially eliminated by obtaining compliance with the rules.

Bedding Manufacturing and Wholesale Distributing Industry.— Fictitious pricing practices and misrepresentations of the therapeutic properties of bedding products continued to receive attention.

Statistics relating to rule interpretation work of the Division during the last 3 months of fiscal 1957 are as follows:

Rule interpretations requested .....	108
Rule interpretations effected .....	72
Rule interpretations pending June 30, 1957 .....	36

This phase of the Division's work, while not new, has not been accounted for in the past since it was handled as a matter of routine. However, such work is requiring more of the staff's time.

## DIVISION OF STIPULATIONS

Under the stipulation procedure a person charged with engaging in unfair practices is given an opportunity to present his side of the matter informally and to enter into an agreement to discontinue those practices which are shown by the facts to be unlawful. A stipulation becomes effective when approved by the Commission and is a matter of public record.

The stipulation procedure was devised in 1925 as a means of obtaining law observance without the time and expense of litigation.

After acceptance of a stipulation by the Commission, the Division of Stipulations obtains from the stipulating parties a report showing in detail how they are complying with the terms of their stipulations. If compliance is satisfactory, a report of this is filed. If it is not satisfactory, the matter is referred for issuance of complaint or other appropriate action.

The Division also makes a systematic check on compliance with approved stipulations and takes appropriate corrective action in cases of noncompliance.

In April 1957 the Commission's Rules of Practice were amended to provide for the admissibility of stipulations in formal proceedings, as evidence of the prior use of the practices alleged in the complaint. Thus, if a stipulating party violates his agreement and a formal proceeding is instituted the stipulation may be of evidentiary

value in the proceeding. By this amendment the stipulation becomes of increased importance in the Commission's law enforcement program.

### Stipulation Procedure

Matters appropriate for disposition by stipulation are referred for this procedure after investigation by the Bureau of Investigation.<sup>1</sup> The proposed respondent is furnished with a statement of the acts or practices which, following investigation, appear to be unlawful and is afforded an opportunity to discuss the issues informally with a representative of the Division of Stipulations (89 such informal conferences were held during the year). He, or his counsel, may also present such factual information as he may wish to have considered in the matter, in person or in writing. Thereafter, a stipulation providing for discontinuance of any practices shown by the facts to be illegal may be entered into and, if approved by the Commission, this agreement serves as a basis for disposing of the case.

#### Summary of Stipulation Negotiations for Fiscal Year 1957

Cases pending with the Division July 1, 1956 .....	30
Cases received by the Division during fiscal 1957 .....	190
<b>Total</b> .....	<b>220</b>
<b>Disposition</b>	
Cases forwarded by the Division with recommendation for:	
Acceptance of executed stipulations .....	113
Closing without prejudice .....	1
Issuance of complaint .....	2
Cases referred by the Division to the Bureau of Investigation for further attention .....	24
Cases referred by the Division to the Division of Trade Practice Conferences for further attention .....	1
<b>Total</b> .....	<b>141</b>
Cases pending June 30, 1957 .....	79

In 113, or 80 percent, of the 141 cases disposed of, stipulations were negotiated and reported to the Commission with recommendation for approval. Eighty-nine conference hearings were held in connection with stipulation negotiations. A total of 105 stipulations were approved by the Commission and 8 were pending with the Commission at the end of the year.

<sup>1</sup> Opportunity to enter into a stipulation is not afforded when the alleged violation of law involves false advertising of food, drugs, devices, or cosmetics which are inherently dangerous, the sale of fabrics and wearing apparel which are so highly flammable as to be dangerous, or the suppression or restraint of competition through conspiracy or discriminatory or monopolistic practices. The Commission reserves the right in all cases to withhold the privilege of disposition by voluntary agreement.

## Types of Practices Covered by Stipulation

In 30 stipulations approved during the year manufacturers or distributors of fur products agreed to discontinue illegal practices, including misbranding, false invoicing and false or deceptive advertising. Eleven manufacturers or distributors of wool products agreed to label those products as required by the Wool Products Labeling Act.

Five distributors of reclaimed lubricating oil agreed to disclose in advertising and labeling that the oil was used.

Two manufacturers of tablets used in weight-reducing plans agreed to stop representing that the product itself possesses weight-reducing properties.

Two advertisers of medicinal preparations stipulated not to represent that their products would have any therapeutic effect upon any of the symptoms of arthritis, bursitis, or rheumatism beyond affording temporary relief of minor aches, pains, and fever.

Two manufacturers of eyeglasses having only magnifying lenses agreed to stop representing that their glasses will correct vision unless limited to persons not having astigmatism or eye diseases and would require only simple magnifying glasses.

Following are examples of other approved stipulations:

A manufacturer of throat disks agreed not to represent that its product has any effect in preventing, curing or shortening the duration of a cold.

A distributor of tractors, snowplows and other motor-driven equipment agreed to disclose that certain of its equipment is used or rebuilt.

A mattress manufacturer stipulated not to use terms such as "orthopedic" to describe mattresses which have not been designed or constructed so as to afford special health, orthopedic or therapeutic benefits to users.

A watch distributor agreed not to represent its watches as "jeweled" unless they contain at least seven jewels, each of which serves a mechanical purpose as a frictional bearing.

A manufacturer of abdominal belts stipulated that it would not represent that its belts will eliminate backache or back pains.

A manufacturer of canned soft drinks agreed to stop using lottery schemes in connection with the sale of its product.

A furniture manufacturer stipulated that it would not represent that its products were made for or to the specifications of the United States Government unless in fact true.

An operator of a service for obtaining information concerning delinquent debtors agreed not to use names implying a connection with the United States Government.

A book publisher agreed not to substitute a new title for the original title of a reprinted book without revealing this.

#### Regular Compliance Work

During fiscal 1957 a total of 114 reports were received and filed as showing satisfactory compliance with stipulations. Twenty-four matters in which compliance was not considered satisfactory or further investigation was necessary were referred to other Bureaus. Fifty-five matters were pending at the close of the year.

#### Stipulation Compliance Check

In checking compliance with older stipulations, a total of 271 inquiries were initiated and 251 disposed of during the year.

The following table summarizes this program:

On hand July 1, 1956 .....	50
Initiated during period .....	271
Received from Bureau of Investigation .....	17
 Total .....	<u>338</u>
 Filed as showing compliance .....	189
Filed after voluntary correction of violations .....	32
Referred for further attention .....	30
 Total .....	<u>251</u>
 On hand at end of period .....	87

#### Status of Stipulation Work

The 190 cases referred for stipulation negotiations in fiscal 1957 is an increase of four over the preceding year. As more than one-half of these cases were received during the last 4 months of the fiscal year, a comparatively large number of cases (79) were pending at the year's end. However, stipulation negotiation work is again current, and with no substantial increase in volume of cases.

### DIVISION OF SMALL BUSINESS

This Division completed its third year of operation in fiscal 1957. Its purpose is to assist small business in obtaining the protection afforded by the laws administered by the Commission and to provide guidance on their requirements.

Its principal functions are:

1. To give informal staff advice to small-business men on how to conduct their businesses within the statutes administered by the Commission;
2. To advise small-business men on how best to prepare applications for complaint against illegal methods of competitors;

3. To expedite through the Commission those matters involving practices which adversely affect small business;
4. To perform liaison functions with the House and Senate Select Committees on Small Business, the Small Business Administration and other agencies dealing with the problems of small business;
5. To inform small-business men of the functions and jurisdiction of other governmental agencies concerned with the interests of small business.

### Description of Work

The problems presented to the Division involve both unfair and deceptive acts and practices and matters in the antitrust field. Most of the work consists of giving informal advice to small-business men concerning statutes administered by the Commission. This generally involves practices which the inquirer either is engaging in or intends to engage in or which are being engaged in by a competitor. Each problem is given the necessary research, consultation or liaison work required. Answers are supported by citations and documents where appropriate.

Matters falling within the primary jurisdiction or responsibility of other governmental agencies are transmitted to them for appropriate attention or, if the information requested is known to be available at a nongovernmental source, the inquirer is advised of this.

Services of this Division are especially valuable to small-business men who, without the safeguards afforded by the Commission, might not have the resources to compete in areas where unfair or restrictive business practices exist.

Statistical Summary	
Matters on hand July 1, 1956 .....	54
Received during fiscal year 1957 .....	1,148
Completed during fiscal year 1957 .....	1,169
Matters on hand June 30, 1957 .....	33

The 1,169 matters completed during the year included 432 conferences.

## ECONOMICS

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The functions of this Bureau are to give economic and statistical assistance to the Commission in its investigative and trial work, to make economic studies for publication in response to requests by the Commission or by Congress or the President; and to compile and publish quarterly financial reports covering manufacturing corporations. The first two functions are performed by the Division of Economic Evidence and Reports and the third by the Division of Financial Statistics.

### DIVISION OF ECONOMIC EVIDENCE AND REPORTS

The major work of this Division in fiscal 1957 was its economic study of antibiotics, including manufacturing costs, patents, research, and why the cost of "miracle drugs" to the public is as high as it is. The study has been an intensive one and has been complicated by the fact that being a new industry relatively little is known about it. Furthermore, it grew up as an important activity of concerns whose principal business was the sale of ethical (prescription) drugs. Also, having been developed under the necessary secrecy imposed by World War II, its economics could not be exposed during that period to the open studies customarily made of a burgeoning industry. In post war years, new developments in antibiotics came along so fast that the industry raced ahead of the economic analysts. The result was that the Bureau's economists had to start with very little background knowledge available.

During the first half of fiscal year 1957 economists of the Division of Economic Evidence and Reports analyzed the returns to the first industry questionnaires covering primarily points relating to sales, prices, production and patents. During the second 6 months, conferences were held with industry representatives on the general topics of accounting and cost records. Plants were visited to broaden the informational background on antibiotics technology. A second questionnaire requesting data on production costs, plant construction expenditures, purchases, pricing policy and related topics, was de-

veloped. This was approved by the Commission on May 14, 1957, and was mailed to the industry with reply requested by July 1, 1957.

A comprehensive report on the positions of the 1,000 largest manufacturing companies in the national economy was issued in January. The report was based on the year 1950. Principal subjects are: (1) the position of these companies among all manufacturing companies of the United States measured in terms of total shipments; (2) the part of the national output of particular industries that is supplied by companies included among the 1,000; and (3) the diversity, or dispersion, of their manufacturing activities among commodity lines or industries. Detailed comparisons of the importance of groups of these large companies in particular industries is a unique feature of this report. Another is series of tables showing the number of companies principally engaged in a given industry that shipped products primary to other industries. Appendices identify the four firms among the 1,000 companies with the largest shipments of each industry and class of products.

### Assistance in Enforcement

An important continuing function of the Division is to render economic assistance to the Office of the General Counsel in the enforcement of the Commission's cease and desist orders. During fiscal 1957, assistance was well under way in connection with orders in two cases—Cement Institute and Salt Producers Association. Reports of compliance, along with much market and related data, were turned over to the Division for analysis in the light of orders of the Commission.

The Division also gives assistance to the Bureau of Litigation, and fiscal 1957 found extensive work being done in two anti-merger cases: Pillsbury Mills, Inc., and Luria Brothers & Co., Inc.

In the Pillsbury case, Division economists analyzed material presented by the respondents and prepared data for use in cross examination or as rebuttal evidence. In the Luria case, comprehensive analyses were made of data submitted by the mills covering purchases of iron and steel scrap for the years 1953 and 1954. Also analyzed was the data submitted by Luria Bros. on their exports of iron and steel scrap. These data together with special tabulations from the Census Bureau are being analyzed, as are data on iron and steel scrap distribution as shown by the censuses of distribution and data on consumption of iron and steel scrap as shown by the Bureau of Mines.

In the merger case against Scott Paper Co., the Division conducted a survey involving about 230 manufacturers of sanitary paper products and household waxed paper.

## DIVISION OF FINANCIAL STATISTICS

The Quarterly Financial Report for Manufacturing Corporations is produced four times a year jointly by the Commission's Division of Financial Statistics and the Securities and Exchange Commission's Section of Economic Research. It is sold on a subscription basis by the Government printing Office's Superintendent of Documents.

This publication is the official source of data regarding the current financial condition and operating results of a large segment of the Nation's economy—corporate manufacturing. It is a basic economic indicator of the current state of health of the Nation's business community. Each issue includes quarterly estimates of 52 income and balance sheet items—sales, profits, operating ratios, and the like—for 31 industry groups and 13 size groups.

The quarterly estimates are based on consolidated financial statements received from a cross section of manufacturing corporations taxable under the United States Internal Revenue Code. For the first quarter of calendar year 1957, the sample consisted of:

1. All 1,432 manufacturing corporations registered with the Securities and Exchange Commission, 1,213 of which had total assets of \$5,000,000 and over, 196 had total assets of \$1,000,000 to \$4,999,999, and 23 had total assets of \$250,000 to \$999,999;

2. All 1,573 nonregistered manufacturing corporations with total assets of \$5,000,000 and over, approximately 95 percent of the 10,000 manufacturing corporations with total assets of \$1,000,000 to \$4,999,999, approximately 6 percent of the 25,000 manufacturing corporations with total assets of \$250,000 to \$999,999, and approximately 2 percent of the 85,000 manufacturing corporations with total assets of less than \$250,000.

During fiscal 1957, a new reporting group was introduced, based on a probability sample of all organized businesses, classified as manufacturers, which are required to file Federal corporate income tax form 1120, and augmented by a series of quarterly samples of manufacturing corporate births. Each of the samples drawn since this quarterly series was inaugurated in 1947 has been systematically stratified by total assets and industry. To distribute the reporting burden as equitably as possible among the smaller corporations, one-eighth of the sample of companies with total assets of less than \$1,000,000 is being replaced (not rotated) each quarter. Since the samples are based on optimum allocation (that is, the highest statistical quality obtainable with a given amount of funds), and since a relatively small number of large and medium-size companies contribute to the quarterly estimates far more dollarwise than a substantially larger number of small companies, the same degree of replacement cannot be employed for reporting companies with total



assets of \$1,000,000 to \$4,999,999, and no replacement is possible for those companies with total assets of \$5,000,000 and over.

