

Annual  
Report  
of the **FEDERAL  
TRADE  
COMMISSION**

For the Fiscal Year Ended  
June 30, 1954



## Federal Trade Commission

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<sup>1</sup> Took office September 26, 1954.

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Room 1310, 266 West Jackson Boulevard, Chicago 6, Ill.	Room 1128, Standard Building, 1370 Ontario Street, Cleveland 13, Ohio.
Room 133, Federal Office Building, Civic Center, San Francisco 2, Calif.	

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Room 2904, U. S. Courthouse, Foley Square, New York 7, N. Y.	Room 133, Federal Office Build Civic Center, San Francisco 2, Calif.
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Room 1310, 226 West Jackson Boulevard, Chicago 6, Ill.	Room 1128, Standard Building, 1370 Ontario Street, Cleveland 13, Ohio.
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## Letter of Transmittal

FEDERAL TRADE COMMISSION  
Washington, D. C.

To the Congress of the United States:

I have the honor to transmit herewith the Fortieth Annual Report of the Federal Trade Commission, for the fiscal year ended June 30, 1954.

By direction of the Commission.

EDWARD F. HOWREY, Chairman.

THE PRESIDENT OF THE SENATE.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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## IMPROVEMENTS IN ADMINISTRATION

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Fiscal year 1954 was a year of substantial progress and of marked improvement in the operations of the Commission. Its program consisted of efforts to return to first principles, plans to accelerate compliance and enforcement, a full-fledged attack on delay in the casework and procedures of the Commission, and a study of agency overlap and duplication of activity.

A review of few of the developments that have taken place with reference to these problems is believed warranted.

### RETURN TO FIRST PRINCIPLES

In creating the Federal Trade Commission, the Congress had two principal ideas in mind: First, to create a body of experts competent to deal with complex competitive practices "by reason of information, experience, and careful study of business and economic conditions"; and, second, to authorize this body of experts to deal with unfair competitive methods in their incipient stages. The action was to be prophylactic; the purpose was prevention of diseased business conditions.

While the Sherman Act of 1890 constituted a substantial first step toward the alleviation of the deficiencies of private remedies in the antitrust field, there remained a general climate of doubt, particularly in the Congress, that the Sherman Act and the judicial process provided the complete solution in an America emerging from an agricultural economy. It was believed that the administrative process— in the form of a trade commission—would be well suited to deal with the difficult problems of industries and markets, problems with respect to which Congress was unsuited to deal and which it considered too burdensome for the court to solve without assistance.

The Commission has sought to gear itself to the responsibilities originally contemplated by the Congress.

1. First and foremost, the decisional work of the Commission is believed to be ample evidence of a return to first principles.

2. The Commission has been hard-hitting and effective where the circumstances required it, particularly in the hard-core" type of case.

During the fiscal year 1954, the Commission has issued 104 cease-and desist orders. It is noteworthy that of these more were issued in the antimonopoly field during fiscal year 1954 than in any preceding fiscal year since 1946.

The magnitude of some of these orders is indicated by one cease and desist order that terminated a restraint of trade combination among 350 distributors of electronic equipment. Another involved the entire salmon industry of Alaska and brought to an end a long standing price-fixing combination among canners and fisherman unions. A number of orders to cease and desist were issued under section 3 of the Clayton Act; these required the discontinuance of exclusive dealing arrangements in the hearing aid, hog serum and motorcycle industries. Numerous other orders prohibited false labeling of wool and fur products, false and misleading advertising of "food plans," and misrepresentations with reference to sewing machines and other consumer appliances.

During the same period of time the Commission issued 123 complaints. This included more antimonopoly complaints than in any of the four preceding fiscal years.

Illustrative of the antimonopoly complaints were those against members of the iron and steel scrap industry alleging restraint of trade in both domestic and foreign commerce; against price-fixing agreements among building material manufacturers and among paint and wall-paper dealers; and against unlawful price discrimination in the sale of petroleum gas used by farmers and rural residents for cooking and heating.

Complaints in the deceptive practice field ran the entire gamut of consumer goods, from food and drugs to clothing and home appliances.

3. The economic and marketing work of the Commission is of primary concern if the administrative process is to furnish the broad factual base in the complex field of antitrust law that Congress originally intended. Almost every antitrust case presents economic and marketing problems. Legal procedures are employed, it is true, but primarily for the purpose of resolving relevant economic question. For this reason, the Commission's Bureau of Economics has been and is being revitalized. Its economists are working closely with its investigators and trial lawyers. Primary emphasis is being placed upon those practices that have significance in the market place; that have or are likely to have some economic consequence.

The Commission issued two economic reports, one on Changes in Concentration in Manufacturing, and the other on Coffee Prices. Both have been well received. The coffee report has been described as one of the best economic studies ever published by a governmental agency.



4. The Commission has not further extended the per se doctrine. Except where the courts and Congress have directed otherwise, the Commission determines competitive effects by examination, analysis and evaluation of relevant market facts.

5. Another key in the effort to effectuate a return to first principles lies in the improvements that have taken place in the fact-finding and decisional work of the Commission and its hearing examiners.

On May 11, 1954, on the recommendation of Chairman Howrey, the Commission adopted the following program:

(a) The hearing examiner should issue findings and conclusions and his reasons therefor in every case, whether they be favorable or adverse to the allegations of the complaint. He should abandon formal and legalistic “findings” and adopt instead narrative and descriptive reports.

(b) The form and content of the order to cease and desist, which is part of the initial decision, should be improved.

The prohibitions of the order should deal with the specific issues and should be so clear that respondents will have no doubt as to what is expected of them. The exact practice found to be illegal should be expressly prohibited, as well as such other practices as may be necessary to assure adequate relief.

(c) Except in rare cases, the Commission, on review or appeal, should not issue new or separate findings.

Where the Commission disagrees with some of the findings in the initial decision, it is the purpose of an opinion to point that out, to explain why the Commission differs, and to order the findings modified accordingly. Since the Commission, under the statute, has the ultimate fact finding responsibility, the opinion should, of course, expressly adopt the findings and conclusions of the hearing examiner as modified.

(d) The Commission should write an opinion in every case.

It is hoped that as a result of this action future published decisions will not only constitute the authentic public record of what was done in a particular case but will also afford a collection of precedents by which its handling of future cases can be forecast. Fact finding is the heart of the Commission’s work. Narrative and descriptive reports will provide a long-needed degree of certainty in this complex field of the law.

6. The Commission has adopted the view that it should proceed against “hard-core,” predatory violations of the antitrust laws. It is believed that it should not deplete its limited resources on fringe issues having no practical benefit. In this connection, it is believed that the Sherman Act, the Federal Trade Commission Act and the Clayton Act, with its Robinson-Patman amendment, can be success-

fully administered as interrelated expressions of national antitrust policy—not as separate and conflicting statutes.

7. To assure a proper functioning of the Commission as a quasijudicial agency, a number of steps have been taken to increase the authority of the hearing examiners who, as the triers of fact, are of key importance in the administrative process. In the Eastman Kodak case, for instance, the Commission ruled that examiners are qualified to entertain a preliminary motion to dismiss on the ground that the complaint fails to state a cause of action.

Presently the Commission is engaged in a comprehensive study of its rules of practice. On the basis of this study, it is fair to expect that the Commission will be able to revise its rules and thus to improve its administrative procedures. Such revisions will, it is expected, include recommendations of the President's Conference on Administrative Procedure to increase the authority of hearing examiners. This will lend greater substance to the spirit and purpose of the Administrative Procedure Act.

## INCREASED COMPLIANCE AND ENFORCEMENT

Several steps have been taken to accelerate and make more effective the Commission's compliance and enforcement work. These include:

8. In November of 1953, Chairman Howrey announced the appointment of members of the Commission's Advisory Committee on Cost Justification. The purpose of this committee, which consists of outstanding specialists in the field of distribution cost accounting, is to ascertain the feasibility of developing standards of proof and procedures for costing for adoption by the Commission as guides to businessmen desiring to comply with the Robinson-Patman Act. The work of this committee should result in a strengthening of the administration of the Act and result in wider compliance with its provisions.

9. The investigative work of the Commission has been improved and expanded. All of the Commission's work, its successes and failures, depends primarily upon the facts which are developed by investigators in the field. The attorneys engaged in this work had received neither the recognition nor the support necessary for effective results. A number of steps have been taken to assure improvement, including the establishment of a separate Bureau of Investigation.

In addition to its usual casework, this bureau will, on occasion, make industry wide investigations. Typical of these was the nation-wide investigation of the advertising claims of concerns selling health, accident, and hospitalization insurance. This was the first investigation of its kind that had ever been conducted by a law en-

forcement agency.<sup>1</sup> The public interest in this project, like the coffee study, has been great.

10. In September of 1953, a special staff committee was appointed to study the agency's procedures for obtaining compliance. On the basis of this committee's work, the Commission adopted in June a broad-scale compliance program. This will include, as a first step, a systematic and selective review of over 4,000 cease-and-desist orders, 8,000 stipulations under 2,000 trade practice rules. Other steps include:

(a) Closer coordination between the general investigative staff and the staffs primarily responsible for compliance with orders, stipulations and trade practice rules.

(b) More frequent use of procedures for requiring the filing of special follow-up reports "showing the manner and form of compliance with cease-and-desist orders."

(c) Use of a more informative letter of notification to respondents under orders and parties to stipulations concerning the action taken in receiving and filing their reports of compliance.

(d) A more effective program for enlisting the cooperation of industry members to effect industrywide observance of trade practice rules.

On August 3, a task force was appointed to screen current national and regional advertising, so as to determine whether advertisers are in compliance with outstanding orders, stipulations and trade practice rules. The task force is comprised of personnel with legal training. Previous advertising surveys were conducted by nonlegal personnel.

These measures will serve to stimulate compliance with existing orders. It would seem useless for the Commission to enter orders unless it sees to it that they are obeyed, either voluntarily or through appropriate enforcement proceedings against those who deliberately or willfully ignore them.

Failure to obtain compliance constitutes a waste of public money, has a demoralizing effect on competitors and members of the public who have been injured and tends to encourage a disregard of antitrust and trade regulation laws, oftentimes to the direct detriment of small businessmen trying to enter or remain in a highly competitive market.

11. On May 12, 1951, Chairman Howrey indicated in a public statement that the Commission's trade practice conference rules would, in appropriate instances, be backed up by investigations and formal action. On that date, he announced the Commission's plan to effectuate a cooperative program designed to bring about prompt compliance with the rules in the Cosmetics Industry. In the future, one of the

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<sup>1</sup> By March 1955, 28 complaints had been issued against companies engaged in the advertising and sale of this type of insurance.

purposes of the trade practice rules will be to ferret out and pinpoint the willful violator.

12. To expedite compliance and enforcement in formal cases, the Commission adopted in May a new rule of practice permitting a more extensive use of consent orders. This new rule was recommended by Chairman Howrey for the primary purpose of reducing expense and delay. The new rule—

(a) Eliminates the previous requirement that consent settlements contain findings of fact.

(b) Permits disposition of a case by consent at any stage of the proceeding.

(c) Allows settlement of a case as to some or all of the issues or as to some or all of the respondents.

(d) Authorizes hearing examiners to accept or reject stipulations containing proposed consent orders, with acceptance subject to Commission review and with rejection subject to appeal to the Commission.

Under the new rule, the only admission required of respondents is that of jurisdiction. Respondents must agree, however, that the complaint may be used in construing the terms of the order; that the order shall have the same force and effect as if entered after a full hearing; and that the order may be modified or set aside in the same manner as other orders. The rule further provides for the respondents to waive the entry of findings of fact and conclusions of law, as well as further procedural steps before the hearing examiner or the Commission, and also their right to contest in the courts the validity of the order. Judicious use of the consent order procedure results in obtaining a binding, equally comprehensive and restrictive cease-and-desist order without the delay and expense incident to protracted litigation.

13. On December 11, 1953, the Commission adopted a policy to provide fuller protection of the public against unfair and deceptive practices through increased cooperation with officials of State governments. Under this policy, the Commission regularly refers to State authorities matters it closes for lack of the jurisdictional prerequisite of interstate commerce.

14. The consultative function of the Commission had not in recent years received sufficient emphasis. Before the enactment of the Federal Trade Commission Act, both political parties, the Congress and the President, envisaged a trade commission which would, as part of the administrative process, provide solutions to many complex competitive problems through consultation. It is believed that the new Bureau of Consultation, which was established on July 1, 1954, will revitalize this intended program. The new Bureau includes, in addition to the Divisions of Trade Practice Conferences and Stipulations, a Division of Small Business. The establishment of the latter Divi-

sion was considered important in order to make the facilities of the Commission readily accessible to small business concerns. Among other things, the division will advise small businessmen with respect to laws administered by the Commission, explain to them the method by which complaints are initiated, inform them of the status of investigations in which they are interested, and otherwise expedite small business matters through the Commission.

## REORGANIZATION

15. One of the most significant events during the fiscal year was the reorganization of the Commission. Its significance depends in no small measure upon the frequent criticism, all too often valid, that the Commission's operations and procedures over the years have been marked by delays.

Shortly after taking office in April 1953, Chairman Howrey stated that every effort would be made to eliminate such delays. The reorganization, based upon an objective survey by an outside firm of management consultants, is designed to achieve this end. Measures have now been placed in effect to eliminate more than 50 percent of the procedural steps formerly taken with the Commission in the internal processing of its work.

The new organization of the Commission represents a major change in both concept and structure. By contrast, it is much simpler than the old organization and should promote more economical use of manpower. With well selected personnel in key positions, the organization should develop a high level of administrative efficiency, enabling the Commission to fulfill its responsibilities with greater dispatch and less cost.

All investigative activities will be centered in a newly formed Bureau of Investigation, all trial work in a new Bureau of Litigation, and voluntary compliance procedures in a Bureau of Consultation. Thus the Commission will no longer enjoy the luxury of two separate trial and investigative staffs. The integrated staffs should prove more economical and provide the basis for a more effective administration of antimonopoly and trade regulation statutes.

Probably one of the greatest causes of delay in the past was the fact that responsibility for a case was not centered in any particular individual. Responsibility was reassigned to conform to various stages of the development of a case, with no one attorney remaining continuously responsible. To correct this shortcoming, and also to furnish a smooth coordination of trial and investigative activities in keeping with the principles outlined by the first Hoover Commission, provision has been made for the appointment of project attorneys in

the Bureau of Investigation. These attorneys will supervise a case through its entire course and will be responsible for any unnecessary delay.

The project attorney is envisaged as being analogous to the solicitor in the British practice. The solicitor is responsible to his client through all phases of a case, although he may, from time to time, bring into the case additional assistance in the form of economists, accountants, barristers and the like. Like the solicitor, the work of the project attorney will not cease with the conclusion of the investigation; he will accompany the case into the litigation stage and assist the trial attorney with respect to the facts. It is believed that, if delay is to be eliminated, this feature of the reorganization will be more helpful than any other.

16. One of the most important accomplishments in the effort to eliminate delay has been the reduction in the backlog of cases pending before the Commission for decision. It has been the custom, at the first of each month, for the Secretary to report at the conference table the cases which have rested on individual Commissioners' desks for 30 days or more.

