

Annual  
Report  
of the

**FEDERAL  
TRADE  
COMMISSION**

For the Fiscal Year Ended  
June 30, 1969

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington, D.C., 20402 - Price 45 cents (paper cover)

## Federal Trade Commission

PAUL RAND DIXON, Chairman  
PHILIP ELMAN, Commissioner  
EVERETTE MaCINTYRE, Commissioner  
MARY GARDINER JONES, Commissioner  
JAMES M. NICHOLSON, Commissioner

SAMUEL E. COMBS, Acting Assistant to Chairman

JOSEPH W. SHEA, Secretary

CHARLES A. SWEENEY, Program Review Officer (Deceased)

JOHN N. WHEELOCK, Executive Director  
JOHN V. BUFFINGTON, General Counsel  
EDWARD CREEL, Director of Hearing Examiners  
FRANK C. HALE, Director, Bureau of Deceptive Practices  
HARRISON F. HOUGHTON, Acting Director, Bureau of Economics  
SAMUEL L. WILLIAMS, Director, Bureau of Field Operations (Deceased)  
CECIL G. MILES, Director, Bureau of Restraint of Trade  
CHALMERS B. YARLEY, Director, Bureau of Industry Guidance  
HENRY D. STRINGER, Director, Bureau of Textiles & Furs  
WILLIAM P. GLENDENING, Comptroller  
JOHN A. DELANEY, Director, Office of Administration  
WILLIAM F. JIBB, Director, Office of Information

EXECUTIVE OFFICES OF THE FEDERAL TRADE COMMISSION  
Pennsylvania Avenue at Sixth Street Northwest

Washington, D.C. 20580

Field Offices

22nd Floor, Federal Building, 26 Federal Plaza, New York, N.Y. 10007	Room 10511, U.S. Courthouse Building, 515 Rusk Avenue, Houston, Tex. 77061
Room 486, U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604	Suite 908 Republic Building, 1511 Third Avenue, Seattle, Wash. 98101
450 Golden Gate Avenue, Box 36005, San Francisco, Calif. 94102	1339 Federal Office Building, 1240 East 9th Street, Cleveland, Ohio. 44199
John Fitzgerald Kennedy Federal Office Building, Government Center, Boston, Mass. 02203	Room 2806, Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106
11000 Wilshire Boulevard, Room 1320, Los Angeles, Calif. 90014	Room 720, 730 Peachtree Street, N.E., Atlanta, Ga. 30308
Room 1000, Masonic Temple Building, 333 St. Charles Street, New Orleans, La. 70130	Room 101, 230 N. Purdue Street, Oak Ridge, Tenn. 37830
	Anderson Building, 450 West Broad Street, Falls Church, Va. 22046

Field Stations for Textiles and Furs in Addition to the Above Branch  
Offices

Room 1302, 208 North Broadway, St. Louis, Mo. 63102	18013 Federal Office Building, 1961 Stout Street, Denver, Colo. 80202
Room 405, Thomas Building, 1314 Wood Street, Dallas, Tex. 75202	Room 931, New Federal Building, 51 Southwest First Avenue, Miami, Fla. 33130
Room 206, 623 East Trade Street, Charlotte, N.C. 28202	U.S. Post Office and Courthouse, 615 Houston Street, San Antonio, Tex. 78206
Room 231, U.S. Courthouse, Portland, Oreg. 97205	
53 Long Lane, Upper Darby, Pa. 19082	

# Letter of Transmittal

FEDERAL TRADE COMMISSION,

Washington, D.C.

To the Congress of the United States:

It is a pleasure to transmit herewith the fifty-fifth Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended June 30, 1969.

By direction of the Commission.

MILES W. KIRKPATRICK,

Chairman.

THE PRESIDENT OF THE SENATE.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

## TABLE OF CONTENTS

Chapter	Page
I. INTRODUCTION .....	1
II. CONSUMER PROTECTION .....	9
III. TEXTILES AND FURS .....	15
IV. MAINTAINING FREE AND FAIR COMPETITION IN BUSINESS .....	21
V. THE INDUSTRY GUIDANCE PROGRAM .....	29
VI. OFFICE OF THE GENERAL COUNSEL .....	37
VII. THE ROLE OF ECONOMIC STUDIES AND EVIDENCE .....	43
VIII. FIELD OPERATIONS .....	61
IX. APPROPRIATIONS AND FINANCIAL OBLIGATIONS .....	65
Appendix (A) FTC Cases in the Courts .....	67
Appendix (B) Bureau of Textiles and Furs Civil Penalty and Criminal Cases .....	77

## INTRODUCTION

---

Employing a combination of guidance and enforcement power, the Federal Trade Commission during fiscal 1969 sought to keep business competition both free and fair while providing ever more protection to consumers. This was a formidable task because the nation's business activity, both in volume and complexity, continued to mount and Congress at the same time increased the Commission's law enforcement responsibilities. The result was that the Commission's capacity was stretched to the utmost.

Generally speaking there was a willingness of business to abide by the trade laws on a voluntary basis, with the FTC filling a dual role of clarifying the laws' requirements and encouraging compliance with them. Willful violations, of course were met by the Commission with vigor, thus providing firm backup to its guidance efforts. Had the Commission relied solely on its former case-by-case approach to law enforcement, it would have been swamped by the sheer volume of required actions. Conversely if it relied too heavily on guidance alone, those who ignore efforts would have undermined its effectiveness. Again, a combination of guidance and enforcement was required, and in fiscal 1969 both were provided within the limitations of FTC's fiscal 1969 appropriation of \$16,900,000.

The consuming public, particularly those least able to afford being victimized, such as the elderly, the poor, and the inexperienced, were given continuing protection through the prompt halting of law violations. To this end, the Commission's staff gave special scrutiny to false or misleading advertising directed at these consumers, as well as others. In this area, the FTC's own monitoring of printed and broadcast media was augmented by more than 10,000 letters of complaint from the public during the year.

To cope with such volume called for judgment on how best to provide consumer protection with the least delay. Obviously, a case by case attack had to be buttressed with a variety of other actions, prin-

cipally educational efforts by FTC's field staff, assistance to state, city, and private protection agencies, issuance of alerts to consumers and to advertising media, and grouping of FTC actions against deception to gain a maximum impact for discouraging its use and reducing its effect. Consumer protection continued to be the guiding principle behind FTC's performance.

Adding to its broad responsibility to halt unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce, and its specific assignment to enforce the Wool, Fur and Textile Acts, the Commission during fiscal 1969 was confronted with readying enforcement for the newly enacted. Truth in Lending and the Fair Packaging Acts, plus developing liaison with the Food and Drug Administration to assure that the advertising of nonprescription drugs was consistent with their labeling.

After completing a study on consumer protection needs for the District of Columbia, augmented by adversary actions where needed, the Commission began hearings on national consumer problems. A report on these is scheduled during the next fiscal year.

Other actions directed at consumer protection included a staff study of automobile warranties, two reports on the tar and nicotine content of cigarettes, inquiries into magazine and encyclopedia sales practices, the labeling and advertising of insecticides, pesticides, etc. and pricing practices in the automobile industry.

While considerable effort was devoted to gathering sufficient information about illegalities to determine how best to cope with them, such work did not preclude aggressive prosecution of individual cases. In the deceptive practice field, for example, 84 complaint proceedings were approved, a 62 percent increase over the previous year. Acceptance of affidavits of voluntary discontinuance numbered 181 compared to 145 in fiscal 1968. Apparent violations of outstanding orders also were prosecuted, particularly in door-to-door sales of encyclopedias, photo albums, building siding, display signs, and bread.

In another broad area of consumer protection--specifically enforcement of laws requiring truthful labeling and advertising of woolens, textile fiber products, and furs--fiscal 1969 witnessed a sharp increase in FTC's activity. The number of inspections of mills, fiber suppliers, manufacturers, importers, wholesalers and retail stores increased 39 percent over fiscal 1968. Investigations

initiated jumped more than 60 percent, and final orders issued nearly doubled compared with fiscal 1968.

Among the law violations attacked were those involving misbranding of wool products by upgrading them with speciality fiber names, such as mohair, alpaca, etc., and the failure to disclose when products included reprocessed or reused wool. In such cases, it is difficult for consumers to detect the deception. The same is true of furs dyed to simulate those of higher quality, a practice against which the FTC launched a broad investigation. Also given special attention was the misbranding of fabrics composed in part of silk by over-stating the silk content.

High priority continued to be given to halting the sale and distribution of dangerously flammable fabrics, particularly in preventing the importation of these fabrics from foreign countries. With excellent cooperation from the Bureau of Customs, many "torch" fabrics were detected at ports of entry.

Also active in the field of consumer protection were FTC's 11 field offices. While considerable effort was necessarily spent on all types of case investigation, priority was given to educational activities, particularly acquainting businessmen and the public with the requirements of the Truth in Lending Act. Under the act FTC's task is to require disclosure of the full cost of credit in credit transactions entered into by 950,000 specified consumer credit grantors. The public's interest in this area of concern was measured in part by nearly 20,000 telephone calls, letters, and personal visits from the public in the last quarter of the fiscal year, compared with 3,100 during the comparable period in fiscal 1968.

In tackling deceptive practices aimed at consumers, the field staff completed 696 investigations. These investigations included deceptive and fraudulent practices in the sale of home improvements, the importation of used foreign cars, sold as new to the American public, pricing practices of major food chains in ghetto areas, and surveys of magazine subscription practices, and of automobile sticker prices in relation to consumers. The investigational backlog of cases in the field was reduced from 784 to 605. FTC's field offices also negotiated or participated in negotiating over 400 consent settlements during the fiscal year.

In addition to its casework in the consumer's behalf were the FTC's efforts to encourage voluntary compliance with the law. By



means of Industry Guides, Trade Regulation Rules, and Advisory Opinions, the Commission succeeded in dissuading many businessmen from engaging in practices that would have demanded costly and time-consuming orders to cease and desist. For example, in the Division of Industry Guides it was possible to protect the public interest by settling nearly 900 matters by accepting Assurances of Voluntary Compliance or informal assurances that questioned practices had been discontinued.

In addition, businessmen on 881 occasions sought and received advice on how to make their business practices measure up to Guides already issued.

Over the past year there was increasing use of Trade Regulation Rules, upon which the Commission can rely to speed prosecution of appropriate cases. Experience gained from issuing these Rules on relatively simple enforcement problems justified employing the procedure to tackle problems of far greater import. For example, proceedings were stated leading to the issuance of Rules governing automobile price advertising and unsolicited credit cards. Also, at different stages of consideration, are Rules involving advertising and disclosure requirements of non-prescription systemic analgesic drugs, of octane rating of gasoline, and economic poisons.

The use of Advisory Opinions continued at about the same rate as in fiscal 1968. Approximately half of the 127 advisory opinions issued dealt with requests for guidance on proposed actions that might involve restraints on trade, such as franchise agreements, promotional plans and corporate mergers. The other half dealt with proposals that might have violated the deceptive practice prohibition of Section 5 of the FTC Act.

Concern about consumer protection, so publicized by news media during fiscal 1969 tended to overlook one potent source of such protection-FTC's enforcement of the antitrust laws. Possibly the reason this attracted so little attention is that the effect of antitrust actions on behalf of consumers is not a direct one. Here, effective law enforcement removes restraints on business competition, and the resulting more vigorous competition benefits consumers. But the often complex evils of trade restraints are not as easily and as quickly discernible as deceptive practices; yet over the long haul their consequences can be even graver.

To cite a striking example, in a case against Charles Pfizer & Co.,

Inc. and American Cynamid Company, the FTC's charges of fraudulent procurement of a patent on the major antibiotic, tetracycline, were upheld in September of 1968 by the Sixth Circuit Court of Appeals. Result: the price of the drug fell by some 75 percent for total savings to the consuming public of an estimated \$60 million per year.

During fiscal 1969, 1,775 applications for complaint were received from businessmen and the public concerning apparent law violations involving unfair methods of business competition. The Commission completed 289 investigations, with another 644 pending at the fiscal year's end. Twenty-eight antimonopoly complaints and 25 cease and desist orders were issued. Also, 45 cases were disposed of by FTC acceptance of assurances of voluntary compliance with the law. More than 100 cases were handled by means of the Commission's small business procedures.

The Commission issued a record number of 13 complaints challenging acquisitions and mergers that it had reason to believe were illegally eliminating competition. Industry-wide scrutiny was leveled at these industries: (1) Food distribution, (2) cement, (3) grocery products manufacturing, and (4) textile mill products. Also, during the year, the Commission embarked upon an in-depth investigation of the accelerating conglomerate merger movement in the U.S. and inaugurated a pre-merger notification program by requiring special reports from large corporations proposing to merge with or acquire the assets of another corporation within a specified asset category. This makes possible faster action against those combinations whose effect would violate the law.

A major effort continued to be enforcement of the Robinson-Patman Act's prohibitions of price and other discriminations which favor one competitor over another, handicap small business, and discourage new entrants into the business field. Significant was the fact that 120 such matters were completed, an increase of about 62 percent over comparable completions during fiscal 1968.

Informal settlements also loomed large in the handling of cases involving general trade restraints, such as exclusionary, coercive, collusive and reciprocal dealing activities damaging to competitors. A total of 105 alleged violations of law in this area were satisfactorily resolved by using FTC's Small Business Procedure whereby improper practices were halted without recourse to litigation.

Use of informal methods of obtaining compliance with the laws FTC enforces also was reflected in the workload of its hearing examiners. The number of days devoted to evidentiary hearings and to prehearing conferences totaled 247, compared to 345 days in fiscal 1968. Twenty-seven cases were pending at the year's end.

The fiscal year saw a reorganization of the Office of General Counsel. Units of the Office were reduced from seven to three. This included abolishment of its Division of Consent Orders because it was believed FTC's operating bureaus could handle settlement actions satisfactorily without the General Counsel's participation. Also transferred from the General Counsel's Office was administration of the Lanham Trade-Mark Act and the Webb-Pomerene Act, respectively, to FTC's Bureaus of Deceptive Practice and Restraint of Trade. The three supervisory units created within the General Counsel's Office were Litigation, Legal Services, and Legislation/Federal-State Cooperation, and attorneys assigned to the Office would be expected to be sufficiently proficient in each of the unit's functions to be redeployed as the occasion might demand. The General Counsel also was directed to initiate and carry out projects in line with FTC's overall mission.

In representing the Commission in the courts, the General Counsel's Office handled 100 cases. Litigation was completed in 45 of these, with 26 involving restraints on trade, 11 with deceptive practices, and 8 were extraordinary matters such as suits against the Commission for declaratory judgment and injunction. Highlights of these cases are presented in Chapter VI of this report and Appendix A.

The Commission's program for encouraging the states to supplement at state level the FTC's efforts in interstate commerce to protect the public from deceptive and unfair businesses practices produced encouraging results.

Evidence of this is that the states made 477 requests of FTC for advice and assistance in legislative or enforcement matters aimed at stopping deception and unfair trade practices, representing a 70 percent increase over requests made in fiscal 1968. Intrastate matters referred by FTC to state officials totaled 161, an 80 percent increase; while state officials referred 575 complaints involving inter state practices to the Commission, a third more than the previous year. Furthermore, state offices of consumer protection and Attor-

neys General continued to be furnished with information on enforcement actions by FTC and state government to prevent deceptive and unfair trade practices. This serves as a training medium and method of correlating such activities throughout the country, as well as encouraging the 25 states which have not yet established such programs to do so.

Analyzing economic problems in depth and assembling economic facts required for the prosecution of cases continued in fiscal 1969 to command major attention from the Commission.