This quarterly series was inaugurated in 1947 to meet a longstanding and vital need of many Government agencies for an analytic tool in determining present and prospective levels of economic activity. Since the published reports provide statistically reliable estimates of current operating results and reflect accurately the current financial condition of all manufacturing corporations (except newspapers), they are used by:

1. the President of the United States for inclusion in each of the annual and mid-year economic reports of the President transmitted to the Congress in accordance with the Employment Act of 1946;

2. the President's Council Economic Advisers and the Joint Economic Committee of the Congress for their evaluation of current economic conditions;

3. the Department of Commerce for its quarterly estimates of national income and gross national product;

4. the Board of Governors of the Federal Reserve System for measuring corporate working capital and related financial factors in its analyses of money flows in our economy and in its evaluation of the general financial condition of business;

5. the Congressional Joint Committee on Internal Revenue Taxation, the Treasury Department, and the Bureau of the Budget for estimating current tax liability and future tax receipts from corporations;

6. the Senate and House Select Committees on Small Business and the Small Business Administration for evaluating the current financial position of small business.

This quarterly publication is also used by more than 6,000 subscribers:

1. to measure efficiency by comparing a company's operating results with the average performance of companies of similar size or in the same line of business and

2. to compare the profitability of various types of business activity.

# APPROPRIATIONS AND FINANCIAL OBLIGATIONS

## FUNDS AVAILABLE FOR FISCAL YEAR 1957

Funds available to the Commission for the fiscal year 1957 amounted to \$5,550,000. Public Law 623, 84th Congress, 2d session, approved June 27, 1956.

### Obligations by Activities, Fiscal Year 1957

#### 1. Antimonopoly:

Investigation and litigation	\$2, 539, 660
Trade practice conferences and small business	79, 540
Economic and financial reports	514, 650

#### 2. Deceptive practices:

Investigation and litigation	1,130,770
Trade practice conferences and small business	159,080
Wool, fur, and flammable fabrics enforcement	350,650
Insurance and trademarks	103,220

#### 3. Executive direction and management

352,650

#### 4. Administration

286,203

Total	<u>5,516,423</u>
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### Obligations by Objects, Fiscal Year 1957

01 Personal services	\$4,870,470
02 Travel	225,081
03 Transportation of things	6,407
04 Communication services	59,715
05 Rents and utility services	27,288
06 Printing and reproduction	50,466
07 Other contractual services	62,773
08 Supplies and materials	75,453
09 Equipment	128,985
13 Refunds, awards, and indemnities	9,785
Total	<u>5,516,423</u>

## SETTLEMENTS MADE UNDER FEDERAL TORT CLAIMS ACT

During the fiscal year 1957 the Commission paid no claims nor were any claims pending.

### COMPARATIVE APPROPRIATIONS

Appropriations available to the Commission for the past three fiscal years and obligations for the same period, together with the unobligated balances, are shown in the table below. The table also lists the number of employees as of June 30 of each year.

Year	Number of employees	Nature of appropriations	Appropriations	Obligations	Balance
1955	584	Lump sum (including printing and binding) ---	\$4,129,000	\$4,125,189	\$3,811
1950	641	Lump sum (including printing and binding) ---	4,548,500	4,546,895	1,605
1957	744	Lump sum (including printing and binding) ----	5,550,000	5,516,423	33,577

## APPENDIXES

## Federal Trade Commissioners—1915–1957

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar. 16, 1915–Mar. 18, 1918.
Edward N. Hurley William	Illinois	Mar. 16, 1915–Jan. 31, 1917.
J. Harris	Georgia	Mar. 6, 1915–May 31, 1918.
Will H. Parry	Washington	Mar. 16, 1915–Apr. 21, 1917.
George Rublee	New Hampshire	Mar. 16, 1915–May 14, 1916.
William B. Colver	Minnesota	Mar. 16, 1917–Sept. 25, 1920.
John Franklin Fort	New Jersey	Mar. 16, 1917–Nov. 30, 1919
Victor Murdock	Kansas	Sept. 4, 1917–Jan. 31, 1924
Huston Thompson	Colorado	Jan. 17, 1919–Sept. 25, 1926.
Nelson B. Gaskill	New Jersey	Feb. 1, 1920–Feb. 24, 1925.
John Garland Pollard	Virginia	Mar. 6, 192–Sept. 25, 1921.
John F. Nugent	Idaho	Jan. 15, 1921–Sept. 25, 1927
Vernon W. Van Fleet	Indiana	June 26, 1922–July 31, 1926.
Charles W. Hunt	Iowa	June 16, 1924–Sept. 25, 1932.
William E. Humphrey	Washington	Feb. 25, 1925–Oct. 7, 1933.
Abram F. Myers	Iowa	Aug. 2, 1926–Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb. 11, 1927–Jan. 23, 1933.
Garland S. Ferguson	North Carolina	Nov. 14, 1927–Nov. 15, 1949.
Charles H. March	Minnesota	Feb. 1, 1929–Aug. 28, 1945.
Ewin L. Davis	Tennessee	May 26, 1933–Oct. 23, 1949.
Raymond B. Stevens	New Hampshire	June 26, 1933–Sept. 25, 1933.
James M. Landis	Massachusetts	Oct. 10, 1933–June 30, 1934.
George C. Mathews	Wisconsin	Oct. 27, 1933–June 30, 1934.
William A. Ayres	Kansas	Aug. 23, 1934–Feb. 17, 1952.
Robert E. Freer	Ohio	Aug. 27, 1935–Dec. 31, 1948.
Lowell B. Mason	Illinois	Oct. 15, 1945–Oct. 31, 1956
John Carson	Michigan	Sept. 28, 1949–March 31, 1953.
James M. Mead	New York	Nov. 16, 1949–Sept. 25, 1955.
Stephen J. Spingarn	New York	Oct. 25, 1950–Sept. 25, 1953.
Albert A. Carretta	Virginia	June 18, 1952–Sept. 25, 1954.
Edward F. Howrey	Virginia	April 1, 1953–Sept. 12, 1955.
John W. Gwynne	Iowa	Sept. 26, 1953–.
Robert T. Secrest	Ohio	Sept. 26, 1954–.
Sigurd Anderson	South Dakota	Sept. 12, 1955–.
William C. Kern	Indiana	Sept. 26, 1955–.
Edward T. Tait	Pennsylvania	Nov. 2, 1956–.

## Types of Unfair Methods and Practices

The following list illustrates unfair methods of competition and unfair or deceptive acts and practices condemned by the Commission from time to time in its orders to cease and desist. The list is not limited to orders issued during the fiscal year. Because of space limitation it does not include all of the specific practices outlawed by the Clayton Act; and committed to the Commission's jurisdiction, namely, various forms of price discrimination, exclusive dealing and tying arrangements, competitive stock acquisition, and certain kinds of competitive interlocking directorates.

1. The use of false or misleading advertising concerning, and the misbranding of, commodities, respecting the materials or ingredients of which they are composed, their quality, purity, origin, source, attributes, or properties, or nature manufacture, and selling them under such name and circumstances as to deceive the public. An important part of these include misrepresentation of the therapeutic and corrective properties of medicinal preparations and devices, and cosmetics, and the false representation, expressly or by failure to disclose their potential harmfulness, that such preparations may be safely used.

2. Describing various symptoms and falsely representing that they indicate the presence of diseases and abnormal conditions which the product advertised will cure or alleviate.

3. Representing products to have been made in the United States when the mechanism or movements, in whole or in important part, are of foreign origin.

4. Bribing buyers or other employees of customers and prospective customers, without employers' knowledge or consent, to obtain or hold patronage.

5. Procuring the business or trade secrets of competitors by espionage, or by bribing their employees, or by similar means.

6. Inducing employees of competitors to violate their contracts and enticing them away in such numbers or under such circumstances as to hamper or embarrass the competitors in the conduct of their business.

7. Making false and disparaging statements respecting competitors' products and business, in some cases under the guise of ostensibly disinterested and specially informed sources or through purported scientific, but in fact misleading, demonstrations or tests.

8. Widespread threats to the trade of suits for patent infringement arising from the sale by competitors of alleged infringing products, not in good faith, but for the purpose of intimidating the trade and hindering or stifling competition, and claiming, without justification, exclusive rights in public names of unpatented products.

9. Conspiring to maintain uniform selling prices, terms and conditions of sale through the use of a patent-licensing system.

10. Trade boycotts or combinations of traders to prevent certain wholesale or retail dealers or certain classes of such dealers from procuring goods at the same terms accorded to the boycotters or conspirators, or through coercion to influence the trade policy of their competitors or of manufacturers from whom they buy.

11. Passing off goods for products of competitors through appropriation or simulation of such competitors' trade names, labels, dress of goods, or counter-display catalogs.

12. Selling rebuilt, second-hand, renovated, or old products, or articles made in whole or in part from used or second-hand materials, as new, by so representing them or by failing to reveal that they are not new or that second-hand materials have been used.

13. Buying up supplies for the purpose of hampering competitors and stifling or eliminating competition.

14. Using concealed subsidiaries, ostensibly independent, to obtain competitive business otherwise unavailable, and making use of false and misleading representations, schemes, and practices to obtain representatives and make contracts, such as pretended puzzle-prize contests purportedly offering opportunities to win handsome prizes, but which are in fact mere "come-on" schemes and devices in which the seller's true identity and interest are initially concealed.

15. Selling or distributing punchboards and other lottery devices which are to be or may be used in the sale of merchandise by lot or chance; using merchandising schemes based on lot or chance, or on a pretended contest of skill.

16. Combinations or agreements of competitors to fix, enhance, or depress prices, maintain prices, bring about substantial uniformity in prices, or divide territory or business, to cut off or interfere with competitors' sources of supply or to close market to competitors; or use by trade associations of so-called standard cost system, price lists, or guides, or exchange of trade information calculated to bring about these ends, or otherwise restrain or hinder free competition.

17. Intimidation or coercion of producer or distributor to cause him to organize, join, or contribute to, or to prevent him from organizing, joining, or contributing to, producers' cooperative association or other association.

18. Aiding, assisting, or abetting unfair practice, misrepresentation, and deception, and furnishing means of instrumentalities therefor; and combining and conspiring to offer or sell products by chance or by deceptive methods, through such practices as supplying dealers with lottery devices, or selling to dealers and assisting them in conducting contest schemes as, a part of which pretended credit slips or certificates are issued to contestants, when in fact the price of the goods has been marked up to absorb the face value of the credit slip; and the supplying of emblems or devices to conceal marks of country of origin of goods, or otherwise to misbrand goods as to country of origin.

19. Various methods to create the impression that the customer is being offered an opportunity to make purchases under unusually favorable conditions when such is not the case, such devices including—

(a) Sales plans in which the seller's usual price is falsely represented as a special reduced price for a limited time or to a limited class, or false claim of special terms, equipment, or other privileges or advantages.

(b) False or misleading use of the word "Free" in advertising.

(c) Use of misleading trade names calculated to create the impression that a dealer is a producer or importer selling directly to the consumer, with resultant savings.

(d) Offering of false "bargains" by pretended cutting of a fictitious "regular" price.

(e) Use of false representations that an article offered has been rejected as nonstandard and is offered at an exceptionally favorable price, or that the number thereof that may be purchased is limited.

(f) Falsely representing that goods are not being offered as sales in ordinary course, but are specially priced and offered as a part of a special advertising campaign to obtain customers, or for some purpose other than the customary profit.

(g) Misrepresenting, or causing dealers to misrepresent, the interest rate of carrying charge on deferred payments

20. Using containers ostensibly of the capacity customarily associated by the purchasing public with standard weights or quantities of the product therein contained, or using standard containers only partially filled to capacity, so as to make it appear to the purchaser that he is receiving the standard weight or quantity.

21. Misrepresenting in various ways the necessity or desirability or the advantages to the prospective customer of dealing with the seller, such as—

(a) Misrepresenting seller's alleged advantages of location or size, or the branches, domestic or foreign, or the dealer outlets he has.

(b) Making false claim of being the authorized distributor of some concern, or failing to disclose the termination of such relationship, in soliciting customers of such concern, or of being successor thereto or connected therewith, or of being the purchaser of competitor's business, or falsely representing that competitor's business has been discontinued, or falsely claiming the right to prospective customer's special consideration through such false statements as that the customer's friends or his employer have expressed a desire for, or special interest in, consummation of seller's transaction with the customer.

(c) Alleged connection of a concern, organization, association, or institute with, or endorsement of it or its product or service by, the Government or nationally known organization, or representation that the use of such product or services is required by the Government, or that failure to comply with such requirement is subject to penalty.

(d) False claim by a vendor of being an importer, or a technician, or a diagnostician, or a manufacturer, grower, or nurseryman, or a distiller, or of being a wholesaler, selling to the consumer at wholesale prices; or by a manufacturer of being also the manufacturer of the raw material entering into the product, or by an assembler of being a manufacturer.

(e) Falsely claiming to be a manufacturer's representative and outlet for surplus stock sold at a sacrifice.

(f) Falsely representing that the seller owns a laboratory in which the product offered is analyzed and tested.

(g) Representing that ordinary private commercial seller and business is an association, or national association, or connected therewith, or sponsored thereby, or is otherwise connected with noncommercial or professional organizations or associations, or constitutes an institute, or, in effect, that it is altruistic in purpose, giving work to the unemployed.

(h) Falsely claiming that business is bonded, or misrepresenting its age or history, or the demand established for its products, or the selection afforded, or the quality or comparative value of its goods, or the personnel or staff or personages presently or theretofore associated with such business or the products thereof.

(i) Claiming falsely or misleadingly by patent, trade-mark, or other special and exclusive rights.

(j) Granting seals of approval by a magazine to products advertised therein and misrepresenting thereby that such products have been adequately tested, and misrepresenting by other means the quality, performance, and characteristics of such products.

22. Obtaining business through undertakings not carried out and not intended to be carried out, and through deceptive, dishonest, and oppressive devices calculated to entrap and coerce the customer or prospective customer, such practices including—

(a) Misrepresenting that seller fills orders promptly, ships kind of merchandise described, and assigns exclusive territorial rights within definite trade areas to purchasers or prospective purchasers.

(b) Obtaining orders on the basis of samples displayed for customer's selection and failing or refusing to respect such selection thereafter in filling of orders, or promising results impossible of fulfillment, or falsely making promises or holding out guaranties, or the right of return, or results, or refunds, replacements, or reimbursements or special or additional advantages to the prospective purchasers such as extra credit, or furnishing of supplies or advisory assistance; or falsely assuring the purchaser or prospective purchaser that certain special or exclusively personal favors or advantage are being granted him.