In the period since early 1953, the Commission has reduced by almost five times the number of cases pending more than 30 days.

The Commission has also become more expeditious in disposing of informal matters brought before it by the staff. The backlog of recommendations for complaints, for example, has been reduced by more than 10 times—until at the end of the fiscal year this work is virtually current.

## OVERLAPPING, ACTIVITIES

17. Some mention should be made of the steps taken to improve the relationships existing between the Commission and other agencies of the Government. The Commission doubts that there is justification for noncumulative remedies being sought by more than one agency against the same person, at the same time, for the same thing.

An excellent working arrangement is in effect with the Antitrust Division of the Department of Justice. Matters of mutual concern are discussed at frequent intervals, so that the great volume of work of the two agencies is in no way inconsistent.

In the field of food, drug, and cosmetics, a very promising interagency agreement has been executed, designed to correlate the work of the Commission and the Food and Drug Administration in such a way as to eliminate overlapping activities and duplication of effort. This agreement became effective at the end of the fiscal year.

Similar liaison arrangements, although less formal, have been made with other agencies, including the Bureau of Standards, the Post Office Department and the Patent Office.

These are some of the events that have taken place during fiscal year 1954 at the Commission. It is believed that they have been constructive and in the public interest.

## PROTECTING THE COMPETITIVE SYSTEM —BASIC FUNCTION OF THE COMMISSION

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### STATUTORY AUTHORITY

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

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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.



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 due proceeding and 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 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 inductions 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

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

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

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 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 the 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 sec-

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<sup>1</sup> Approved October 15, 1914 (38 Stat. 730).

tions 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 in order of divestiture.

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, were 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

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

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, 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, here 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.

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

## 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 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 pur-

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

<sup>8</sup> Approved, respectively, October 14, 1940, 54 Stat. 1128, and August 8, 1951, 65 Stat. 175.

chaser 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 may be brought by the United States, and fines of up to \$5,000 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.

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

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 a 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>

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 tile 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>10</sup> Approved March 9, 1945, 59 Stat. 33. 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.

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

<sup>13</sup> 64 Stat. 798.

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

## Other Laws

The Federal Trade Commission is also affected by other laws, including the Administrative Procedure Act and the Veterans' Readjustment Act.

## COMMISSIONERS

At the end of the fiscal year, June 30, 1954, the membership of the Commission was as follows:

Edward F. Howrey, Chairman, of Virginia, Republican.

Lowell B. Mason, of Illinois, Republican.

James M. Mead, of New York, Democrat.

Albert A. Calretta,<sup>15</sup> of Virginia, Democrat.

John W. Gwynne, of Iowa, Republican.

## STAFF REORGANIZATION AND OPERATIONAL CHANGES

On May 20, 1954, major changes in the organization and working procedures of the Commission, to become effective July 1, 1954, were announced. (Organization Chart on p. 20). These changes represented the first step in carrying out a reorganization plan recommended by an independent firm of management consultants. The survey was authorized by the Bureau of the Budget on October 9, 1953, as part of a program of management improvement to be carried out under Executive Order 10484. The management firm thereafter made an intensive management survey of the Commission organization and procedures.

The report and recommendations were adopted, with some exceptions, by the Commission on March 18, 1954.

The reorganization is based on functional lines of authority. Investigative activities are centered in a newly formed Bureau of Investigation, trial work in a Bureau of Litigation and voluntary consultative procedures in a new Bureau of Consultation.

The reorganization also sets up control procedure and provides for close supervision of field office investigative activities. Provision was made for the appointment of project attorneys in the Bureau of Investigation to supervise cases through entire course to enable top management to focus responsibility. Previously, responsibility for a case had been reassigned at various stages of its development, with no one attorney remaining continuously accountable.

Field offices have been integrated into the Bureau of Investigation. Previously, although the vast majority of field personnel were assigned

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<sup>15</sup> Mr. Carretta was succeeded by Hon. Robert T. Secrest, of Ohio, Democrat, who took office September 26, 1954.





to antimonopoly case work, the field offices were administratively responsible to the Director of Antideceptive Practices.

Procedures are being streamlined. The management survey had pointed out that reviews vere compounded upon reviews as Commission procedures had developed during its 40 years of existence. Approximately half the procedural steps have been eliminated.

A system for time reports for professional personnel has been installed. Through this system, total hours devoted to each case and hours spent in any particular activity can be determined. Periodic reports are rmade on the status of cases as they proceed through the Commission.

Field office territories were defined and an additional office was installed at Cleveland, Ohio. The Division of Small Business was added in the nevely formed Bureau of Consultation. Among other things, this Division undertook to:

Advise small businessmen on laws administered by tho Commission; explain to small businessmen the method of initiating complaints which they may wish to make regarding practices of their competitors and inform small businessmen of status of investigations in which they are interested.

Major objectives of the reorganization vere as follows:

1. Simplification of the form of organization.
2. Grouping of related functions for most effective administration.
3. Provision for clear-cut centers of responsibility and control.
4. Development of the best use of manpower.
5. Strengthening of various segments of the organization in accordance with present and probable future needs as dictated by estimated workload.

## OPERATIONS IN FISCAL YEAR 1954

The several activities of the Commission during the fiscal year are summarized in the following chapters.

FEDERAL TRADE COMMISSION  
ORGANIZATION OF STAFF FUNCTIONS

ORGANIZATIONAL CHART -- SEE IMAGE

NUMBER OF EMPLOYEES AS OF JUNE 30, 1954--

JULY 1, 1954

20

## INVESTIGATION

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Gathering and analysis of varied facts is required as a basis for administrative and corrective action by the commission under the laws which it administers. Therefore, investigations, particularly of alleged violations, form an essential part of the Commission's work. In addition, special investigations are undertaken to survey problems affecting competition or involving possible violations or the antitrust laws.

Investigations normally develop: (a) From complaints received from businessmen, consumers, trade groups, Members of Congress, and from other Government agencies, State or Federal; or (b) through systematic observation and analysis of trade and market conditions by the Commission's own staff.

These investigations seek the facts and their proper interpretation on: Alleged unfair methods of competition or unfair or deceptive acts or practices in violation of the Federal Trade Commission Act, alleged discriminatory practices in violation of section 2 of the Clayton Act, alleged exclusive dealing or tying arrangements in violation of section 3 of the Clayton Act, and alleged illegal mergers in violation of section 7 of the Clayton Act. Other investigational work grows out of the Commission's administration of the Export Trade Act, the Flammable Fabrics Act, section \* of the Clayton Act, and section 14 of the Trade Mark Act.

Matters presented for investigation are first subjected to thorough screening in order to weed out those lacking in jurisdictional or other essential elements, and to permit maximum use of the Commission's staff on matters of maximum importance from the standpoint of public interest;

Throughout the investigations, economic, marketing and accounting data from the Commission's records and technical and scientific advice from the staff and from other Government agencies are used. In addition, contact is made with the party complained against so that he may be advised of the charges, and to obtain information within his possession. Frequently it is also necessary to interview competitors or the proposed respondent as well as the general public to find out whether

the charges are well founded, and whether public interest warrants further action regarding the case.

Also, the investigative processes are utilized in the Commission's program for obtaining compliance with cease and desist orders, stipulations, trade practice conference rules, and in connection with pending litigation.

Law-enforcement investigational work carried on during fiscal 1954 is summarized below under the general headings: ( a ) Investigations of Monopolistic Practices; (b) Investigations of Deceptive Practices; (c) Administration of the Wool, Fur Products Labeling and Flammable Fabrics Acts; (d) Advisory Services Furnished By The Division of Accounting; (e) Advisory Services Furnished By The Division of Scientific Opinions; and (f) Insurance.

#### (a) Investigations of Monopolistic Practices

Investigations pending on July 1, 1953 _____	741
Entered for investigation during the year _____	320
Completed during the year _____	580
Investigations pending on June 30, 1954 _____	481

Under section 5 of the Federal Trade Commission Act, the Commission investigated allegations of such unfair practices as price fixing by agreement, collusive bidding, boycott, conspiracy to control production and limit supplies, interference with sources of supply, refusal to sell, and selling below cost with the intent and effect of injuring competition. Products involved included coal, paper products, phonograph records, gasoline, building materials, steel products, wallpaper, dress patterns, and food products. There were 114 of such monopolistic practice matters completed during fiscal 1954.

Numerous important investigations were also conducted under section 2 of the Clayton Act as amended by the Robinson-Patman Act.

Experience in the administration of this section has made it possible for the Commission, through the development of information by preliminary investigational inquiry, more readily to clear up misunderstandings among complainants as to the scope of the act and its application to specific situations, as well as to make a more accurate selection of matters which involve probable violation of law. The Commission has endeavored to confine its investigations to matters of substantial importance, eliminating the expenditure of time and money on other matters after preliminary inquiry.

During the year, investigations were completed in 104 matters involving alleged violations of the various subsections of section 2 of the Clayton Act. Among the commodities involved were plate glass,

gasoline, milk, typewriters, citrus fruit, rubber products, canned goods, bakery products and household appliances.

Investigations also were made of exclusive dealing and tying arrangements under section of the Clayton Act. These related to such products as liquefied petroleum gas, roller bearings, dairy products, automotive parts and supplies, and toys. During the year, 22 such investigations were completed.

Also, of considerable importance were the investigations made, under section 7 of the Clayton Act, as amended in December 1950. This act provides, with certain qualifications, that no corporation shall acquire the capital stock or assets of another corporation where the effect may be substantially to lessen competition or tend to create monopoly. Acquisitions and mergers in industrial and commercial fields continued at a rapid rate and covered a wide range of industries and products. During the year, 331 investigations of such activities were completed. Products involved included textiles, chemicals, steel products, automobiles, household utensils, plumbing supplies, paper products, flour, and furniture.

Six trade-mark investigations were conducted to obtain information from which a determination could be made concerning the advisability of proceeding against proposed respondents for the cancellation of trade-marks pursuant to the authority conferred upon the Commission by section 14 of the Lanham Trade Mark Act of 1946.

Included in the total of completed matters was an extensive investigation of the optical manufacturing and distributing industry undertaken upon the request of the Attorney General of the United States to determine whether certain defendants were complying with a court decree enjoining violations of the Sherman Act.

Also included was an investigation of some 20 manufacturers of automotive parts which was requested by the Government Operations Subcommittee of the Committee on Expenditures in the Executive Departments (now known as the Committee on Government Operations) of the House of Representatives. Among the practices considered were alleged concert of action in refusing to bid in response to Government invitations, and discrimination in prices between original equipment manufacturers and parts distributors, jobbers, and dealers.

During the fiscal year, the loyal investigating branch of the Commission contributed extensively to the Commission's general inquiry regarding the substantial and sudden increase in retail coffee prices. A 523-page report entitled, "Economic Report of the Investigation of Coffee Prices" became available July 30, 1954. (For further reference thereto, see p. 68 et seq.)

## (b) Investigations of Deceptive Practices

Complaint letters received	2,631
Preliminary inquiries completed	2,592
Investigations completed	1,193
Assurances of discontinuance accepted	328

Investigations in this field are a basic part of the Commission's work directed toward protecting consumers and businessmen from deceptive and unfair practices in commerce. Typical practices are false and misleading advertising, and misbranding of merchandise.

The more important deceptive practice investigations completed during the year are reflected in formal complaints issued and cease-and-desist stipulations accepted. Every complaint and every stipulation is necessarily preceded by an investigation to develop facts upon which corrective action can be based.

The investigations encompass not only initial violations of the laws administered by the Commission, but also matters of compliance with previously issued cease-and-desist orders. Forty of the deceptive practice investigations completed during the fiscal year involved compliance with previously issued orders, looking to the institution of civil penalty proceedings where warranted.

Investigations in the deceptive practices field are frequently brought to conclusion by reason of prompt and voluntary discontinuance of questioned practices, where this method of disposition affords assurances against resumption and adequate protection of the public interest. These dispositions, where they can be appropriately effected, result in substantial savings to the Government through avoiding the expense of further investigation or litigation. A total of 328 deceptive practice matters were so disposed of during the year. Some of the commodities involved in these cases were: Frozen foods, vitamin preparations, laxatives, cold tablets, rupture trusses, agricultural insecticides, shoes and other wearing apparel, home freezers and other household appliances, furniture, rugs, simulated leather products, and correspondence courses. The practices corrected by this means included failure to disclose dangerous flammability of product and the precautions to be observed in use of household cleaning preparations.

Under sections 12-15 of the Federal Trade Commission Act, directed particularly at; preventing false advertising of food, drugs, medical devices and cosmetics, a total of 399 investigations were completed during the year, including 14 cases in which oleomargarine was allegedly advertised as a dairy product.

Some 773 additional investigations were completed under section 5 of the Federal Trade Commission Act. These involved general false advertising or misbranding, or other unfair or deceptive acts or practices, respecting a wide variety of commodities.

The total number of deceptive practice investigations completed during the year was 1,193.

The 2,592 preliminary inquiries also completed during the year represent the results of initial correspondence and screening to determine which of the matters presented were of a nature to require full investigation.

A total of 985 deceptive practice matters were pending for investigation at the year end.

(c) Administration of Wool, Fur and Flammable Fabrics Acts

	Flammable Fabrics Act	Wool Act	Fur Act
Commercial establishments covered in compliance inspection and industry counseling work -----	-----	5,998	2,571
Products inspected (sampling methods used on wool products) -----	-----	12,563,264	551,372
Number of fur advertisements examined for advertising deficiencies -----	-----	-----	12,993
Informal matters involving questioned practices in which compliance was effected administratively -----	-----	6,399	3,446
Opinions and interpretations rendered under each act and regulations -----	1,298	3,121	2,525
Registered identification numbers issued -----	-----	585	309
Continuing guarantees accepted for Public Register -----	70	1,446	978

The Wool Products Labeling Act and the Fur Products Labeling Act known respectively as the "Truth-in-Fabrics" and "Truth-in-Furs" laws, and the recently effective Flammable Fabrics Act, may be regarded as more directly in the field of consumer legislation. The foregoing table summarizes administrative activities under these laws during the fiscal year. Work under these statutes, which is similar in purpose and requirements, has been integrated as far as possible in an effort to minimize costs of administration.

The Wool Products Labeling Act (effective 1941) and the Fur Products Labeling Act (effective 1952) provide for mandatory labeling of wool and fur products to disclose certain important buying information about their composition and processing. Truthful invoicing of furs and fur products also is mandatory under the Fur Act and all advertising of furs and fur products likewise must conform with the disclosure requirements of the act and regulations.

The Flammable Fabrics Act (effective July 1, 1954) was designed by Congress to protect the consuming public from wearing apparel which might prove dangerously flammable. It prohibits outright the marketing of wearing apparel and fabrics sold or intended for this purpose which do not meet the prescribed tests for flammability provided in the legislation.

Pamphlets, releases, and forms covering the application and administration of these acts of Congress have been published by the Commission, including copies of the respective sets of regulations.





#### (d) Accounting Services Furnished in Legal Case Work

Accounting services were furnished in the investigation of 32 legal cases during the fiscal year.