Top priority continued to be given the study of corporate mergers and their increase which has brought an almost uninterrupted and increasing disappearance of firms in the past 20 years--and at an accelerating rate in the past year. All previous levels of merger activity were eclipsed by developments in 1968-1969, when mergers totaled 4,003, an increase of 68 percent over the previous year. While manufacturing acquisitions accounted for the greatest share (63 percent), mergers in trade and services rose sharply (29 percent). Wholesale and retail trade acquisitions nearly doubled in 1968, and those in services jumped from 31 - to 696.

Significantly, conglomerate mergers accounted for 84 percent of the assets of all large recorded acquisitions. Such increases prompted the Commission to undertake an analysis of the conglomerate merger movement and to make recommendations on how best to cope with it. Meanwhile, the Commission continued its policy of issuing industry-wide guidelines to complement its program of merger litigation. The latest dealt with merger enforcement policy for the Textile Mill Products Industry.

Economic evidence was assembled for 71 investigations, of which 58 concerned acquisitions, and 53 of these involved transactions in which the acquired company had assets of \$10 million or more. In addition, 50 proposed acquisitions in food distribution industries were analyzed, about 2 1/2 times as many as in the previous year.

In the field of consumer protection, significant reports were undertaken concerning food chain selling practices, automobile insurance, games of chance in gasoline retailing, and trading stamps. Highlights of this activity are discussed in Chapter VII of this report.

To summarize, fiscal 1969 found the Commission concerned to an unprecedented degree with deceits directed at the consuming public. At the same time, it was confronted with its obligation to enforce all

the other statues entrusted to it. With volume of business activity at an all time high, the Commission was all but inundated; yet, the guidance afforded by its casework, its voluntary procedures, its encouragement of state and local authorities, and its illumination of problems confronting both business and consumers made fiscal 1969 a useful year.

## CONSUMER PROTECTION

---

Staff work necessary to accomplish the Commission's responsibility to prevent or halt unfair or deceptive advertising and selling practices in interstate commerce is the responsibility of the Bureau of Deceptive Practices. The Bureau's task is a tremendous one. Involving as it does mandatory actions against "hard core" violators, jacking-up actions against the careless, and persuasive actions to guide the uncertain, the work of this Bureau was vital to the effectiveness of the consumer protection program.

Guidance of and cooperation with industry, consumers and those sharing enforcement responsibilities were accorded full attention and encouragement, but the Commission exercised the initiative concerning which problem areas warranted most emphasis. Major problem areas continued to be first studied, then diagnosed to determine how best to cope with the problem, following which casework was scrupulously screened in accordance with established priorities. This bore the dividend that both the number of complaints and affidavits of voluntary compliance increased sharply while the backlog of casework was significantly reduced.

A prime concern in fiscal 1969 was called for by the Truth in Lending and Fair Packaging legislation and by agreements with the Food and Drug Administration regarding non-prescription drugs. FTC's task under the Truth in Lending Act requires full disclosure of the full cost of credit in credit transactions entered into by an estimated 950,000 consumer credit grantors. Whereabouts of these creditors was tabulated and most were sent copies of a 60-page pamphlet designed to assist them in complying with the Act.

Educating creditors as to the general requirements of the Act was actively pursued at conferences and seminars held almost daily. Organized assistance to industry also took the form of meetings with trade associations assisting them to develop materials and model forms for member creditors and exploring the concept of industry

self-regulation. Virtually every state credit regulatory authority was contacted to foster cooperation in examining and reporting creditor practices. A pocket-size pamphlet for consumers as well as television and radio commercials for national broadcasting also were prepared.

Similar efforts were made to gain understanding of the Fair Packaging and Labeling Act, which among other things requires affirmative disclosure of the net quantity of contents of consumer commodities. Many business concerns submitted their revised labeling for staff comment, well in advance of the effective date, for FPLA regulations. Following consultation with the staff, most states have now adopted or are in the process of adopting legislation conforming with the provisions of the federal law.

Under the auspices of the Federal Drug Administration, the efficacy of nonprescription drugs first marketed during 1930-62 was reviewed. Reports of the efficacy of 424 such drugs, each report covering an estimated 5-10 "me-too" preparations, were released during the year by the FDA. The staff has monitored the advertised efficacy claims of these drugs and has consulted with the FDA regarding requiring labels that are in conformity with the reports and which are drafted in the light of existing advertising practices. The Commission intends to take action against advertising claims which exceed, negate or contradict the labeling required by FDA on non-prescription drugs.

The Commission's Report of District of Columbia Consumer Protection was released at the beginning of the year. Regarding the protection of consumers in the District it was concluded that (1) voluntary enforcement measures were not a substitute for timely issuance of formal complaints (2) compliance with existing Orders must be thoroughly investigated (3) local government must assume a greater burden in protecting consumers and (4) more consumer education and counseling is a necessity. Proposals for consideration included state legislation ending the holder in due course doctrine with regard to consumer instruments; creating little FTC Acts; and voiding cognovit note provisions in contracts. Proposals for consideration involving federal legislation included increased regulation of door-to-door sales; subsidies to firms entering the low income market; and possible federally financed insurance on undue losses suffered by retailers in extending credit to the poor.

The value of intensive compliance investigational work has been demonstrated—practices covered by the 32 Orders issued as part of the District of Columbia Consumer Program were frequently investigated and monitored during the year with the result that no consumer complaints relating to the prescribed practices were received.

Upon issuing its District of Columbia Consumer Report, the Commission announced the holding of hearing on national consumer problems, their nature and magnitude. A major purpose of the hearings was to review recommendations or how to increase Commission effectiveness, including cooperative efforts with consumer, business, and educational groups, and other government agencies. Eighty-seven witnesses participated in the hearing; proposals ranged from in school consumer protection courses to TV spots dealing with “consumerism” to proposals for specific legislation. A report on these hearings is scheduled for fiscal 1970.

An important effort in the direction of improving the quality of the marketplace was contained in the release of a staff Auto Warranty Report during the year. The report concludes that there is a need, among other things, for better assembly line inspection and testing; better pre-delivery inspection by dealers; more adequate compensation from manufacturers to dealers for warranty work; more follow up by manufacturers on consumer complaints; and simplification of warranty agreements. Views on the report were solicited during hearings held in January and February. A report is scheduled for fiscal 1970. Following the hearings, manufacturers increased overall warranty rates to dealers and permitted warranty adjustments on tires; one major manufacturer reorganized its after market parts distribution and another introduced a more easily repaired car. While the investigation leading to the Report was still underway, model year 1969 warranties were introduced which reduced coverage but which had the virtue of being more understandable. Model year 1970 warranties may be yet more comprehensible including the extension of coverage to important new areas.

The Commission's 1969 Cigarette Report to Congress recommended legislation banning cigarette advertising from radio and television and requiring broadcasts on the hazards of cigarette smoking. Legislation requiring the strongest health warning yet and the listing of tar and nicotine in advertising and labeling was also recommended. The law prohibiting the Commission from requiring a



health warning in cigarette advertising expired at the end of the fiscal year. Hearings were scheduled on the first day of the new fiscal year on a proposed Trade Regulation Rule requiring a strong warning in cigarette advertising. Two reports on the tar and nicotine content of domestic cigarettes were released during the year. One publicized the fact that a number of brands had undergone statistically significant increases in tar and nicotine content.

Following the Commission's 1968 Report criticizing the rules and standards under which most softwood lumber is grade-marked, the two principal rule writing agencies rewrote their rules to meet some of these criticisms and the Department of Commerce submitted a new standard for industry acceptance. Commission comments on that standard led to changes requiring the marking of green lumber. They also led to industry's agreeing to publicize the differences between nominal and actual sizes of lumber.

Wide angle inquiries also were undertaken into magazine and encyclopedia sales practices, gasoline octane ratings and gasoline additives, and such household safety matters as X-radiation and existing standards for household product safety. Inquiry into possible inconsistencies between the labeling and advertising of economic poisons (insecticides, pesticides, etc.), into the need for warnings and better directions on chemical weapons such as mace, and into the need for affirmative disclosures on products using artificial sweeteners were also performed. At Commission urging, cigar labeling will henceforth disclose the presence of nontobacco ingredients.

In May the Commission announced hearings on pricing practices in the automobile industry, with a view to exploring such alleged practices as: reclassifying standard equipment as optional equipment, engaging in misleading value comparisons, quoting prices that do not cover necessary charges, and inflating suggested retail prices.

During fiscal 1968, the Bureau received approval to initiate 51 complaint proceedings; in fiscal 1969 such approvals jumped to 84, an increase of 65 percent. Acceptance of affidavits of voluntary discontinuance rose from 145 to 181. A total of 10,099 letters of complaint from the public were received, an increase of 39 percent over fiscal 1968. Such matters handled during the year increased 14 percent.

Some practices challenged were novel. These included television

mockups; one, for example, involved the alleged act of inserting glass marbles underneath a translucent food product to increase the appearance of the quantity of food contents. A broadcast company's "hypoing" also was challenged. Hypoing entails efforts calculated to temporarily increase audience ratings beyond their usual range during an audience rating period. Representations allegedly exaggerating low tar and nicotine content of cigarette brands have likewise been challenged, as has the alleged failure of a major magazine publisher to provide cash refunds in connection with its cancellation of magazine subscriptions.

Violations of orders dealing with the door-to-door sales of encyclopedias resulted in the imposition of substantial civil penalties. Civil penalty proceedings were commenced in connection with probable violations of Orders pertaining to the sale of photo albums, building siding, display signs, and bread.

Retirees seeking to supplement meager incomes are often the target of franchise sellers. The tack is to misrepresent potential earnings, exclusive territories, affiliations, and product efficacy. Complaint proceedings were instituted against chinchilla, vending machine, and masonry paint franchisors, as they were against a job placement service allegedly misrepresenting salaries of persons placed, ties with corporate executives, and exclusive listings.

All categories of consumers are affected by misrepresentations relating to food and grocery items, home improvements, and goods for home use and automobile maintenance. Among the complaint proceedings commenced in fiscal 1969 were those alleging false television demonstrations of soups, food wrappers, and anti-freeze; bait and switch tactics in selling sewing machines, food freezers, and freezer meat plans; and false and misleading promotions as to the prices and guarantees on home siding and carpeting and whether the buyer or his home were being specially selected.

In addition, proceedings were approved against the alleged acts of sellers of encyclopedias (misrepresenting the purpose of salesman visits, that the encyclopedia is free, that it is part of a special offer), lottery devices, jewelry (deceptive pricing, false claims of famous brands), and women's apparel (fictitious pricing, failure to deliver goods and make refunds).

Assurances of discontinuance were accepted covering televised demonstrations of nasal sprays and a soap detergent. Several com-

plaints are filed against hearing aid promoters who allegedly establish clinics for the purpose of falsely disparaging competitive products and extolling their own.

In addition, 12 cease and desist orders resulted from a special program to prevent unfair and deceptive acts practiced upon the poor in the District of Columbia and environs.

The preceding describes only a fraction of the 84 complaint proceedings commenced and the 181 assurances of voluntary discontinuance accepted in fiscal year 1969.

## TEXTILES AND FURS

---

The Federal Trade Commission, through the Bureau of Textiles and Furs, strives to protect the consuming public from flammable fabrics and to assure that the wool, textile, and fur products it purchases are truthfully labeled and advertised.

Enforcement of the Wool Products Labeling Act, the Textile Fiber Products Identification Act, the Fur Products Labeling Act and the Flammable Fabrics Act requires periodic inspections of fiber suppliers, mills, manufacturers, importers, wholesalers, and retail stores. Such inspections are most important in policing and enforcing these statutes and, in fiscal 1969, the number of inspections increased approximately 39 percent over the previous year.

Minor violations of the Acts or the Regulations are handled by the inspector at the time of the inspection or subsequently by correspondence. In such instances the informal assurances of discontinuance of the minor violations are obtained by the inspector or by the Division of Regulation. In fiscal 1969 such assurances increased 40 percent over the previous year. Serious violations are investigated by the Division of Enforcement.

A comprehensive study of the effects of using iron or copper salts or a combination of the two in the dressing of dark ranch mink skins was made by the Bureau as the result of the development of a new process of dressing ranch mink skins. Substantial basic research was done to develop ways and means of policing the problem. A public hearing was held during fiscal year 1969 on a proposed Rule under the Fur Products Labeling Act to limit the amount of iron or copper than can be present in dressed mink skins represented as "natural." Also, comments were received at this hearing on a revision of rule 39 pertaining to a change in the regulation covering fur products to be exempted under the Fur Products Labeling Act.

A revised notice of proposed rule making dealing with the subject, together with a suggested test method for determining the presence of

iron and copper coloring agents in fur skins, was issued in November 1968 and comments invited. A final notice amendment was issued January 1969. The amendment specified limitations on amounts of iron and copper above which the furs so treated were required to be described as "color altered" or "color added." The amendment added certain record keeping and marking requirements to aid in the administration of the Rule and also raised the monetary valuation fur products exempted from the Act from \$7 to \$20.

In April 1969, the Commission amended Rule 10 of the Regulations under the Textile Fiber Products Identification Act to specify the manner and form of setting forth the content information of textile fibers containing components or constituents combined prior to extrusion, which components or constituents, if separately extruded, would fall within existing generic definitions for other textile fibers. After publication, the Commission temporarily deferred the effective date of the Rule to make certain technical changes in the language of the Rule to accord with suggestions of certain textile producers and their Trade Association.

Rule 36 of the Regulations under the Wool Products Labeling Act, requiring wool imports to be cleared by the Federal Trade Commission through its Bureau of Textiles and Furs, was held to be valid by the United States District Court for the District of Columbia during fiscal year 1969 and an injunction against the enforcement of that Rule previously issued by that Court was dismissed. However, upon appeal to the United States Court of Appeals for the District of Columbia Circuit, the decision of the District Court was reversed, the Rule held to be invalid, and the matter remanded to the District Court where a permanent injunction prohibiting enforcement of the Rule was entered. At the end of the fiscal year it was unknown as to whether the solicitor General would seek certiorari of the matter by the Supreme court.

The Division of Regulation continued to upgrade its office procedures during fiscal year 1969 with the conversion of correspondence files from the conventional file folder type maintained in file cabinets to an open-shelf, terminal-digit system. While the conversion of the file room has taken many months, it is virtually complete at the end of the fiscal year.

The Bureau has now operated 2 full years under its automated reporting (ADP) system with a revised field inspection report form

and a daily work activity report form providing the basic inputs. The system has resulted in a more meaningful report of operations and it provides a valuable management tool to the Bureau.

During fiscal year 1969, the Division of Enforcement had an active docket of 446 formal cases. This represents a 31 percent increase over fiscal year 1968. Two hundred and seven were on the docket at the start of the fiscal year and 239 new investigations were initiated.

Ninety-five recommendations for complaint were forwarded to the Commission. One hundred and twenty-seven complaints and 126 cease and desist orders were issued. Seventy-four cases were recommended for closing during the year and 63 were closed. Forty-nine Assurances of Voluntary Compliance resulted from these cases.

The Bureau continued to investigate and stop the practice whereby manufacturers of wool products misbranded woolen products by labeling reprocessed or reused wool as wool or by designating wool products by a more popular specialty fiber name, i.e., mohair, alpaca, etc., when the fibers in such products were not entitled to such designations. This practice of upgrading is particularly bad in that it substitutes a less desirable product for a product more in demand in a manner that is difficult to detect. The customer is deceived and competitors are placed at a disadvantage.

One example of the above is the order issued by the Commission in Docket C-1483 against the former officers of the Reliable Mills, Inc., of Gastonia, North Carolina. These respondents manufactured and labeled sweaters as "100% Alpaca" when the sweaters actually contained substantial amounts of nylon, polyester or wool. As a result of this action approximately 28,000 sweaters were returned and relabeled properly.