(c) Concealing from prospective purchaser unusual features involved in purchaser's commitment, the result of which will be to require of purchaser further expenditure in order to obtain benefit of commitment and expenditure already made, such as failure to reveal peculiar or nonstandard shape of portrait or photographic enlargement, so as to make securing of frame therefor from sources other than seller difficult and impracticable, if not impossible.

(d) Obtaining by deceit prospective customer's signature to a contract and promissory note represented as simply an order on approval.

(e) Making use of improper and coercive practices as means of exacting additional commitments from purchasers, through such practices as unlawfully withholding from purchaser property of latter lent to seller incident to carrying out of original commitment, such as practice of declining to return original photograph from which enlargement has been made until purchaser has also entered into commitment for frame therefor.

(f) Falsely representing earnings or profits of agents, dealers, or purchasers, or the terms or conditions involved, such as false statement that participation by merchant in seller's sales promotion scheme is without cost to merchant, and that territory assigned an agent, representative, or distributor is new or exclusive.

(g) Obtaining agents or representatives to distribute the seller's products through falsely promising to refund the money paid by them should the product prove unsatisfactory, or promising that the agent would be granted right to exclusive or new territory, would be given assistance by seller, or would be given special credit or furnished supplies, or overstating the amount of his earnings or the opportunities which the employment offers.

(h) Advertising a price for a product as illustrated or described and not including in such price all charges for equipment or accessories illustrated or described or necessary for use of the product or customarily included as standard equipment, and failing to include all charges not specified as extra.

23. Giving products misleading names so as to give them a value to the purchasing public which they would not otherwise possess, such as names implying falsely that—

(a) The products were made for the Government or in accordance with its specifications and of corresponding quality, or that the advertiser is connected with the Government in some way, or in some way the products have been passed upon, inspected, underwritten, or endorsed by it; or

(b) They are composed in whole or in part of ingredients or materials which in fact are present only to a negligible extent or not at all, or that they have qualities or properties which they do not have; or

(c) They were made in or came from some locality famous for the quality of such products, or are of national reputation; or

(d) They were made by some well and favorably known process; or

(e) They have been inspected, passed, or approved after meeting the tests of some official organization charged with the duty of making such tests expertly and disinterestedly, or giving such approval; or





(f) They were made under conditions or circumstances considered of importance by a substantial part of the general purchasing public; or

(g) They were made in a country, or city, or locality considered of importance in connection with the public taste, preference, or prejudice; or

(h) They have the usual characteristics of value of a product properly so designated, as through use of a common, generic name, such as "paint," to designate a product lacking the necessary ingredients of paint; or

(i) They are of greater value, durability, and desirability than is the fact, as labeling rabbit fur as "Beaver"; or

(j) They are designed, sponsored, produced, or approved by the medical profession, health and welfare associations, hospitals, celebrities, educational institutions and authorities, such as the use of letters "M. D." and the words "Red Cross" and its insignia and words "Boy Scout."

24. Selling below cost or giving products without charge, with intent and effect of hindering or suppressing competition.

25. Dealing unfairly and dishonestly with foreign purchasers and thereby discrediting American exporters generally.

26. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

27. Entering into contracts in restraint of trade whereby foreign corporations agree not to export certain products to the United States in consideration of a domestic company's agreement not to export the same commodity, nor to sell to anyone other than those who agree not to so export the same.

28. Employing various false and misleading representations and practices attributing to products a standing, merit and value to the purchasing public, or a part thereof, which they do not possess, such practices including—

(a) Misrepresenting, through salesmen or otherwise, products' composition, nature, qualities, results accomplished, safety, value, and earnings or profits to be had therefrom.

(b) Falsely claiming unique status or advantages, or special merit therefor, on the basis of misleading and ill-founded demonstrations or scientific tests, or pretended widespread tests, or of pretended widespread and critical professional acceptance and use.

(c) Misrepresenting the history or circumstances involved in the making and offer of the products or the source or origin thereof (foreign or domestic), or of the ingredients entering therein, or parts thereof, or the opportunities brought to the buyer through purchase of the offering, or otherwise misrepresenting scientific or other facts bearing on the value thereof to the purchaser.

(d) Falsely representing products as legitimate, or prepared in accordance with Government or official standards or specifications.

(e) Falsely claiming Government or official or other acceptance, use, and endorsement of product, and misrepresenting success and standing thereof through use of false and misleading endorsements or false and misleading claims with respect thereto, or otherwise.

(f) Making use of a misleading trade name and representing by other means that the nature of a business is different than is the fact, such as a collection agency engaged in tracing alleged delinquent debtors representing itself to be a delivery system, an organization in search of missing heirs, or one connected with a Government agency.

(g) Misrepresenting fabrics or garments as to fiber content; and, in the case of wool products, failing to attach tags thereto indicating the wool, reused wool, reprocessed wool or other fibers contained therein, and the identity of the manufacturer of qualified reseller, as required by the Wool Products Labeling Act, or removing or mutilating tags required to be affixed to the products when they are offered

for sale to the public.

29. Failing and refusing to deal justly and fairly with customers in consummating transactions undertaken through such practices as refusing to correct mistakes in filling orders or to make promised adjustments or refunds, and, retaining, without refund, goods returned for exchange or adjustment, and enforcing, notwithstanding agents' alterations, printed terms of purchase contracts, and exacting payments in excess of customers' commitments.

30. Shipping products at market prices to customers or prospective customers or to the customers or prospective customers of competitors without an order and then inducing or attempting by various means to induce the consignees to accept and purchase such consignments.

31. Inducing the shipment and sale of commodities through buyer's issuance of fictitious price lists and other printed matter falsely representing rising market conditions and demand, and leading seller to ship under the belief that he would receive prices higher than the buyer intended to or did pay.

## Statutes Pertaining to the Federal Trade Commission

The authority and powers of the Federal Trade Commission in the main are drawn from the following statutes:

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated below.
2. Clayton Act, sections 2, 3, 7, 8 and 11, approved October 15, 1914 (38 Stat. 730, 731, 732), amended as indicated below.
3. Webb-Pomerene Export Trade Act, approved April 10, 1918 (40 Stat. 516).
4. Wheeler-Lea Act, approved March 21, 1938 (52 Stat. 111), amending the Federal Trade Commission Act.
5. Robinson-Patman Act, approved June 19, 1936, and amendment thereto approved May 26, 1938 (49 Stat. 1526; 52 Stat. 446), revising and extending section 2 of the Clayton Act.
6. Wool Products Labeling Act of 1939, approved October 14, 1940 (54 Stat. 1128).
7. Public Law 15, 79th Congress, approved March 9, 1945, "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" (59 Stat. 33).
8. Lanham Trade Mark Act, approved July 5, 1946 (60 Stat. 427).
9. Oleomargarine Act, approved March 16, 1950, amending Section 5 of the Federal Trade Commission Act respecting civil penalties, and section 15 respecting misleading advertisement of oleomargarine or margarine (64 Stat. 20).
10. Public Law 899, 81st Congress, approved December 29, 1950, the so-called antimerger legislation, amending and extending section 7 of the Clayton Act. (64 Stat. 1125).
11. Fur Products Labeling Act, approved August 8, 1951 (65 Stat. 175).
12. Flammable Fabrics Act, approved June 30, 1953, and amendment thereto approved August 23, 1954 (67 Stat. 111; 68 Stat. 770).

### Federal Trade Commission Act\*

(15 U. S. C., Secs. 41–58)

AN ACT To create a Federal Trade Commission, to define its powers and duties, and for other purposes

SEC. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission), which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any

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\*Published as last amended by the Federal Fair Trade, or McGulre, Act, approved July 14, 1952. (See footnote on p. 81.)



person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed: Provided, however, That upon the expiration of his term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The Commission shall choose a chairman from its own membership.<sup>1</sup> No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the Commission shall not impair the right of the remaining commissioners to exercise all the powers of the Commission.

The Commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year,<sup>2</sup> payable in the same manner as the salaries of the judges of the courts of the United States. The Commission shall appoint a secretary who shall receive a salary of \$5,000 a year,<sup>3</sup> payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties as it may from time to time be appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the Commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the Commission and by the Civil Service Commission.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

Until otherwise provided by law, the Commission may rent suitable offices for its use.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the Commission.<sup>4</sup>

SEC 3. That upon the organization of the Commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the Commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the Commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the Commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or

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<sup>1</sup> Under Reorganization Plan No. 8 of 1950, which became effective May 24, 1950, pursuant to the Reorganization Act of 1949, the power to appoint the chairman was transferred to the President. The plan also transferred to the chairman, subject to specified limitations, the executive and administrative functions formerly exercised by the Commission as a whole.

<sup>2</sup> The salaries of the commissioners were increased to \$15,000 a year under the provisions of Public Law 359, 81st Cong., approved October 15, 1949.

<sup>3</sup> The salary of the secretary is controlled by the provisions of the Classification Act of 1923, approved March 4, 1923, 42 Stat. 1488.

<sup>4</sup> Auditing of accounts was made a duty of the General Accounting Office by the Act of June 10, 1921, 42 Stat. 24.





from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the Commission in the exercise of the powers, authority, and duties conferred on it by this Act.

The principal office of the Commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The Commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 4. The words defined in this section shall have the following meaning when found in this Act, to wit:

"Commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

"Corporation" shall be deemed to include any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members, and has shares of capital or capital stock or certificates of interest, and any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, without shares of capital or capital stock or certificates of interest, except partnerships, which is organized to carry out business for its own profit or that of its members.

"Documentary evidence" includes all documents, papers, correspondence, books of account, and financial and corporate records.

"Acts to regulate commerce" means the Act entitled "An Act to regulate commerce," approved February 14, 1887, and all Acts amendatory thereof and supplementary thereto and the Communications Act of 1934 and all Acts amendatory thereof and supplementary thereto.

"Antitrust Acts" means the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also sections 73 to 77, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1834; also the Act entitled "An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913; and also the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

SEC. 5. (a) <sup>5</sup> (1) Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

(2) Nothing contained In this Act or in any of the Antitrust Acts shall render unlawful any contracts or agreements prescribing minimum or stipulated prices, or requiring a vendee to enter into contracts or agreements prescribing minimum or stipulated prices, for the resale of a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful as applied to intrastate transactions under any statute, law, or public policy now or hereafter in affect In any State, Territory, or the District of Columbia in which such resale is to be made, or to which the commodity is to be transported for such resale.

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<sup>5</sup> Sec. 5 (a) is published as amended by Public Law 542. 82d Cong., ch. 745, 2d Sess., H. R. 5767, Approved July 14, 1952, 66 Stat. 631; 15 U. S. C. 47 (Federal Fair Trade Act [McGuire Act] ).



(3) Nothing contained in this Act or in any of the Antitrust Acts shall render unlawful the exercise or the enforcement of any right or right of action created by any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia, which in substance provides that willfully and knowingly advertising, offering for sale, or selling any commodity at less than the price or prices prescribed in such contracts or agreements whether the person so advertising, offering for sale, or selling is or is not a party to such a contract or agreement, is unfair competition and is actionable at the suit of any person damaged thereby.

(4) Neither the making of contracts or agreements as described in paragraph (2) of this subsection, nor the exercise or enforcement of any right or right of action as described in paragraph (3) of this subsection shall constitute an unlawful burden or restraint upon, or interference with, commerce.

(5) Nothing contained in paragraph (2) of this subsection shall make lawful contracts or agreements providing for the establishment or maintenance of minimum or stipulated resale prices on any commodity referred to in paragraph (2) of this subsection, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

(6) The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said list, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition or such act or practice until the expiration of the time allowed for filing a petition for review. If no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the transcript of the record in the proceeding has been filed in a circuit court of appeals of the United States, as hereinafter provided, the Commission may at any time, Upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require: provided, however, That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate circuit court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question as used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty<sup>days</sup> from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the Commission. Upon such filing of the petition and transcript the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent in jury to the public or to competitors pendente lite. The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

(d) The jurisdiction of the circuit court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.

(e) Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order

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<sup>6</sup> Section 5 (a) of the amending Act of 1938 provides:

SEC. 5. (a) In case of an order by the Federal Trade Commission to cease and desist, served on or before the date of enactment of this Act, the sixty-day period referred to in section 5 (c) of the Federal Trade Commission Act, as amended by this Act, shall begin on the date of the enactment of this Act.

of the Commission or judgment of court to enforce the same shall in anyway relieve or absolve any person, partnership, or corporation from any liability under the Antitrust Acts.

(f) Complaints, orders, and other processes of the Commission under this section may be served by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the residence or the principal office or place of business of such person, partnership, or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

(g) An order of the Commission to cease and desist shall become final—

(1) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the Commission may thereafter modify or set aside its order to the extent provided in the last sentence or subsection (b); or

(2) Upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed, or the petition for review dismissed by the circuit court of appeals, and no petition for certiorari has been dully filed; or

(3) Upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the circuit court of appeals; or

(4) Upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Commission be affirmed or the petition for review dismissed.

(h) If the Supreme Court directs that the order of the Commission be modified or set aside, the order of the Commission rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(i) If the order of the Commission is modified or set aside by the circuit court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered in accordance with the mandate of the circuit court of appeals shall become final on the expiration of thirty days from the time such order of the Commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(j) If the Supreme Court orders a rehearing; or if the case is remanded by the circuit court of appeals to the Commission for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission has been rendered.

(k) As used in this section the term "mandate," in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

(l) Any person, partnership, or corporation who violates an order to the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.<sup>7</sup>

SEC. 6. That the commission shall also have power—

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the Commission with such reasonable period as the Commission may prescribe, unless additional time be granted in any case by the commission

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust Acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation and the report shall be made public in the discretion of the commission.

(d) Upon the direction of the President or either<sup>8</sup> House of Congress to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust Acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except; trade secrets and names of customers, as it shall

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<sup>7</sup> This sentence added by sec. 4 (c) of Public Law 459, 81st Cong., approved March 16, 1950 and effective July 1, 1950.

<sup>8</sup> The Independent Office Appropriation Act of 1934 provided that future investigations by the Commission for Congress must be authorized by concurrent resolution of the two Houses. Under the Appropriation Act of 1951, funds appropriated for the Commission are not to be spent upon any investigation thereafter called for by congressional concurrent resolution "until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such investigation."

deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act.

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust Acts, the court may, upon the conclusion of the testimony therein, if it shall be then of the opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of, procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this Act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may involve the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore! provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the court of the United States, and witnesses whose depositions are taken, and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it; provided, that no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent Jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or wilfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000 or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time specified by the Commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, such. forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a



civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 11. Nothing contained in this Act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust Acts or the Acts to regulate commerce, nor shall anything contained in the Act be construed to alter, modify, or repeal the said antitrust Acts or the Acts to regulate commerce or any part or parts thereof.