The work on legal cases consisted of accounting analyses and studies of the pricing policies of respondents or proposed respondents, to ascertain evidence of alleged illegal price discrimination or alleged illegal price fixing. Extensive accounting services also were rendered in connection with the Commission's economic, financial, and statistical activities.

Data also were prepared for the Advisory Committee on Cost Justification, which is exploring the problem of arriving at standards for determining distribution costs.

#### (c) Advisory Scientific Opinions Furnished in Legal Case Work

The Division of Scientific Opinions furnishes scientific facts and opinions concerning the composition and efficacy of foods, drugs, medical devices, cosmetics, and other commodities where questions of science arise concerning advertising claims. Arrangements are made to analyze and test samples of products under investigation and to gather information with respect to their composition, nature, effectiveness and safety.

#### (f ) Insurance

Under Public Law 15, 79th Congress, the Federal Trade Commission Act and the Clayton Act are applicable to insurance to the extent such business is not regulated by State law. Activities of the Commission with respect to insurance involve the maintenance of close liaison with State insurance authorities in order to effect the maximum of mutual aid and cooperation between the State and Federal Governments.

Under its resolution of December 15, 1953, the Commission launched a nationwide investigation of the conduct and practices of companies engaged in the solicitation and sale of accident and health insurance in commerce. Although not concluded by the end of the fiscal year, a large part of the inquiry had been completed.

The question of legal propriety of much of the advertising in the health and accident insurance field had become a matter of great concern to the public. The sale as well as advertising promotions of health and accident insurance had shown tremendous growth in recent years. Total premium payments in 1953 for such insurance amounted to more than \$3 billion. Of this total, over \$1 billion in

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<sup>1</sup> Complaints against 28 mayor health, accident, and hospitalization insurance companies have been issued since the end of the fiscal year, while the inquiry was still in progress.

annual premiums were received by companies selling policies on an individual, nongroup basis, and in this field especially advertising was widely used. Approximately 25 million persons had purchased individual policies. Twenty-five years before, only 50 companies were writing accident and health insurance by June 30, 1954, there were over 900 companies in the business.

The Commission's investigation in this field proceeded with excellent support from the insurance commissioners of the several States.

## LITIGATION BEFORE THE COMMISSION

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Litigation before the Commission arises in cases which, after investigation, require mandatory legal proceedings to effect correction of violations of law by persons, partnerships or corporations. A formal statutory complaint stating the charges against the respondent forms the initial pleading in such cases. Issues are usually drawn by answer to the charges, which are subject to trial unless consent settlement is arrived at, followed by hearings and decision by a hearing examiner and by the Commission itself.

Such litigation before the Commission embraces the entire field of trade regulations within the Commission's jurisdiction, including (1) all proceedings involving monopolistic practices arising out of violations of the Federal Trade Commission Act and sections 2, 3, 7, and 8 of the Clayton Antitrust Act, as amended by the Robinson-Patman Act and the antimerger law of December 29, 1950 and (2) all proceedings involving false and misleading advertising and unfair and deceptive acts or practices under sections 5, 12 and 15 of the Federal Trade Commission Act, including violations of the Wool Products Labeling Act, the Fur Products Labeling Act and the new Flammable Fabrics Act. Such litigation also embraces formal complaint cases respecting the business of insurance as limited by the provisions of Public Law 15, 79th Congress.

During the fiscal year, the number of cases of litigation begun or concluded before the Commission were as follows:

	Anti-monopoly cases	Deceptive practice cases	Total
Formal complaints issued .....	30	93	123
Orders to cease and desist .....	24	80	104
Orders dismissing complaints .....	10	13	23
Other dispositions .....	4	1	5

This record of complaints and orders issued during the year has not been equaled in recent years.

Typical examples of cases litigated during or pending at the close of the year follow

### CASES OF FORMAL COMPLAINTS ISSUED IN FISCAL 1954

Docket 6183, Casket Manufacturers Association of America, and others. Complaint issued February 19, 1954

According to this complaint, the Casket Manufacturers Association of America and its approximately 160 members, who, on the basis of reliable estimates, account for at least 80 percent of the productive capacity of the casket industry, have entered into a combination in restraint of trade (1) to fix prices (2) to limit the unit production and sale of funeral caskets (3) to expand production and sale of higher priced caskets while curtailing the production of lower priced caskets and 4) to fix suggested resale casket prices.

The commodity involved is one which of course must be purchased for the use of practically every individual regardless of financial means or status in life. Conservative estimates compute the annual wholesale sales of the industry to be in excess of \$131,000,000 and the annual retail sales to be in excess of \$350,000,000. The necessity of preserving for the public the benefits accruing from fair and unrestrained competition in such a vast business forms a basis for the corrective action instituted.

Docket 6156, Luria Brothers and Company, Inc., and others. Original complaint issued January 19, 1954, and amended and supplemental complaint issued July 13, 1954

The statutory complaint as amended and supplemented was issued following an extensive investigation into (1) the extent of concentration and control in the distribution of iron and steel scrap (2) how the channeling of scrap may have been restricted and the effect of any restrictions upon the amount available (3) sources and prices of scrap available for the production of steel (4) the existence, if any, of exclusive dealing areas in the industry (5) whether there were oppressive practices by dominant companies in domestic and foreign markets and (6) the effects of mergers that have taken place.

The complaint alleges the use of a variety of unfair methods of competition by the dominant scrap brokers and a number of companies engaged in the manufacture of steel products. It also charges certain scrap brokers, and an exporter, with conspiring in restraint of export trade, and charges the dominant broker with effecting unlawful mergers. If, upon due proceedings, they allege oppressive restraints upon free and open competition in the iron and steel scrap

industry are established as charged, action will be taken to remove them, thus according an important contribution to the soundness and health of the Nation's economy with respect to this vital raw material.

Docket 6225, Barnes Metal Products Company, and others. Complaint issued June 29, 1954

This complaint alleges that a number of firms including steel manufacturers engaged in the manufacture and distribution of "rain goods" are involved in a combination and conspiracy to fix prices and restrain trade. Twenty manufacturers are named respondents. The term "rain goods" is used to describe metal rain carrying and drainage equipment utilized in the construction and maintenance of buildings of all types, kinds, and sizes. The complaint states that respondent manufacturers sell more than 50 percent of the dollar volume of rain goods produced in the United States, and that they are engaged in unlawfully fixing prices by conspiring and combining to maintain uniform prices, discounts, terms and conditions of sale involving a uniform system of price zones, standard list prices and discount differentials. The complaint concludes that these practices have promoted and contributed to suppression, elimination and prevention of price competition in the sale of "rain goods" in violation of the Federal Trade Commission Act. Acts and practices of the type charged, if established in the further proceedings, may involve serious effects upon the national economy generally, and the building industry in particular.

Docket 6227, Warren Petroleum Corporation, and others. Complaint issued June 30, 1954

The complaint charged that the Warren Petroleum Corporation, with a volume of business amounting to \$123,552,915 in 1952, had engaged in unlawful price discrimination in the sale and distribution of liquefied petroleum gas and that among the effects of the discriminations are substantial injury to competition and a tendency to create a monopoly in the interstate sale of liquefied petroleum gas. The objective of this proceeding was to prohibit the continuation of any unlawful discriminatory practices which may be found to exist. The liquefied petroleum gas industry has been a significant factor in the economy of the United States for about twenty years. It was reported in effect that from a meager beginning of only 222,641 gallons marketed in 1922, the first year for which the Bureau of Mines published statistics, the volume of liquefied petroleum gas consumed annually in the country multiplied more than 19,000 times in the succeeding 30 years to reach 4,250,000,000 gallons sold for all purposes in 1952.

Docket 6224, Brooklyn Paint and Wallpaper Dealers, Inc., and others. Complaint issued June 29, 1954

The Commission instituted a proceeding in which nearly 200 paint and wallpaper dealers in the metropolitan New York area were charged with combination and conspiracy in restraint of trade. Under the complaint, it was charged the respondents have combined and agreed to hinder and restrain competition in the interstate sale and distribution of paint and wallpaper through the offices of a trade association in acting to boycott manufacturers and other suppliers who disregard requests of respondents that such manufacturers discontinue sales to certain competitors of respondents.

Docket 6180, Crown Zellerbach Corporation. Complaint issued February 15, 1954

The Commission, proceeding under section 7 of the Clayton Act, as amended, issued a complaint against the Crown Zellerbach Corporation of California. With assets of \$243,000,000 Crown is one of the largest manufacturers of pulp and paper in the world and the largest manufacturer of kraft papers and paper products in the Western States. The complaint alleged that Crown acquired the assets (valued at over \$15,000,000) of St. Helens Pulp and Paper Company, one of its two principal competitors in the sale of kraft papers and paper products in the Western States. According to the complaint, Crown's sales of kraft papers and paper products accounted for approximately 50 percent, St. Helens' sales accounted for approximately 20 percent, and that the only other important competitor, Longview Fiber Company, had sales accounting for approximately 15 percent of the total sales of such products in the three Pacific Coast States.

One of the principal results of this acquisition alleged in the complaint was that the paper jobbers and paper converters in the Pacific Coast States are limited in most instances for their supply of kraft papers to one or more of these three companies. Kraft papers and paper products are used in almost every industry, and the object of the suit was to correct any unlawful conditions which might be found under the allegations of the complaint.

Docket 6159, Ed Hamilton Furs, Inc., and others. Complaint issued February 2, 1954

Misrepresentation in the sale of fur products at retail was charged in a Commission complaint issued on February 2, 1954, against this corporation and other respondents. The complaint was the first issued under the Fur Products Labeling Act since it became effective in August 1952. It also charged false and misleading advertising and

other deceptive practices in violation of the Federal Trade Commission Act.<sup>1</sup>

Among other things, the complaint charged failure to disclose on labels or in advertisements or invoices the name of the animal producing the fur, in accordance with the Commission's rules and regulations the name of the country of origin of imported furs the fact that the products contained used fur that products were second-hand that products contained bleached, dyed or otherwise artificially colored fur or were composed in whole or in substantial parts of paws, tails, bellies or waste fur. Various forms of price representation, including fictitious pricing, were also charged.

Docket 6126, E. F. Drew & Company, Inc. Complaint issued October 26, 1953

This is one of several complaints that were brought under the 1950 amendment to section 15 of the Federal Trade Commission Act specifically prohibiting advertisements in which representations are "made or suggested" that oleomargarine is a dairy product.

The complaint against the E. F. Drew & Company charged that the use of the words "Farm Queen" is a trade name for the Drew Company's oleomargarine constituted a representation or suggestion that the product is a dairy product. Advertising claims challenged by the complaint also included such expressions as "country-fresh," "dairy sweet," "the same day-to-day freshness which characterize our other dairy products" and "churned to delicate sweet creamy goodness." Such terms as these, according to the complaint, "have long been used in connection with dairy products and have become firmly associated in the minds of many members of the purchasing public with dairy products."

Docket 6203, Holland Furnace Company. Complaint issued May 4, 1954

Holland Furnace Company was charged in a Commission complaint with unfair and deceptive practices in the sale of furnaces, heating equipment, and parts. The complaint charged that Holland&, salesmen and servicemen had obtained entry to homes sometimes by falsely representing themselves as Government inspectors, inspectors or representatives of gas or utility companies or heating engineers, and had dismantled furnaces without the owner's permission and then have refused to reassemble the m. These actions, according to the complaint, had been accompanied by false claims that furnaces made by com-

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<sup>1</sup> On August 26, 1954, the Commission accepted an order consented to by the respondents which was an exact duplicate of the order asked by the Commission in its complaint.



petitors are defective, not repairable, dangerous to use or that the manufacturer was out of business and repair parts were unobtainable.

It was alleged that these practices had the capacity and tendency to mislead a substantial portion of the purchasing public and had caused many owners of furnaces and heating equipment made by Holland's competitors to become dissatisfied with and afraid of continuing to use such equipment, to discard such equipment and parts before the completion of a useful life.

Docket 6168, Evis Manufacturing Co., and others. Complaint issued February 5, 1954

Advertising claims that the Evis Water Conditioner, a metal device, "makes hard water feel, taste and act softer," giving it a "silky, smooth quality" for hair, bath, dishes, laundry and car wash, without the use of chemicals, were charged in this complaint to be false, misleading, and deceptive. The complaint listed as false and misleading the company's representations that the product was made of a specially processed cast metal and has a catalytic effect on water passing through it which changed its physical behavior in many beneficial ways; solved hard water problems causing "hard water to become soft"; removed and reduced unpleasant odors and flavors in water, making it taste better and improving the taste of coffee and other foods; removed grease from drains and prevented and removed scales from boilers, water heaters, pipes, shower nozzles, and other parts of the water system.

Examples of Cases in Which Orders To Cease and Desist Were Issued in Fiscal 1954

Docket 6090, National Electronic Distributors Association, Inc., and others. Order issued December 4, 1953 (Consent Settlement)

The Commission entered an order to cease and desist terminating a trade restraining combination among 350 wholesale distributors of electronic equipment and supplies. The Commission's findings of facts were to the effect that the prohibited practices furthered a combination and conspiracy among the members of the National Electronic Distributors Association. The practices were described as restrictive, compulsive, and coercive and prejudicial to the public as well as to the competitors of members of the National Electronic Distributors Association. The Commission also found that the prohibited practices had a dangerous tendency to hinder competition and create a monopoly.

Docket 5965, Anchor Serum Company. Order issued February 16, 1954

The Commission ordered Anchor Serum Company, one of the largest producers of anticholera hog serum, to cease and desist from using so-called full requirements contracts between itself and its customers in violation of section 3 of the Clayton Act. It is believed this action will substantially benefit the public as well as every farmer who raises hogs. The Commission found that Anchor had tied up numerous large purchasers of such products, including the Iowa Farm Serum Company, the Illinois Farm Bureau Serum Association, and the Missouri Farmers Association, Inc., by full requirements contracts under which the contracting buyers agreed to purchase all of their requirements of such products from Anchor. These provisions in the contracts were ordered eliminated by the Commission. In view of the fact that Iowa, Illinois, and Missouri constitute the largest hog-producing States in the United States and that the purchasers named are the largest buyers of serum and that the purchasers named are the largest buyers of serum and virus within such states, it appeared that a vast potential market had been foreclosed by Anchor to its competitors by such practices. The entry of the Commission's order to cease and desist would open this market to smaller serum producers.

Docket 5655, Dictograph Products, Inc. Order issued September 24, 1953

The Commission issued an order requiring Dictograph Products, Inc., from continuing the use of exclusive dealing arrangements in violation of section 3 of the Clayton Act. The Commission's findings in this matter disclosed that Dictograph had foreclosed approximately 220 independently owned and operated hearing aid dealers throughout the United States by means of contracts requiring these dealers to handle only products purchased from Dictograph. The Commission also found Dictograph to be one of the largest manufacturers of hearing aids in the United States, and that it had foreclosed a substantial market to its competitors by means of exclusive dealing arrangements. The importance of this decision lies not only in the fact that a substantial potential market was reopened to competing manufacturers of hearing aids, but also that the dealers themselves were freed to stock and sell whatever products they desired in order to serve an estimated 10 to 15 million people in the United States who were hard-of-hearing.