The Bureau had 51 wool cases on its docket at the beginning of the fiscal year, 46 new cases were added, 29 cease and desist orders were issued, 11 assurances of voluntary compliance were received, and four files were closed for other reasons.

During the last part of fiscal year 1968, the Bureau became aware of the fact that certain dressers and processors of ranch mink pelts were adding dye to the skins during their processing and were, subsequently, either designating the skins as "natural" or were failing to designate them as dyed. Both of these situations are violations of the Fur Products Labeling Act.

In May of 1968, the Director of the Bureau met with the principal ranch mink dressers in New York City and informed them of the illegality of the practice.

Subsequent to this meeting it became apparent that most of the dressers had discontinued the practice, but two dressers had continued to engage in the unlawful acts. Accordingly, files were opened against these two concerns and in August a thorough investigation was undertaken. Investigations obtained from the two dressers all of their invoices since March 1968, in which they had invoiced mink as other than dyed. Subsequently calls were made on the addresses of these invoices. Samples of fur were obtained for testing and a determination was made as to how these fur manufacturers were labeling these furs.

Over 150 fur garment manufactures and dealers were called on, and about half were found to have misbranded and mislabeled their products. Files were opened against these manufacturers and many of them were offered an opportunity to enter into an agreement to accept a cease and desist order.

While this investigation is continuing, a consent agreement was entered into and a cease and desist order issued against one of the dressers, Manhattan Fur Dressing Corporation, docket C-1530. A complaint was issued against Market Fur Dressing Corporation, docket 8772, the second dresser, which filed an answer admitting the allegations. At the fiscal year's end, the matter was being considered by the Commission. Over 21 manufacturers have accepted consent orders, with the result that thousands of ranch mink skins have been relabeled, and the consuming public saved thousands of dollars.

One hundred and twenty-seven new investigations under the Fur Products Labeling Act were initiated, 56 cease and desist orders issued, four assurances of voluntary compliance were received, and nine cases closed for other reasons.

An investigation under the Textile Fiber Products Identification Act was undertaken when it was discovered that fabrics composed in part of silk were misbranded in that the amount of silk fibers by weight was being overstated. The fiber content being placed on the finished product was the fiber content of the fabric designated by the suppliers prior to its being dyed.

The investigation disclosed that during the dyeing process some

of the gum contained in the silk fibers will evaporate and thereby make the percentage of silk by weight in the finished fabric less than the percentage by weight prior to finishing. Based upon an allegation that this was an industry-wide situation, the investigation was enlarged to determine the extent of the practice in the industry. It was found that there were 11 major firms in this industry and that all were engaging in the practice. It was decided that the matter should be handled on an industry-wide basis with the major firms being required to execute an assurance of voluntary compliance to stop the practice. These firms have all executed the Assurances, and the practice appears to be stopped

Forty-eight new investigations were initiated under the Textile Fiber Products Identification Act, 29 orders were issued, and 25 assurances of voluntary compliance were received. Six files were closed for other reasons.

The sale and distribution of dangerously flammable fabrics continues to receive the highest priority of attention in the Bureau. Eighteen investigational cases were opened during the year, and 12 cease and desist orders were issued under the Flammable Fabrics Act. Seven Assurances of Voluntary Compliance were received.

Cooperation with the Bureau of Customs continued to be excellent during fiscal 1969, with the result that many dangerous flammable fabrics destined for U.S. markets were detected at the port of entry. These fabrics were denied entry into the United States and were either returned to their point of departure or processed so as to be flame-retarded.

The importation of light-weight, dangerously flammable, silk scarfs and fabrics continues to occupy the Bureau's attention. Four cease and desist orders were issued against concerns engaged in this business, and nine cases were being investigated.

With only two full-time laboratory employees and one part-time student trainee, the Textile and Furs laboratory completed 1,424 tests or an average of almost seven difficult tests each working day.

These tests are as follows:

Wool Products Labeling Act .....	277
Fur Products Labeling Act .....	327
Textile Fiber Products Identification Act .....	221
Flammable Fabric Act .....	599
Total .....	1424



An Atomic Absorption Spectrophotometer has been acquired which will allow a major expansion in the laboratory testing, especially in testing furs and fur products which have been processed by the use of iron or copper salts. A deionized water system has been installed thus permitting greater accuracy not only in the fur tests referred to above but in all chemical analytical work requiring the use of water.

A detailed description of the accomplishments of the Division of Enforcement during fiscal 1968 may be found in appendix B.

The fiscal year commenced with 105 pending compliance cases and 159 were added. There were 126 new orders assigned for procurement of satisfactory compliance reports, and 33 matters reopened for compliance investigation. In a total assignment of 264 cases, 116 were completed.

There were four certifications to the Attorney General seeking civil penalties, three for violations of cease and desist orders under the Flammable Fabrics Act and one for violation of a Wool Act order. (See appendix C.)

## MAINTAINING FREE AND FAIR COMPETITION IN BUSINESS

---

From 1890, when Congress passed the Sherman Act, and first dedicated its efforts to upholding the principle of competition, through to the Clayton Act, the Federal Trade Commission Act and the Robinson-Patman Act, the antimonopoly laws were intended to equalize the conditions of competition and insure that U.S. industry would play the competitive game according to those rules. The Federal Trade Commission is bound by mandate to adhere to the basic philosophy of industrial freedom and promotion of competition.

The Commission's antimonopoly responsibilities include: (1) The Clayton Act, an effort to stop practices which are likely to impair competition--exclusive dealing and buying; and, by forbidding certain means of increasing concentration--interlocking directorates, mergers and acquisitions; (2) the Robinson-Patman Act, an effort to prevent discriminatory practices when market competition may likely be impaired; (2) the Federal Trade Commission Act, an effort to preserve competition and to administratively regulate competition, by forbidding unfair methods of competition. In these areas, the Commission's efforts in fiscal 1969 were dedicated to halt restraints on trade, in their incipiency, and to maintain and promote competition in U.S. industry. The responsibility for enforcement and regulation in these statutory areas, including investigation and litigation of such matters, is in the Bureau of Restraint of Trade. In addition to formal investigations and casework, the Commission's Bureau of Restraint of Trade continued its efforts to seek compliance with the laws by means of guides, advisory opinions, trade regulation rules and enforcement policy statements.

During fiscal 1969, 1,775 complaints were received from businessmen and the public; 181 investigations were initiated; 289 investigations were completed, and, as of June 30, 1969, 644 investigations were pending. The Commission issued 28 antimonopoly complaints

and 25 orders to cease and desist and/or to divest, 20 of which were consent orders. The disposition of 44 cases on assurances of voluntary compliance with the laws was approved by the Commission. It satisfactorily corrected 102 matters under its small business procedures, in aid of small business.

The enforcement effort of the Commission under the Celler-Kefauver Anti-Merger Act is directed toward those areas where the preservation of competition will have the broadest effect. This responsibility is centered in the Division of Mergers.

The prompt use of both voluntary and compulsory investigational procedures enabled the Commission to determine probable anticompetitive effects of proposed mergers, while at the same time giving businessmen an opportunity to evaluate the probable consequences of their proposed actions. During the past three years, including fiscal 1969, an average of nine large mergers (those where the acquired firms' assets exceed \$10 million) were (called off after the Commission instituted an immediate investigation. Some of the firms involved indicated to public news media that the pendency of a Commission investigation was a significant consideration in the cancellation of proposed merger plans. Thus, prompt investigation of proposed mergers and acquisitions has been a significant enforcement factor.

Following is a summary of the Division of Merger's enforcement casework:

Informal cases:

Initiated .....	50
Disposed of during year .....	66
Pending June 30, 1969 .....	144

Formal Cases:

Complaints issued .....	13
Contested orders .....	4
Consent orders .....	7

Cases pending litigation

June 30, 1969 .....	11
---------------------	----

Due to the tremendous increase in merger activity, this Division preliminarily examined 2,850 mergers and acquisitions and 185 joint ventures during the year.

The Commission issued a record 13 complaints relating to acquisitions and mergers during the year, six of which were simultaneously

concluded by means of consent orders. A consent agreement was accepted in one additional case during the pre-trial stage. One of the consent orders provided for compulsory licensing of U.S. patent rights by a leading oil company relating to the production of polypropylene, a plastic compound. The remaining consent orders related to cement and construction aggregates, phosphates and blended fertilizers, retail grocery stores, snack food products, and textile mill products.

Six cases in various stages of litigation were concluded during the year--two were dismissed by the Commission; three major divestitures were ordered in matters related to the cement industry (however, one order has been stayed pending further consideration by the Commission); and a final order of divestiture was entered against The Seeburg Corporation (D. 8672), a leading vending machine manufacturing company.

The Commission has a number of broad, industry-wide programs underway to attack merger problems in their incipiency. Four enforcement policy statements have been issued covering the following industries: (1) Food Distribution, (2) Cement; (3) Grocery Products Manufacturing; and (4) Textile Mill Products. In addition; the Commission embarked upon an in-depth investigation of the conglomerate merger movement in the United States.

Finally, and most significantly on May 6, 1969, the Commission inaugurated a pre-merger notification program by requiring special reports from large corporations which enter into a contract, agreement or understanding to merge or acquire the assets of another corporation within a specified asset category.

The Commission's enforcement efforts under the Robinson-Patman Act was directed not only to prohibiting practices when market competition was probably to be impaired but also when inequitable treatment was probable to impair the opportunities of certain business enterprises. This enforcement responsibility is with the Division of Discriminatory Practices. Following is a summary of the Division of Discriminatory Practices' enforcement casework:

Informal Cases

Initiated .....	53
Disposed of during year .....	120
Disposed of by assurances of voluntary compliance .....	15
Pending June 30, 1969 .....	241

Compliance matters (apparel)	
Compliance reports accepted .....	59
Compliance reports rejected .....	5
Compliance investigations open June 30, 1969 .....	5
Formal cases	
Complaints issued .....	12
Consent Orders issued .....	10
Cases pending in litigation June 30, 1969 .....	5

Informal matters completed in fiscal 1969 were especially significant. The disposition of 120 matters in that manner represented an increase of about 62% over the previous year's total. In addition, the disposition of 15 of these matters on the basis of the Commission's acceptance of Assurances of Voluntary Compliance in accordance with section 2.21 of the Commission's Procedures and Rules of Practice provided relief in those situations at minimum cost. Considerable assistance was provided to the Bureau of Industry Guidance in that Bureau's advisory opinion work and its development of the Commission's recently amended Guides for Advertising Allowances and Other Merchandising Payments and Services.

Major cases decided during fiscal 1969 or pending at its close were as follows:

Consent cease and desist orders were issued in the following cases: In Connell Rice & Sugar Co., Inc., and Foremost-McKesson, Inc., (formerly Foremost Dairies Inc.), D. 8726, the order prohibits the parties from remaining or becoming parties to certain full requirements purchase agreements, accepting illegal brokerage payments, and knowingly inducing or receiving discriminatory prices, in violation of Sections 2(c) and 2(f) of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act. In Scott Finks Co., Inc. (C-1 545), the consent order entered into by this produce wholesaler prohibits the company from making unlawful brokerage payments or payments in lieu of brokerage in violation of Section 2(c) of the amended Clayton Act to brokers who buy for their own accounts. The consent order in The Weatherhead Co. (C-1 492), prohibits the company from discriminating in price among competing resellers of specified industrial fittings and other fittings and products having the same or similar applications or uses in violation of Section 2(a) of the Act. In a group of seven consent cease and desist orders, the Commission prohibited various manu-

facturers of railroad car component parts and special products from paying unlawful brokerage or granting secret rebates in connection with the sale of those products. All seven cases charged that the secret rebates unduly suppressed and were destructive of competition in violation of Section 5 of the Federal Trade Commission Act. Four of the orders also prohibited the payment of illegal brokerage in violation of Section 2(c) of the amended Clayton Act.

At various stages in litigation are the following cases:

In Suburban Propane Gas Corporation (D. 8672), the complaint charges that the respondent, the world's largest distributor of liquid petroleum gas, induced and received discriminatory prices in the purchase of this product in violation of section 2(f) of the Clayton Act, as amended by the Robinson-Patman Act.

The complaint in Beatrice Foods Co., Inc. and Kroger Co. (D. 8663) charges Beatrice with selling fluid milk and dairy products to Kroger at discriminatorily favorable prices in violation of Section 2 (a) of the Act, and Kroger with inducing and receiving such unlawful price discriminations in violation of Section 2(f) of the Act.

In Colonial Stores, Inc. (D. 8768), a major regional food chain has been charged with the knowing inducement and receipt from suppliers of discriminatory payments and allowances in consideration of services or facilities furnished by Colonial in connection with its sale of the products of the suppliers when Colonial knew or should have known that such payments or allowances were not made available on proportionally equal terms to other customers of the various suppliers which competed with Colonial in the sale of the products of those suppliers.

In Korell Corporation (D. 8777), the complaint charges a manufacturer of women's dresses with making payments and allowances to various customers for advertising services furnished by those customers in connection with the sale of Korell's products without making such allowances available on proportionally equal terms to customers competing with those receiving the allowances. In Connell Rice & Sugar Co., Inc., Foremost-McKesson, Inc., and Standard Brands Incorporated (D. 8736), the unresolved portion of the complaint charges Standard Brands, one of the nation's largest processors and sellers of food products, with violation of section 2 (a) and 2(c) of the Clayton Act, as amended, and section 5 of the Federal Trade Commission Act. Standard Brands is charged with price dis-

crimination, the payment of illegal brokerage and anticompetitive conspiracy in connection with the sale of corn products, including corn syrup and sweeteners.

In the area of general trade restraints the Commission's efforts, both to preserve competition and regulate the quality of that competition, have been taxed. Here, unfair methods of competition, under section 5 of the Federal Trade Commission Act, are forbidden—as practices by which competitors were deprived access to markets or of freedom of action in markets and as otherwise undesirable practices. Broadly, they include exclusionary, coercive, collusive, and reciprocal dealing activities, damaging to competitors. The broad range of charges is best demonstrated by the fact that in fiscal 1969, 242 pending investigations involved 125 different industries and 14 different charges, ranging from attempts to monopolize to reciprocal dealing. Following is a summary of the casework in this area of antimonopoly work:

Informal cases (investigations)	
Initiated .....	67
Disposed of during year .....	98
Pending June 30, 1969 .....	245
Formal cases	
Complaints issued .....	3
Contested Orders .....	1
Consent Orders .....	3
Pending litigation June 30, 1969 .....	4
Small Business Matters:	
Initiated .....	243
Disposed of during year .....	750
Closed satisfactorily .....	102
Pending June 30, 1969 .....	62

One of the most productive areas of General Trade Restraint work centers around the program for handling unfair practice problems under the Small Business Procedure. Basically, the effort is to resolve problems with the minimum expenditure of resources, preferably by voluntary agreement with the party involved. In fiscal 1969, for example, 102 alleged violations of the law were satisfactorily resolved by calling in the responsible party and accepting his agreement to discontinue the practice in question. Since agreements of this kind secure for the public all the relief that could be secured after a full investigation and possible litigation of the matter, the savings in

Commission resources are obviously substantial and effective relief is immediate.

One of the most outstanding examples of this Division's work in the area of securing voluntary discontinuance of allegedly unlawful practices during the past year was an agreement with General Motors Corporation, Ford and Chrysler, whereby an agreement was entered into that would permit the 25,000 or more independent auto body repair shops in the country to buy "crash" parts at the same prices paid by the franchised dealers, rather than at the 25 percent higher price they had previously been required to pay.