SEC. 12. (a) It shall be unlawful for any person, partnership, or corporation to disseminate, or cause to be disseminated, any false advertisement—

(1) By United States mails, or in commerce by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics; or

(2) By any means, for the purpose of inducing, or which is likely to induce directly or indirectly, the purchase in commerce of food, drugs, devices, or cosmetics.

(b) The dissemination or the causing to be disseminated of any false advertisement within the provisions of subsection (a) of this section shall be an unfair or deceptive act or practice in commerce within the meaning of section 5.

SEC. 13 (a) Whenever the Commission has reason to believe—

(1) that any person, partnership, or corporation is engaged in, or is about to engage in, the dissemination or the causing of the dissemination of any advertisement in violation of section 12, and

(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of section 5, would be to the interest of the public, the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or in the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing a temporary injunction or restraining order shall be granted without bond. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business.

(b) Whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals—

(1) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and

(2) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement.

the court shall exclude such issue from the operation of the restraining order or injunction.

SEC. 14.<sup>9</sup> (a) Any person, partnership, or corporation who violates any provision of section 12 (a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than six months, or by both such fine and imprisonment; except that if the conviction is for a violation committed after a first conviction of such person, partnership, or corporation, for any violation of such section, punishment shall be by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment: Provided, That for the purposes of this section meats and meat food products duly inspected, marked, and labeled in accordance with rules and regulations issued under the Meat Inspection Act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

(b) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of advertising, except the manufacturer, packer, distributor, or seller of the commodity to which the false advertisement relates, shall be liable under this section by reason of the dissemination by him of any false advertisement, unless he has refused on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the United States, who caused him to disseminate such advertisement. No advertising agency shall be liable under this section by reason of the causing by it of the dissemination of any false advertisement, unless it has refused, on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, or seller, residing in the United States, who caused it to cause the dissemination of such advertisement.

SEC. 15. For the, purpose of sections 12, 13, and 14—

(a) (1) The term "false advertisement" means an advertisement, other than labeling, which is misleading, in a material respect; and in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement or, such conditions as are customary or usual. No advertisement of drug shall be deemed to be false if it is disseminated only to members of the medical profession, contains no false representations of a material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

(2)<sup>10</sup> In the case of oleomargarine or margarine an advertisement shall be deemed misleading in a material respect if in such advertisement representa-

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<sup>9</sup> Section 5 (b) of the amending Act of 1938 provides:

SEC. 5. (b) Section 14 of the Federal Trade Commission Act, added to such Act by section 4 of this Act, shall take effect on the expiration of sixty days after the date of the enactment of this act

<sup>10</sup> This subsection added by sec. 4 (a ) of Public Law 459, 81st Cong., approved March 16, 1950, and effective July 1, 1950.

tions are made or suggested by statement, word, grade designation, design, device, symbol, sound, or any combination thereof, that such oleomargarine or margarine is a dairy product, except that nothing contained herein shall prevent a truthful, accurate, and full statement in any such advertisement of all the ingredients contained in such oleomargarine or margarine.

(b) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(c) The term "drug" means (1) articles recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to effect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(d) The term "device" (except when used in subsection (a) of this section) means instruments, apparatus, and contrivances, including their parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or in other animals; or (2) to affect the structure or any function of the body of man or other animals.

(e) The term "cosmetic" means (1) articles to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof intended for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

(f)<sup>10</sup> For the purposes of this section and section 407 of the Federal Food, Drug, and Cosmetic Act, as amended, the term "oleomargarine" or "margarine" includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.

SEC. 13. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (1) of section 5, it shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection.

SEC. 17. If any provision of this Act, or the application thereof to any person, partnership, corporation, or circumstance, is held invalid, the remainder of the Act and the application of such provision to any other person, partnership, corporation, or circumstance shall not be affected thereby.

SEC. 18. This Act may be cited as the "Federal Trade Commission Act."

Original act approved September 26, 1914.

Amended act approved March 21, 1938.

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<sup>10</sup> This subsection added by sec. 4 (a) of Public Law 459, 81st Cong., approved March 16, 1950, and effective July 1, 1950.

# Clayton Act <sup>1</sup>

(Approved in original form Oct. 14, 1914; 38 Stat. 730; 15 U. S. C. Sec. 12, et. seq.)

[PUBLIC—No.212—63D CONGRESS, AS AMENDED BY PUBLIC—NO. 692—74TH CONGRESS, AND PUBLIC—NO. 899—81ST CONGRESS]

[H. R. 15657]

AN ACT To supplement existing laws against unlawful restraints and monopolies, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That "antitrust laws," as used herein, includes the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the government, and for other purposes," of August twenty seventh, eighteen hundred and ninety-four; an Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February twelfth, nineteen hundred and thirteen; and also this Act.

"Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any territory of the United States and any State, Territory or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between an such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any similar possession or other place under the jurisdiction of the United States; provided, That nothing in this Act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

SEC. 2.<sup>3</sup> (a) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, were such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: Provided, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities

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<sup>1</sup>The Robinson-Patman Act, approved June 19, 1936, 49 Stat. 1526, 15 U. S. C., Sec. 13 (see footnote 2). See also footnote 4 on page 96 and footnote 8 on page 101, with respect to the repeal of Section 9, Section 17 in part, Sections 18 and 19, and Sections 21-23, inclusive, by two acts of June 25, 1948, namely, C. 645 (62 Stat. 683) and C. 640 (62 Stat. 896); and footnotes on pages 94 and 97 concerning the amendment of Sections 7 and 11 by act of Dec. 29, 1950, C. 1184 (64 Stat. 1125).

<sup>2</sup>This section of the Clayton Act contains the provisions of the Robinson-Patman Anti Discrimination Act, approved June 19, 1936, amending Section 2 of the original Clayton Act, approved Oct. 15, 1914.

Section 4 of the Robinson-Patman Act provides that nothing therein "shall prevent a cooperative association from returning to its members, producers, or consumers the whole, or any part of, the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association."

Public, No. 550. 75th Congress, approved May 26, 1938, to emend the said Robinson-Patman Act, further provides that nothing; therein "shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit."

in which such commodities are to such purchasers sold or delivered: Provided, however, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: And provided further, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price of services or facilities furnished the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: Provided, however, That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

(c) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(e) That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(f) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this section.

SEC. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessee or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

SEC. 4. That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

SEC. 5. That a final judgment or decree hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters, respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, This section shall not apply to consent judgments or decrees entered before any testimony has been taken: Provided further, This section shall not apply to consent judgments or decrees rendered in criminal proceeding or suits in equity, now pending, in which the taking of testimony has been commenced but has not been concluded, provided such judgments or decrees are rendered before any further testimony is taken.

Whenever any suit or proceeding in equity or criminal prosecution is instituted by the United States to prevent, restrain, or punish violations of any of the antitrust laws, the running of the statute of limitations in respect of each and every private right of action arising under said laws and base in whole or in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof.

Sec. 6. That the labor of human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

SEC. 7. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of one or more corporations engaged in commerce, where in any line of commerce in any section of the country, the effect of such acquisition, of such stocks or assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, no to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium

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<sup>3</sup> Section 7, and also section 11, of the Clayton Act appear here in the form into which they were amended by Act of Dec. 29, 1950 (P.L. 899: 64 Stat. 1125; 15 U.S.C. 18)

of the acquisition of stock or otherwise of any other common carrier were there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to effect or impair any right heretofore legally acquired: Provided, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Civil Aeronautics Board, Federal Communications Commission, Federal Power Commission, Interstate Commerce Commission, the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 of the Public Utility Holding Company Act of 1936, the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in such Commission, Secretary, or Board.

SEC. 8. No private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; but the foregoing prohibition shall not apply in the case of any one or more of the following or any branch thereof:

(1) A bank, banking association, savings bank, or trust company, more than 30 per centum of the stock of which is owned directly or indirectly by the United States or by any corporation of which the United States directly or indirectly owns more than 90 per centum of the stock.

(2) A bank, banking association, savings bank, or trust company which has been placed formally in liquidation or which is in the hands of a receiver, conservator, or other official exercising similar functions.

(3) A corporation, principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States which has entered into an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 of the Federal Reserve Act.

(4) A bank, banking association, savings bank, or trust company, more than 50 per centum of the common stock of which is owned directly or indirectly by persons who own directly or indirectly more than 50 per centum of the common stock; of such member bank.

(5) A bank, banking association, savings bank, or trust company not located and having no branch in the same city, town, or village as that in which such member bank or any branch thereof is located, or in any city, town, or village contiguous or adjacent thereto.

(6) A bank, holding association, savings bank, or trust company not engaged in a class or classes of business in which such member bank is engaged.

(7) A mutual savings bank having no capital stock.

Until February 1, 1939, nothing in this section shall prohibit any director, officer, or employee of any member bank of the Federal Reserve System, or any branch thereof, who is lawfully serving at the same time as a private banker or as a director, officer, or employee of any other bank, banking association, savings bank, or trust company, or any branch thereof, on the date of enactment of the Banking Act of 1935, from continuing such service.

The Board of Governors of the Federal Reserve System is authorized and directed to enforce compliance with this section, and to prescribe such rules and regulations as it deems necessary for that purpose.

That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to

stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

SEC. 9.<sup>4</sup> Every president, director, officer or manager of any firm, association or corporation engaged in commerce as a common carrier, who embezzles, steals, abstracts or willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation, arising or occurring from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or the use of another, shall be deemed guilty of a felony and upon conviction shall be fined not less than \$500 or confined in the penitentiary not less than one year nor more than ten years, or both, in the discretion of the court.

Prosecutions hereunder may be in the district court of the United States for the district wherein the offense may have been committed.

That nothing in this section shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof; and a judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

SEC. 10. That after two years from the approval of this Act no common carrier engaged in commerce shall have any dealings in securities, supplies, or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership, or association when the said common carrier shall have upon its board of directors or as its president, manager, or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership, or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors, and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding \$25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$5,000, or confined in jail not exceeding one year, or both in the discretion of the court.

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<sup>4</sup> Repealed by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified, and enacted into "positive law" Title 18 of the Code (Crimes and Criminal Procedure. Said act reenacted said matter as to substance, as 18 U. S. C., Sec. 660 (62 Stat. 730).



SEC. 11.<sup>5</sup> That authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Civil Aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce to be exercised as follows:

Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 2, 3, 7, and 8 of this Act, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect, and containing a notice of hearing, upon and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission or Board requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the Commission or Board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission or Board. If upon such hearing the Commission or Board, as the case may be, shall be of the opinion that any of the provision of said sections have been or are being violated, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share, capital, or assets, held or rid itself of the directors chosen contrary to the provisions of sections 7 and 8 of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a United States court of appeals, as hereinafter provided, the Commission or Board may at any time, upon such notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person fails or neglects to obey such order of the Commission or Board while the same is in effect the Commission or Board may apply to the United States court of appeals, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the Commission or Board. Upon such filing of the application and transcript of the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to take and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission or Board. The findings of the Commission or Board as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission or Board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission or Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order, with the return of such additional evidence, The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28, United States Code.

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<sup>5</sup> Section 11, also section 7, of the Clayton Act appear here in the form into which they were amended by Act of Dec. 29, 1950 (P. L. 899; 64 Stat. 1125; 15 U. S. C. 21).

Any party required by such order of the Commission or Board to cease and desist from a violation charged may obtain a review of such order in said United States court of appeals by filing in the court a written petition praying that the order of the Commission or Board be set aside. A copy of such petition shall be forthwith served upon the Commission or Board, and thereupon the Commission or Board forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by substantial evidence, shall in like manner be conclusive.

The jurisdiction of the United States court of appeals to enforce, set aside, or modify orders of the Commission or Board shall be exclusive.

Such proceedings in the United States court of appeals shall be given precedence over cases pending therein, and shall be in every way expedited. No order of the Commission or Board or the judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust Acts.

Complaints, orders, and other processes of the Commission or Board under this section may be served by anyone duly authorized by the Commission or Board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

SEC. 12. That any suit, action, or proceeding, under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district where it may be found or transacts business; and all process in such cases may be served in the district of which it is an inhabitant, or whatever it may be found.

SEC. 13. That in any suit, action, or proceeding brought by or on behalf of the United States subpoenas for witnesses who are required to attend a court of the United States in any judicial district in any case, civil or criminal, arising under the antitrust laws may run into any other district: Provided, That in civil cases no writ of subpoena shall issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the trial court being first kind upon proper application and cause shown.

SEC. 14. That whenever a corporation shall violate any of the penal provisions of the antitrust laws, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation, and such violation shall be deemed a misdemeanor, and upon conviction therefor of any such director, owner, or agent he shall be punished by a fine of not exceeding \$5,000 or by imprisonment for not exceeding one year, or by both, in the discretion of the court.

SEC. 15. That the several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned whether they reside in the district in which the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

SEC. 16. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, as against threatened loss or damage by a violation of the antitrust laws, including sections two, three, seven, and eight of this Act, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: Provided, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States to bring suit in equity for injunctive relief against any common carrier subject to the provisions of the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, in respect of any matter subject to the regulation, supervision, or other jurisdiction of the Interstate Commerce Commission.

SEC. 17.<sup>6</sup> That no preliminary injunction shall be issued without notice to the opposite party.

No temporary restraining order shall be granted without notice to the opposite party unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every such temporary restraining order shall be endorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed ten days, as the court or judge may fix, unless within the time so fixed the order is extended for a like period for good cause shown, and the reasons for such extensions shall be entered of record. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time and shall take precedence of all matters except older matters of the same character; and when the same comes up for hearing the party obtaining the temporary restraining order shall proceed with the application for a preliminary injunction, and if he does not do so the court shall dissolve the temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

Section two hundred and sixty-three of an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, is hereby repealed.

Nothing in this section contained shall be deemed to alter, repeal, or amend section two hundred and sixty-six of an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March Third, nineteen hundred and eleven.

SEC. 18.<sup>7</sup> That, except as otherwise provided in section 16 of this Act, no restraining order or interlocutory order of injunction shall issue, except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be found to have been wrongfully enjoined or restrained thereby.