In addition to the Dictograph proceeding, the Commission issued complaints against two other manufacturers of hearing aids charging the use of similar practices.

Docket 5698., Harley-Davidson Motor Company. Order issued June 29, 1954

Proceedings were concluded by the issuance of an order by the Commission requiring the Harley-Davidson Motor Company to discontinue exclusive dealing contracts in violation of section 3 of the Clayton Act. Harley-Davidson was found by the Commission to be the largest manufacturer of motorcycles and related vehicles in the United States, selling over \$10,000,000 worth of its products to its dealers throughout the United States. The order required Harley-Davidson to cease and desist from entering into any contracts or agreements in selling its products whereby dealers or distributors were prohibited from handling or selling any similar product of a competitor. The importance of this decision was demonstrated by the fact that the respondent had approximately 700 motorcycle dealers throughout the United States under such restrictive contractual arrangements. The entry of the cease-and-desist order by the Commission again reopened this large market of independent dealers to competitors of Harley-Davidson Motor Company, both in the motorcycle vehicle field and in the parts and accessories field.

Docket 6141, Alaska Salmon Industry, Inc., and others. Order issued April 9, 1954. (Consent Settlement)

An order terminating a combination in restraint of trade in a multi-million dollar Alaska salmon industry was directed against 41 canning companies, their trade association, Alaska Salmon Industry, Inc., of Seattle, Washington, its managing director, and 8 unions. Respondent canners were packing well in excess of 50 percent of the total volume of salmon products in Alaska. The 1952 pack was 3,250,000 cases and had a wholesale value of approximately \$95,000,000.

The complaint, issued on November 12, 1953, charged the respondents with an agreed and concerted course of action to restrain competition in the sale and distribution of salmon. The Commission found that the unlawful practices had been carried out by means of two separate agreements to fix the purchase price of raw salmon, the first among the canning companies acting through their trade association and its managing director, and the second between the canning companies and the unions.

Docket 5956, Natural Foods Institute, and others. Order issued October 20, 1953

This proceeding involved false and misleading advertising of the therapeutic properties of food and drug preparations as well as representations for purported curative devices and so-called health books.

The Commission, in an order issued pursuant to section 5 of the Federal Trade Commission Act, forbidding such practices, held that the treatment described in the book "The Grape Cure" would not relieve or cure cancer. Among other claims prohibited as false by the order are: That Chic Tablets were a reducing formula and would reduce weight that Papain Tablets were an effective treatment for indigestion; that Papaya Pulp does not contain sugar and is a valuable food for diabetics; that Alfalfa Tea produces muscle, bone or hair to any significant degree that Dr. Gaymont's Yogourt Culture is an effective treatment for stomach ulcers or colitis that red beet juice builds red blood or red corpuscles or tones up the blood to any significant degree that celery juice has any therapeutic value in the treatment of arthritis or rheumatic conditions that Oster Stim-U-Lax Junior or the NFI Vibrator stimulates the circulation of the blood through the body or that the consumption of fruit and vegetable juices prepared in the "Juicer" device will assure health, vigor or charm.

Docket 5958, d-Con Company, Inc., and others. Order issued July 17, 1953

The Commission affirmed in part the order of the hearing examiner directing this company in connection with its offering for sale of "d-Con" or "d-Con Mouse Prufe," a rodenticide, to cease and desist representing among other things (1) That either of the preparations is safe or may be used without danger to human beings or domestic or farm animals unless qualified by the words "when used as directed" or other words of like meaning or (2) that either of the preparations contains a special attractant that is more successful or alluring than all other rodenticide baits or regular feeds.

Docket 6093, Garden Research Laboratories, Inc., and others. Order issued November 13, 1953

Respondents' advertising claimed that a chemical fertilizer called "RX-15" was developed as a result of atomic research and contained radioactive materials and that it was recommended particularly for the small backyard gardener because it was cleaner and more easily applied. Among other things, the Commission's order prohibited misrepresentation of the origin, composition or effectiveness of the product.

Docket 6072, Infra Insulation, Inc., and others. Order issued August 3, 1953. (Consent Settlement)

Infra Insulation, Inc., consented to an order whereby it would refrain from using misleading advertising claims about the insulating

factors of the insulating material it sold. Under terms of the settlement, respondents agreed, among other things, not to represent directly or by implication that the relative insulating effects of their reflective insulation as compared with mass insulation were indicated solely by the magnitudes of the surface radiation coefficient of the respective materials; that the conductance values of their insulation were lower than they are in fact; or that significantly more ventilation was required in all installation of mass insulation than in installation in which their product was employed. The respondents also agreed to refrain from making any false or disparaging statements with respect to the insulating products of any competitor.

Docket 6036, National Blind Industries, Inc. Order issued October 20, 1953

Misrepresentation in the sale of luminous house numbers and woven articles, such as table and place mats, was prohibited in an order issued by the Commission against the respondent. The order was directed against representations that the respondents had facilities for training or that they trained blind persons or that contributions received from the public were used to train or rehabilitate the blind. The order further prohibited use of the corporate or trade name "National Blind Industries" or any other term substantially similar to the name "National Industries for the Blind," which is a nonprofit institute.

Docket 6140, George's Radio and Television Co., Inc., and others. Order issued December 28, 1953. (Consent Settlement)

George's Radio and Television Company was charged in a Commission complaint issued November 4, 1953, with false and misleading advertising of home freezers and television sets. On December 28, 1953, the Commission entered an order prohibiting false and misleading advertising of such home freezers and television sets. The order forbade claims that participants in a food purchasing plan could buy food at wholesale prices or from a wholesaler that overall monetary savings could be effected through the general use of frozen foods in place of corresponding foods in other forms; that substantial overall reductions in food costs would be effected through participation in a food-purchasing plan or that net monetary savings could be effected through the use of freezers unless the cost of operation, maintenance and depreciation and, where applicable, the cost of credit were taken into account. Other practices ordered discontinued were "bait advertising" and other misrepresentations in the sale of television sets. The order prohibited the unqualified use of such terms as "brand new" to describe television sets which were not of the cur-

rent year's model. Such terms could be used according to the order only if the year in which the sets were current models were disclosed.

Docket 5943, Tractor Training Service, and others. Order issued May 3, 1954

In an order directed against Tractor Training Service, a company engaged in the sale of a correspondence course on diesel engines and service equipment, the Commission prohibited, among other things, representations that there was a great demand for individuals completing the respondent's course of study on diesel engines or that their employment as diesel mechanics, service men, or in similar positions, would be assured that the respondent's working arrangements or other contracts with diesel engine manufacturers assured employment to individuals completing the course that students were afforded "on-the-job training" or "part-time employment" for which they were to be paid or from misrepresenting the earnings of individuals completing the course.

Docket 6102, Charles Antell Co., Inc., and others. Order issued December 18, 1953

The order issued by the Commission in this case prohibited false and misleading advertising of Charles Antell Formula No. 9, Charles Antell Shampoo and Hexachlorophene Soap. This order affected the advertising program of Charles Antell amounting to approximately \$8,000,000 annually. Among other things the order forbade claims that Formula No. 9 would prevent baldness or loss of hair; restricted claims concerning its lanolin content; banned advertisements representing that the hormone content of Charles Antell Shampoo had any cleansing action on the hair; prohibited misrepresentation of the effectiveness of Hexachlorophene Soap; and outlawed misrepresentations of regular prices as "reduced prices."

Docket 6105, Charles Samuel Bernstein. Order issued October 6, 1953

The Commission affirmed an initial decision of the hearing examiner which found that contrary to representations, the publication "American Labor Digest" was not a regularly issued magazine; that it had no subscribers; and was not for sale on newsstands; and that it was not supported by any labor organization. The examiner also found that the advertisements in the publication were obtained through deceptive practices and that respondent had required or demanded payment for advertisements which were not authorized or approved. The Commission's order required that these practices be stopped.

In addition to the above examples of orders issued in the fiscal year, two partners trading as Fisher & DeRitis (Docket 5944) were, on September 23, 1953, convicted of violation of the Wool Products Labeling Act in connection with the sale of so-called "torch sweaters" which were made of brushed rayon but were represented as being made of wool. This, a criminal case, was brought under section 10 of the Wool Products Labeling Act. The proceeding was instituted by the United States Attorney's Office after referral by the Commission, which had previously ordered the parties to stop representing that sweaters and other garments made of brushed rayon were made of camel's hair or any other type of wool.

## CEASE-AND-DESIST ORDER COMPLIANCE

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This work of the Commission constitutes a crucial phase of the application of its mandatory law-enforcement powers. In 1947, a special division under the General Counsel was established to obtain compliance with orders to cease and desist, and to enforce such orders by initiating appropriate proceedings in the Federal courts when voluntary compliance could not be obtained.

During the fiscal year, steps were taken to revitalize this program to achieve an adequacy of the service commensurate with its importance. The program involved a follow-up of each cease-and-desist order issued by the Commission. These orders require the filing of a report of compliance stating in detail how objectionable business activities have been adjusted and revised to meet requirements of the order and the law.

When respondents do not voluntarily comply, civil suits are brought in the various United States district courts, seeking penalties for violations of the orders as provided by the statute. In Clayton Act cases, where there is no provision for the institution of penalty suits, once the order has been affirmed and enforced by one of the courts of appeals, proceedings for contempt are initiated for violations of court decrees.

Since the division was established, civil penalty judgments aggregating \$222,000 have been obtained.

### ATTENTION TO OLD ORDERS

Before the division was established approximately 4,000 cease-and-desist orders were issued by the Commission. Prior to fiscal year 1954, the division focused its attention entirely on initial compliance with current orders and occasional complaints of violations of old orders—the latter being insignificant in number. There was no information on whether approximately 4,000 old cease-and-desist orders were being obeyed. A substantial number of these were directed against evils found in many of the country's most vital industries, such as industrywide price fixing, restraint of trade, and discriminatory



practices violative of law. No investigation or examination had been made into the current state of compliance with such orders.

A basic function of the Commission—the stopping of monopolistic evils in their incipiency and adequate regulation and preservation of competition—cannot be achieved to any satisfactory degree, other than by systematic and intelligent attention to full compliance with its orders to cease and desist. Accordingly, on June 10, 1954, the Commission approved the recommendations of a special committee, appointed September 1953, calling for systematic and selective review screening and proper enforcement. It proposed to give highest priority to compliance work. This survey has been begun and a pattern established for screening procedures to coordinate necessary attention, not only to these orders, but to some 8,000 stipulations and 190 sets of trade practice conference rules, to assure uniformity in the requirements imposed on respondents. Supplemental reports of compliance on old orders were being requested at a rate of approximately 100 a month.

During the fiscal year 1954, attention was given to 857 compliance matters: "Matters" consist of (a) reports of compliance for processing (b) complaints of alleged violations of orders (c) conference and opinions regarding compliance and (d) initiating and processing preliminary inquiries into compliance.

### ANTIMONOPOLY COMPLIANCE CASES

During the year, 249 reports of compliance with orders against restraint of trade, monopolistic tendencies, and discriminatory practices were processed. Illustrative of their variety and scope was one relating to bakery packaged food products, terminating price discrimination by the largest manufacturer, whose production represents about 50 percent of the entire output in the industry another relating to canned Alaska salmon, prohibiting price-fixing activities among 41 canning companies, their trade association and 8 labor unions whose membership included salmon fishermen another relating to dental supplies, directed against a conspiracy in restraint of trade among a trade association and its 144 members who controlled 75 percent of the Nation's production and distribution of such supplies another relating to iron and steel products, prohibiting price-fixing and discriminatory practices in the sale and distribution of steel on the part of 90 manufacturers involving virtually the total steel output of the United States another relating to portland cement, directed against a trade association and 74 cement manufacturers accounting for three-fourths of the total capacity in the industry who were engaged in an industrywide price-fixing conspiracy and another relating to clay sewer pipe, terminating a price-fixing combination among 17 manu-

facturers who operate 25 plants, or about one-third of such plants operating in the United States, for the manufacture and distribution of clay sewer pipe, an important item in modern building construction and community development.

### DECEPTIVE PRACTICE COMPLIANCE CASES

During the year 344 reports of compliance were processed in cases dealing with practices found to be false, misleading and deceptive. Also, 174 complaints of violation of orders were reviewed and appropriate action taken. Orders relating to wool products, lotteries, medicinal preparations, correspondence schools and household appliances were among those receiving consideration.

### ADVERTISING TASK FORCE

To facilitate checking up on compliance with orders, stipulations and rules relating to advertising, a special "task force" of attorneys was designated. The mission of this unit was to examine national and regional advertising by respondents subject to orders, stipulations, and rules.

### COMPLIANCE CASES IN FEDERAL COURTS

During the year one penalty complaint was filed in *U. S. v. Coradio, Inc., et al.* (D. C. N. J.). The complaint charged violations of an order prohibiting misrepresentations in the interstate sale of coin-operated radios for use in hotels and other public establishments.

Civil penalty suits concluded during the year were:

(1) *U. S. v. Westville Oil and Manufacturing, Inc.* (N. D. Ind.). Judgment entered July 24, 1953, for \$1,750 for violation of an order requiring an affirmative disclosure that motor oil sold by defendant previously had been used.

(2) *U.S. v. Shapiro Felt Rug Company, et al.* (D.C.N.J.). Judgment of \$1,200 entered December 28, 1953, for violation of an order requiring defendant to disclose that millinery products were made of previously used materials.

(3) *U. S. v. National Titanium Company* (S. D. Calif.). Judgment of \$4,000 entered March 18, 1954, for violation of an order requiring proper labeling and advertising of paint containing used materials

(4) *U. S. v. Shelbrooke Coats, et al.* (S. D. N. Y.). Judgment of \$1,000 entered February 2, 1954, for failure to keep records as provided by the Wool Products Labeling Act and entry of a mandatory injunction compelling the keeping of such records.

(5) U. S. v. Lady Carole Coats, Inc., et al. (S. D. N. Y.). Judgment of \$1,000 entered February 4, 1954, for failure to keep records as provided by the Wool Products Labeling Act and the entry of a mandatory injunction compelling the keeping of such records.

There were pending in the various United States District Courts as of June 30, 1954, civil penalty suits in the following cases based on the alleged violations indicated:

(1) U. S. v. Standard Education Society, et al. (N. D. Ill.). Violation of an order prohibiting false representations of encyclopedias.

(2) U. S. v. United Diathermy, Inc. (S. D. N. Y.). Violation of an order prohibiting misrepresentations the therapeutic benefits of a diathermy device.

(3) U. S. v. Purofied Down Products Corp., et al (E. D. N. Y.). Violation of an order requiring labeling disclosure of used or second-hand feathers contained in pillows.

(4) U. S. v. Edward Towenthal (N. D. Ill.). Violation of an order directed against the use of misleading "skip trace" materials for obtaining credit information concerning alleged delinquent debtors.

(5) U. S. v. Coradio, Inc., et al. (D. C. N. J.), supra.