Several important cases are now pending before the Commission itself. National Association of Women's and Children's Apparel Salesmen Inc. (NAWCAS) (Dkt. 8691), involves charges of the use of boycott agreements to foreclose competition at apparel trade shows. Curtis-Wright Corp. (Dkt. 8703) involves charges of selling below cost and attempting to monopolize the sale of certain aircrafts. Golden Grain Macaroni Co. (Dkt. 8737) involves charges of part monopolization of the macaroni market in the Pacific Northwest and in the State of Hawaii.

Achieving effective compliance with final Commission orders is the responsibility of the Compliance Division. This Division handled and negotiated the divestitures of some 71 separate business facilities in some 20 separate divestiture transactions. One such divestiture, by way of illustration, resulted in the entry of a significant new competitive factor in the dairy industry in the southwest. Fiscal year 1969 also saw the successful culmination of efforts to establish a new and independent Clorox Company as a competitive factor in the liquid bleach industry.

During the past year the significant contribution in the compliance area was the certification and ultimate filing by the Attorney General of a civil penalty case involving acquisitions by a large baking company allegedly contrary to the provisions of an order requiring prior approval of the Commission with respect to any such acquisition. This is the first case of its type and is of significant precedent value to the enforcement of a wide range of orders containing similar provisions. In its administration of orders involving a variety of statutory prescriptions, including price fixing and price discrimination, this Division, among other of its activities, processed 188 compliance reports, and assisted the Commission's issuance of 26 advisory



opinions to respondents covered by Commission orders. The following restraint of trade civil penalty cases are pending before courts: U.S. v. ABC Vending Co., D.C. Eastern District New York, filed August 21, 1967 U.S. v. ITT Continental Baking Co., D.C. Colo., filed December 9, 1968.

During the year accounting services were furnished by the Division of Accounting in connection with cases involving price discrimination, unfair methods of competition, and anti-merger cases, principally in the food and other consumer product industries. Also the Division furnished extensive accounting services in connection with the Commission's study of conglomerates.

The tabulation and computation of rates of return showing the profitability of identical companies in selected manufacturing industries for the calendar year 1967 was completed and published, and preparation of the rates of return report for the year 1968 was initiated. Financial data contained in this report is utilized by other government agencies and by industry in studies of various companies and industries.

The Director's Office conducts and maintains liaison for the Commission with the U. S. Department of Agriculture, Packers & Stockyards Division, which has related responsibilities with respect to meat packers. During the past fiscal year, the Commission, under provisions of the Packers & Stockyards Act, as amended September 2, 1958 (7 U.S.C. 226, 227), continued its liaison with the U. S. Department of Agriculture to avoid unnecessary duplication of efforts by the two agencies. Pursuant to the provision of the above statute requiring the Commission to include in its Annual Report information with respect to the administration of the statute, the Commission notified the Department that the Commission intended to conduct investigations of certain practices involving meats in one separate matter; the Department notified the Commission in one separate matter.

## THE INDUSTRY GUIDANCE PROGRAM

---

The Commission's formal enforcement procedures are augmented and supplemented by its voluntary procedures administered in the Bureau of Industry Guidance. These procedures are designed to provide the business community with encouragement and assistance in voluntarily complying with laws administered by the Commission. Accomplishment of the objectives of the industry guidance program is obtained through the use of three separate techniques, i.e., industry guides, which deal with a variety of problems affecting an entire industry or particular problems common to many industries; trade considered regulation rules, which clearly define particular practices considered to be unlawful; and advisory opinions, which furnish advice concerning the legality or illegality of proposed courses of action contemplated by individual businessmen or business groups.

While the guidance program in fiscal year 1969 continued to reflect a heavy emphasis on consumer protection programs, a major step toward maintaining competition in the marketplace was taken with the issuance of the Guides for Advertising Allowances and Other Merchandising Payments and Services.

### Industry Guides

During the fiscal year, the efforts of the Division of Industry Guides again reflected a marked intensification, aimed toward broadening the Commission's program of voluntary cooperation. Several new guides were issued and others made public in proposed form prior to final consideration by the Commission. The practices affected by both the proposed Guides and those issued in final form spanned several industries.

Opportunity was also extended to a number of members of the business community to settle questionable practices under use of voluntary procedures. In 226 separate matters, the Commission ac-

cepted Assurances of Voluntary Compliance and a total of 261 matters were disposed of on the basis that the practices in question had been discontinued.

The staff, in responding to requests for advice and assistance from businessmen, rendered 881 separate interpretations concerning the meaning and application of guide provisions as applied to particular business practices. This figure represents an increase of 345 individual interpretations given over those of the previous fiscal year. Such advice was in addition to that rendered during the course of negotiating Assurances of Voluntary Compliance.

The most significant contribution toward maintaining competition was the development of the Guides for Advertising Allowances and Other Merchandising Payments and Services. These Guides provide extensive and comprehensive advice and guidance on how industry can meet the legal requirements of Sections 2(d) and (e) of the amended Clayton Act.

Guides for the Beauty and Barber Equipment and Supplies Industry were promulgated which offer industry members guidance to avoid discriminatory or anti-competitive practices as well as dealing with such problems of consumer deception as the misrepresentation of the character of a business, deceptive pricing and deceptive use of plaques and certificates.

In addition, to offer advice to members of the Greeting Card Industry in an effort to assist that industry in avoiding discriminatory practices and to maintain competition, comprehensive guides were issued.

Final Guides for the Dog and Cat Food Industry were adopted to deal with misrepresentations of meat, poultry or fish content of dog and cat foods as well as other misrepresentations concerning nutrient requirements and medicinal and therapeutic benefits. The Guides affect both the labeling and advertising practices of this \$700 million industry.

In another aspect of the Division's consumer protection program, Guides for the Ladies' Handbag Industry were adopted in final form. Essentially, the Guides deal with problems of deception due to the misrepresentation of material composition, finish, embossing and processing of industry products.

In addition to Guides adopted in final form, several sets of proposed Guides were developed and released for public comment.

Proposed Guides for the \$1.2 billion Over-The-Counter-Drug In-

dustry were released and public comment elicited. The proposed Guides have as their purpose the elimination of false advertising claims made in connection with the sale of proprietary drugs. In essence the proposed Guides would limit claims in advertising to those which are permissible in labeling under regulations administered by the Food and Drug Administration.

Another set of proposed Guides upon which public comment was received were those concerning Use of the Word "Free" and Similar Representations. In their proposed form, the Guides seek to clearly define the limitations on use of such terms as "free," "1¢ Sale," "Half-Price Sale" and similar terms.

Public comment was also received on proposed Guides for the \$300 million Decorative Wall Panel Industry. The problems in this growing industry generally involve deceptive practices, including primarily the misrepresentation of material content of industry products.

A proposal to amend the existing trade practice rules for the Household Furniture Industry was published in order to obtain comments on the proposed amendments. During the course of administering the rules for this \$4 billion industry, it became apparent that there was a need to revise certain portions of the rules to cope with various industry practices. In particular, the revision would seek to clarify known problems with respect to the method of disclosing wood names, identity of woods, stuffing, and origin and style of furniture.

The Commission issued an enforcement statement prepared by the Division of Industry Guides challenging misleading speed and safety representations in automobile tire advertising.

The day-to-day compliance activity conducted in connection with the various industry guides went forward at a steady pace, with particular attention being paid to guarantee problems in connection with various major home appliances as well as problems involving debt collection deception.

## Trade Regulation Rules

The real significance of the work of this Division during the fiscal year lies as much in what was undertaken as it does in what was actually accomplished. During the year, the Trade Regulation Rule procedure matured, enabling the Commission to use the procedure to inquire into a broad range of problems. In its infancy, the procedure

was concerned primarily with only one or two relatively simple issues at a time. However, with the publication of Notice of Public Hearing on Automobile Price Advertising, the Commission chose to use the procedure to inquire into the full range of price advertising tactics employed in the sale of one of the nation's most important and expensive products.

During the year, the Commission issued a Rule covering Failure to Disclose the Lethal Effects of Inhaling Quick-Freeze Aerosol Spray Products Used For Frosting Cocktail Glasses. This proceeding was undertaken to protect the consumer from the hazards resulting from the use of a common household product, following receipt of evidence indicating that the inhalation of the concentrated vapors from these spray products is extremely dangerous and may cause death due to asphyxiation or the freezing of the larynx. The Rule requires a clear and conspicuous warning on the labels of such products that the contents should not be inhaled in concentrated form and that injury or death may result from such inhalation.

The Commission also issued a Rule dealing with the Deceptive Advertising and Labeling as to Length of Extension Ladders. Here, the practice historically has been to describe the size of such ladders in terms of the total length of the sections thereof, e.g., a "20-foot" extension ladder consists of two 10-foot sections. In actual practice, substantial footage is lost due to the necessary overlapping of the two sections when fully extended, so that the useful length is invariably less than the total length of the component sections. The Rule requires disclosure in advertising and labeling of the maximum length of ladders when fully extended for use.

At the close of the fiscal year, considerable staff effort was being expended in connection with the development of new Rule making proceedings.

Of major interest is the Automobile Price Advertising proceeding. Notice of Public Hearing was published during the year looking toward a hearing in the fall of 1969 to consider various pricing practices employed in the sale of automobiles, down to and including the validity under law of the manufacturer's suggested list price affixed to automobiles pursuant to the Automobile Information Disclosure Act of 1958.

During the year the Commission also responded to the growing volume of complaints from recipients of unsolicited credit cards. Irate

citizens complained to the Commission of the difficulties encountered when unrequested and usually unwanted cards fell into unauthorized hands as well as from those who were simply annoyed by the practice or worried and mystified as to their legal rights under the situation created. In response to a rising demand for action, a Notice of Rulemaking Proceeding for the Mailing of Unsolicited Credit Cards was published in which the proposed rule set forth therein would prohibit the mailing of credit cards by those subject to Commission jurisdiction to any party without first receiving an express written request or consent therefor.

In connection with the proposed Rule for Non-prescription Systemic Analgesic Drugs, which had been under consideration by the staff for some time, the District Court for the District of Columbia had, in May of 1968, dismissed a complaint filed against the Commission seeking to enjoin the proceeding. During fiscal year 1969, an appeal to the Court of Appeals for the District of Columbia was taken and hearings on this appeal are scheduled to be held early during the Fall of 1969. In the meantime, staff consideration of the proposed Rule continued so that the Division will be in a position to make final recommendations to the Commission in the event a favorable opinion is handed down.

Substantial progress was also made looking toward the promulgation of a Rule relating to the advertising of Economic Poisons. There are approximately 4,500 producers of economic poisons and the advertising claims with respect thereto may well represent a serious public health problem. A public hearing with regard to the proposed Rule was held during the year and the staff was in the process of preparing recommendations for the Commission's consideration at the close of the year.

A new project relating to Octane Ratings of Gasoline was initiated during the year to bring about disclosure of material factors without which consumer deception might result. If, on the basis of the record developed during a proceeding, the Commission determines that failure to disclose octane ratings will result in such deception, it will then be in a position to reach a conclusion as to whether promulgation of a Rule will serve to correct the deception by disclosure of the necessary information.

During the year, 10 Assurances of Voluntary Compliance were obtained in those instances where apparent violations of existing rules

were brought to the attention of the Division. Further, a great deal of time and effort was expended in obtaining satisfactory proof of compliance from the approximately 200 manufacturers and importers of transistor radios with respect to the transistor count of the radios which they sold.

### Advisory Opinions

During the fiscal year 1969, the Division of Advisory Opinions processed and transmitted to the Commission 174 requests for advisory opinions. This compares with 173 requests for advisory opinions transmitted during fiscal year 1968. Requests received by the Division aggregated 204 as compared with 223 for the previous fiscal year. The Commission acted on 173 advisory opinions requests and issued 127 advisory opinions. This compared with 176 such actions during fiscal year 1968 with 136 advisory opinions issued.

Nearly all the advisory opinions issued by the Commission affected the consumer either directly or indirectly through their effect on the national economy, and through protection of competition throughout the United States.

There were 28 opinions issued interpreting Section 5 of the FTC Act in the area of general trade restraints, dealing with such problems as employment of a competitor's personnel, the propriety of proposed exclusive-dealing contracts, the use of uniform warranties, the various problems of franchising so vital to small business today, the right to limit trade association memberships to non-competitors, and the legality of statistical reporting through industry and trade associations.

Twenty-nine advisory opinions were issued in response to request for interpretations of the Robinson-Patman amendment to the Clayton Act. In this category were many request involving the legality of proposed tripartite promotional assistance plans. Although varying greatly in detail, these plans essentially dealt with the question of using a third party intermediary through whom a supplier or manufacturer offers promotional assistance to his competing customers. Most of these plans are in the distribution and merchandising of foodstuffs. Through advisory opinions in this area, the Commission has done much to preserve fair competition between the large chains and small independents, many of whom would not be able to stay in business if it were not for Commission action.

The Commission issued three opinions dealing with cooperatives,

one under Sec. 6 of the Clayton Act and two involving the Capper-Volstead Act.

In the field of mergers under section 7 of the Clayton Act, the Division of Advisory Opinions processed 15 requests for merger and acquisition clearance. Of the 15 requests received, only 5 clearances were granted by the Commission, 2 involving agricultural cooperatives, 2 involving small independent dairies having a hard time financially and one merger of two small grocery chains in the interest of increasing competition in an area dominated by large chains. The 10 requests turned down were in the national interest and protected the economy from further economic concentration in the area involved.

The Commission issued 64 opinions concerning deceptive practices under Section 5 of the FTC ACT. Five Food, Drug and Cosmetic opinions, four under section 12 of the FTC Act and one under section 15 of the Act were also issued.

Twenty-five advisory opinions were issued by the Commission outlining the marking requirements of imported products, thereby informing consumers of a material fact bearing upon their selection. Another opinion would require the stamping of "irregular" shirts in a location where the disclosure would be readily visible to prospective consumers prior to, not after, their purchase.

Also in the field of deceptive practices passed on by the Commission were the following: One advisory opinion approved a code of ethics for automobile transmission repairmen so that consumers would be protected from deceptive and misleading advertising of prices and guarantees for transmission repair.

An advisory opinion dealing with the advertising of eye glasses by radio would ensure that members of the public would not be misled as to price or extent of guarantees in their purchase of eye glasses.

An advisory opinion concerned with the advertising of "free" merchandise would preclude consumers from being misled as to pricing by the dealer in the goods or service being sold.

Eight opinions were issued concerning the Textile Act. Advisory opinions in two different textile cases would prevent the use of brand names connoting, contrary to fact, that the product is a fur or fur product. The Division also processed for the Commission one Fair Packaging and Labeling Act opinion and one under the Truth-in-Lending Act.



Two of the thorniest problems considered by the Division in processing requests for opinions for presentation to the Commission have been in the field of computerized credit services and in the franchising field. Both of these areas have deep bearing on the future of the economy and the technological operation of business in a modern world and the protection of small businessmen and consumers from the trade restraints and easy deception latent in franchising operation.

## OFFICE OF THE GENERAL COUNSEL

---

The Office of the General Counsel is a service unit which acts as lawyer to the Government's second largest employer of attorneys. Its principal functions are to represent the Commission before the courts; provide advice on matters of law, policy and procedure to the Commission, individual Commissioners and the Commission's operation bureaus; and to analyze laws proposed by the Congress and state legislatures which have bearing upon the Commission's mission.