SEC. 19.<sup>7</sup> That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail and not by reference to the bill of complaint or other document, the act or acts sought to be restrained and shall be binding only upon the parties to the suit, their officers, agents servants, employees and attorneys, or those in active concert or participating with them and who shall, by personal service or otherwise, have received actual notice of the same.

SEC. 20 That no restraining order or injunction shall be granted by a court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between persons employed and persons seeking employment involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right

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<sup>6</sup> See second paragraph of footnote 8 on page 100.

<sup>7</sup> See second paragraph of footnote 8 on page 100

of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any persons engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

SEC. 21.<sup>7</sup> That no person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States, or under the laws of any State in which the act was committed, shall be proceeded against for his said contempt hereinafter provided.

SEC. 22<sup>7</sup> That whenever it shall be made to appear to any district court of judge thereof, or to any judge therein sitting, by the return of a proper officer or lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished, therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: Provided, however, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

In all cases within the purview of this Act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury, the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon trial for misdemeanor, and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of \$1,000, nor shall such imprisonment exceed the term of six months: Provided, That in any case the court or a judge thereof may, for good cause shown, by affidavit or proof taken in open court or before such judge and filed with the papers in the case, dispense with the rule to show cause, and may issue an attachment for the arrest of the person charged with contempt; in which event such person, when arrested, shall

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<sup>7</sup> See footnote 8 on page 100.

be brought before such court or a judge thereof without unnecessary delay and shall be admitted to bail in a reasonable penalty for his appearance to answer to the charge or for trial for the contempt; and thereafter the proceedings shall be the same as provided herein in case the rule had issued in the first instance.

SEC. 23.<sup>8</sup> That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

SEC. 24.<sup>8</sup> That nothing herein contained shall be construed to relate to contempt committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempt committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all the other cases of contempt not specifically embraced within section twenty-one of this Act, may be punished in conformity to the usages at law and in equity now prevailing.

SEC. 25.<sup>8</sup> That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this Act.

SEC. 26. If any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved, October 15, 1914.

## Flammable Fabrics Act

(Approved June 30, 1953; 67 Stat. 111; 15 U. S. C. Sec. 1191)  
[PUBLIC—NO. 88—83D CONGRESS, CH. 164—1ST SESS.]  
[H. R. 5069]

AN ACT To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### SHORT TITLE

Section 1. This Act may be cited as the "Flammable Fabrics Act."

### DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such

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<sup>8</sup> Sections 21 to 25, inclusive, were repealed by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified, and enacted into "positive law," Title 18 of the Code (Crimes and Criminal Procedure). Said act reenacted said matter, excluding Section 23. As to substance, as 18 U. S. C., Section 402 (as amended by Public Law 72, May 21, 1949, 81st Congress). 18 U. S. C., Section 3285 and 18 U. S. C. Section 3691. Section 23 was omitted as no longer required in view of the civil and criminal rules promulgated by the Supreme Court.

The Act of June 25, 1948, C. 646 (62 Stat. 896), which revised, codified, and enacted into law Title 28 of the Code (Judicial Code and Judiciary), repealed the first, second, and fourth paragraphs of Section 17, and repealed Sections 18 and 19, in view of rule 65, Federal Rules of Civil Procedure, which covers the substance of the matter involved.

Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: Provided, however That such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: Provided further, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: And provided further, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than fiber, filament, or yarn ) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended.

### PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or the offering for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, the sale, or the offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

### STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and footwear covered by section 2 (d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(B) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting

forth his findings together with such proposals for legislation as he deems appropriate.

(c) Notwithstanding the provisions of paragraph 3.1 Commercial Standard 191-53, textiles free from nap, pile, tufting, flock, or other type of raised fiber surface when tested as described in said standard shall be classified as class 1, normal flammability, when the time of flame spread is three and one-half seconds or more, and as class 3, rapid and intense burning, when the time of flame spread is less than three and one-half seconds.<sup>1</sup>

#### ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8 (b) of this Act shall be enforced by the Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act are incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act..

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

#### INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before

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<sup>1</sup> Subparagraph (c) added by Public No. 629, 83d Cong. Ch. 833. Second Session, S. 3379 (An Act to amend section 4 of the Flammable Fabrics Act, with respect to standards of flammability in the case of certain textiles), approved Aug. 23, 1954.

trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

#### PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8 (b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: Provided, That nothing herein shall limit other provisions of this Act.

#### GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not, under the provisions of section of this Act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing, affected the flammability of the fabric or wearing apparel covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

#### SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may henceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

#### INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.



## EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: Provided, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this Act, as to be dangerous when worn by individuals.

## EFFECTIVE DATE

SEC. 12. This Act shall take effect one year after the date of its passage.

## AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved June 30, 1953.

## General Investigations by the Commission, Since 1915

Since its establishment in 1915, the Federal Trade Commission has conducted numerous general inquiries which are alphabetically listed and briefly described in the following pages.<sup>1</sup> They were made at the request of the President, the Congress, the Attorney General, Government agencies, or on motion of the Commission pursuant to the Federal Trade Commission Act.

Reports on these inquiries in many instances have been published as Senate or House documents or are Commission publications. Printed documents, unless indicated as being out of print,<sup>2</sup> may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D. C. Processed publications are available without charge from the Federal Trade Commission while the supply lasts.

Agencies initiating or requesting investigations are indicated in parentheses in the headings. Investigations, the results of which have been published, are listed below. Following this listing are unpublished investigations conducted by the Commission.

Accounting Systems (F. T. C.).—Pointing the way to a general improvement in accounting practices, the Commission, published *Fundamentals of a Cost System for Manufacturers* (H. Doc. 1356, 64th, 31 p., o. p., 7/1/16) and *A System of Accounts for Retail Merchants* (19 p., o. p., 7/15/16).

Accounting Systems.—See *Distribution Cost Accounting*.

Advertising as a Factor in Distribution.—See *Distribution Methods and Costs*.

Agricultural Implements.—See *Farm Implements and Distribution Methods and Costs*.

Agricultural Implements and Machinery (Congress).<sup>3</sup>—Prices of farm products reached record lows in 1932 but prices of many farm implements, machines, and repair parts maintained high levels resulting in widespread complaints in the next few years. The Commission investigated the situation (Public Res. 130, 74th, 6/24/36) and, following submission of its report, *Agricultural Implement and Machinery Industry* (H. Doc. 702, 75th, 1, 176 p., 6/6/38, o. p.), the industry made substantial price reductions. The report criticized certain competitive practices on the part of the dominant companies which the companies later promised to remedy. It showed, among other things, that a few major companies had maintained a concentration of control which resulted in large part from their acquisition of the capital stock or assets of competitors prior to enactment of the Clayton Antitrust Act in 1914 and thereafter from their purchase of assets of

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<sup>1</sup> The wartime cost-finding inquiries, 1917-18 (p. 122), include approximately 370 separate investigations.

<sup>2</sup> Documents out of print (designated "o. p.") are available in depository libraries.

<sup>3</sup> Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses.

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

Agricultural Income (Congress).—Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 61, 74th, 8/27/35), and table and juice grapes, fresh fruits and vegetables (Public Res. 112, 74th, 6/20/36), the Commission made recommendations concerning, among other things, the marketing of commodities covered by the inquiry; corporate consolidations and mergers;<sup>5</sup> unbalanced agricultural-industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that act (Public, 328, 75th) in 1937. [Report of the F. T. C. on Agricultural Income Inquiry, Part I, Principal Farm Products, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p., o. p.); Part II, Fruits, Vegetables, and Grapes, 906 p. 6/10/37, o. p.; Part III, Supplementary Report, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6p.), and 2/1/317 (S.Doc. 17, 75th, 16 p., o.p. .)]

Agricultural Prices.—See Price Deflation.

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

Bakeries and Bread.—See under Food.

Beet Sugar.—See under Food—Sugar.

Building Materials.—See Distribution Methods and Costs

Calcium Arsenate (Senate).—High prices of calcium arsenate, a poison used to destroy the cotton boll weevil (S. Res. 417, 67th, 1/23/23), appeared to be due to sudden increased demand rather than trade restraints ( Calcium Arsenate Industry, S. Doc. 345, 67th, 21 p., op 3/3/23).

Cartels.—See paragraphs headed Copper Industry, International Phosphate Cartels, Sulphur Industry, International Electrical Equipment Cartel, International Steel Cartels, Fertilizer ( F. T. C. ), International Petroleum Cartels, and International Alkali Cartels.

Cement (Senate).—Inquiry into the cement industry's competitive conditions and distributing processes (S. Res. 448, 71st, 2/16/31) showed that rigid application of the multiple basing-point price system<sup>6</sup> tended to lessen price competition and destroy the value of sealed bids; concerted activities of manufacturers and dealers strengthened the system's price effectiveness; and dealer associations' practices were designed to restrict sales to recognized "legitimate" dealers (Cement Industry, S. Doc. 71, 73d, 160 p., o. p., 6/9/33).

Chain Stores (Senate).—Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/12/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities. (For subtitles of 33 reports published under the general title, Chain Stores, 1931–33, see F. T. C Annual Report, 1941, p. 201. )

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<sup>4</sup> Conditions With Respect to the Sale and Distribution of Milk and Dairy Products (H. Doc. 94, 75th, 1/4/37), p. 38; Report of the F. T. C. on Agricultural Income Inquiry, Part I (3/2/37), p. 26; Agricultural Implement and Machinery Industry (H. Doc. 702, 75th 6/6/39), p. 1038; The Present Trend of Corporate Mergers and Acquisitions 3/7/47); The Merger Movement: A Summary Report (1948); and F. T. C. Annual Reports: 1938, pp. 19 and 29; 1939, p. 14; 1940, p. 12; 1941, p. 19; 1942, p. 9; 1943, p. 9; 1944, p. 7; 1945, p. 8; 1946, p. 12; 1947, p. 12; and 1948, p. 11.

<sup>5</sup> See footnote 4 above.

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

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

Cigarette Shortage (F.T.C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944 45.—In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that it was not attributable to violations of laws administered by the Commission; but that certain undesirable practices such as hoarding and tie-in sales had developed. (Report of the F.T.C. on the Cigarette Shortage, 33 pages, processed, o.p., 2/13/45.)

Coal (Congress and F.T.C.), Wartime, 1917-18, Etc.—From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were: Anthracite Coal Prices, preliminary (S. Doc. 19, 65th, 4 p., o. p., 5/4/17); Preliminary Report by the F.T.C. on the Production and Distribution of Bituminous Coal (H. Doc. 152, 65th, 8 p., o. p., 5/19/17); Anthracite and Bituminous Coal Situation, summary (H. Doc. 193, 65th, 29 p., o. p., 6/19/17); and Anthracite and Bituminous Coal (S. Doc. 50, 65th, 420 p., o.p., 6/19/17)—pursuant to S. Res. 217, 64th 2/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1/17; Washington, D. C., Retail Coal Situation (5 p., release, processed, o.p., 8/11/17)—pursuant to F.T.C. motion; Investment and Profit in Soft-Coal Mining (two parts, 5/31/22 and 7/6/22, 218 p., o. p., S. Doc. 207, 65th)—pursuant to F.T.C. motion; and Report of the F.T.C. on Premium, Prices of Anthracite (97 p., o. p., 7/6/25)—pursuant to F.T.C. motion.

Coal, Cost of Production (F.T.C.), Wartime, 1917–18.—President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U. S. Fuel Administration in continuing price control, the Commission compiled monthly cost production reports, collecting cost records for 1917-18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (Cost Report of the F.T.C.— Coal, 6/30/19, summarized for principal coal-producing States or regions: (1) Pennsylvania, bituminous, 103 p., o. p.; (2) Pennsylvania, anthracite, 145 p. o. p.; (3) Illinois, bituminous, 127 p., o. p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p., o. p.; (5) Ohio, Indiana, and Michigan, bituminous, 288 p., o. p.; (6) Maryland, West Virginia, and Virginia, bituminous, 280 p., o. p.; and (7) trans-Mississippi States, bituminous, 459 p., o. p.).

Coal, Current Monthly Reports (F.T.C.).—The Commission (December 1919) initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917-18 (Coal—Monthly Reports on Cost of Production, 4/20/20 to 10/30/20, Nos. 1 to 6, and two quarterly reports with revised costs, 8/25/20 and 12/6/20, processed, o. p. ) . An injunction to prevent the calling for the monthly reports (denied about 7 years later) led to their abandonment.

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<sup>7</sup> See footnote 4, p. 106.



Coffee (F.T.C.).—In its 1954 Economic Report of the Investigation of Coffee Prices, the Commission reported that the coffee price spiral of 1953-54 "cannot be explained in terms of the competitive laws of supply and demand." The report lists and discusses six major factors responsible for the price spiral, and recommends Congressional action to correct some of the "market imperfections" and "irregularities" found. (523 pp., 7/30/54.)

Combed Cotton Yarns.—See Textiles.

Commercial Bribery (F.T.C.).—Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published A Special Report on Commercial Bribery (H. Doc. 1107, 65th, 3 p., o. p., 5/15/18), recommending legislation striking at this practice; Commercial Bribery (S. Doc. unnumbered, 65th, 36 p., o. p., 8/22/18); and Commercial Bribery (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

Concentration in Manufacturing, Changes in, 1935 to 1947 and 1950 (F.T.C.).— This 153-page report shows that, on the basis of a study of the top 200 companies, concentration in American manufacturing was 2.8 percentage points higher in 1950 than in 1935. The report explores the reasons for the changes in recorded concentration in individual industries

Concentration of Productive Facilities (F.T.C.).—In a study of the extent of concentration of economic power, the Commission reported that 46 percent of the total net capital assets of all manufacturing corporations in the United States in 1947 was concentrated in the 113 largest manufacturers. The report is entitled The Concentration of Productive Facilities, 1947—Total Manufacturing and 26 Selected Industries, (96 p.). See also Divergence between Plant and Company Concentration.

Control of Iron Ore (F.T.C.).—A study of the concentration of iron ore supplies covers the sources and consumption of iron ore in 1948, an estimate of reserves available to major companies and an analysis of effect of possible shortage on big and small companies. The Control of Iron Ore, o. p. (1952).

Cooperation in American Export Trade.—See Foreign Trade.

Cooperation in Foreign Countries (F.T.C.).—Inquiries made by the Commission regarding the cooperative movement in 15 European countries resulted in a report, Cooperation in Foreign Countries (S. Doc. 171, 68th, 202 p., o. p., 11/29/24), recommending further development of cooperation in the United States.