## COURT PROCEEDINGS

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The court proceedings reported in this chapter are cases in the Federal courts to which the Federal Trade Commission was a party. For the most part, these proceedings arise upon appeal from Commission cease-and-desist orders. Cases decided or pending in court during the fiscal year, arranged under the respective classifications of antimonopoly and deceptive practice cases, are set out below. Other special court proceedings are also listed.

### 1. ANTIMONOPOLY CASES IN FEDERAL COURTS

#### In the United States Courts of Appeals

Ten antimonopoly proceedings were pending at the beginning of the fiscal year, all in United States courts of appeals. Two were disposed of, two were instituted as new petitions for review, with a total of 10 such cases remaining pending at the close of the fiscal year.

#### Decisions

Gamble-Skogmo, Inc., Minneapolis, Minn. The United States Court of Appeals for the Eighth Circuit (St. Louis) set aside an order prohibiting the use of exclusive-dealing contracts in the sale of merchandise in violation of section 3 of the Clayton Act and remanded the case to the Commission for further proceedings. The decision did not deal with the merits of the order but was based upon procedural grounds, the court holding that where the hearing examiner who presided at the reception of evidence becomes unavailable to the Commission it is violative of section (c) of the Administrative Procedure Act for a substitute examiner to make the recommended decision if substantial questions of witness credibility are involved.

Standard Oil Company of Indiana, Chicago, Ill. Subsequent to the remand of this case by the Supreme Court, the Commission made findings that the price discriminations involved were not made in good faith to meet equally low prices of competitors, and entered a modified order. Thereafter, on March 31, 1963, the Commission submitted the original and supplemental record to the United States Court of appeals for the Seventh Circuit (Chicago), requesting that

the case be placed on the calendar for rebriefing and reargument. By its order of May 19, 1953, the court accepted jurisdiction, but on January 18, 1954, vacated the prior order, holding that it was without jurisdiction to enter that order and could acquire jurisdiction only pursuant to section 11 of the Clayton Act.

## Pending Cases

Anchor Serum Company, <sup>1</sup> South St. Joseph, Mo. Pending in the United States Court of Appeals for the Seventh Circuit (Chicago) on petition to review and set aside an order prohibiting the use of exclusive-dealing contracts in the sale of hog-cholera serum and virus in violation of section 3 of the Clayton Act as amended.

Automatic Canteen Company of America, Chicago, Ill. Pursuant to mandate of the Supreme Court, the United States Court of Appeals for the Seventh Circuit (Chicago) remanded this case to the Commission for such -further action as might be open under the opinion of the Supreme Court reversing the Commission's order as to Count II of the complaint, which charged knowingly inducing price discriminations in the purchase of confectionery products.

Chain Institute, Inc., et al., Chicago, Ill. Pending in the United States Court of Appeals for the Eighth Circuit (St. Louis) on petition to review and set aside an order prohibiting price fixing and certain related practices in the sale of chain and chain products in violation of section of the Federal Trade Commission Act. At the close of the year petitioners had pending before the court a motion for remand to the Commission on procedural grounds.

Dictograph Products, Inc., Jamaica, N. Y. Pending in the United States Court of Appeals for the Second Circuit (New York) on petition to review and set aside an order prohibiting the use of exclusive-dealing contracts, and certain related and supplementary practices in the sale of hearing aids in violation of section 3 of the Clayton Act and section 5 of the Federal Trade Commission Act.

Gamble-Skogmo, Inc., Minneapolis, Minn., *supra*. On remand to the Commission for further proceedings.

National Lead Company, New York, N. Y.; Anaconda Copper Mining Company and International Smelting and Refining Company, New York, N. Y.; Eagle-Picher Company and Eagle-Picher Sales Company, Cincinnati, Ohio; The Sherwin-Williams Company, Cleveland, Ohio. Pending in the United States Court of Appeals for the Seventh Circuit on separate petitions (consolidated by the court for hearing) to review and set aside an order prohibiting, pursuant to section 5 of the Federal Trade Commission Act, price fixing and re-

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<sup>1</sup> On December 17, 1954, the Court of Appeals affirmed the Commission's order.

lated practices by the several companies and prohibiting further acquisitions of competitors by National Lead Company and also prohibiting each company, individually from discriminating in price in violation of section 2 of the Clayton Act, all with respect to lead pigments.

Whitey & Company, Seattle, Wash. Pending in the United States Court of Appeals for the Ninth Circuit on application by the Commission for enforcement of its order prohibiting the payment of brokerage in violation of section 2 (c) of the Clayton Act. The order was affirmed by the court and the case remanded to the Commission to act as special master and take evidence on the question of violation, and report to the court.

## 2. DECEPTIVE-PRACTICE CASES IN FEDERAL COURTS

### In the Supreme Court

At the beginning of the fiscal year, petitions for writs of certiorari in two deceptive practice proceedings were pending in the Supreme Court, and four such petitions were filed during the year. In three of these cases, the petitions were by Universal Manufacturing Company, et al., Chicago, Ill.; Bernice Feitler, et al., Chicago, Ill.; and U. S. Printing & Novelty Company, New York, N. Y., respectively, seeking review of decisions affirming Commission orders in lottery cases. All were denied, and petitions for rehearing in the two first named were also filed and denied. The petition of Book-of-the-Month Club, Inc., New York, N. Y., was withdrawn. Two of the petitions were on behalf of the Commission: The first, in the Carter Products, Inc., case (post) was granted, the decision of the United States Court of Appeals for the Ninth Circuit (San Francisco) setting aside the Commission's order was vacated, the decision ordered amended, and the case remanded to the Commission and the second, seeking review of the decision of the United States Court of Appeals for the Seventh Circuit (Chicago) which modified the Commission's order in the Rhodes Pharmacal Company case (post), is pending.

### In the United States Courts of Appeals

Seventeen deceptive practice cases were pending in United States courts of appeals at the beginning of the fiscal year, 9 new petitions to review and set aside Commission orders prohibiting unfair or deceptive practices were filed during the year, and 13 such proceedings were concluded. Of those decided, 4 orders were affirmed and enforced without change, 3 were modified and affirmed, 2 were dismissed for lack of prosecution, 2 were dismissed on preliminary motions, 1 was remanded to the Commission for further proceedings, and another

was remanded on motion of the Commission. In addition, the Commission joined in one and consented to another motion for modification of final decrees in two "free goods" cases previously affirmed by the courts. One of these motions was granted by the court, and the other was pending at the end of the fiscal year.

## Decisions

Cases in which the Commission's orders were affirmed and enforced without change are: American Tack Company, New York, N. Y. Second Circuit (New York). Failure to reveal foreign origin of thumbtacks.

Directory Publishing Corporation, et al., New York, N. Y. Second Circuit (New York). False and misleading representations in the sale of a classified business directory.

Standard Distributors, Inc., Chicago, Ill. Second Circuit (New York). Misrepresentation as to prices, quality as compared to samples, and being a "new" encyclopedia. Petition for rehearing filed by petitioner was denied.

William F. Koch, et al., Grosse Point Park, Mich. Sixth Circuit (Cincinnati). False advertisements of medicinal products as a cure for cancer and other serious diseases.

The cases in which Commission orders to cease and desist were, after modification, affirmed and enforced are:

Prima Products, Inc., et al., New York, N. Y. Second Circuit (New York). False and misleading advertising of "Aquella," a product offered for waterproofing purposes. The court deleted one paragraph of the order regarding claims concerning use of "Aquella" on the Maginot Line.

Rhodes Pharmacal Company, Chicago, Ill. Seventh Circuit (Chicago). False advertisements of "Imdrin," a medicinal product offered for arthritic and rheumatic conditions. The court modified the order to cease and desist, materially changing its scope. Petition for rehearing by the Commission was denied, and thereafter petition for writ of certiorari was filed and is now pending in the Supreme Court.

Fred Schambach, New York, N. Y. District of Columbia Circuit (Washington). Sale of merchandise lottery devices, sale of merchandise by means of lottery devices, misleading use of the word "free," and false representations as to price. Petitioners abandoned their attack on all parts of the order except that respecting the sale of lottery devices, as to which they stipulated the same order might be entered as was entered by the court in the case of U. S. Printing & Novelty Company, also involving lottery devices. The court made the same modification as was made in that case.

Four cases were dismissed by United States courts of appeals, as follows:

Bostwick Laboratories, Inc., Bridgeport, Conn. Second Circuit (New York). False and misleading advertising of insecticides. Petitioner failed to prosecute his appeal, and the matter was dismissed.

Infra-Insulation, Inc., et al., New York, N. Y. District of Columbia Circuit (Washington). Disparagement of competitive products and false and misleading representations in the sale of reflective aluminum insulation. Petitioners had settled the proceeding before the Commission by agreeing to a consent order to cease and desist. The Commission filed motion to dismiss the petition to review, and petitioners by stipulation agreed to the dismissal.

Harry Augen (Graphited Lubricants Company) and Livingston Automotive Supply Company, Inc., et al., both of Brooklyn, N. Y., Second Circuit (New York). These were separate petitions to review an order to cease and desist issued against a number of respondents in Tungsten Contact Manufacturing Company, et al., involving alleged passing off of automobile ignition points as products of well-known suppliers. The Commission moved the court to vacate the order to cease and desist in these matters and to remand them to the Commission for further consideration. The court vacated the order, but denied remand.

Two cases were remanded by United States courts of appeals, as follows:

Philip Morris & Co., Ltd., Inc., New York, N. Y. District of Columbia Circuit (Washington). False and misleading advertising claims concerning "Philip Morris" cigarettes. The court granted motion of the Commission to set aside the order to cease and desist and remand the proceeding for reconsideration and such disposition as is warranted by the facts, the law, and the public interest and, pursuant to this remand, hearings were held by the Commission.

The New Library of World Literature, Inc., et al., New York, N. Y. Second Circuit (New York). Misrepresentation through failure to disclose abridgment or change of title of reprints of previously published books. Though agreeing as to deceptiveness of the practice, the Court held that portion of the order respecting placement of the disclosure not supported by necessary evidence and findings, and reversed the order and remanded the cause to the Commission for further proceedings.

Progress Tailoring Company, et al., Chicago, Ill. The Commission and petitioner joined in a motion to the Seventh Circuit (Chicago) to modify the final decree to accord with the Commission's new "free goods" policy as delineated in the Walter J. Black case. The court granted the motion and modified the decree accordingly.



## Pending Cases

American Tack Company, New York, N. Y. Second Circuit (New York), supra. Awaiting expiration of time during which petitioner may apply for writ of certiorari.

Astor Industries, Inc., et al., New York, N. Y. Second Circuit (New York). Failure to disclose foreign origin of sewing machine heads and unfair and deceptive practices in the use of brand or trade name.

Carter Products, Inc., New York, N. Y. Ninth Circuit (San Francisco), supra. Following remand, the Commission reopened this proceeding for the taking of further testimony pursuant to the remand.

Dolcin Corporation, et al., New York, N. Y. District of Columbia Circuit (Washington). False advertisements of "Dolcin," a medicinal product offered for arthritic and rheumatic conditions.

Doris Stavitch, et al. (Personal Drug Company), New York, N. Y. Second Circuit (New York). False advertisements of drug products "Quick-Kaps' and "D-Lay Capsules."

James H. Sewell (Burns Cuboid Company), Santa Ana, Calif. Ninth Circuit (San Francisco). False advertisements of "Cuboids," a device for insertion in shoes for relief of various foot conditions.

Joseph Rosenblum, et al. (Modern Manner Clothes), New York, N. Y. Second Circuit (New York). Pending on motion to vacate the final decree in accord with the Commission's new "free goods" policy as delineated in Walter J. Black case.

Marlene's, Inc., et al., Chicago, Ill. Seventh Circuit (Chicago). False and misleading advertisements of a weight-reducing tablet designated "Mynex."

The New American Library of World Literature, Inc., et al., New York, N. Y. Second Circuit (New York), supra. Pending on remand from the court.

Philip Morris & Co., Ltd., Inc., New York, N. Y. District of Columbia Circuit (Washington), supra. Pending on remand from the court.

Perry Halseth (Perry Sales Company), Chicago, Ill. Seventh Circuit. Sale of merchandise by means of lottery devices.

Seymour Sales Company, et al., Chicago, Ill. District of Columbia Circuit. Sale of merchandise by lottery methods and of merchandise lottery devices in interstate commerce.

Standard Distributors, Inc., Chicago, Ill. Second Circuit (New York), supra. Pending expiration of period within which petition for certiorari may be filed.

Tractor Training Service Circuit (San Francisco). False and misleading representations in advertis-

ing in correspondence study course in diesel engines and heavy equipment.

#### In the United States District Courts

Two suits were pending in a United States district court at the beginning of the fiscal year, and three others were filed in such courts during the year. Three of these suits were dismissed for lack of jurisdiction, and two remained pending at the close of the year:

Elip Distributing Corporation, Baldwin, Long Island. United States District Court for the Eastern District of New York. Suit against the Commission and the Federal Security Agency, jointly, to prevent institution of proceedings against "Elip," a drug product sold as a remedy for hemorrhoids. Dismissed for lack of jurisdiction.

Guy Noel, et al. United States District Court for the District of Columbia. Petitioners in six proceedings involving sale of lottery devices in interstate commerce filed suit to restrain the Commission from enforcing orders against them which had been affirmed by various United States courts of appeals, and in three of which certiorari had been denied by the Supreme Court. Dismissed for lack of jurisdiction.

Reubin Berkowitz, et al. United States District Court for the District of Columbia. Suit by petitioners in the same six proceedings as in the Noel matter filed under the Declaratory Judgments Act seeking a determination that the Commission's orders against them do not apply to blank punch boards and push cards. Pending on a motion to dismiss.

Oliver W. Toll, Washington, D. C. United States District Court for the District of Columbia. Civil action for discovery against the Civil Service Commission and the Federal Trade Commission. Dismissed on merits.

### 3. OTHER COURT CASES

Quantity-Limit Cases. Actions challenging the validity of the Commission's Quantity-Limit Rule 203-1 were remanded for trial to the United States District Court for the District of Columbia by a decision of the United States Court of Appeals for the District of Columbia reversing the district court, which had entered orders of dismissal. The rule filed the maximum quantity of replacement tires and tubes upon which cost justification may be based under section 2 (a) of the Clayton Act. Plaintiffs, which included the principal tire manufacturers, sought declaratory judgments and injunctions restraining the Commission from enforcing the rule. The cases, which were consolidated for trial, were to be heard when they were reached on the calendar of the district court.

F.T.C. v. Mahler's, Inc., et al. On April 3, 1954, the United States District Court for the District of Rhode Island denied an application filed by the Commission seeking a temporary injunction to restrain of certain alleged false advertisements of Mahler's, Inc., of Providence, R. I., pending final determination of the Commission's cease-and-desist order proceeding. The advertising in question was disseminated in the sale of an electrolysis device for the removal of superfluous hair from the human body. The court action for temporary injunction pendente lite was brought by the Commission in the public interest under section 13 of the Federal Trade Commission Act.

NOTE.—For suits brought by the United States to assess civil penalties for violation of Federal Trade Commission cease-and-desist orders, see compliance matters on page 42.