As in previous years, the major work of the General Counsel's Office involved litigation. Court proceedings which involve the Federal Trade Commission arise in a number of ways. Any individual or company against which the Commission has issued an order to cease and desist may petition a U.S. Circuit Court of Appeals to review and set aside the order. In the event of disobedience to a Commission subpoena, the Commission may request the Department of Justice to file a petition for enforcement in a U.S. District Court. The Commission may also request the Department of Justice to institute civil proceedings to compel the filing of a special or annual report ordered by the Commission and to recover forfeitures for failure to comply with the Commission's order. Disobedience of a court's decree enforcing a Commission order or subpoena may be punished by the court as a contempt. Collateral suits challenging the Commission's jurisdiction or methods of procedure may be brought under certain circumstances in a U.S. District Court. The Commission's interest in these collateral matters is defended by the Department of Justice with the assistance of the Commission's General Counsel. In Commission cases involving the Department of Justice arising in the district courts, it is the Department's usual practice to refer such cases to the local United States Attorneys who in turn accept the services of the General Counsel with respect to briefing and pleading the Commission's position.

In fiscal 1969, the General Counsel represented the Commission in 100 cases. Litigation was completed in 45 of these; of which 26 were restraint of trade matters; 11 involved deceptive business practices; and eight were extraordinary matters such as suits against the Commission for declaratory judgment and injunction.

Probably the most important restraint of trade decision in fiscal 1969 occurred in *Chas. Pfizer & Co., Inc. v. Federal Trade Commission*, 401 F. 2d 574. In an earlier decision in fiscal 1966, the Sixth Circuit had set aside the Commission's finding of unlawful conduct before the Patent Office and unlawful conspiracy in the production and distribution of antibiotic drugs and remanded the case to the Commission for the reception of further evidence and a de novo determination. Following further administrative proceedings, and a second decision by the Commission, the court this year upheld the Commission's findings that Pfizer and American Cyanamid had made material misrepresentations and withheld pertinent information in a United States Patent Office proceeding in obtaining a patent on the antibiotic drug "tetracycline."

There have been significant benefits accruing to the public as a direct consequence of the Commission's proceeding in the above matter. Prices have been lowered on the drugs involved. Moreover, the Department of Justice followed up on the Commission's proceeding and secured a criminal conviction against the drug companies in the U.S. District Court for the Southern District of New York, resulting in criminal fines amounting to \$450,000. Several antitrust treble damage suits brought by states, cities, hospital and consumer groups and consolidated for trial in the United States District Court for the Southern District of New York, have been settled in recent months for \$120 million. This settlement is particularly significant in that a provision has been made for consumers to make direct claims against the settlement fund for overcharges on their purchases of these drug products during the period of the conspiracy. Further, the United States Government has recently commenced an action in the United States District Court of the District of Columbia for cancellation of the patent on the antibiotic "wonder drug" tetracycline because of misconduct in the procurement of the patent and seeking damages in excess of \$25 million on Government purchases of these antibiotic products during the period of the unlawful conspiracy.

(United States v. Chas. Pfizer & Co., Inc., et al.; Civil No. 1966-69).

Other important court decisions involving Commission rulings, together with the status of significant cases pending at the year's end, are outlined in appendix A to this report.

With respect to proposed legislation, the General Counsel furnished advice and comment to the Commission on 39 bills pending in the Congress; 8 draft bills submitted to the Bureau of the Budget by other Federal agencies; and on 3 enrolled bills pending Presidential signature or veto. Frequent conferences with members of Congress and with representatives of executive agencies were held to assist the preparation of legislation and presentation of views of Commission members or representatives before legislative committees. Members of the Commission appeared before Congressional committees to give oral testimony on 7 bills during the year.

The Commission's program of Federal-State Cooperation, administered in the General Counsel's Office, encourages the states to enact laws, like the Federal Trade Commission Act, to protect the public from deceptive and unfair business practices. If such practices can be stopped at state or local level, before they grow into problems of interstate proportions, the need for Federal action will be minimized and the people most directly affected will have a telling voice in deciding what constitutes unfairness or deception. The more effective the states can be in nipping such practices in the bud, the more energy the Federal Trade Commission can devote to dealing quickly and effectively with problems of regional and national significance.

The lively and increasing interest in this activity was evident during the year as the states directed to the Commission 477 requests for advice and assistance in legislative or enforcement matters involving prevention of deceptive and unfair trade practices. This was an increase of 70 percent over the 218 similar requests received in fiscal 1968. The increase is indicative of the general level of added emphasis on consumer protection in the states.

The complaints regarding interstate practices received from or via state officials numbered 575, an increase of 33% over last year. The intrastate matters referred by the Commission to state officials for action numbered 161, and increase of 80 percent over the number referred last fiscal year.

The States of Colorado, North Carolina, Pennsylvania, and South

Dakota enacted consumer protection laws during the year, bringing to about 25 the number of states which have laws, similar to FTC administered statutes, to protect the public from deceptive and unfair trade practices.

State offices of consumer protection and Attorneys General are being furnished on a continuing basis with a variety of informational materials in regard to enforcement actions by the Commission and by state governments to prevent deceptive and unfair trade practices. This serves as a training medium and method of correlating such activities throughout the country, as well as an encouragement to States which have not yet established such programs.

Toward the close of the fiscal year the Commission requested its newly appointed General Counsel to evaluate the operations of the Office and to make recommendations concerning its future operations. On the basis of a thorough study of past Office efforts vis-a-vis present Commission needs, the General Counsel recommended, and the Commission ordered, a reorganization of the Office.

As part of its continuing reevaluation of its efforts, the Commission ordered the following changes in the operations of the Office of General Counsel:

- The units of the Office were reduced from 7 to 3. For example, the Division of Consent Orders was abolished because it was found that the Commission's operating bureaus could handle settlement actions alone and that the participation of the General Counsel's Office served more often to duplicate effort and delay effective action rather than to further the Commission's mission in this area.

- Administration of the Lanham Trade-Mark Act (15 U.S.C. 1064) and the Webb-Pomerene [Export Trade] Act (15 U.S.C. § 61-65) was transferred, respectively to the Commission's Bureaus of Deceptive Practices and Restraint of Trade. Analysis of the present demands of these statutes demonstrated that they could be more effectively met by operating bureaus of the Commission rather than the Commission's lawyer. For instance, the General Counsel had, during the period from 1963 to 1969, centralized registration and supervision of export associations exempted from the provisions of the antitrust laws insofar as their activities related to foreign commerce. However, a comprehensive study by the Commission of the initial 50 years of the Export Trade Act revealed that the statute's purposes had been generally unfulfilled. Affirmative investigations

of the impact of antitrust exempt export associations upon domestic competition were recommended by the Commission and, generally, supported by congressional and other studies. Accordingly, immediate administration of the statute was transferred to the Commission's Bureau of Restraint of Trade which daily analyzes the competitive impact of marketing practices upon domestic competition.

- Three supervisory units were created within the Office (Litigation, Legal Services and Legislation—Federal-State Cooperation) with continuing caveat that all attorneys within the Office shall be proficient in each of the functions of these units and shall be redeployed as Commission demands require. Commission demands for legal advice and representation before the courts fluctuate throughout any given year. Again by way of example, the Commission and its operating bureaus, because of enforcement activity in current crisis areas (particularly enforcement of the recently enacted Fair Packaging and Labeling Act and Consumer Credit Protection Act) have had more frequent recourse to the Office for legal advice.

- The General Counsel was directed to implement, in addition to its responsive functions, affirmative projects consonant with the Commission's overall mission.

## THE ROLE OF ECONOMIC STUDIES AND EVIDENCE

---

Economic analysis is an essential component of the Commission's activities directed toward maintaining competition and protecting the consumer. This is because effective accomplishment of these objectives demands more than legal expertise; the nature and consequences of certain practices must be understood, and their importance to the economy and to consumers must be assessed. For example, while some discount systems have been found to have an adverse effect upon competition, others do not, and some mergers, but not all, pose a threat to competition. Thus, the drafting of policy guidelines or the selection of issues for legal investigation and possible litigation calls for economic analysis. The work conducted by the Bureau of Economics takes the form of both short-term projects, tailored to the requirements of a specific issue, and broad-ranging analyses of industries, merger trends, and business practices. Economic research constitutes a means of understanding trends in business structure and marketing practices, and of identifying problem areas. Economic studies have been instrumental in formulating merger guidelines for certain industries in recent years, and are expected to be helpful to an increasing extent in the future in the design of additional programs for consumer protection.

### Maintaining Competition

Merger trends.—For two decades the Bureau of Economics has systematically analyzed patterns of merger activity because they are key indicators in our merger enforcement program as well as a prime measure of changing characteristics in the current merger movement which may require special economic analysis. The data developed in the merger series have been designed to disclose overall trends, the size characteristics of merging firms, and the types of acquisitions.

One of the overall trends has been an almost uninterrupted and

increasing disappearance of firms as a result of mergers and acquisitions; a more recent trend has been a rapid increase in the number of conglomerate mergers. Two series of data are regularly presented in the annual review of merger activity. One measures total merger activity, and the other surveys large acquisitions (those with assets of \$10 million or more) involving mining and manufacturing firms. This year each series was published separately, under the titles *Current Trends in Merger Activity, 1968*, and *Large Mergers in Manufacturing and Mining, 1948-1968*.

All previous levels of merger activity were eclipsed by developments in 1968-69. Total mergers climbed to 4,003, an increase of 68 percent over the previous year. For the first time in history, a firm with assets of more than a billion dollars was acquired. Although manufacturing acquisitions accounted for the greatest share of total activity (63 percent), mergers in trade and services rose most sharply. Such mergers accounted for 29 percent. Wholesale and retail trade acquisitions nearly doubled in 1968, while acquisitions in the area of services rose even more sharply, from 310 to 696. These trends indicate that as the merger movement reaches new heights, firms in a wider variety of fields are taking part.

Manufacturing and mining mergers rose 63 percent on top of a previously recorded increase of 50 percent for 1967. Acquisitions totaled 2,442 for 1968 compared to an annual average of 983 in the period 1960-67 (Chart 1). No segment of manufacturing and mining was left untouched by the current boom. Manufacturing sectors currently experiencing the greatest number of mergers include electrical and nonelectrical machinery, chemicals and fabricated metals. In these sectors nearly 900 acquisitions were recorded last year.

The number of large acquisitions, those involving acquired firms with assets of \$10 million or more, also increased in 1968, totaling 192 as compared to 169 in 1967 (Table 1 and Chart 1). The total value of large acquired assets equaled \$12.6 billion, 50 percent greater than in 1967, and three times greater than the total for 1966. The most striking development, however, is the continued increase in size and frequency of large acquisitions. The average size of large acquisitions has grown sharply in recent years, from \$27.6 million in 1966 to \$65.7 million in 1968, an increase of 138 percent (table 2.) In comparison, the average size of all manufacturing and mining



Chart 1

MANUFACTURING AND MINING FIRMS ACQUIRED  
1948-1968

3 GRAPHS -- SEE IMAGE

\*Firms with assets of \$10 million or more.

Source: Bureau of Economics, Federal Trade Commission.

corporations with assets of \$10 million and over rose from \$96.3 million to \$42.6 million, or an increase of only 48 percent. In the same period the number of manufacturing and mining corporations with assets of \$10 million and over rose by 28 percent, while the number of large acquisitions increased by 210 percent from 1960 to 1968. Clearly, therefore, as merger activity has increased, it has become progressively more concentrated among large firms.

Striking evidence of this trend is seen in the growing number of disappearances of companies with assets of \$250 million or more. During the whole period 1948-67, 12 firms with assets of more than

TABLE 1.--Large acquisitions in manufacturing and mining made by firms classified among the 200 largest in 1967, 1948-68

Year	Total large acquisitions <sup>1</sup>		Total acquired by 200 largest firms <sup>2</sup>	
	Number	Assets (millions)	Number	Assets (millions)
1948 .....	6	\$ 130	6	\$ 130
1949 .....	5	67	4	45
1950 .....	4	173	3	118
1951 .....	9	201	7	155
1952 .....	13	327	5	172
1953 .....	23	679	18	623
1954 .....	35	1,425	16	911
1955 .....	68	2,129	41	1,589
1956 .....	58	2,037	41	1,739
1957 .....	50	1,472	32	1,212
1958 .....	38	1,107	21	638
1959 .....	64	1,960	38	1,270
1960 .....	62	1,710	35	1,041
1961 .....	59	2,129	30	1,728
1962 .....	72	2,194	34	1,227
1963 .....	68	2,917	46	2,051
1964 .....	91	2,798	39	1,815
1965 .....	93	3,900	34	2,151
1966 .....	101	4,100	33	2,385
1967 .....	169	8,222	67	5,417
1968 <sup>3</sup> .....	192	12,616	74	6,890
Total	1,280	\$52,293	624	\$33,307

<sup>1</sup>Acquired units with assets of \$10 million or more.

<sup>2</sup>Ranked by 1967 total assets.

<sup>3</sup>Figures for 1968 are preliminary.

Sources: Bureau of Economics, Federal Trade Commission

\$250 million were acquired. In 1968, alone, 12 such firms were acquired including 1 firm with assets in excess of \$1 billion. Six of these acquired firms were among the 200 largest corporations in 1967. In 1968 it became clear that not even the largest firms in the economy were free from the threat of takeover.

Throughout the post-World War II period the largest firms have been the most active acquirers. In 1968 acquiring firms with assets of \$250 million and over accounted for 51 percent of the number of 73 percent of the assets of all large acquisitions. Their share rose substantially in relation to 1967 when the respective percentages were 42 percent and 61 percent. In fact virtually all of the increase in large firm disappearances (both in number and assets) between 1967 and 1968 is due to increased acquisitions by the largest acquiring firms.

TABLE 2.--Large manufacturing and mining acquisitions compared to total manufacturing and mining corporations, 1960-1968

(Dollar amounts in millions)

Year <sup>1</sup>	Manufacturing & mining corporations			Large acquisitions <sup>2</sup>		
	Total assets	Number of Corporations	Average asset size	Total assets	Number of companies	Average
1960 .....	202,787	2,106	96.3	1,710	62	27.6
1961 .....	210,186	2,100	100.1	2,129	59	36.1
1962 .....	225,114	2,178	103.4	2,194	72	30.5
1963 .....	236,656	2,244	105.5	2,917	68	42.9
1964 .....	251,865	2,307	109.2	2,798	91	30.7
1965 .....	273,492	2,396	114.1	3,900	93	41.9
1966 .....	307,323	2,535	121.2	4,100	101	40.6
1967 .....	344,235	2,685	128.2	8,222	169	48.7
1968 <sup>3</sup> .....	383,903	2,692	142.6	12,616	192	65.7
Change, 1960-68 .....		586	46.3		130	38.1
Percent increase .....		27.6	48.1		209.7	138.0

<sup>1</sup> Corporate manufacturing totals are for the first quarter of each year.

<sup>2</sup> Ten million dollars and over.

<sup>3</sup> Figures for 1968 are preliminary.

Source: Corporate manufacturing assets and number of corporations obtained from Quarterly Financial Reports; totals for mining derived from IRS Statistics of Income. Bureau of Economics, Federal Trade Commission.

Another perspective on the growing importance of acquisitions as a technique of firm expansion is seen in Table 3. In 1968 the value

of acquired large firm assets totaled \$12.6 billion, equivalent to 45 percent of the total value of new plant and equipment investment in mining and manufacturing. This ratio represents a substantial growth over earlier years. In the late 1940's acquired assets were infinitesimal in comparison to the value of new investment. Even in the early 1960's the proportion averaged only 15 percent. The sharp increases for 1967 and 1968 eclipse all earlier postwar years.