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

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

Copper Industry (F.T.C.).—The Commission's report on The Copper Industry, transmitted to Congress (3/11/47), was in two parts: Part I—The Copper Industry of the United States and International Copper Cartels, and Part II—Concentration and Control by the Three Dominant Companies, o. p. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the ore reserves and of the productive capacity, but also because the domestic supply is inadequate to meet the demands of high level national production and employment. Furthermore, the production of foreign copper, on which the United States will become increasingly dependent, is likewise dominated by a few corporate groups which in the past have operated cooperatively in cartels to regulate production and prices."

Corporation Reports.—See Quarterly Financial Reports.

Corporate Mergers and Acquisitions (F.T.C.).—To determine the impact on the Nation's economy of

corporate mergers and acquisitions, the Commission

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made a study of the merger movement for the years 1940–46, inclusive. The results of the study were transmitted to Congress in a report entitled *The Present Trend of Corporate Mergers and Acquisitions* (23 p., o. p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only three industries, food, nonelectrical, machinery, and textiles and apparel—all predominantly “small business” fields.

In 1947 the Commission published *The Present Trend of Corporate Mergers* (23 p, o. p.). This is a review of some of the economic effects of the loophole in the Clayton Act existing at that time in the fact that there was no prohibition against mergers by the acquisition of assets.

In 1948 the Commission published *The Merger Movement: A Summary Report* (134 p., o. p., also 7 p. processed summary). In this report the legal history of the antimerger provisions of the Clayton Act is reviewed. Significant individual mergers are examined in detail. Maps, diagrams, charts and tabular statistical materials are used to illustrate the economic effects of the then in force antimerger legislation.

*The Report on Corporate Mergers and Acquisitions* (210 p.) was published in May 1955. This study, bringing up to date much of the statistical material in the 1947 and 1948 reports, showed, among other things, that 1,773 formerly independent competitive firms in manufacturing and mining industries alone had disappeared in the period 1947–1954 as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only 3 industries, food, nonelectrical machinery, and textiles and apparel—all predominantly small business fields.

*Cost Accounting.*—See *Accounting Systems*.

*Cost of Living* (President), Wartime, 1917-18.—Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See *Foods* (President), Wartime, 1917–18, herein.] Proceedings of the conference were published (*High Cost of Living*, 119 p., o. p.).

*Cotton Industry.*—See *Textiles*.

*Cottonseed Industry* (House).—Investigating alleged price fixing (S. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refineries had fixed prices in violation of the antitrust laws (*Cottonseed Industry* . Doc. 193, 70th, 37 p., 3/5/28).

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

71st, 4 p., o. p., 2./28/30, and final report, 207 p., o. p., with 11 vols. testimony,

*Distribution Cost Accounting* (F.T.C.).—To provide a guide for current legislation and determine ways for improving accounting methods, the Commission studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection (*Case Studies in Distribution Cost*



Accounting for Manufacturing and Wholesaling, H. Doc. 287, 77th, 215 p., o. p., 6/23/41).

Distribution.—See Millinery Distribution.

Distribution of Steel Consumption.—A study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers. (194–1950) The results of the study were transmitted to the Sub-committee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) o. p., 3/31/52.

Distribution Methods and Costs (F.T.C.).—This inquiry into methods and costs of distributing important consumer commodities (F.T.C. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F.T.C. Act. Eight parts of the F.T.C. Report on Distribution Methods and Costs were transmitted to Congress and published under the subtitles: Part I, Important Food Products (11/11/43, 223 p.,o.p.); Part III, Building Materials—Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o. p.), Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements (3/2/44, 189 p., o. p. ); Part V, Advertising as a Factor in Distribution (10/30/44, 50 p.); Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p., o. p.); Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area (6/30/45, 59 p.); Part VIII, Cost of Production and Distribution of Fish in New England (6/30/45,118 p.); and Part IX:, Cost of Production and Distribution of Fish on the Pacific Coast (7/25/46,82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

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

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

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

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

Farm Implements (F.T.C.).—A 1948 report on the Manufacture and Distribution of Farm Implements (160 p., also 8 p. processed summary) concerns the production and distribution policies of large manufacturers of farm machinery. The report includes information respecting important developments and trends in the industry.

Feeds, Commercial (Senate).—Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Commission found that although some association activities were in restraint of trade, there were no substantial antitrust violations (Report of the F.T.C. On Commercial Feeds, 206 p., o. p., 3/29/21.



Fertilizer (Senate).—Begun by the Commissioner of Corporations<sup>8</sup> (S. Res. 487, 62d, 3/1/13), this inquiry disclosed extensive use of bogus independent fertilizer companies for competitive purposes (Fertilizer Industry, S. Doc. 551, 64th, 269 p., o. p., 8/19/16). Agreements for abolition of such unfair competition were reached.

Fertilizer (Senate).—A second fertilizer inquiry (S. Res. 307, 67th, 6/17/22) developed that active competition generally prevailed in that industry in the U. S., although in some foreign countries combinations controlled certain important raw materials. The Commission recommended improved agricultural credits and more extended cooperation by farmers in buying fertilizer (Fertilizer Industry, S. Doc. 347, 67th, 87 p., 3/3/23).

Fertilizer (F.T.C.).—The Commission's 1949 report on The Fertilizer Industry (100 p.) is concerned primarily with restrictions and wastes which interfere with the supply of plant food materials in the quantities needed and at prices low enough to facilitate maintenance of soil fertility. The Nation's resources of nitrogen, phosphate, and potash are discussed, and the inter-relationships of producers and mixers are reviewed. The report also summarizes available information concerning cartel control of nitrogen, phosphates, and potash.

Fish.—See distribution Methods and Costs.

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

Flour Milling.—See Food, below.

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

Food (President) Continued—Meat Packing.—Food Investigation-Report of the F.T.C.. on the Meat-Packing Industry was published in six parts: I. Extent and Growth of Power of the Five Packers in Meat and Other Industries (6/24/19, 574, p., o.p.); II. Evidence of Combination Among Packers (11/25/18, 294 p., o.p.); III. Methods of the Five Packers in Controlling the Meat-Packing Industry (6/28/19, 325 p., o.p.); IV. The Five Large packers in Produce and Grocery Foods (6/28/19, 325 p., o.p.); V. Profits of the Packers (6/28/19, 110 p., o.p.); VI. Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Livestock (6/30/19, 183p., o.p.); and summary (H. Doc. 1297, 65, 51p., o.p. 7/3/18).

The reports first led to antitrust proceedings against the Big Five Packers, resulting in consent decree (Supreme Court of the D. C., 2/27/20),<sup>9</sup> which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Congress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stock

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<sup>8</sup>The Commission was created September 26, 1914, upon passage of the Federal Trade Commission Act, sec. 3 of which provided that "all pending investigations and proceedings of the Bureau of Corporations (of the Department of Commerce) shall be continued by the Commission."

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



yards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p. 150.)

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

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

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

Food—Bread and Flour (Senate).—Reports on this inquiry (S. Res. 183, 68th, 2/26/24) were: Competitive Conditions in Flour Milling (S. Doc. 97, 70th, 140 p., o. p., 5/3/26) ; Bakery Combines and Profits (S. Doc. 212, 69th, 95 p., 2/11/27); Competition and Profits in Bread and Flour (S. Doc. 98, 70th, 509 p., o.p., 1/11/28); and Conditions in the Flour Milling Business, supplementary (S. Doc. 96, 72d, 26 p.,o.p.,5/28/32).

Food—Wholesale Baking Industry (F.T.C.).—This inquiry (F.T.C. Res. 8/31/45) resulted in two reports to Congress: Wholesale Baking Industry, Part I—Waste in the Distribution of Bread (4/22/46, processed, 29 p.,o.p. and Wholesale Baking Industry, Part II—Costs, Prices and Profits (8/7/46, 137 p., o. p.). Part I developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which includes the taking back of unsold bread; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products. It was found that although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 30

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





days, or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative with executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread baking industry."

Part II presents information concerning, prices and pricing, practices in the industry, profits earned, and unit costs of production and distribution. It compares the details of production and distribution costs for bread and rolls, other bakery products, and for all bakery products for two operating periods in 1945 March and September. Comparisons of costs are also made for these two periods for plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by six groups of wholesale bakeries.

Food—Fish.—See Distribution Methods and Costs.

Food—Flour Milling (Senate).—This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in Wheat Flour Milling Industry (S. Doc. 130, 68th, 130 p., o. p., 5/16/24).

Food—Flour Milling Industry, Growth and Concentration in (F.T.C.).—The Commission's study showed that there has been a progressive increase in the size of flour-mill operations and a progressive decrease in the number of flour-milling establishments. Nevertheless, the Commission reported, there is a lesser degree of concentration in the flour-milling industry than in many other important industries. The results of the study were presented to Congress in a report on the Growth and Concentration in the Flour-Milling Industry (6/2/47).

Food—Grain Elevators (F.T.C.), Wartime, 1917-18.—In view of certain bills pending before Congress with reference to regulation of the grain trade, the Commission, in a preliminary report, Profits of Country and Terminal Grain Elevators (S. Doc. 40, 67th, 12 p., o. p., 6/13/21) presented certain data collected during its inquiry into the grain trade ordered by the President.

Food—Grain Exporters (Senate).—The low prices of export wheat in 1921 gave rise to this inquiry (S. Res. 133, 67th, 12/22/21) concerning harmful speculative price manipulations on the grain exchanges and alleged conspiracies among country grain buyers to agree on maximum purchasing prices. The Commission recommended stricter supervision of exchanges and additional storage facilities for grain not controlled by grain dealers (Report of the F.T.C. on Methods and Operations of Grain Exporters, 2 vols., 387 p., o. p., 5/16/22 and 6/18/23).

Food—Grain, Wheat Prices (President).—An extraordinary decline of wheat prices was investigated (President Wilson's directive 10/12/20) and found to be due chiefly to abnormal market conditions (Report of the F.T.C. on Wheat Prices for the 1920 Crop, 91 p., o. p., 12/13/20).

Food—Important Food Products.—See Distribution Methods and Costs.

Food—Meat Packing Profit Limitation (Senate), Wartime, 1917-18.—Following an inquiry (S. Res. 177, 66th, 9/3/19) involving wartime control of this business as established by the U. S. Food Administration in 1917-18, the Commission recommended greater control and lower maximum profits (Maximum Profit Limitation on Meat Packing Industry, S. Doc. 110, 66th, 179 p., o. p. 9/25/19).

Food—Milk.—See Distribution Methods and Costs.

Food—Milk and Milk Products (Senate), Wartime, 1917-18.—Covering an inquiry (S. Res. 431, 65th, 3/3/19) into fairness of milk prices to producers with of canned-milk prices to consumers, the Report of the F.T.C. on Milk and Milk Products 1914–18 (6/6/21, 234, p. O. p.) Showed a marked concentration of control and questionable practices many of which later were recognized by the industry as being unfair.



Food—Milk and Dairy Products (House).—Competitive conditions in different milk-producing areas were investigated (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: Report of the F.T.C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds (H. Doc. 152, 74th, 901 p., o. p., 4/5/35); Report of the F.T.C. on the Sale and Distribution of Milk and Milk Products (Connecticut and Philadelphia milksheds, interim report, H. Doc. 387, 74th, 125 p., o. p., 12/31/35); Chicago Sales Area (H. Doc. 451, 74th, 103 p., o. p., 4/15/36); Boston, Baltimore, Cincinnati, St. Louis H. Doc. 501, 74th, 243 p., o. p., 6/4/36); Twin City Sales Area H. Doc. 506, 74th, 71 p., o. p., 6/13/36); and New York Milk Sales Area H. Doc. 95, 75th, 138 p., o. p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products, H. Doc. 94, 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food—Peanut Prices (Senate).—An alleged price-fixing combination of peanut crushers and mills was investigated (S. Res. 139, 71st, 10/22/29). The Commission found that an industry-wide decline in prices of farmers' stock peanuts during the business depression was not due to such a combination, although pricing practices of certain mills tended to impede advancing and to accelerate declining prices (Prices and Competition Among Peanut Mills, S. Doc. 132, 72d, 78 p., o. p., 6/30/32).

Food—Raisin Combination (Attorney General).—Investigating allegations of a combination among California raisin growers (referred to F.T.C. 9/30/19), the Commission found the enterprise not only organized in restraint of trade but conducted in a manner threatening financial disaster to the growers. The Commission recommended changes which, the growers adopted (California Associated Raisin Co., 26 P., processed, o. p., (6/8/20).

Food—Southern Livestock Prices (Senate).—Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination was being practiced, a Commission investigation ( S. Res. 133, 66th, 7/25/19) revealed the alleged discrimination did not appear to exist (Southern Livestock Prices, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

Food—Sugar (House).— An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (Report of the F.T.C. on Sugar Supply and Prices, 205 p., o. p., 11/15/20).

Food—Sugar, Beet (F.T.C.).—Initiated by the Commissioner of Corporations,<sup>11</sup> but completed by the F.T.C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (Report on the Beet Sugar Industry in the U. S., H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

Foreign Trade—Antidumping Legislation (F.T.C.).—To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (Antidumping Legislation and Other Import Regulations in the United State and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed, 6/27/38) .

Foreign Trade—Cooperation in American Export Trade (F.T.C.).—This inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U. S. manufacturers for export trade, was enacted as

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<sup>11</sup> See footnote 8, p. 111.



a result of Commission recommendations (Cooperation in American Export Trade, 2 vols., 984 p., o. p., 6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions 1916. 14 p., o. p. ).

Foreign Trade—Cotton Growing Corporation (Senate).—The report of an inquiry (S. Res. 317, 68th, 1/27/25) concerning the development of this British company, Empire Cotton Growing Corporation (S. Doc. 226, 68th, 30 p., o. p., 2/28/25), showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

Gasoline.—See Petroleum.

Grain.—See Food.

Grain Exchange Actions (F.T.C. and Chairman of Senate Committee on Agriculture and Forestry).—The Commission's report on Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946 (85 p.o.p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1946, for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act and the U.S. Warehouse Act "should be so amplified and coordinated, or even combined, as to make effective the type and scope of relation over futures trading contemplated by the Congress in enacting the Commodity Exchange Act."

Guarantee Against Price Decline (F.T.C.).—Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in Digest of Replies in Response to an Inquiry of the F.T.C. . Relative to the Practice of Giving Guarantee Against Price Decline (68 p., o. p. 5/27/20).