## COOPERATION WITH INDUSTRY

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### AIDING BUSINESS TO AVOID UNFAIR COMPETITIVE METHODS

Extensive services are provided by the Commission to aid and guide business in avoiding and preventing the use of methods, practices or arrangements which violate the laws administered by the Commission. These services undertake to encourage, as far as practicable, proper voluntary action on the part of business to keep its own house in order by preventing the inception or growth of trade practices harmful to the public interest.

During the fiscal year, these services continued to be performed through the Commission's Bureau of Industry Cooperation, including its industry Trade Practice Conference proceedings and the stipulation work.<sup>1</sup> Under the industry conference procedure, rules of fair-trade practices are established by the Commission for respective industries. Through the stipulation procedure, agreements to cease and desist are negotiated on a voluntary basis to effect correction of alleged unfair practices in specific cases where protection of the public interest may be fully achieved without the necessity of formal litigation.

### TRADE PRACTICE CONFERENCES

The Commission's trade practice procedure for industry is an established, successful, and economical method of preventing and eliminating unfair trade practices.

To obtain maximum voluntary observance of law on an industrywide basis, trade practice conference proceedings are conducted by the Commission for industries in cooperation with their members.

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<sup>1</sup> On July 1, 1954, the "Bureau of Industry Cooperation" became the "Bureau of Consultation" and a new Division, namely, the Division of Small Business, was created. The functions of the new Bureau have been stated by Chairman Howrey to be "(1) to act in a cooperative and consultative capacity to business, particularly small business, (2) to give informal advice on all kinds of matters involving the laws administered by the Commission, and (3) to seek voluntary compliance with such laws by means of conferences, informal hearings, and other types of informal procedures." Responsibilities of the Division of Small Business are, in general, to afford consultative service to small-business men respecting their compliance with laws administered by the Commission, and to see that they obtain the protection and

relief encompassed within the objectives of the Federal Trade Commission Act, the Clayton Act, and other statutes administered by the Commission.

These culminate after hearing and consideration in the establishment of trade practice rules clarifying the requirements of laws administered by the Commission. Rules are revised or supplemented when necessary for accuracy of interpretation of legal requirements and adequacy of coverage of practices engaged in, or likely to be engaged in, by the industry members. For those industries already having rules in operation, effort is made to maintain the highest possible voluntary observance of the rules by the industry members.

Members of an industry work with the Commission in formulating trade practice rules, in publicizing those promulgated, in effecting their revision or supplementation, and in bringing to the Commission's attention instances of their violation.

The rules give guidance on how legal requirements concerning practices of the particular industry can be met by the members.

## Procedure

The method for conducting trade practice conference proceedings for industries is set forth in Rule XVIII of the Commission's Rules of Practice. The Commission's policy for settlement of cases upon promulgation of trade practice rules for industries is set forth in the Federal Register of August 29, 1947.

Trade practice conference proceedings for an industry may be started by the Commission upon its own motion, or in response to an application by a member, group of members, or trade association of the industry, or an application by any other interested person, party, or group. The great majority of proceedings culminating in rules have been started in response to applications.

The Commission, in granting applications, wants to be sure the establishment of trade practice rules for the industry will clarify the requirements of statutes administered by the Commission, and will prevent substantially those practices by industry members which violated them. Unless considered by the Commission to be in the public interest, and a constructive force in the industry, the proceeding is not authorized.

When a trade practice conference proceeding is authorized by the Commission for an industry, a conference is scheduled in a city convenient to the majority of the industry members. Due notice of the time and place of the conference is published in the Federal Register and invitations to attend and participate in the conference proceedings are mailed to all known members of the industry. Any member or group of members may propose a rule or rules, and all members are given opportunity to discuss and recommend changes in any of the proposed rules. Additional conference sessions may be held.

After the conference, the Commission's staff studies the industry recommendations and relevant information, and submits for Commission consideration a draft of proposed rules which, if considered by the Commission to be in appropriate form, are released for public hearings. Notice of the time and place of such hearing is published in the Federal Register and mailed to known industry members, with a copy of the proposed rules. Copies of the proposed rules are also made available to other interested persons, including consumers.

After the hearing, and after considering the entire matter, the Commission may approve and direct the promulgation of trade practice rules for tire industry. The rules become effective on a specified day, usually 30 days after the date of promulgation, and are published in the Federal Register. Copies are sent to each member of the industry accompanied by an acceptance card which the member may use to signify his intent to comply with the rules in his business.

Trade practice rules promulgated for an industry may be wholly of the Group 1: classification, or may also include rules of the Group II classification. Rules of the Group I classification bear the following headnote:

#### GROUP I

The unfair trade practices embraced in the Group I rules herein are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

Rules of Group II classification bear a headnote reading as follows:

#### GROUP II

Compliance with trade practice provisions embraced in Group II rules is considered to be conducive to sound business methods and is to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with the existing law. Nonobservance of such rules does not per se constitute violation of law. Where, however, the practice of not complying with any Group II rules is followed in a manner as to result in unfair methods of competition or unfair or deceptive acts or practices in commerce, corrective proceedings in respect thereto may be instituted by the Commission as in the case of violation of Group I rules.

The Commission will not accept or promulgate any rule that sanctions, or tends to sanction, any practice which is contrary to law, which may aid or abet illegal conduct, or which it considers to be not fully consonant with the public interest.

## Conference Proceedings

Number pending July 1, 1953	30
New proceedings instituted	30
<hr/>	
Total pending proceedings	60
Disposition effected (July 1, 1953, to June 30, 1954):	
Closed	5
New industries for which trade practice rules were promulgated	4
Industries for which trade practice rules were revised and promulgated	2
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Total proceedings disposed of	11
Total trade practice proceedings pending June 30, 1954	49
Formal trade practice conferences held	10
Formal public hearings held	13
Informal conferences held	497

The Commission, during the fiscal year ending June 30, 1954, promulgated sets of trade practice conference rules for the Industrial Bag and Cover Industry, Hearing Aid Industry (revision), Millinery Industry, Portrait Photograph Industry, Cedar Chest Manufacturing Industry (revision), and Photoengraving Industry of the Southeastern States.

Included among the 60 pending proceedings which were advanced during the year are those for the Wholesale Plumbing and Heating Industry, Orthopedic Appliance Industry, Chemical Soil Conditioner Industry, Radio and Television Industry, Nursery Industry, Tobacco Smoking Pipe and Holder Industry, Watch Attachment Industry, Athletic Goods Industry, Medium and Low-Priced Jewelry Industry, Diamond Industry Waterproof Paper Industry, and Fire Extinguishing Industry.

## Administration of Trade Practice Conference Rules

The Commission maintains close liaison with industries for which trade practice rules have been established and put into effect. It endeavors to obtain the highest degree of voluntary and industrywide compliance with the Group I provisions. Subject to exceptions specified in the Commission's published Policy Statement, it handles complaints of rule infractions received from competitors, consumers, or others, and effects needed correction expeditiously and informally when this is possible. When not possible, the matter is referred for appropriate mandatory action under the law.

A summary of rule compliance work performed during the fiscal year under the trade practice rules for the more than 170 industries then in effect follows:



Compliance matters pending July 1, 1953	203
New compliance matters initiated during year	697
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Total for disposition	900
Dispose of during year	722
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Pending June 30, 1954	178

The disposition of 722 compliance matters during the year was accomplished mostly through cooperative compliance.

The rules for a number of industries received special administration and compliance attention. Included in such group were the following:

**PEARL, CULTURED PEARL AND IMITATION PEARL INDUSTRY:** Fictitious pricing of cultured pearls and the failure of importers to label imitation pearls as to foreign origin are among the unfair practices in this industry which the Commission undertook to eliminate through administrative compliance activities.

**LUGGAGE AND RELATED PRODUCTS INDUSTRY:** The voluntary corrective procedures under rules were successful in curbing deceptive claims that split leather is top grain leather, and in securing disclosure, where necessary, that products resembling leather are actually composed of plastics.

**JEWELRY INDUSTRY:** Deceptive practices which were subject to considerable Commission attention in this industry include the following: Misuse of the term "gold" to describe products not plated or otherwise composed of gold; failure to disclose gold content of products plated with gold; misuse of the word "perfect" to describe .diamonds; misrepresentation as to "origin" of jewelry products; misrepresenting synthetic or simulated stones as natural stones; and misuse of the word "pearl" to describe simulated or synthetic pearls. Such practices were, to a very satisfactory extent, abandoned by industry members as a result of the Commissions administrative efforts.

**WATCH DESIGNATION RULES:** Through administrative action the Commission succeeded in curtailing to a large extent; false representations that watches are "shockproof" and false and misleading claims as to "waterproof" watches.

**MASONRY WATERPROOFING RULES:** The Commission continued during the year its constant administrative efforts to prevent misrepresentation in the advertising, labeling and promotional literature of members of this industry respecting the efficacy of their products to provide water impermeability. Prompt correction of many such claims was accomplished through correspondence and office conferences. Through consultation with staff members of the Commission concerning advertising material of industry members being prepared for dissemination, changes were effected, thus preventing rude violation,

## Stipulations

The stipulation procedure provides an informal settlement of cases before complaint. Under this procedure, persons charged with law violation are afforded an opportunity to present information pertinent to the charges and to enter into an agreement to discontinue those practices shown by the facts to be unlawful. Thus, through voluntary, cooperative action, the statutory objective is accomplished quickly and without the need for formal litigation.

### Stipulation Procedure

When a case is referred for stipulation negotiations, the respondent is notified and given statement of the alleged unlawful acts or practices in question. He is asked to reply within a specified time. He may reply in writing or confer with a Commission representative, either in person or through counsel or other authorized representation (106 conferences were held during the fiscal year).

If, as result of correspondence or conference, a stipulation is negotiated, it is submitted to the Commission for approval. The stipulation becomes effective upon approval by the Commission and is a matter of public record. In the event of failure to negotiate satisfactory stipulation, the file is forwarded for further appropriate action.

Within sixty days after notice of approval of a stipulation, the parties to it are required to file with the Commission a report in writing setting forth in detail how they have complied with the stipulation. Within its discretion, the Commission may require any party to a stipulation to file future reports on his compliance with the stipulation.

### Disposition of Cases in Fiscal 1954

Closed on basis of approved stipulations _____	70
Closed without stipulations _____	19
Directed issuance of complaint _____	5
Referred for further investigation or other attention _____	7
Rejected stipulation _____	1
Rescinded stipulation _____	<u>1</u>
 Total _____	 103

### Practices Covered by Stipulations

Among the wide range of practices covered by stipulations approved during the fiscal year were the following:

A manufacturer of oleomargarine agreed to discontinue advertising it to suggest a dairy product.

A manufacturer of contact lenses agreed to stop representing that anyone who requires glasses can be fitted with such lenses and that they are safer and cost no more than conventional eyeglasses.

An advertiser of an antacid d stipulated to discontinue claims that the preparation cures stomach ulcer.

Another seller of a drug product having aspirin as its principal active ingredient agreed not to advertise the product as an effective treatment for any kind of arthritis or rheumatism.

A manufacturer of arch supports agreed to refrain from advertising its product as being useful in cases of varicose veins.

A manufacturer of sun lamps agreed to stop representing that such lamps help build resistance to colds.

Another stipulation signed by a manufacturer of a dairy spray provided for discontinuance of claims that the spray destroys flies for an entire season.

A retail seller of surplus merchandise and other articles agreed to refrain from using the word "Army" to describe blankets not procured from or produced for the United States Army.

Four manufacturers of wool products agreed to label such products accurately; as to the percentage of wool and other constituent fibers.

Two manufacturers of contour chairs entered into stipulations providing for discontinuing claims that their chairs have any beneficial effect on posture or afford anatomically correct support in all cases.

An importer of Japanese binoculars stipulated to discontinue representing that such binoculars are the equal of or superior to the best American-made binoculars.

Three sellers of hair and scalp preparations stipulated that they would not, in the future represent that their products prevent baldness, stop falling hair or cure dandruff.

An importer of sewing machines agreed to disclose the country of origin of such foreign-made machines.

Two publishers of abridged editions of books agreed to disclose clearly and conspicuously, that such books are abridged.

## Stipulation Compliance

Reports of compliance with stipulations submitted by stipulating parties are carefully reviewed. When a report does not show full compliance with the stipulation, or a stipulation violation is otherwise detected, steps are taken promptly to effect correction. During the year reports of compliance were received and filed or other appropriate action taken in 149 stipulation compliance matters.

In addition, a systematic survey of approved stipulations was undertaken during the fiscal year to determine whether parties to stipulations approved during past years were complying with their agree-

ments and, if not, to initiate prompt corrective action This survey which was a part of the Commission's integrated compliance program, began to produce constructive results by the close of the year.

## EXPORT TRADE ACT ADMINISTRATION

This phase of the Commission consists largely in encouraging business to take proper advantage of the law for promoting exports.

During the fiscal year, a complete reevaluation was undertaken of the Commission's administrative responsibilities under the Webb-Pomerene Export Trade Act. It was determined that less than minimum response was being given to the congressional mandate and a comprehensive program of adjustment was begun.

The Act adapts the antitrust laws to the special situation of American export trade; that is, it adjusts then to that area in which our unique philosophy of free competition must coexist with the different philosophies of foreign nations. The statute extends the general jurisdiction of the Commission under the Federal Trade Commission Act to incidents of export trade occurring outside the territorial jurisdiction, and it permits qualified export associations to operate with a limited immunity from the Sherman and Clayton Acts. By the terms of the Act the privileges accorded these special export groups are conditioned upon their voluntary submission to close supervision by the Commission.

The staff component charged with responsibility for the day-to-day administration of the Act was transferred to the Office of General Counsel during tile last month of the year. This change was made to place the Division of Export Trade in a position to act as adviser to the Commission on matters rising within the provisions of the Act and center the general foreign trade interest of the Commission during this era of renewed emptlasis. The proficiencies of the reglar investigative, trial, and ecoomic components of the Commissions staff would be coordinated by this small division rather than duplicated within it and would be utilized under the special procedures of the Act to stress prompt informal guidance of associations, backed by a readiness to invoke the formal antitrust laws.

The program to revitalize the Commission's functions under the Export Trade Act was in the beginning stages a t the close of the year, but headway has been made in certain areas. A pattern of close cooperation with the Department of Justice had been initiated and utilized. Encouragement for this special liaison was found in the Supreme Court's decision in 1945 in U. S. Alkali Export Ass'n v. United States, 325 U.S. 196. Like advances had been made to the Departments of Commerce and State and had met with initial success.

A routine of continuous surveillance of the major business practices of the associations had been begun in accordance with the intent of Congress, and at the close of the year the files on about one-fourth of the associations had been brought up to date.

At the end of the fiscal year, 41 export associations were operating under the Act, including 453 member companies throughout the United States.

The associations have reported the following exports:

	1952	1953
Metals and metal products -----	\$32,270,831	\$34,514,538
Products of mines and wells -----	19,465,614	16,988,102
Lumber and wood products -----	12,095,662	6,498,570
Foodstuffs -----	72,277,798	108,454,676
Miscellaneous (including paper, rubber, textiles, motion pictures, pencils, scientific instruments, cerium, and typewriters) -----	434,565,343	379,261,949
Total -----	570,675,248	545,717,835

## ECONOMIC AND STATISTICAL REPORTS

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This activity of the Commission consists of three kinds: First, assistance in the development, investigation, and trial of the Commission's antimonopoly cases; second, the preparation of quarterly summaries of balance sheet and income statement data of United States corporations; and third, the preparation of reports on public questions having to do with competition and monopoly for submission to Congress or the Executive.