From the standpoint of public policy the most unusual aspect of the current merger movement is its conglomerate character. In 1968 these mergers accounted for 84 percent of the number and 89 per-

TABLE 3.— Acquired assets<sup>1</sup> compared with new investment<sup>2</sup> in manufacturing and mining, 1948-1968

Year	New investment	Acquired assets	Acquired assets as percent of new investment
	(Billions of dollars)		
1948 .....	\$10.01	\$ .130	1.3
1949 .....	7.94	.067	0.8
1950 .....	8.20	.173	2.1
1951 .....	11.78	.201	1.7
1952 .....	12.61	.327	2.6
1953 .....	12.90	.679	5.3
1954 .....	12.02	1.425	11.9
1955 .....	12.40	2.129	17.2
1956 .....	16.19	2.037	12.6
1957 .....	17.20	1.472	8.6
1958 .....	12.37	1.107	8.9
1959 .....	13.06	1.960	15.0
1960 .....	15.47	1.710	11.1
1961 .....	14.66	2.129	14.5
1962 .....	15.76	2.194	13.9
1963 .....	16.73	2.917	17.4
1964 .....	19.77	2.798	14.2
1965 .....	23.75	3.900	16.4
1966 .....	28.46	4.100	14.4
1967 .....	28.11	8.222	29.2
1968 <sup>3</sup> .....	28.27	12.616	44.6

<sup>1</sup>Acquisitions of manufacturing and mining firms with assets of \$10 million or more.

<sup>2</sup>Total expenditure for new plant and equipment by manufacturing and mining firms.

<sup>3</sup>Figures for 1968 are preliminary.

Source: Economic Report of the President, 1969, p. 271, and Bureau of Economics, Federal Trade Commission.

cent of the assets of all recorded large acquisitions. These proportions are higher than those of 1967 and continue the upward trend of recent years. The unique development of 1968 with respect to conglomerate mergers was their dramatic change in character and average size. The conglomerate merger classification includes a disparate variety of combinations. In studying these acquisitions the Bureau of Economics has regularly maintained three classifications (Table 4). The product extension and market extension categories represent acquisitions in which the acquired and acquiring firms are discernibly related in a production or marketing sense. The "other" category represents combinations in which such relationships are not discernible. It is this type of merger which has assumed increasing significance. In 1968, 43 percent of all large acquired assets fell in the "other" category. Among this group are such mergers as Loew's (a movie distributor) acquisition of P. Lorillard & CO. (a tobacco company, and ITT's (a communication and electronics company) acquisitions of Continental Baking and of Rayonier (a paper company). Virtually all of the increased large merger activity of 1968 involved expanded patterns of diversification.

Study of Conglomerate Mergers.—These increases in merger activity prompted the Commission to undertake an analysis of the conglomerate merger movement. The report of conglomerates is an extensive review of merger trends, changes in concentration, and the sources and consequences of conglomerate mergers. It also includes a discussion of reciprocity. The policy conclusions recommend several legislative changes in the antitrust laws and several administrative changes in merger enforcement. This was the most important single project conducted by the Bureau of Economics during fiscal 1969.

Webb-Pomerene Associations.—In fiscal 1969 an examination of recent activity of Export Trade Associations (Webb-Pomerene Associations) was conducted in order to determine whether this method of export assistance had changed since 1962, the last year included in the Economic Report on Webb-Pomerene Associations: A 50-year Review. This latest examination, which was not published, was based upon the Commission's recently-revised annual questionnaire for Webb-Pomerene Associations. It was found that the amount of association-assisted exports for 1967 represented no real change 1962; in both years assisted exports amounted to slightly

more than 2 percent of U.S. merchandise exports. For 1967, the total exports assisted both directly and indirectly by Webb associations amounted to \$647 million. Of this total only \$122 million was directly assisted, that is, involved association participation in specific export transactions. The bulk of the assisted exports—\$525 million—were assisted in such indirect ways as price setting, allocation of orders among members, arrangements for distribution, and the drafting of contracts.

The conclusion that emerges from these patterns is that Webb-Pomerene associations continue to lack promise as a vehicle for improving the nation's balance of payments position to any meaningful extent. The record of Webb assistance for 1967 confirms the conclusion drawn from the analysis of Webb activity during the period 1958 through 1962: that a special set of circumstances is necessary before a Webb association can offer meaningful advantages over other means of organizing exports. These special circumstances are a standardized product produced by only a few firms from a resource base which provides a comparative advantage over producers in other parts of the world.<sup>1</sup> Thus, the ability to export these products is derived from these circumstances rather than from Webb associations.

Merger Enforcement Policy Statements.—Continuing its policy of issuing industry wide merger guidelines to complement its program of merger litigation, the Commission published all Enforcement Policy with Respect to Mergers in the Textile Mill Products Industry in November 1968. This is the fourth such policy statement issued by the Commission. The preceding ones applied to: (1) Vertical Mergers in the Cement Industry; (2) Mergers in the Food Distribution Industry; and (3) Product Extension Mergers in Grocery Manufacturing. These policy statements are designed to provide the business community with information as to the kinds of mergers which, based upon the Commission's experience, are most likely to raise concern as to their possibly anticompetitive effects under Section 7 of the Clayton Act as amended by the Celler-Kefauver Act.

Economic Evidence.—Although economic evidence was a consideration in a variety of problems in fiscal 1969, the continuously in-

---

<sup>1</sup> Webb-Pomerene Association: A 50-year Review, Federal Trade Commission, 1967, p. 65.

TABLE 4.— Acquisitions of manufacturing and mining firms with assets of \$10 million or more, by type of acquisition, 1964-1968

[Dollars in millions]

Type of acquisition	1964		1965		1966		1967		1964-1967		1968 <sup>1</sup>	
	No.	Assets (millions)	No.	Assets (millions)	No.	Assets (millions)	No.	Assets (millions)	No.	Assets (millions)	No.	Assets (millions)
Horizontal . . . . .	13	\$ 377	13	\$ 362	13	\$ 325	12	\$1,056	51	\$2,120	14	\$ 522
Vertical . . . . .	16	622	11	224	13	399	17	496	57	1,741	17	911
Conglomerate . . . . .	62	1,799	69	3,314	75	3,376	140	6,670	346	15,159	161	11,183
Product extension . . . . .	56	1,659	44	1,612	50	1,492	103	4,736	253	9,499	113	4,951
Market extension . . . . .	3	43	6	850	2	755	0	0	11	1,648	1	749
Other . . . . .	3	97	19	852	23	1,129	37	1,934	82	4,012	47	5,483
Total . . . . .	91	\$2,798	93	\$3,900	101	\$4,100	169	\$8,222	454	\$19,020	192	\$12,616

<sup>1</sup> Figures for 1968 are preliminary.

Source: Bureau of Economics, Federal Trade Commission.

creasing number of mergers and acquisitions, as well as the changing characteristics of such acquisitions, caused most of the evidence work to be concerned with merger matters. With the rise of the conglomerate firm usually by acquisition and merger, the identification of anticompetitive effects becomes more complex and time-consuming.

The staff participated in developing economic evidence in 71 investigations during the year, 58 of which concerned acquisitions. Fifty-three of the merger investigations involved transactions in which the acquired company had assets of \$10 million or more. Economic evidence was compiled for eight formal cases, five of which were merger cases, and in an additional 10 matters involving compliance with Commission orders.

Fifty proposed acquisitions were analyzed under the Commission's Enforcement Policy with Respect to Mergers in the Food Distribution Industries in fiscal 1969, which was roughly 2 1/2 times as large as the number reviewed in the previous fiscal year. Three industry-wide section 6(b) surveys were made for prospective use as evidence in section 7 cases, and an economic memorandum on the structure of the textile mill products industry was prepared for use by the Commission in drafting guidelines for permissible mergers in this industry.

An important accomplishment in the area of evidence in fiscal 1969 was the Commission's announcement in May 1969, of its Pre-merger Notification Program. This program is an effort to provide precise data for screening substantial acquisitions for further investigation.

Quarterly Financial Report for Manufacturing Corporations.—For the first time, at the end of the first quarter of calendar year 1969, total assets of all manufacturing corporations exceeded \$500 billion. This record total included new highs of \$88 billion in receivables, \$116 billion in inventories, and \$198 billion in net property, plant, and equipment. On the credit side of the balance sheet, total liabilities reached an all-time high of \$222 billion and stockholders' equity rose to a record \$281 billion. Net working capital also reached a new high of \$136 billion.

The number of corporate manufacturers with assets exceeding \$1 billion increased from 78 in 1968 to 87 in 1969. These 87 enterprises accounted for \$229 billion or 46 percent of the total assets of



all manufacturing corporations in the United States in 1969. An additional 206 firms, each with assets in excess of \$250 million, accounted for another 20 percent. A total of 569 firms, each with assets exceeding \$100 million, accounted for 74 percent of the total assets of all corporate manufacturers. Table 5 gives the relative importance of the largest manufacturing corporations, classified by asset size, in the first quarter of calendar year 1969.

Rates of return (profit rates after taxes) on stockholders' equity for all manufacturing corporations averaged 12.1 percent for the four quarters of 1968, compared to an average of 11.7 percent for the four quarters of 1967. Highest average profit rates in 1968 were recorded by the producers of drugs (18.3 percent), instruments and related products (16.5 percent), and motor vehicles and equipment (15.1 percent). Lowest average rates of return in 1968 were recorded by the makers of iron and steel (7.6 percent), textile mill products (8.8 percent), and stone, clay, and glass products (9.2 percent). Chart 2 shows the profit rates of all manufacturing corporations from the first quarter of 1961 to the second quarter of 1969. The foregoing are some of the highlights in issues of the Quarterly Financial Report for Manufacturing Corporations which were published during fiscal year 1969. These quarterly reports are based on uniform, confidential, quarterly financial statements collected from a scientific (probability) sample of approximately 10,000 of the more

TABLE 5.--Relative importance of the largest manufacturing corporation, first quarter 1969

Asset size	Total assets		Number of manufacturing corporations
	Million dollars	Per-cent	
\$1,000 million and over . . . . .	229,461	46	87
\$250 million to \$1000 million . . . . .	101,131	20	206
\$100 million to \$250 million . . . . .	42,389	8	276
\$100 million and over . . . . .	372,981	74	569
\$50 million to \$100 million . . . . .	22,857	5	320
\$25 million to \$50 million . . . . .	18,173	4	508
\$10 million to \$25 million . . . . .	19,728	4	1,196
\$10 million and over . . . . .	433,739	86	2,593 <sup>1</sup>
Under \$10 million . . . . .	69,617	14	1
All asset sizes . . . . .	503,356	100	

<sup>1</sup> Approximately 200,000.

Source: FTC-SEC Quarterly Financial Report for Manufacturing Corporations, First Quarter 1969, p. 61.

CHART 2

PROFIT RATES OF ALL MANUFACTURING CORPORATIONS

1961-1969

GRAPHIC - SEE IMAGE

200,000 active manufacturing corporations in the United States. Each issue contains estimated national totals for 13 items of income and retained earnings, 14 asset items, 16 items of liabilities and stockholders' equity, and 43 financial and operating ratios (including profit rates on sales and equity) for each of 34 industry groups and 10 asset sizes of corporate manufacturers. The quarterly estimates account for more than 97 percent of all manufacturing activity in the United States, more than one-half of all corporate profits, and nearly one-third of the national income.

## Consumer Protection

During fiscal 1969, a major effort continued to be focused on the problems of consumer protection. During the year significant reports were completed or initiated concerning food chain selling practices, automobile insurance, games of chance in gasoline retailing, and trading stamps.

Economic Report on Food Chain Selling Practices in the District of Columbia and San Francisco.—This report confirms previous Government findings that the distribution system performs less satisfactorily in low-income areas of our inner cities than in suburban areas. Many food stores serving low-income, inner-city areas are small, less efficient, and have higher prices than in suburban areas. Consumers in these areas are frequently sold lower quality merchandise and are provided fewer services than in other areas. Moreover, the retail facilities of low-income areas are often old and in a shabby state of upkeep.

On the basis of special investigational surveys and hearings, no evidence was found to indicate that leading chain store operators in the District of Columbia and San Francisco employ discriminatory policies designed to exploit low-income customers. Each of the largest food chain operators had an official policy of price and quality uniformity. However, to a significant degree, systematic departures from store-to-store price uniformity were discovered. For the most part, these involved response to special competitive situations and could not be interpreted as reflecting an effort to discriminate against low-income customers, although that was generally the result.

These findings, however, should not lead one to conclude that food distribution in low-income areas is free of problems, or that the low-income customer does not pay more for food. On the contrary,

the reverse is quite likely to be true. Food marketing is not as well organized in low-income areas as in newly developed suburban areas. There simply are not as many modern, efficient supermarkets in low-income areas as there are elsewhere. Thus, the low-income consumer is more likely to do his shopping at a small, independent mom-and-pop store. Such stores generally charge higher prices, whether located in low- or high-income areas. At the same time those supermarkets which are operating in low-income areas generally face less intense competition than they would elsewhere. The lack of competition means there is less pressure to maintain tight managerial control, to improve quality and service, or to lower prices.

Prices surveys conducted by the Federal Trade Commission staff revealed that food chain promotional activities also varied according to the competitive setting of the store. Specifically, advertised special items were more frequently unavailable in less competitive, low-income area stores than in more competitive, higher income area and suburban stores.

Prices of advertised special items present substantial savings to purchasers. Sales of advertised special items during a typical week commonly reduce the average price level of a store by 5 percent. Those customers that take full advantage of the specials can save 10 percent or more on their weekly food bills. The availability or unavailability of specials therefore is an important aspect of pricing conduct. Federal Trade Commission price surveys of chain stores in the Washington area found that 23 percent of advertised special items were not available in low-income area stores as compared to only 11 percent not available in higher income area stores. In San Francisco the percentages were 7 and 5 percent, respectively. In addition to unavailability, advertised special items were also frequently found to be mispriced. For both cities, an average of 7 to 8 percent of advertised special items available in stores was found to be mispriced. There were three chances in four that the incorrect price was higher than the advertised price.

Analysis of Automobile Insurance. The Division of Industry Analysis undertook a study of automobile insurance at the request of the Department of Transportation. This work will be a part of the overall report on automobile insurance which the Department of Transportation will submit to Congress. The specific topics being analyzed by the Division of Industry Analysis are the automobile

insurance industry and the high-risk market for automobile insurance. The former includes analysis of merger activity by the largest auto insurance companies, and an examination of trends in concentration. The high-risk project probes the effectiveness of high-risk plans, including an assessment of proposed plans designed to overcome deficiencies in existing high-risk programs.

Economic Report on the Use of Games of Chance in Food and Gasoline Retailing.—A study of the use of games of chance in food retailing was drafted in fiscal 1968 and expanded in fiscal 1969 to include games used in gasoline retailing. This study deals with the nature and objectives of games, trends in game use, the structure of the game promotion industry, the effects of game use on retail cost, and the extent of deception in the games.

This study found that the most important underlying purpose of games is to build traffic and thus increase the sales of the stores using them. Grocery chains regard games as a means of promoting trade, some using them in an effort to increase their market position, others using them purely as a defensive measure to counter either their use by others or to meet other forms of promotional activity by competitors.

Generally, the data indicate that margins were increased as sales rose following the introduction of games, since the food retailers reduced the number of price specials. As a rule of thumb, the supermarket that does not increase prices when it introduces games must increase its volume by at least 5 percent for each 1 percent of sales added to cost. When a firm introduces games or other counter-strategies, its sales volume may not rise to the necessary extent and game costs must either be absorbed by the firm in the form of lower profits or be passed on to the consumer in the form of higher prices.

In the short run, the game innovator takes sales and market shares away from its leading competitors. Once the market becomes "game saturated," however, relative positions among the larger firms appear to resume pregame patterns. Small chains and independents affiliated with cooperative groups of retailers have used games as a defensive measure, although they generally have found them not well suited to their relatively small operations.