Housefurnishings (Senate).—This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (Report of the F.T.C. on Housefurnishing Industries, 1018 p.,o.p., 1/17/23, 10/1/23, and 10/6/24).

Independent Harvester Co. (Senate), Wartime, 1917–18.—After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the F.T.C. Report to the Senate on the Independent Harvester Co. (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and insufficient capital.

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

Interlocking Directorates (F.T.C.).—This 1950 report on Interlocking Directorates summarizes the interlocking relationships among directors of the 1,000 largest manufacturing corporations. It also covers the interlocking directorates between these corporations and a selected list of banks, investment trusts, insurance companies, railroads, public utilities, and distributive enterprises.

International Alkali Cartels (F.T.C.).—In a report (1960) on International Cartels in the Alkali Industry, o. p., the Commission discussed the nature, extent, and effect of international agreements concerning baking soda, soda ash, and caustic soda to which organized groups of American and European alkali producers were parties from 1924 until 1940.

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

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

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

International Steel Cartels (F.T.C.).—A report to Congress concerning numerous cartel agreements relating to steel which were adopted between World War I and World War II. Certain American companies participated in these agreements, which were both national and international in scope. The international agreements allotted quotas to the different national groups, fixed prices in the export trade, and established reserved and unreserved areas. (International Steel Cartels (1948), 115 p., o. p., also 12 p. processed summary.)

Iron Ore.—See Control of Iron Ore

Large Manufacturing Companies (F.T.C.).—This 1951 report, entitled A List of 1,000 Large Manufacturing Companies, Their Subsidiaries and Affiliates, 1948, shows for each of the 1,000 largest manufacturing corporations which publish financial statements the percentage of stock interest held by the corporation in each of its subsidiaries and affiliates. The parent corporations are grouped in 21 major industries and ranked as to size on the basis of their total assets in 1948, 223 p., o. p., 6/1/51.

Leather and Shoes (F.T.C. and House), Wartime, 1917-18.—General complaint regarding high prices of shoes led to this inquiry, which is reported in Hide and Leather Situation, preliminary report (H. Dc. 857, 65th, 5 p., o. p., 1/23/18), and Report on Leather and Shoe Industries (180 p., o. p., 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the Report of the F.T.C. on Shoe and Leather Costs and Prices (212 p., o. p., 6/10/21).

Lumber—Costs.—See Wartime Cost Finding, 1917-18.

Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers' associations (referred to F.T.C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the F.T.C. on Lumber Manufacturers' Trade Associations, incorporating regional reports of 1/10/21, 2/18/21, 6/9/21, and 2/15/22 (150 p., o.p.); Report of the F.T.C. on Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau (22 p., o.p., 1/24/23, also known



as Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory (S. Doc. 293, 67th, o.p.); and Report of the F.T.C. on Northern Hemlock and Hardwood Manufacturers Association (52 p., o.p., 5/7/23).

Lumber Trade Association (F.T.C.).—Activities of five large associations were investigated in connection with the Open-Price Associations inquiry to bring down to date the 1919 lumber association inquiry (Chap. VIII of Open-Price Trade Associations, S. Doc. 226, 70th, 516 p., o. p., 2/13/29).

Meat-Packing Profit Limitations.—See Food.

Mergers (F.T.C.).—( See Corporate Mergers. )

Milk.—See Food.

Millinery Distribution (President).—This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of leased departments in department or specialty stores (Report to the President of the United States on Distribution Methods in the Millinery Industry, 65 p., processed, 11/21/39, o.p.).

Monopolistic Practices and Small Business.—A study by the staff of the Commission on the effect of certain monopolistic practices on small business, requested by the Subcommittee on Monopoly of the Senate Select Committee on Small Business. The results were transmitted to the Subcommittee and published as a committee print by Select Committee on Small Business, U. S. Senate, 82d Cong. (88 p. 3/31/52).

Motor Vehicles (Congress).—Investigating (Public Res. 87, 75th, 4/13/38) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and strong competition; that many local dealers' associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition; that inequities existed in dealer agreements and in certain manufacturers' treatment of some dealers; and that some companies' car finance plans developed serious abuses (Motor Vehicle Industry, H. Doc. 468, 76th, 1077 p., o. p., 6/5/39). The leading companies voluntarily adopted a number of the Commission's recommendations as company policies.

National Wealth and Income (Senate).—In 1922 the national wealth was estimated (inquiry pursuant to S. Res. 451, 67th, 2/28/23) at \$353,000,000,000 and the national income in 1923 at \$70,000,000,000 [National Wealth and Income (S. Doc. 126, 69th, 381 p., o. p., 5/25/26) and Taxation and Tax-Exempt Income (S. Doc. 148, 68th, 144 p., o. p., 6/6/24)].

Open-Price Associations (Senate).—An investigation (S. Res. 28, 69th, 3/17/25) to ascertain the number and names of so-called open-price associations, their importance in industry and the extent to which members maintained uniform prices, was reported in Open-Price Trade Associations (S. Doc. 226, 70th, 516 p., o. p., 2/13/29).

Packer Consent Decree.—See Food (President) Continued—Meat Packing.

Paper—Book (Senate), Wartime, 1917–18.—This inquiry ( S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints [Book Paper Industry—A Preliminary Report (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and Book Paper Industry—Final Report (S. Doc. 79, 65th, 125 p., o. p., 8/21/17) ].

Paper—Newsprint (Senate), Wartime, 1917–18.—High prices of newsprint (S. Res. 177, 64th, 4/24/16) were shown to have been partly a result of certain newsprint association activities in restraint of trade. Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers The Commission for several years conducted monthly reporting





of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [Newsprint Paper Industry, preliminary (S. Doc. 3, 65th, 12 p., o. p., 3/3/17; Report of the F.T.C. on the Newsprint Paper Industry (S. Doc. 49, 65th) 162 p., o. p., 6/13/17); and Newsprint Paper Investigation (in response to S. Res. 95, 65th, 6/27/17; S. Doc. 61, 65th, 8 p., o. p., 7/10/17) ].

Paper—Newsprint (Senate).—The question investigated ( S. Res. 337, 70th, 2/27/29) was whether a monopoly existed among newsprint manufacturers and distributors in supplying paper to publishers of small dailies and weeklies (Newsprint Paper Industry, S. Doc. 214, 71st, 116 p., o. p., 6/30/30) .

Petroleum.—See International Petroleum Cartel.

Petroleum Products.—See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).—At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: Investigation of the Price of Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and Report on the Price of Gasoline in 1915 (H. Doc. 74, 65th, 224 p., o. p., 4/11/17—both pursuant to S. Res. 109, 63d, 6/18/13<sup>12</sup> and S. Res. 457, 63d, 9/28/14, which reports discussed high prices and the Standard Oil Companies' division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; Advance in the Prices of Petroleum Products (H. Doc. 801, 66th, 57 p., o. p., 6/1/20)—pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; Letter of Submittal and Summary of Report on Gasoline Prices in 1924 (24 p. processed, 6/4/24, and Cong. Rec., 2/28/25, p. 5158)—pursuant to request of President Coolidge, 2/7/24; Petroleum Industry—Prices, Profits and Competitions (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)—pursuant to S. Res. 31, 69th, 6/3/30; Importation of Foreign Gasoline at Detroit, Mich., (S. Doc. 206, 72d, 3 p., o. p., 2/27/33)—pursuant to S. Res. 274, 72d, 7/16/32; and Gasoline Prices ( S. Doc. 178, 73d, 22 p., o. p., 5/10/34)—pursuant to S. Res. 166, 73d, 2/2/34.

Petroleum—Foreign Ownership (Senate).—Inquiry was made (S. Res. 311, 67th, 6/29/22) into acquisition of extension oil interests in the U.S. by the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American interests (Report of the F.T.C. on Foreign Ownership in the Petroleum Industry, 152 p., o. p., 2/12/23).

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations,<sup>13</sup> this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipeline companies which were unfair to small producers (Report on Pipe-Line Transportation of Petroleum, 467 p., o. p., 2/28/16), some of which practices were later remedied by the Interstate Commerce Commission.

Petroleum—Regional Studies (Senate and F.T.C.).—Reports published were: Pacific Coast Petroleum Industry (two parts 4/7/21 and 11/28/21, 538 p., o. p.)— pursuant to S. Res. 138, 66th, 7/31/19; Reports of the F.T.C. on the Petroleum Industry of Wyoming (54 p., o. p., 1/3/21)—pursuant to F.T.C. motion; Petroleum Trade in Wyoming and Montana (S. Doc. 233, 67th, 4 p., o. p., 7/13/22)— pursuant to F.T.C. motion, in which report legislation to remedy existing conditions was recommended; and Report of the F.T.C. on Panhandle Crude Petroleum (Texas) (19 p., o. p., 2/3/28)—pursuant to F.T.C. motion, 10/6/26 (in response to requests of producers of crude petroleum).

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<sup>12</sup> See footnote 8, p. 111.

<sup>13</sup> See footnote 8, p. 111. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in Conditions in the Healdton Oil Field (Oklahoma) (116 p., 8/15.15).



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

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

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

Power—Utility Corporations (Electric and Gas Utilities) (Senate).—This extensive inquiry (S. Res. 83, 70th, 2/15/28; Public Res. 46, 73d, 6/1/34; and F.T.C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies another companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commission's reports and recommendations, focusing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants, and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets; 70 subholding companies with \$5,685,463,201 total assets; and 278 operating companies with \$7,245,106,464 total assets. The testimony, exhibits, and final reports (Utility Corporation, S. Doc. 92, 70th, o. p.) comprised 95 volumes.<sup>14</sup>

Price Bases (F.T.C.).—More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F.T.C. report, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method<sup>15</sup> was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-hauling or cross-freighting to be an economic evil (Report of the F.T.C. on Price Bases Inquiry, Basing-Point Formula, and Cement Prices, 218 p., o. p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers,

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

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

Sheet Piling" herein.

1932–36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N. R. A. code (Study of Zone-Price Formula in Range Boiler Industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

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

Profiteering (Senate), Wartime, 1917–18.—Current conditions of profiteering, (S. Res. 255, 65th, 6/10/18) as disclosed by various Commission investigations were reported in Profiteering (S. Doc. 248, 65th, 20 p., o. p., 6/29/18).

Quarterly Financial Reports United States Manufacturing Corporations (F.T.C. and S.E.C.).—This 1947–57 series of reports is intended to meet the general needs of the Government and the public for current reliable corporation financial data. The reports show the aggregate estimates for American manufacturing corporations as derived from reports collected by the Federal Trade Commission and the Securities and Exchange Commission. This work is based upon resumption by F.T.C. of its prewar financial reporting function and continuation by S.E.C. of its current responsibilities for collection of financial information from corporations with securities registered on a national exchange. F.T.C. obtains comparable information from a carefully selected sample of small, medium size and large nonregistered corporations. The sample has been designed so that the two sets of data can be combined to provide estimates for 21 major industry groups (increased to 23 major groups in 1951) as well as the aggregate for all manufacturing corporations. The Quarterly Financial Reports formerly were known as Industrial Corporation Reports.

Quarterly Financial Report, United States Retail and Wholesale Corporation.—This presents estimates of the income statements and balance sheets for the total operations of United States wholesale trade corporations (merchant wholesalers only) and retail trade corporations, for various industrial segments of retailing and merchant wholesaling, and for different sizes of business in retailing and merchant wholesaling. These estimates are for the year 1950 and each of the four quarters of 1951. They were compiled from financial statements received from individual corporations.

Quarterly Financial Report, Five Manufacturing Industries, 1947–51.—This presents averages of the quarterly income statements and balance sheets for the total operations of representative samples of manufacturing corporations (with average annual sales within a specified range) in specific industries and in a specific geographical region.

Radio (House).—A comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23); Report of the F.T.C. on the Radio Industry, 347 p., o. p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended, 11/2/35).

Rags, Woolen.—See Textiles.

Raisin Combination.—See Food.

Range Boilers.—See Price Bases.

Rates of Return in Selected Industries (F.T.C.).—A comparison of the prewar (World War II) and postwar rates of return on stockholders' investments after taxes for more than 500 identical manufacturing corporations. The present report, published annually, covers the years 1940 and 1947–55, includes 25 selected manufacturing industries.



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

Rubber Tires and Tubes.—See Distribution Methods and Costs.

Salaries (Senate).—The Commission investigated (S. Res. 75, 73d, 5/29/33) salaries of executives and directors of corporations (other than public utilities) engaged in interstate commerce, such corporations having more than \$1,000,000 capital and assets and having their securities listed on the New York stock or curb exchanges. The Report of the F.T.C. on Compensation of Officers and Directors of Certain Corporations (15 p, processed, 2/26/34, o. p ) explained the results of the inquiry.<sup>16</sup> The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

Southern Livestock Prices.—See Food.

Steel Code and Steel Code as Amended (Senate and President).—The Commission investigated (S. Res. 166 73d, 2/2/34) price fixing, price increases, and other matters (Practices of the Steel Industry Under the Code, S. Doc. 159, 73d, 79 p., o. p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (Report of the F.T.C. to the President in Response to Executive Order of May 30, 1934, With Respect to the Basing-point System in the Steel Industry, 125 p., o. p., 11/30/34).<sup>17</sup> The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).—An inquiry (S. Res. 286, 67th 5/12/29 ) into a proposed merger of Bethlehem Steel Corp. and Lackawanna Steel Co., and of Midvale Steel & Ordnance Co., Republic Iron Steel Co., and Inland Steel Co., resulted in a two-volume report. Merger of Steel and Iron Companies (S. Doc. 208, 67th, 11 p., o. p., 6/5/22 and 9/7/22).

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

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

Stock Dividends (Senate).—The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same information for an equal period prior to the decision was also requested. The Commission submitted a list of

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

<sup>17</sup> As of the same date, the N.R.A. published its Report of the National Recovery Administration on the Operation of the Basing-Point System in the Iron and Steel Industry (175 p., processed). The basing-point system is also discussed in published reports listed under "Cement" and "Price Bases" herein.



<sup>18</sup> See footnote 15, p. 119.

10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (Stock Dividends, S. Doc. 26, 70th, 273 p., o. p., 12/5/27) .

Sugar.—See Food.

Sulphur Industry (F.T.C.).—In its report to Congress on The Sulphur Industry and International Cartels (6/16/47), o. p., the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.—See National Health and Income.

Temporary National Economic Committee, Studies of the F.T.C.—See F.T.C. Annual Report, 1941, p. 218, for titles.