### ASSISTANCE IN LEGAL CASE WORK

The Commission sought to bring economics to bear on antimonopoly cases much more than in the past. Such assistance may be provided at four successive levels:

1. Initiation of cases.—Economic criteria are relevant as to whether particular complaints should be investigated, the relative importance to be attributed to different cases, the amount of business affected, the seriousness of the economic impact of the alleged violation, and the likelihood that what could be done about it will be effective.

2. Development of a theory of the case.—Complex cases may be dependent upon an acceptable economic theory as well as upon a valid legal theory. This necessarily raises the question as to the type of remedy desired and the economic consequences of such remedy. Questions of this type cannot adequately be covered by legal analysis alone.

3. Investigation.—Careful and proper adjudication of restraint of trade and Clayton Act cases requires the development of statistical and marketing information. Economic analyses can contribute to the planning of the investigation as well as to its actual conduct, and thus prevent serious deficiencies in the work.

4. Decision.—Economic analysis to evaluate the facts may be relevant at either or both of two states: (a) In determining whether a complaint should issue and, if so, on what theory and (b) after trial, in formulating the findings and determining the scope of the order.

The relevant economic and marketing factors vary from case to case. The market, the industry, and the type of violation

involved form the frame of reference. The tests in a merger case under amended section 7 of the Clayton Act might be quite different from those in a restraint of trade case brought under section of the Federal Trade Commission Act.

Competition which the antitrust laws seek to preserve cannot be defined in terms of absolute or perfect competition. It is recognized that the public policy of the antitrust laws is governed by the reality that imperfect competition exists in most competitive markets. This concept is referred to as "workable" or "effective" competition. Various tests, standards, and criteria have been suggested for determining whether competitive conditions in a particular market comply with the requirements of the antitrust laws.

During the fiscal year, attention was given to carrying out the above-stated objective of the Commission and as a result economic analysis was utilized in a greater number of antimonopoly cases than in the past. Among these were the following:

1. A group of 24 cases involving manufacturer's cooperative advertising in the women's apparel industry were considered for the economic effects of the practice in view of its general prevalence in the industry. The economic analysis revealed numerous instances wherein advertising allowances were not ordered to all customers on an equal basis.

2. Two cases concerning alcoholic beverage manufacturers were submitted to economic analysis to determine whether the actions of the companies, through mergers and acquisitions, had the effect of promoting a monopolistic position in the industry, and whether the companies had hindered unduly the operations of competitors by restricting their access to sources of supply. The economic analysis showed that although the companies did not hold a monopoly in the strictest technical sense, their acquisitions substantially reduced the competition potentialities of the industry. Not only had active competitors been absorbed and potential competitors foreclosed from idle productive facilities, but new firms had not entered the market because of the difficulty in gaining access to a segment of the market.

3. The economic staff worked with the Commission's attorneys in the development of the theory and the investigation in a case concerning monopolistic practice, in the iron and steel scrap industry. Economists and attorneys teamed to lay out a plan for field investigation and collection of data through questionnaires, for analysis of the information obtained, and for preparing testimony to be used in trying the case.

Mergers and acquisitions.— Arrangements were made for the Commission's Bureau of Economics to take initial responsibility for development of merger and acquisition cases brought under amended

section 7 of the Clayton Act. The Bureau was to review mergers and acquisitions which came to its attention and make preliminary analyses of such actions when it appeared there would be a lessening of competition. It also makes recommendations to the Bureau of Investigation for further action, such as further investigation or recommendation for issuance of formal complaint. After consultation between the two Bureaus and a decision being reached that the acquisitions or merger would be likely to impede competition, an attorney and an economist, working together under the direction of a project attorney, developed the theory of the case and carried forward the investigation and trial.

An excellent example of this procedure in practice during the year was a case involving acquisition by a large paper company of one of its two significant competitors. The alleged effect of the acquisition may be substantially to lessen competition or to tend to create a monopoly. The legal and economic staffs of the Commission have worked closely together at each step in the development of this case, including the theory of the case, the field investigation, and the market survey investigation. Both staffs will continue to work together in preparation of materials for pretrial conference and trial, and in preparing the trial brief. Included in the economic aspects of this case has been a marketing survey of the area served by these two companies in an effort to determine the degree of dependence of buyers of the relevant products upon the acquiring company, both before and after purchase of its competitor. This was the first time the Commission had used the survey technique to determine injury to competition caused by mergers and acquisitions.

Statistical analysis.—Statistical analysis was used in Commission cases in the preparation and trial of both antimonopoly and deceptive practice cases.

Typical example of such assistance was a deceptive-practice case in which the respondent introduced statistical evidence in support of the claims of the effectiveness of a drug. The evidence was such that its reliability could not be easily evaluated by other than a highly trained statistician. In this instance, the statistical staff evaluated the evidence to determine its degree of reliability and to reveal biases that appeared in the data, assisted in the cross-examination of statisticians acting as witnesses for the respondent, and provided expert witness testimony for the Commission.

In the market survey made in connection with the coarse-paper case mentioned previously, the statistical staff assisted in planning the survey and in preparing detailed plans for tabulation of the data.

Financial Reports.—The Commission's financial reporting in statistical form was carried on as a service function for the entire Federal



Government in cooperation with the Securities and Exchange Commission. A report, published quarterly, provides estimates for 46 items of income, expense, assets, liabilities, and stockholders equity for all United States manufacturing corporations. The data are broken down into seven asset sizes of manufacturing corporations and 23 groups of manufacturing industries.

The data provided in this series of reports were used extensively throughout the Government as a basis for administrative decisions and formulation of policy, as well as being utilized by industry executives:

1. To measure efficiency by comparing a company's operating results with the average performance of companies in the same line of business;
2. To determine whether to undertake new ventures by comparing the profitability of various types of business activity;
3. To ascertain the most profitable industries in which to invest; and
4. As a guide to the relative movement of sales and profits in order to reduce controversies in wage negotiations.

During the year, effort was made to improve the quality and usefulness of the estimates. One part of this program was to carry out an intensive follow-up of a sample of nonrespondents in the industries which had the lowest response rates. Although the overall response rate for this program was unusually high, certain biases might have been introduced into the estimates by assuming nonrespondents are like respondents. Indications were that the financial characteristics of the two groups are substantially different. Intensified follow-up of nonrespondents made it possible to evaluate and eliminate these biases. Also increased effort was devoted to improving the overall response rate.

Another refinement of the statistical estimates Noms the improvement of the computation of the sampling error for each of the thousand estimates for financial items made each quarter. The sampling error, which may be expressed as a percent of the estimate, provides a measure of the precision which is limited by the sample size of the estimate and enables the user to determine whether it is sufficiently accurate for his purpose.

Economic reports.—The Commission's economic reports are prepared under the authority of section 6 of the Federal Trade Commission Act which broadly authorizes the Commission to require reports and answers in writing to specific questions and to investigate business organization and conduct and to make public reports on its own motion, upon the application of the Attorney General, or upon the direction of the President or the Congress. During the fiscal year 1954, the following two economic reports were published:

Comparison of prewar and postwar profit rates.—The sixth in the series of reports comparing prewar and rates of return, after taxes, for identical companies in 25 industrial groups was published on March 31, 1954. This report compared profit rates for the years 1947-52 with the prewar year 1940.

The report shows that profits in relation to stockholders' investment were higher in 1952 than in the prewar year 1940 in 14 of the 25 industries; but returns were lower in 1952 than in 1951 for 23 of the 25 industry groups.

A comparison of the level of profitability of the four largest companies in a industry with the rates of return for all other reporting companies in that industry is contained in the report. During the postwar period, returns of the larger firms in each industry were generally higher than those of the smaller firms included in the report. In 15 of the industries, the large firms tended to show a higher profit rate during the 1947-52 period than the smaller reporting firms.

An outstanding characteristic of the industrial groupings of the 516 corporations studied was the continuation into the postwar period of the relationship of profitability which existed between the largest and smallest companies during the prewar period. If the larger corporations were more profitable than the smaller firms in the prewar period, they continued to be more profitable in the postwar period, and if the reverse were true in the prewar period, it continued to be true in the latter period.

Changes in concentration in manufacturing.—During the year, the Commission completed and published an additional report in its series on concentration in American industry, entitled Changes in Concentration in Manufacturing, 1935 to 1947 and 1950. The report offered aid(a) to measure changes which have taken place in the level of concentration during the last decade and a half, (b) to provide a base against which future changes in concentration can be measured, (c) to analyze the association of certain variables with changes in concentration. The Commission was not concerned in this report with an analysis of concentration, i.e., whether any particular level of concentration has desirable or undesirable effects upon economy.

The report was based upon statistics gathered by other agencies of other purposes. Fifteen years before, the National Resources Committee had reported on the basis of many different criteria the 1935 percentage position of the 200 largest manufacturing companies. The opportunity to develop comparable data for 1950 came as a result of a survey of manufacturing made by the Federal Trade Commission, chiefly for other purposes. Both studies used the definitions of industries and of value of product or shipments in contemporary use by other agencies in the collection of statistics on an establishment basis.

The 1950 data for individual industries prepared for the Commission by the Bureau of the Census, and the 1947 data were prepared by the same agency for the Committee on the Judiciary of the House of Representatives. Changes in the definition of industries were found not to affect appreciably the measures of concentration in manufacturing as a whole, but they did rule out comparisons for the individual industries affected.

With the available data, it was possible to measure changes in concentration between 1935 and 1947 in 114 industries; and between 1935 and 1950 in 30 industries. There were 16 industries with 1050 shipments exceeding \$500 million for which the position of the four leading employers in 1950 can be compared with that in 1935.

The findings for these industries are as follows:

	Percentage of all employees in the industry		
	1950	1935	Increase or decrease
Cigarettes -----	81	90	-9
Tires and inner tubes -----	78	79	-1
Tin cans and other tinware -----	77	70	+7
Synthetic fibers -----	76	75	+1
Cane sugar refining -----	69	64	+5
Photographic equipment -----	61	80	-19
Blast furnaces -----	60	58	+2
Shortening and cooking oils -----	56	67	-11
Petroleum refining -----	40	38	+2
Pulpmills -----	29	24	+5
Structural and ornamental iron and steel products -----	20	25	-5
Malt liquors -----	19	9	-10
Boiler shop products -----	19	19	0
Leather tanning and finishing -----	18	19	-1
Paperboard boxes -----	12	9	+3
Prepared animal feeds -----	10	15	-5

Among the industries for which the report contrasts the 1935 and 1947 share of the value of shipments made by the four leading shippers, there are seven additional industries with 1950 shipments exceeding \$500 million. For these seven industries, the figures are as follows:

	Percentage of the value of all shipments in the industry		
	1947	1935	Increase or decrease
Soap and glycerin -----	79	74	+5
Distilled liquors -----	75	51	+24
Cottonseed oil mills -----	43	33	+10
Cement, hydraulic -----	30	30	0
Flour and meal -----	29	29	0
Confectionery products -----	17	13	+4
Bottled soft drinks -----	10	9	+1

The report includes case studies of six industries with substantial increases in concentration. The former were malt beverages, distilled

liquors, cooperage, metal barrels, cottonseed-oil mills and window shades. The industries studied in which concentration declined were the cutting tools, jigs and fixtures industry, the products of purchased glass industry, the abrasive products industry, the margarine industry, the needles, pins and fasteners industry and the motorcycles and bicycles industry.

This report is the latest published in the Commission's series of economic reports bearing directly or indirectly upon the concentration of American industry. Different measures may be used to ascertain the degree of concentration—assets, plant establishments, number of employees, and so forth. It has been the Commission's intent to prepare reports which will outline and analyze the degree of concentration. using all available measures.

Previous to the fiscal year 1954, six reports in the foregoing series on concentration have been published as follows:

1. The concentration of productive facilities, 1947—Total manufacturing and 26 selected industries (1947).—This report showed 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 man-ufacturers.

2. The present trend of corporate mergers and acquisitions (1947) .— This report was indirectly related to the measurement of concentration in that it shows that during 1940-46, 1,800 formerly independent competitive firms in manufacturing and mining industries had disappeared as 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 textile and apparel— all predominantly small-business fields.

3. The merger movement: A summary report (1948).—This report called attention to certain loopholes in the Clayton Act which permitted corporations to purchase the assets rather than (or in addition to) the stock of competing firms, thereby increasing the degree of concentration by the larger companies.

4. The divergence between plant and company concentration, 1947 (1950).— divergence between plant and company concentration was measured in this report for each of 340 manufacturing industries.

5. Interlocking directorates (1950).—This report summarized the interlocking relationships among directors of 1,000 large manufacturing corporations, and the interlocking directorates between these corporations and a selected list of banks, investment trusts, insurance companies, railroad, public utilities, and distributive enterprises.

6. A list 1,000 large manufacturing companies, their subsidiaries and affiliated, 1948 (1951).—Of the 1,000 largest manufacturing corporations which publish financial statements, the report showed the

percentage of stock interest held by the corporations in each of their subsidiaries and affiliates.

In addition to these reports on concentration, the Commissions economic staff was at the years end working on another report touching concentration scheduled for publication during fiscal 1965. This report was designed to provide more precise information on corporate industry patterns of production. The report will be based on the 1950 operations of the 1,000 largest manufacturing corporations and will have three main topics:

1. The general position of the largest manufacturing companies.
2. Concentration of production in particular fields of manufacture.
3. The diversity of the activities of the largest manufacturing companies.

Tabulations will show diversity of manufacturing activities of the largest companies, concentration of production in particular areas, and comparisons of the position of the largest manufacturing companies.

Coffee price investigation.—At the end of the year, the Commission was preparing for publication the results of its investigation of coffee prices.<sup>1</sup> This study was initiated in January 1954, and was designed to determine why green coffee prices had increased from \$0.58 to \$0.96½ between December 1953 and April 1964, and the corresponding increase in average retail roasted coffee prices from \$0.91 to \$1.18, with popular brands increasing to \$1.32.

The Commission assigned a team of economists, attorneys, attorney-investigators statisticians and accountants to devote full time to this investigation. The Bureau of the Census assisted in preliminary tabulations, and assistance and consultation were furnished throughout the investigation by the Department of State and the Department of Agriculture, particularly by members of the Commodity Exchange Authority and the Foreign Agriculture Service.

Findings.—Upon the investigation the Commission reported that the specific causes for the price spiral and the continuing high prices were as follows:<sup>2</sup>

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<sup>1</sup> The report, entitled Economic Report on the Investigation of Coffee Prices, was published under date of July 30, 1954. Copies may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D. C., 532 pp. \$2.00.