The total annual cost of game promotions in 1966 for nine leading chains represented 0.26 percent of sales, ranging from 0.11 to 0.41 percent in individual chains. These figures are based on the

entire year and substantially understate the cost burden for the duration of particular games programs. Cost of individual programs varied from a minimum of 0.31 percent of sales to a maximum of 2.08 percent of sales.

The effect games can have on sales for a market leader was shown by Safeway's reported sales increase of 13.8 percent and profit gain of 24 percent in 1966, which the president of the firm said would have been only 5 percent and 6 percent, respectively, without the game. Some chains reported that the sales increase of their game using stores was frequently more than three times that of their other stores. Not all chains were so successful. Some experienced only a moderate sales gain; however, the games may have helped to reverse a downward trend in their sales.

There are a number of actual or potential areas in which games may be used in a deceptive manner. Games involve extensive use of advertising media through which statements are made relative to the possible winnings of those who play. Seldom disclosed is the actual number of prizes to be distributed in a specified area over a definite period of time. Nor do such advertisements spell out the breakdown of the number of prizes by various size categories. The investigation revealed several instances of apparent deceptive assertions including: (1) advertised number of prizes to be awarded was not in conformity with the number actually programmed; (2) the advertised odds of winning were not in conformity with the actual odds; and (3) the game user (that is, the grocery chain) continued to advertise that customer could win big prizes although winning slips were no longer available.

The investigation also showed that promoters and grocery retailers commonly insert winning prize tickets into desired packages, particularly the large winners. Some chains allocated major prizes to particular stores with the game program where the promotional impact was considered to be greatest, and programming of winners was often concentrated in the early weeks of a game's run, so that in the final weeks no large prizes were available. Yet, advertising would continue unchanged in format, implying that large prizes were still available. On the other hand, some promoters provide additional major prizes to be distributed if all the prizes originally scheduled are claimed before the end of the game period. In some instances packages of game tickets containing no winners were sup-

plied to the retailer for use when the packages containing winners had been depleted. In other cases, winning pieces were inserted in part "at random" and in part by design by the promoter. In still other instances, large winners were apportioned to stores on the basis of volume and customer traffic "to provide the broadest possible spread of winners."

The chances of winning prizes vary from game to game, but are found to be monetarily low regardless of the game. As a whole, the programmed "chances of winning a cash prize per store visit were about 3.4 to 1,000. The value of programmed cash prizes per store visit for the games most commonly played (sold by the top four promoters) range from 0.5 cent to 1.8 cents, with the average of 1.1 cents. These so-called winnings overstate actual winnings because of the gap between "programed" and "actual" prizes distributed. Redemption rate of prizes ranged from 35 to 90 percent, depending upon the game and the consumer interest.

The average prize is actually less than the cost of the game pieces.

The chances of winning large prizes are exceedingly low, and consumers are in no position to measure the worth of the games to them. Indeed, the information provided by the promotions would lead the consumer to overestimate his chances of winning.

The first oil companies to use games found them an extremely effective method of influencing the public to shift their patronage. In general, the initial sales increase for the original game-using oil companies was larger than for the original game-using supermarkets. The reason for this appears to be twofold. First, oil companies advertised their games much more on television than did grocery retailers. Second, the large number of gasoline service stations and the obvious mobility of the gasoline purchaser makes access to a game easier than in food retailing.

As in grocery supermarkets, the games in the gasoline industry appear to involve a number of deceptive aspects. These include the selection of specific stations to dispense major prizes, the selection of particular customers to receive the prizes, the deceptive implications of the advertising of the availability of large prizes, and the searching of the game pieces by dealers to discover the prize winning tickets.

Economic Report on the Use and Economic Significance of Trading stamps.—This report was previously published as the chap-

ter on trading stamps in the Economic Report on the Structure and Competitive Behavior of Food Retailing, but, because of widespread public interest, was issued as a separate report. This was done to allow more widespread distribution of this chapter and to enable the Commission to fulfill more readily requests for this portion of the study of food retailing. Some revisions in format were made so that the report could be issued independently of the rest of the study of food retailing. This report found that many retailers, particularly chains, turned to trading stamps as their chief competitive weapon. Once most retailers in market adopted stamps, however, the costs of most retailers were raised correspondingly, and apparently in most markets retailers have been able to pass these higher costs on to consumers in the form of higher prices.



## FIELD OPERATIONS

---

The Bureau of Field Operations with its 11 field offices, is the investigative arm of the Commission. The Bureau primarily discharges its responsibilities by conducting investigations of matters the Commission itself directs or the enforcement bureaus select by negotiating settlement of cases where appropriate by assurance of voluntary compliance or by consent order; and by performing such advisory, public relations, and educational activities as will enhance the effectiveness of the enforcement efforts of the Commission. The case load of investigations referred to the field, of course, occupies the major share of the attention of the field staff. Yet the other phases of the work of the field offices share equally in importance, if not in the amount of time devoted thereto.

One of the major educational activities of the field staff during the fiscal year involved a concentrated drive to bring to the attention of businessmen and the public the requirements of the truth-in-lending statute, and Regulation Z which was issued pursuant thereto by the Federal Reserve Board, and which went into effect July 1, 1969. From March 1969 through the effective date of the statute and even thereafter, the Bureau of Field Operations had nearly 40 attorneys, including the attorney-in-charge of each field office making speeches before interested business and consumer groups throughout the country on the subject of the Truth-in-Lending Act and Regulation Z. The magnitude of the public interest in the matter is reflected in the large increase in the informal activities of the field offices, as distinguished from the case work, in the last quarter of the fiscal year. There were 19,938 telephonic, written and personal contacts from the public with the field offices during the fourth quarter of fiscal 1969 compared with 4,247 for the preceding third quarter of 1969 and with 3,110 inquiries during the comparable fourth quarter of fiscal 1968.

During fiscal 1969, the Bureau had an investigative work load of 1,565 cases of which 781 were received during the fiscal year. The field offices completed 961 investigations. Of this number 696 were

in the deceptive practice area and 259 involved restraint of trade matters. The number of completions in fiscal 1969 represents a decrease of 171 cases from the number of investigations completed during fiscal 1968. This decrease is attributable to a decline of 8 in the average number of field attorneys on the payroll during the fiscal year and to the increase in the educational activities of the field offices as well as the demands made on the field staff in connection with numerous special investigations having industry wide and nation wide application. At one time, out of a field staff of 150 attorneys nearly 90 of them were engaged on special investigations and projects. Nevertheless, there was a decrease in the backlog of cases in the field from 784 at the end of fiscal 1968 to 605 at the end of fiscal 1969.

Some of the investigations in which the field offices were engaged during fiscal 1969 involved:

- (1) the long term leasing of tires from tire manufacturers by bus companies and the competitive effects thereof ;
- (2) the reciprocal patronage and dealings between industrial concerns to the alleged detriment of competing firms and businesses;
- (3) the advertising rate structure employed by metropolitan newspapers and the anticompetitive results attendant upon any illegal discriminations and other questionable practices;
- (4) deceptive and fraudulent practices perpetrated in the sale of home improvements such as aluminum siding, patios, storm windows, etc.;
- (5) the importation of used and reconditioned foreign cars which are sold as new to the American public;
- (6) survey of automobile sticker prices in relation to the actual sale price of automobiles to consumers and the trade-in-allowances given;
- (7) survey of the operation of the PDS Code (paid during service magazine subscription solicitors code) ; and
- (8) survey of pricing practices of major food chains in ghetto areas.

To further the Commission policy of obtaining voluntary compliance with the statutes it administers, the field offices negotiated or participated in the negotiation of over 400 consent settlements during the fiscal year. These include 170 affidavits or letters of volun-

tary compliance in the simpler infractions of Section 5 of the Federal Trade Commission Act and other statutes and 239 consent orders. The consent orders involved the more serious breaches of the statutes.

The Bureau began the fiscal year with about 154 field attorneys and ended the fiscal year with the same number. The Bureau lost during the fiscal year 31 attorneys or 20 percent of the attorneys on duty on July 1, 1968.

# APPROPRIATIONS AND FINANCIAL OBLIGATIONS

---

## FUNDS AVAILABLE FOR THE COMMISSION FOR THE FISCAL YEAR 1969

Funds available to the Commission for the fiscal year 1969 amounted to \$16,900,000. Public Law 90-500 approved October 4, 1968, provided \$16,000,000; Public Law 90-608 approved October 21, 1968, provided \$300,000 and Public Law 91-47 approved July 22, 1969, provided \$600,000.

### Programs by activities, fiscal year 1969

1. Antimonopoly:	
Investigation and litigation . . . . .	\$ 6,131,000
Economic and financial reports . . . . .	1,202,000
Trade regulation rules and industry guides . . . . .	355,000
2. Deceptive practices:	
Investigation and litigation . . . . .	4,974,000
Trade regulation rules and industry guides . . . . .	713,000
Textile and fur enforcement . . . . .	1,705,000
3. Consumer credit enforcement . . . . .	390,000
4. Executive direction and management . . . . .	385,000
5. Administration . . . . .	950,000
Total program costs funded . . . . .	\$16,805,00

### Settlements Made Under Federal Tort Claims Act

During the fiscal year 1969 the Commission paid claims under this Act in the amount of \$188.26. No other claims are pending for the same period.

## APPENDIX (A)

### FTC Cases in the Courts

---

Following is a summary of the principal Federal Trade Commission cases before the courts during fiscal 1969 together with a brief discussion of what is involved in each case or group of cases.

#### RESTRAINT OF TRADE CASES

The Supreme Court handed down only one decision in Commission restraint of trade cases during fiscal 1969, *Texaco, Inc.—B. F. Goodrich Co.* (D. 6485). This litigation has had a long history before the Commission and the courts. In fiscal 1965, the Supreme Court reversed the judgment of the District of Columbia Circuit that the Commission's order was not supported by substantial evidence, and remanded the case to the court of appeals with instructions to remand it to the Commission for further proceedings in conformity with the Supreme Court's opinion in *Atlantic Refining Co.—Goodyear Tire & Rubber Co.* (D. 6486). Following further Commission proceedings, and another adverse decision by the court of appeals, the Supreme Court this year again reversed the District of Columbia Circuit and sustained the Commission's finding that an agreement whereby Texaco undertook to induce its service station dealers to purchase "sponsored" Goodrich TBA products in return for a "sales commission" paid by Goodrich to Texaco, amounted to an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act.

In addition to the above, the Supreme Court denied certiorari in an important restraint of trade case decided in fiscal 1968 in the Commission's favor by the Third Circuit (Philadelphia), *Luria Bros. & Co.* (d. 6156). In that case, the court of appeals had upheld the Commission's finding that various restrictive arrangements and practices in the American and European steel scrap markets violated Section 5.

In another significant restraint of trade decision, the Seventh Circuit (Chicago), in *Columbia Broadcasting System, Inc.* (D. 8512), upheld the Commission's finding that the company had engaged in unfair and unlawful practices in the operation of its wholly owned subsidiary, *Columbia Record Club, Inc.*, by means of (1) licensing agreements with competing record manufacturers which granted Columbia the exclusive right to distribute their long-playing (LP) records by mail, and (2) agreements with these companies to fix and depress the royalties paid to entertainment artists on their

records which Columbia distributed through its operation. The court affirmed that part of the Commission's order prohibiting agreements on royalties paid to recording artists. Although the court also affirmed the Commission's findings that mail-order record clubs constituted an economically significant submarket, and that the agreements in question effectively foreclosed a substantial share of that market, it nevertheless set aside that part of the Commission's order dealing with the latter issue and remanded the case to the Commission, directing it to consider the market's present structure in view of Columbia's allegations regarding the entry of new record club distributors subsequent to the close of the evidentiary proceeding.

There was one Section 5 antimonopoly case decided adversely to the Commission this year. In *Community Blood Bank of the Kansas City Area, Inc.* (D. 8519), the Eighth Circuit (St. Louis) set aside a Commission order prohibiting a conspiracy to boycott the services of a community blood bank in the Kansas City area, on the grounds that the Commission lacked jurisdiction to proceed against nonprofit corporations engaged in business solely for charitable purposes, and that the organizations involved fell within that category. The Solicitor General denied the Commission's request to file a petition for certiorari.

Significant Section 5 restraint of trade cases pending in the courts at the close of the fiscal year were: *Lenox, Inc.* (D. 8718) in the Second Circuit (New York), in which the Commission has found an unlawful system of resale price maintenance in the distribution of the company's fine china dinnerware, giftware and artware) *George T. Robertson (Henderson Tobacco Market Board of Trade, Inc.)* (D. 8684) in the Fourth Circuit (Richmond), which involves the allocation of selling time among tobacco auction warehouses on the Henderson, North Carolina, market; *Sperry & Hutchinson Co.* (D. 8671) in the Fifth Circuit (New Orleans), involving various restrictive practices in the distribution and redemption of trading stamps; and *L. G. Balfour Co.* (D. 8435) in the Seventh Circuit (Chicago), which involves monopolization and other unfair acts and practices in the national college fraternity insignia products market, and additional unfair practices in the sale and distribution of high school class rings.

There was much court activity in Robinson-Patman Act price discrimination cases in fiscal 1969, all matters being decided in the Commission's favor:

The Supreme Court denied certiorari in *National Dairy Products Corp.* (D. 7018), a Section 2(a) "secondary line" case involving sales of fluid milk by the company's Sealtest Division. The chief issue before the Court concerned cost justification. On this point, the Seventh Circuit (Chicago) in fiscal 1968 had sustained the Commission's ruling that where reliance is placed upon alleged savings in delivering to individual stores in asserting a cost justification defense, the cost justification itself must also be on an individual store basis, rather than upon the generalized cost of serving a chain store customer as a whole.

In another Section 2(a) case involving National Dairy Products Corp. (D. 8548), this one charging a "primary line" injury violation, the Seventh Circuit (Chicago), in a carefully reasoned opinion, affirmed the Commission's finding of territorial price discrimination in the sale of jelly, jam and preserve (fruit spread) products by National's Kraft Foods Division in the Baltimore, Washington, Richmond and Norfolk market areas. The court, however, modified the Commission's order by limiting its application to future sales of fruit spread products only.

Two Robinson-Patman decisions in fiscal 1969 involved the application of the Section 2(B) "meeting competition" defense: In Surprise Brassiere Co. (D. 8584), the Fifth Circuit (New Orleans) distinguished its fiscal 1966 holding in Callaway Mills and sustained the Commission's finding that discriminations practiced by Surprise in the granting of advertising allowances were not excusable under the guise of good faith meeting of competition. The court reasoned that, unlike the situation in Callaway, Surprise was not faced with an impossible burden in attempting to meet the differing allowances offered by competitors in specific situations. The Third Circuit (Philadelphia), in Viviano Macaroni Co. (D. 8666), likewise rejected a "meeting competition" defense in upholding the Commission's determination that the company violated Sections 2(a), (d) and (e) in sales of macaroni products to wholesalers and retailers. The court held that Viviano had failed to sustain its burden under the Supreme Court's Staley decision of showing sufficient diligence in verifying particular offers made to its favored customers by competitors. The court also sustained the Commission's order in its entirety, including provisions defining "net price" and requiring Viviano to notify all competing customers of prices and terms which deviated from those previously announced by the company.