Textiles (President).—President Roosevelt (Executive Order of 9/26/34) directed an inquiry into the textile industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. Reports covering the cotton, woolen and worsted, silk and rayon, and thread, cordage and twine industries were: Report of the F.T.C. on Textile Industries, Parts I to VI, 12/31/34 to 6/20/35, 174 p., o. p. (Part VI financial tabulations processed 42 p., o. p.); Report of the F.T.C. on the Textile Industries in 1933 and 1934), Parts I to IV, 8/1/35 to 12/5/35, 129 p., o. p.; Parts II and III, o. p. (Part IV, processed, 21 p., o. p.; accompanying tables, processed, 72 p., o. p.); Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934, 1/31/36, 20 p., processed, o. p.; Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1944, 3/24/36, 48 p., processed, o. p.; Textile Industries in the First Half of 1935, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed, o. p.; Textile Industries in the Last Half of 1935, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed, o. p.; and Textile Industries in the First Half of 1936, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed, o. p.

Textiles—Combed Cotton Yarns.—High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (Report of the F.T.C. on Combed Yarns, 94 p., o. p., 4/14/21).

Textiles—Cotton Growing Corporation.—See Foreign Trade`.

Textiles—Cotton Merchandising (Senate).—Investigating abuses in handling consigned cotton (S. Res. 252, 68th, 6/7/24), the Commission made recommendations designed to correct or alleviate existing conditions (Cotton Merchandising Practices, S. Doc. 194, 68th, 38 p., o. p., 1/20/25).

Textiles—Cotton Trade (Senate).—Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920–22, as reported in Preliminary Report of the F.T.C. on the Cotton Trade (S. Doc. 311, 67th, 28 p., o. p., 2/26/23). After a second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, 68th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations.



Textiles—Woolen Rag Trade (F.T.C.), Wartime, 1917–18.—The Report on the Woolen Rag Trade (90 p., o. p., 6/30/19) contains information gathered during the World War, 1917-18, at the request of the War Industries Board, for its use in regulating the prices of woolen rags employed in the manufacture of clothing.

Tobacco (Senate).—Inquiry (S. Res. 329, 2/9/25) into activities of two well-known companies disclosed that alleged illegal agreements or conspiracies did not appear to exist. (The American Tobacco Co. and the Imperial Tobacco Co., S. Doc. 34, 69th, 129 p., o. p., 12/25/25).

Tobacco Marketing—Leaf (F.T.C.).—Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and improvement of marketing processes and cooperative relations (Report on Marketing of Leaf Tobacco in the Flue-Cured District of the States of North Carolina and Georgia, 54 p., o. p., processed, 5/23/31).

Tobacco Prices (Congress).—Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533 66th, 6/3/20) and low tobacco prices as compared with high prices of manufactured tobacco products (S. Res. 129, 67th, 8/9/21) resulted in the Commission recommending modification of the 1911 decree (dissolving the old tobacco trust) to prohibit permanently the use of common purchasing agencies by certain companies and to bar their purchasing tobacco under any but their own names (Report of the F.T.C. On the Tobacco Industry, 162 p., o. p., 12/11/20, and Prices of Tobacco Products, S. Doc. 121, 67th, 109 p., o. p., 1/17/22).

Trade and Tariffs in South America (President).—Growing out of the First Pan-American Financial Conference held in Washington, May 24-29, 1915, this inquiry (referred to F.T.C. 7/22/15) was for the purpose of furnishing necessary information to the American branch of the International High Commission appointed as a result of the conference. Customs administration and tariff policy were among subjects discussed in the Report on Trade and Tariffs in Brazil, Uruguay, Argentina, China, Bolivia, and Peru (246 p., o. p., 6/30/16).

Twine.—See Sisal Hemp and Textiles.

Utilities.—See Power.

Wartime Cost Finding (President), 1917-18.—President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in approximately 370 wartime cost investigations. At later dates reports on a few of them were published,<sup>19</sup> including: Cost Reports of the F.T.C.—Copper (26 p., o.p., 6/30/19); Report of the F.T.C. on Wartime Costs and Profits of Southern Pine Lumber (94 p., o.p., 5/1/22); and Report of the F.T.C. on Wartime Profits and Costs of the Steel Industry (138 p., o.p. 2/18/25). The unpublished reports<sup>20</sup> cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled in various degrees, by Government agencies such as the War and Navy Departments, War Industries Board, Price Fixing Committee, Fuel Administration, Food Administration, and Department of Agriculture. The Commission also conducted cost inquiries for the Interior Department, Tariff Commission, Post Office Department, Railroad Administration, and other Government departments or agencies. It is estimated that the inquiries helped to save the country many billions of dollars by checking unjustifiable price advances.

Wartime Costs and Profits (F.T.C.).—Cost and profit information for 4,107 identical companies for the period 1941–45 is contained in a Commission report on Wartime Costs and Profits for Manufacturing Corporations, 1941 to

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<sup>19</sup> See footnote 10, p. 112..

<sup>20</sup> Approximately 20 of the wartime cost inquiries are listed in the F.T.C. Annual Reports, 1918, pp. 29-30, and 1919 pp. 38-42, and In World War Activities of the F.T.C., 1917-18 (69 p., processed, 7/15/40).

1945 (30 p., processed, with 10 p. appendix). Compilation of the information contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-18, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flags, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper—Book, Paper—Newsprint, Profiteering, and Textiles—Woolen Rag Trade, o. p.

## The following are unpublished investigations by the Commission for the use of other government agencies:

Aluminum Foundries (W. P. B.), Wartime, 1942–43.—Details were obtained for the War Production Board, at its request, from aluminum foundries throughout the U. S. covering their operations for May 1942 and their compliance with W.P.B. Supplementary Orders m-1-d, M-1-c, and M-1-f.

Antifreeze Solutions, Manufacturers of (W.P.B.), Wartime, 1943-44.—War Production Board Order L-258 of 1/20/43 prohibited production of salt and petroleum-base antifreeze solutions. While production of these products had ceased, great quantities were reported to be still in the hands of producers and distributors. To enable W.P.B. to determine what further action should be taken to protect essential automotive equipment from these solutions, it requested the Commission to locate producers' inventories as of 1/20/43, and to identify all deliveries made from such inventories to distributors subsequent to that date.

Capital Equipment (W.P.B.), Wartime, 1942–43.—For the War Production Board, a survey was made in connection with Priorities Regulation No. 12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had been rerated had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Chromium Processors (W.P.B.), Wartime, 1942–43.—For the War Production Board, the Commission investigated the transactions of the major chromium processors to determine the extent to which they were complying with Amendment No. 2 to W.P.B. General Preference Order No. m-18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W.P.B.), Wartime, 1942-43.—The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W.P.B. Limitation Orders L-182 and L-182 as amended 3/2/43; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No. 1.

Contractors, Prime, Forward Buying Practices of (W.P.B.), Wartime, 1942–43.—The matter of procurement, use, and inventory of stocks of critical materials involved in the operation of major plants devoting their efforts to war production was inquired into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

Copper Base Alloy Ingot Makers (W.P.B.), Wartime, 1942-43.—This investigation was designed to ascertain the operations, shipments, and inventories of copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W.P.B. Preference and Conservation Orders M-9-a and b, and M-9-c.



Copper, Primary Fabricators of (W.P.B.), Wartime, 1941–42.—A survey and inspection of a specified list of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Cost of Living (President).—President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a report to the President.

Costume Jewelry, Manufacturers of (W.P.B.), Wartime, 1943–44.—Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W.P.B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M-38, M-11, M-11-b, M-126, L-81, L-131, and L-131-a, all as amended.

Electric Lamp Manufacturers (W.P.B.), Wartime, 1942–43.—At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W.P.B. Limitation and Conservation Orders L-33 and M-9-c.

Fertilizer and Related Products (O.P.A.), Wartime, 1942–43.—At the request of O.P.A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products' industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

Food—Biscuits and Crackers (O.P.A.), Wartime, 1942–43.—As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food—Bread Baking (O.E.S.), Wartime, 1942–43.—This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries, practices, costs, prices, and profits was developed and reported to O.E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O.P.A.

Food—Bread Baking (O.P.A.), Wartime, 1942–43.—In the interest of the low income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O.P.A. (Jan. 1942) in an unpublished report.

Food—Flour Milling (O.E.S.), Wartime, 1942–43.—Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the





industry so as to eliminate the need for a wheat subsidy, without reducing a farmers' returns, or to reduce bread prices. The report was made to O.E.S. and a more detailed report was prepared for O.P.A.

Fruit Growers and Shippers (W.P.B.), Wartime, 1943–44.—This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape shippers, all located in California, were in violation of W.P.B. Order L-232 with respect to quotas affecting the use of lugs (wooden shipping containers).

Furnaces, Hot Air, Household (W.P.B.), Wartime, 1943–44.—The Commission made a Nation-wide survey for the War Production Board of the operations of one of the largest manufacturers in the United States of household hot air furnaces, to determine whether its practices, in selling and servicing domestic heating plants were in violation of Orders L-79 and P-4, and other applicable regulations and orders of W.P.B.

Fuse Manufacturers (W.P.B.), Wartime, 1942–43.—For the War Production Board the Commission investigated and reported on the activities of representative fuse manufacturers whose operations were subject to W.P.B. Limitation Orders L-158 and L-161, as amended.

Glycerin, Users of (W.P.B.), Wartime, 1942–43.—At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Household Furniture (O.P.A.), Wartime, 1941–42.—Costs, prices, and profits of 67 representative furniture companies were studied to determine whether, and to what extent, price increases were justified. A study was also made to determine whether price-fixing arrangements existed and whether wholesale price increases resulted from understandings in restraint of trade. Confidential reports were transmitted to O.P.A. in Sept. 1941.

Insignia Manufacturers (W.P.B.), Wartime, 1944–45.—Preliminary studies made by the War Production Board disclosed the probability that certain insignia manufacturers had acquired larger quantities of foreign silver than necessary to fill legitimate orders and diverted the balance to unauthorized uses. In response to W.P.B.'s request the Commission surveyed the acquisition and use of foreign silver by such manufacturers to determine the degree of their compliance with Order M-199 and checked the receipt and use of both domestic and treasury silver, as well as the manufacture of insignia, as controlled by Orders L-131 and M-9-c.

Jewel Bearings, Consumers of (W.P.B.), Wartime, 1942–43.—For the War Production Board, users of jewel bearings were investigated to determine the extent to which they were complying with W.P.B. Conservation Order M-50, which had been issued to conserve the supply and direct the distribution of jewel bearings and jewel-bearing material.

Metal-Working Machines, Invoicing and Distribution of (W.P.B.), Wartime, 1942–43.—For the War Production Board an inquiry was made to obtain complete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all nonportable power-driven shears, presses, hammers, bending machines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Nickel Processors (W.P.B.), Wartime, 1942–43.—The Commission was designated by the War Production Board to investigate the transactions of some 600



nickel processors for the purpose of determining the extent to which they were complying with W.P.B. Preference Order No. M-6-a, issued 9/30/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

Optical Decree (Attorney General).—The Commission investigated (inquiry referred to F.T.C. 8/12/52) the manner in which an antitrust consent decree entered (Sept. 1948) against the American Optical Company and others, restraining them from discriminatory and monopolistic practices, was being observed, and report (2/10/54) to the Attorney General.

Paint, Varnish, and Lacquer Manufacturers (W.P.B.), Wartime, 1943–44.— The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M-139, M-150, M-159, M-246 and M-327 in their acquisition and use of certain chemicals, all subject to W.P.B. allocations, used in the manufacture of paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

Paperboard (O.P.A.), Wartime, 1941–42.—Costs, profits, and other financial data regarding operations of 68 paperboard mills (O.P.A. request, 11/12/41) for use in connection with price stabilization work, were transmitted to O.P.A. in a confidential report (May 1942).

Paper—Newsprint (Attorney General).—The Commission investigated (inquiry referred to F.T.C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U. S. District Court, Southern District of New York.

Petroleum Decree (Attorney General).—The Commission investigated (inquiry referred to F.T.C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

Priorities (W.P.B.), Wartime, 1941–45.—Pursuant to Executive orders (January 1942), W.P.B.. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with W.P.B.. orders relative to the allocation of supply and priority of delivery of war materials. F.T.C. priorities investigations are listed herein under the headings: Aluminum, Foundries Using; Antifreeze Solutions, Manufacturers of; Capital Equipment, Chromium, Processors of; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of; Contractors, Prime, Forward Buying Practices of; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of; Costume Jewelry, manufacturers of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufacturers; Jewel Bearings, Consumers of; Metal-working Machines, Invoicing and Distribution of; Nickel, Processors of; Paint, Varnish, and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and Silver Suppliers; Steel Industry; Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W.P.B.

Quinine, Manufacturers and Wholesalers of (W.P.B.), Wartime, 1942–43.—At the instance of the War Production Board, investigation was made to determine whether requirements of its Conservation Order No. M-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Silverware ,Manufacturers (W.P.B.), Wartime, 1942–43.—Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the copper orders, that is, W.P.B.. General Preference Order No. M-9-a, Supplemental Order No. M-9-b, and Conservation Order m-9-c, as amended.



Silverware Manufacturers and Silver Suppliers (W.P.B.), Wartime, 1942–43.—The activities of silverware manufacturers and silver suppliers under W.P.B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L-140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).—The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised how certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (Mexican Sisal Hemp, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Steel Costs and Profits (O.P.A.), Wartime, 1942–43.—A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942 at the request of O.P.A., was made to that agency. The inquiry covered 29 important steel-producing companies.

Steel Industry (O.P.M.), Wartime, 1941–42.—This investigation covered practically every steel mill in the country and was conducted for the purpose of determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed. i.e., the technique used in the steel industry in meeting the requirements of O. P. M. (later the War Production Board) orders and forms controlling the distribution of pig iron, iron and steel, iron and steel alloys, and iron and steel scrap.

Textile Mills, Cotton (W.P.B.), Wartime, 1943–44.—For the War Production Board the Commission conducted a compliance investigation of manufacturers of cotton yarns, cordage, and twine to ascertain whether they were in violation of Priorities Regulation 1, as amended, by their failure to fill higher rated orders at the time they filled lower rated orders.

Tin Consumers (W.P.B.), Wartime, 1942–43.—The principal consumers of tin were investigated at the instance of the War Production Board to determine the degree of their compliance with Conservation Order m-43-a, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories, distribution, and use of the tin supply in the U. S.

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

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