<sup>2</sup> Because the opportunities to check quickly the quantitative accuracy of a particular market and analysis with subsequent market developments are exceedingly rare, it should be pointed out that events in the coffee market immediately following the completion of the Commissions investigation validated with an unusual degree of accuracy the conclusion presented in the Commissions coffee report. One of the principal conclusions reached by the Commission was that supply and demand of green coffee would have been about balanced at a price of 66 cents to 71 cents per pound rather than at the price of about 96 cents, which was reached in April 1954. Within 7 weeks after the results of the Commission's coffee investigation were made public, the price of green coffee had fallen from 96 cents to 69 cents per pound, or almost midway of the 66 cents to 71 cents range estimated by the Commission.

(1) The inadequacy of present crop reporting systems in coffee-growing countries which permitted other forces to operate on price.

(2) Activities in the New York Coffee and Sugar Exchange, including operations of private Brazilian speculative interests which produced an upward price spiral.

(3) American speculation and abnormal buying for inventory by United States importers and large roasters.

(4) Imperfections in the domestic coffee market, with the concentrated state of the coffee-roasting industry placing considerable power in the hands of a few large roasters to influence price.

(5) The restrictive contract used in futures trading on the New York Coffee and Sugar Exchange with the result that the coffee futures market is unusually “thin” and restricted, and hence unduly maneuverable and subject to wider price swings under abnormal speculative and commercial trading than are consistent with the actual conditions of supply and demand.

(6) Amplification of the sudden and unreasonable price fluctuations intrinsic in a “thin market” by the failure of the Exchange to institute proper safeguards followed by regulated exchanges and to prevent trading abuses and irregularities.

In addition, the report refers to the Brazilian Government decree of December 2, 1953, advancing the loan rate on coffee from 1,200 cruzeiros per bag to 1,500 cruzeiros per bag. This event, in a market which was already nervously reflecting higher prices as a result of downward estimates in the 1954-55 crop, together with the heavy trading in futures by Brazilian nationals on the New York Coffee Exchange and the accumulation of green coffee inventories in the United States, appeared to have precipitated the upward spiral of coffee prices. The downward adjustment of price in the spring of 1954 was brought to an end when the Brazilian Government announced its new minimum export price of \$0.87 per pound. The price of green coffee in the spot and futures market remained in the neighborhood of Brazil’s minimum export price after that date, falling whenever the minimum export price was reduced.

The Commission’s investigation found that the July 1953 frost in Brazil, which had been advanced as a basic reason for the price increase, had in fact no significant effect on the 1953-54 crop, but did reduce the prospective crop for 1954-55. It would, therefore, be normal to expect higher prices during the closing months of the 1953-54 crop year, to meet the anticipated deficiency in the 1954-55 crop. However, the Commission found the price rise was far in excess of what might have been expected under the competitive laws of supply and demand—greater than was necessary to accomplish the carryover.

It also found that the price spiral could not be explained in terms of increased world demand. For the several years previously, per capita consumption in the United States had declined in the face of rising prices, a fact; offset by increased consumption in Western Europe. However, the study showed that per capita consumption in Europe had just about regained its pre-World War II level, and unlikely thereafter that it could increase sufficiently to offset the reduction in United States consumption that would result from current high prices. On the contrary, nearly all Western European countries except Western Germany anticipated reductions in consumption following the price increases.

As result of this investigation, the Commission recommended Congress enact legislation designed to remedy the following market imperfections:

- (1) The narrowness of the futures contract.
- (2) The inadequacies of basic marketing information.
- (3) The trading irregularities, consisting of unpoliced passouts, ex-pit transactions, and breaches of broker-customer confidential relationships.

It was further recommended that Congress appraise the adequacy of margin requirements against the facts developed in the report.

In view of the complexities of the coffee market, however, it was recommended that Congress take action in providing these remedies only after appropriate committee hearings at which representatives of the coffee trade, the New York Coffee and Sugar Exchange, and the Commodity Exchange Authority be heard.

On the matter of contracts, there appeared to be no unanimity of opinion, or even an overwhelming majority opinion, in the coffee trade that any particular contract yet devised would incorporate the features necessary for the desired broadening of the basis of trade. Coffee, because of its taste and other attributes, is a heterogeneous commodity. Hence, while the contract can easily be broadened much study will be required before it can be broadened enough to create properly competitive futures market. Nevertheless, the adoption of a satisfactory contract should be made mandatory. The contract must be made attractive to the entire trade, and if conflicts exist the needs of those who use the exchange for hedging should be preferred over those who use it for speculation.

Moreover, since coffee is produced outside the political jurisdiction of the United States, an adequate crop reporting system requires cooperation by the coffee-producing countries. The fundamental problem of inadequate and sometimes misleading market information cannot be easily or unilaterally solved. As a first step, it was recommended that the Congress provide for increases in the staffs of United

States agricultural reporting officers stationed at embassies in the principal coffee-producing countries.

Aside from new legislation certain of the irregularities and restraints might perhaps be remedied through Federal Trade Commission or judicial action which is receiving consideration.

In conclusion, the report points out that while removal of the market restraints, imperfections, and irregularities would probably prevent in the future such excessive coffee price movements as the price spiral of 1953-54, such action would not make the coffee market freely competitive. The supplies of coffee, and the price at which these supplies move to market, are affected by minimum export prices, domestic price supports, exchange regulations, and other policy measures of the coffee-growing countries. However, these patently lie beyond the judicial and legislative powers of the United States Government.



## SPECIAL STATUTORY FUNCTION

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### DEFENSE PRODUCTION ACT AND SMALL BUSINESS ACT OF 1953

Under section 708 of the Defense Production Act of 1950, the President is authorized to consult with representatives of industry, business, financing, agriculture, labor, and other interests, with a view to encouraging voluntary agreements and programs to further the objectives of the act. It is further provided that no act, or omission to act, if requested by the President pursuant to a voluntary agreement or program approved thereunder and found by the President to be in the public interest as contributing to the national defense, shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act. Copies of such requests must be furnished to the Attorney General and the Chairman of the Federal Trade Commission. In authorizing the President to delegate to certain officials his authority under section 708 (b) relating to exemptions from the antitrust laws and the Federal Trade Commission Act, the statute provides that such officials must consult with the Attorney General and the Chairman of the Federal Trade Commission before making any request or finding under the exemption proviso.

When defense agencies have matters coming within the scope of section 708 of the Defense Production Act, copies of the restrictive proposals are submitted to the Attorney General and the Chairman of the Federal Trade Commission. Through interagency staff consultation, the matters involved are explored and a basis is established for the clearance provided in the act. Before such clearance is granted, the matters are examined with the view, so far as possible, without interference with the defense effort, of minimizing factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power.

Under provisions similar to section 708 of the Defense Production Act, production pools of small business and voluntary agreements and programs are subject to similar requirements for consultation and clearance by the Chairman of the Federal Trade Commission under section 217 of the Small Business Act of 1953. All small business pools and voluntary agreements or programs coming within the scope of the State sections of these statutes were processed promptly and cleared as presented to the Chairman by the respective sponsoring agency.

At the close of the fiscal year, 57 industry programs and agreements were in effect under the Defense Production Act or the Small Business Act of 1953.

## APPROPRIATIONS AND FINANCIAL OBLIGATIONS

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### FUNDS AVAILABLE FOR FISCAL YEAR

Funds appropriated to the Commission for fiscal year 1954 amounted to \$4,053,800 (Public 176, 83d Cong.), approved July 31, 1953.

### OBLIGATIONS BY ACTIVITIES FISCAL YEAR 1954

1. Antimonopoly:	
Investigation and litigation -----	\$1,545,397
Economic. and financial -----	326,487
2. Deceptive practices:	
Investigation and litigation -----	1,039,549
Trade practice conferences -----	218,951
Wool, fur, and flammable fabrics enforcement -----	268,368
Lanham Act and insurance -----	34,103
3. Executive direction and management -----	363,256
4. Administration -----	249,855
	4,095,966
Total -----	4,095,966

### OBLIGATION BY OBJECTS, FISCAL YEAR 1954

Personal services -----	\$3,763,512
Travel -----	120,906
Transportation of things -----	545
Communication services -----	46,692
Rents and utility services -----	13,438
Printing and reproduction -----	10,644
Other contractual services -----	40,650
Supplies and materials -----	41,564
Equipment -----	7,950
Refunds, awards, and indemnities -----	87
	4,045,966
Total -----	4,045,966

## SETTLEMENTS MADE UNDER FEDERAL TORT CLAIMS ACT

In reference to section 404 of the Federal Tort Claims Act, the following report, is made:  
During the fiscal year 1954 the Commission paid no claims nor were any claims pending.

### APPROPRIATIONS AND OBLIGATIONS

Appropriations available to the Commission for the past 3 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
1952	672	Lump sum(including printing and binding)--	\$4,314,400	\$4,310,567.02	\$3,832.98
1953	642	-----do -----	4,178,800	4,172,166.79	6,633.21
1954	596	-----do -----	4,053,800	4,045,966.21	7,833.79

## APPENDIXES

### Federal Trade Commissioners— 1915–54

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar. 16, 1915–Mar. 18, 1918
Edward N. Hurley	Illinois	Mar. 16, 1915–Jan. 31, 1917
William J. Harris	Georgia	Mar. 16, 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, 1920–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. 26, 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–
John Carson	Michigan	Sept. 28, 1949–Mar. 31, 1953
James M. Mead	New York	Nov. 16, 1949–
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–Mar. 18, 1918
John W. Gwynne	Iowa	Sept. 26, 1953–
Robert T. Secrest	Ohio	Sept. 26, 1954–

## 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 (67 Stat. 111), and amendment approved August

23, 1954 (68 Stat. 770).

## 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. 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 as 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), 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. 196), 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 Agriculture Income Inquiry, Part I, Principal Farm Products, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p.); Part II, Fruits, Vegetables, and Grapes, 906 p. 6/10/37; Part III, Supplementary Report, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 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 la,sing-point price system tended

to lessen price competition and destroy the value of sealed bids; concerted activities of manufacturers and dealers strengthened the systems 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

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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."

under the general title, Chain Stores, 1931–33, see F. T. C. Annual Report, 1941, p. 201.)

In the Final Report Investigation (S. Doc. 4, 79th, 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, 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, 85th, 8p., 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 (5p., 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 Reports 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, 127p., 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, 286 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

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<sup>7</sup> See footnote 4, p. 79.

prevent the calling for the monthly reports (denied about 7 years later) led to their abandonment.

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.258, 66th, 7p., 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 (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), 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. 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 like-wise 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 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. (See also *Mergers*.)

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 (H. 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 (*Cotton seed Industry*, H. 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 colorations 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, 71st, 4 p., o. p., 2/28/30, and final report, 207 p., o. p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

Distribution Cost Accounting (F. T. C.).—To provide a guide for current legislation and determine was 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. (1949-1950) The results of the study were transmitted to the Subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) 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.); 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, 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.) See also Concentration of Productive Facilities.

DuPont Investments (F.T.C.).—The Report of the F.T.C. on DuPont 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 weigh previously reported holdings in General Motors Corp.

Electric and Gas Utilities, and Electric Power.—See Power.  
together with previously reported holdings in General Motors Corp.

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). Agreement 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., o. p., 3/3/23).

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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."

Fertilizer (F. T. C.).—The Commission's 1940 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, 4/10/17). The inquiry was reported in Prices of American Flags (S. Doc. 82, 65th, 6 p., o. 1., 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 (6/30/19, 300 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, 183 p., o. p.); and summary (H. Doc. 1297, (65th, 51 p., o. p., 7/3/18).

The reports first led to antitrust proceedings against the Big Five Packers, resulting in a 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 stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Litigation, p. 150.)

Food (President) Continued—Grain Trade.—Covering the industry from country elevator to central market, the Report of the F. T. C. on the Grain Trade as 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.); IV. 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

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<sup>9</sup> The legal history of the consent decree and a summary of divergent 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.

(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 (9/15/10, 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 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 (6/27/19, 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. 163, 68th, 2/26/24) were: Competitive Conditions in Flour Milling (S. Doc. 97, 70th, 140 p., 5/3/276; Competition and Profits in Bread and Flour (S. Doc. 98, 70th, 509 o., 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.) and Wholesale Baking Industry, Part II—Costs, Prices and Profits (8/7/46, 137 p.). Part I developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves 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 36 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 and 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

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<sup>10</sup> In connection with its wartime cost finding inquiries, 1917 - 18, p. 96 herein, the Commission published Report of the F. T. C. on Canned Foods 1918—Corn, Peas, String Beans, Tomatoes, and Salmon (86 p., 11./21/21).

for plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by size 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 retorted, 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 of 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 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 and of conned-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. 39, 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 Milkshed, (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 a 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, 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, 10/1/13) 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 States and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 1/11/34 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 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, 1/28/25) 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.

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<sup>11</sup> See footnote 8, p. 83

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., 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 regulation 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.

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 (1950) on International Cartels in the Alkali Industry, 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 1946.

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., 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 field 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., 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., 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. Doc. 857, 65th, 5 p., o. p., 1/23/18), and Report on Leather and Shoe Industries (180 p., o. p., 8/21/10). 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., 3/4/19) 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.).—In its 1948 report entitled The Merger Movement: A Summary Report (134 p., o. p., also 7 p. processed summary) the legal history of the antimerger provisions of the Clayton Act is reviewed. The report called attention to the loophole in the Clayton Act which permitted corporations to purchase the assets rather than (or in addition to) the stock of competing firms, thereby evading the original intent of Congress "to arrest the creation of . . . monopolies in their incipiency." (See also Corporate Merger.)

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).

Monopolistic Practices and Small Business.—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-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, 111., 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 tire 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, 6/3/36; 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 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 t S. Res. 138, 66th, 7/31/19; Reports of the F.T.C. on the 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) (19p., o. p., 2/3/28 —pursuant to F.T.C. motion, 10/6/26 (in response to requests of producers of crude petroleum).

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.

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<sup>12</sup> See footnote 8, p. 83.

<sup>13</sup> See footnote 8, p. 83. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in Conditions in the Healdton Oil Field (Oklahoma) (116 p., 3/15/15).

Power—Electric (Senate).—This inquiry (S. Res. 329, 68th, 2/g/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 and other 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 Corporations, S. Doc. 92, 70th) 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. motion, 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, 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).

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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.

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 1947-53 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.).—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 1947-52, 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 (Doc. 145, 66th, 3 p., o. p., 6/30/19) and Resale Price Maintenance (F. T. C. 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 nonprice-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, 2/20/34) 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 5/12/22) 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 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

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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. 92.

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), 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 Wealth 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 1934, 3/24/36, 48 p., processed, o. p.; Textile Industries into the Last 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 Districts 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, 102 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 Companies (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. 85.

<sup>20</sup> Approximately 260 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 II 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 1940.

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.

## 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.—For 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 10/3742, 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-o, 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 comply-

ing 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-31, 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 3/5/43. 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, 1941-42.—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 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-84, 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. study was also made to determine whether price-fixing agreements 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 ma-

chines, 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 63 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, Manufactures 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 deter-

mine 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 kind complied with the copper orders, that is, W. P. B. General Preference Order No. M-9-a, Supplemental Order No. M-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.W. II. priority orders; and studied methods and costs of dis-

tributing 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.