In addition to the above, there were two decisions in Robinson-Patman cases this fiscal year in which Commission's orders were modified at the Commission's request to accord with the Supreme Courts' decision last fiscal year in Fred Meyer. In Tri Valley Growers (formerly Tri-Valley Packing Ass'n) (Ds. 7225 and 7496), which was before the Ninth Circuit (San Francisco) following the Commission's decision on remand from that court's fiscal 1964 ruling, the Commission's finding of violation of Sections 2(a) and (d) in the distribution of canned fruits and vegetables was sustained. The Section 2(d) portion of the order, however, was modified to prohibit discriminatory promotional payments to customers unless such payments are made available on proportionally equal terms to all other competing customers, "including customers who do not purchase directly" from Tri Valley. In Clairol, Inc. (D. 8647), the Ninth Circuit similarly modified the Commission's Section 2(d) order, extending its scope to include all retailers of Clairol products competing with direct-buying retailers, regardless of the number of intervening levels of wholesale purchasers or distributors. The court also rejected Clairol's contention that its beauty salon customers did not compete with its other retail customers in the distribution of Clairol

products (the contention being that the products were used up in the course of beauty treatments rather than being resold to consumers in package form for consumption elsewhere).

Pending in the Fifth Circuit (New Orleans) at the close of fiscal 1969 was an important Section 2(a) matter, National Biscuit Co. (D. 5013). In that case, following the commencement of an investigational proceeding by the Commission in 1967 to determine whether Nabisco was complying with the Commission's 1954 modified order, Nabisco filed a petition for review, contending that the Commission's original order against it, issued in 1944 pursuant to a stipulation of facts, was a "consent" order, and that the procedures later utilized by the Commission to modify the order were improper. The court has remanded the case to the Commission to conduct evidentiary hearings on the consent order question.

While there were no court decisions in the Section 7 merger field during fiscal 1969, there were four important merger cases pending at the close of the year. Three of these were in the Sixth Circuit (Cincinnati) : Abex Corp. (formerly American Brake Shoe Co.) (D. 8622), which involves the acquisition by Abex, a large diversified manufacturer of railroad products, hydraulic products, castings and friction material, of The S. K. Wellman Co., the country's largest manufacturer of sintered metal friction materials; Seeburg Corp. (D. 8682), which involves the acquisition by Seeburg, a manufacturer of a relatively broad line of vending machines, of Cavalier Corp., a vending, machine manufacturer largely engaged in the production of machines used to, dispense cans and bottles for the soft drink trade; and United States Steel Corp. (D. 8 655), which involves the acquisition by U.S. Steel of a large ready-mixed concrete manufacturer and the "failing company" defense. Pending in the Seventh Circuit (Chicago) was Marquette Cement Mfg. Co. (D. 8685), which involves the acquisition of several ready-mixed concrete manufacturers.

#### DECEPTIVE PRACTICE CASES

The only court of appeals decision in Section 12 "drug" cases in fiscal 1969 was that rendered by the Sixth Circuit (Cincinnati) in American Home Products Corp. (D. 8641). In that case, the court sustained the Commission's finding that the company had deceptively advertised the efficacy of its hemorrhoid drug, "Preparation H." The court, however, held that the Commission's order was too broad in certain respects and remanded the matter to the Commission for modification. Four similar cases involving hemorrhoid products were being held in abeyance in the courts pursuant to stipulation of the parties pending the conclusion of the American Home case: Grove Laboratories (D. 8643) in the Fifth Circuit (New Orleans); and Humphreys Medicine Co. (D. 8640), Mentholatum Co. (D. 8644) and E.C. Delvitt Co. (D. 8642), all in the Second Circuit (New York).

Another important "drug" case pending at the close of the year in the Sixth Circuit (Cincinnati) was S.S.S. Co., Inc. (D. 8646), which involves



representations concerning the efficacy of the company's tonic and tablets as regards conditions associated with iron deficiency.

There were a number of court decisions last year in cases involving other types of deceptive practices under Section 5. In *S & S Pharmaceutical Co.* (D. 8696), the Fifth Circuit (New Orleans) sustained the Commission's findings and order. In substance, the Commission's order prohibits *S & S* from sending unordered merchandise to retailers without their consent, and from placing any advertisements concerning such merchandise on behalf of retailers without their consent.

Two court decisions involved deceptive pricing practices: In *Federated Nationwide Wholesalers Service* (D. 8649), the Second Circuit (New York) upheld the Commission's determination that the company had falsely advertised the amount of savings available to the consuming public in sales of articles of general merchandise. The court, however, modified a provision in the Commission's order which, in its view, would improperly shift the burden of proof in a subsequent order violation proceeding in connection with petitioners' representing themselves as "wholesalers" or as selling at "wholesale" or "low wholesale" prices. And in *Spiegel, Inc.* (D. 8708), the Seventh Circuit (Chicago) affirmed the Commission's holding that a catalog house had engaged in fictitious pricing through the advertising of "dollar sales" of certain of its products. It modified the Commission's order, however, by limiting its application to misrepresentations regarding the former or usual retail price of its merchandise.

In other deceptive practice cases, the Third Circuit (Philadelphia) sustained the Commission's finding in *Consumers Products of America, Inc.* (D. 8679) that the company had engaged in various deceptive practices in selling encyclopedias, and rejected the company's contentions that the Commission's order was too broad. In *Walter Dlut* (D. 8713), the same court held that there was sufficient evidence to support the inclusion of Mr. Dlut himself in the Commission's order in his individual capacity, since he directed and controlled the operations of the General Transmissions Corporation of Washington, D. C., the company which committed the unlawful deceptive practices. The Supreme Court denied certiorari in this case. And in *Sydney N. Floersheim* (D. 8721), the Ninth Circuit (San Francisco) upheld a Commission order prohibiting the dissemination of deceptive "debt collection" forms. The court also rejected Floersheim's argument that the Commission erred in proceeding against him by filing a *de novo* complaint rather than by reopening prior proceedings involving his business. In addition, the Supreme Court denied certiorari in *S. Dean Slough* (D. 8661), a case also involving deceptive "debt collection" forms, in which the Fifth Circuit (New Orleans) last year sustained the Commission's order.

There was one deceptive practice case decided adversely to the Commission last year. In *Rodale Press, Inc.* (D. 8619), the Commission had found deceptive statements in advertising regarding the contents of and the therapeutic value obtainable from certain "health" publications. The District of

Columbia Circuit, however, held that the theory under which the evidentiary hearings were held differed from the theory upon which the complaint was ultimately sustained by the Commission. The court accordingly vacated the order and remanded the matter to the Commission for further hearings and argument on the new theory of violation. The Commission did not seek certiorari in this case and subsequently entered an order dismissing the complaint.

There were a number of deceptive practice cases pending in courts of appeals at the close of fiscal 1969: Joseph L. Portwood (D. 8681) in Tenth Circuit (Denver), which involves unfair or deceptive methods in attempting to sell "unordered merchandise"; Lester S. Cotherman (Consolidated Mortgage Co.) (D. 8723) in the Fifth Circuit (New Orleans), involving false advertising of money-lending services; Cinderella Career & Finishing Schools, Inc. (D. 8729) in the District of Columbia Circuit, which involves deception in offering to train young women for careers as airline stewardesses or department store buyers; Leon A. Tashof (d/b/a New York Jewelry Co.) (D. 871.4) also in the District of Columbia Circuit, and important case involving misrepresentations as to prices and to the extension of credit terms in the framework of "ghetto" merchandising; All-State Industries of North Carolina, Inc. (D. 8738) in the Fourth Circuit (Richmond), which involves deception in the sale of aluminum "home improvement products"; and P. F. Collier & Son Corp. (D. 7751) in the Sixth Circuit (Cincinnati), which involves misrepresentations in selling encyclopedias.

#### SUITS FOR ENFORCEMENT OF COMMISSION SUBPOENAS OR ORDERS

Proceedings to enforce compliance with Commission subpoenas increased significantly in fiscal 1969. In previous years it had been the Commission's practice to file enforcement papers in the courts through its own attorneys in the General Counsel's Office. In fiscal 1968, however, the Eighth Circuit (St. Louis) held in the Guignon case that the Commission had no standing to seek court enforcement of its subpoena as without the aid or consent of the Attorney General. Believing this decision to be erroneous, the Commission requested the Solicitor General to file a petition for certiorari. The Solicitor General denied this request, and further refused to permit the Commission to file a petition for certiorari on its own behalf in the Supreme Court.

As a result of the Guignon decision, the Commission requested the Department of Justice to initiate subpoena enforcement proceedings in 12 instances in fiscal 1969. In addition, at the close of the year the Commission's General Counsel's Office was engaged in preparing enforcement papers with respect to 14 other subpoena matters, for submittal to the Department.

During the past year, court orders of enforcement were obtained in Curtiss-Wright Corp. (Martin A. Sherry) (D. 8703) and Lehigh Portland Cement Co. (Ralph L. Browning) (D. 8680). In both of these cases, the United States District Court for the District of Columbia Circuit ruled that it

had jurisdiction under Section 9 of the Federal Trade Commission Act to serve process upon parties involved in the subpoenas who were located beyond the territorial limits of the Washington, D. C., area, where the Commission's inquiry was being conducted. Compliance with a Commission subpoena was also obtained in Barry Distributing Corp. (Shepard E. Lewis (File 662 3080) (Massachusetts District). In another case, Harry Stroiman (d/b/a Empire Builders Co.) (File 662 3513) refused to comply with certain specifications of a Commission subpoena notwithstanding, the order of the United States District Court for the Southern District of Iowa, and appealed to the Eighth Circuit (St. Louis). Motion for stay of the order was denied by both the district court and the court of appeals, and civil and criminal contempt proceedings have been instituted in the district court.

In addition to subpoena matters, there were three court actions in fiscal 1969 involving efforts to obtain compliance with Commission Section 6 (b) orders calling for the filing of special reports. In San Juan Lumber Co., Inc. (File 24-66-594), a complaint for enforcement and for forfeiture penalties of \$100 per day was filed on the Commission's behalf in the United States District Court for the District Colorado. This case was pending at the close of the year. In Forest Products Co. (File 24-66-951), an enforcement action was dismissed by the United States District Court for the District of Montana after the information required by the Section 6(b) report was submitted to the Commission. In Continental Baking Co. (File 681 0080), the Commission's proceeding for enforcement was likewise dismissed by the United States District Court for the District of Delaware after the required information was furnished to the Commission.

#### COLLATERAL SUITS AGAINST THE COMMISSION FOR INJUNCTIVE AND OTHER RELIEF

During fiscal 1969 the Commission was again faced with numerous court suits challenging its jurisdiction or methods of procedure:

In Lehigh Portland Cement Co. (D. 8680), the United States District Court for the Eastern District of Virginia granted the Commission's motion for summary judgment and denied a cross-motion for summary judgment filed by Lehigh. The company's complaint for declaratory judgment and injunction alleged that the Commission's Section 7 proceeding against it was prejudiced by press releases and by the Commission's industrywide-investigation concerning vertical integration in the cement and ready-mixed concrete industries. Lehigh has appealed to the Fourth Circuit (Richmond).

Complaint for declaratory judgment and other relief was filed against the Commission in the United States District Court for the Northern District of Georgia in Genuine Parts Co. (File 671 0673). The court entered an order staying the statutory penalty of \$100 per day for failure to file a Section 6(b) report ordered by the Commission. Subsequently, the Department of Justice refused the Commission's request to prosecute all appeal. Thereafter,

the Commission filed its answer together with a motion for summary judgment.

In an action initiated in the United States District Court for the Southern District of New York, *Suburban Propane Gas Corp.* (D. 8672), the company sought to prevent the Commission from conducting hearings in a Section 2(f) proceeding on the grounds that it had not been afforded a reasonable opportunity to complete its discovery and prepare its defenses. Suburban further complained that the administrative proceeding should not go forward until the Commission acted to insure that appropriate rules of law would be applied regarding the burden of introducing evidence on the issue of cost justification in a Section 2(f) case. The district court denied Suburban's motion for preliminary injunction. The ruling was appealed to the Second Circuit (New York), which denied Suburban's application for injunction pending appeal.

Of major significance this year was the decision by the District of Columbia Circuit in *Textile and Apparel Group, American Importers Ass'n* (File 204-12-1), in which the court of appeals reversed the United States District Court for the District of Columbia and permanently enjoined the Commission against enforcement of Rule 36 promulgated by the Commission under the Wool Products Labeling Act. In substance, Rule 36 provides for the temporary detention of imported wool products by the Bureau of Customs for the conduct of tests by the Commission, if desired, for fabric content. The court held, *inter alia*, that the promulgation of Rule 36 was not authorized under the general provisions of the Wool Act empowering the Commission to make rules necessary and proper for administration and enforcement thereof. The Commission has requested the Solicitor General to file a petition for certiorari on its behalf.

In *L. G. Balfour Co.* (D. 8435), the company filed a collateral attack against the Commission. The complaint alleges that the Commission's final order in Docket 8435 was based in part on evidentiary matters going beyond the time period stipulated to by the parties in settling an earlier suit by Balfour in the United States District Court for the Eastern District of Virginia. (This action is being conducted at the same time that Balfour's appeal from the merits of the Commission's Section 5 decision is pending in the Seventh Circuit.)

Awaiting argument in the District of Columbia Circuit is *Bristol-Myers Co.* (Trade Reg. Rule 215-14). The company has appealed from the dismissal last year by the United States District Court for the District of Columbia for its complaint seeking, *inter alia*, to prevent the Commission from proceeding with its pending analgesic rule-making proceeding and to compel the Commission to produce documentary records from its files under the provisions of the Public Information Act.

In addition to the above cases, two actions were filed at the close of fiscal 1969 challenging the Commission's interpretation as to product coverage under the Fair Packaging and Labeling Act. One suit was filed in the Court

of Appeals for the District of Columbia Circuit by the National Paint, Varnish and Lacquer Ass'n, Inc. (File 207-5-2). The other action was brought in the United States District Court for the District of Columbia by the National Retail Merchants Ass'n and numerous other mercantile organizations (File 207-5-1).

## APPENDIX (B)

### Bureau of Textiles and Furs Civil Penalty and Criminal Cases

---

During fiscal 1969 a judgment in the amount of \$15,000 with injunction was entered in a civil penalty case.

#### Penalty Cases Statistics

Pending July 1, 1968 .....	4
Filed during year .....	4
Disposed of during .....	1
Pending June 30, 1969 .....	7

#### Criminal Cases Statistics

Pending July 1, 1968 .....	1
Filed during year .....	0
Disposed of during year .....	1
Pending June 30, 1969 .....	0

#### Civil Penalty Cases Concluded

Woody Fashions, Inc., (S.D.N.Y.). Misbranding of wool products, coats. Dismissed.  
Marvin Accessories, Inc., (S.D.N.Y.). Importation and sale of dangerously flammable wearing apparel (scarfs). Judgment \$15,000 and injunction.

#### Civil Penalty Cases Pending

Elliot Knitwear, Inc., (S.D.N.Y.). Importation and sale of misbranded wool products, sweaters.  
Marks Furs, Inc., (E.D. Mich.). Making pricing claims as to fur products without maintaining records showing the basis for such claims.  
Irving Rifkin, (S.D.N.Y.). Misbranding imported woolen fabrics.  
Glensder Textile Corporation, (S.D.N.Y.). Importation and sale of dangerously flammable wearing apparel (scarfs).  
Modelli Imports, Ltd., (S.D.N.Y.). Importation and sale of misbranded wool products, fabrics.

Durlacher and Company, Inc., (S.D.N.Y.). Importation and sale of dangerously flammable wearing apparel (scarfs).

Annis-Stanton Company (Cent. D. Cal.). Importation and sale of dangerously flammable fabrics.

#### Criminal Cases Concluded

Stone & Stone, Inc., (S.D.N.Y.). Misbranding and false invoicing of fur products. Dismissed.