

Annual  
Report  
of the **FEDERAL  
TRADE  
COMMISSION**

For the Fiscal Year Ended  
June 30, 1964

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington, D.C., 20402 - Price 25 cents (paper cover)

# Federal Trade Commission

PAUL RAND DIXON, Chairman  
PHILIP ELMAN, Commissioner  
EVERETTE MACINTYRE, Commissioner  
JOHN R. REILLY, Jr., Commissioner

JOHN V. BUFFINGTON, Assistant to Chairman

JOSEPH W. SHEA, Secretary

JOHN N. WHEELOCK, Executive Director  
PHILIP R. LAYTON, Program Review Officer  
JAMES MCI. HENDERSON, General Counsel  
L. EDWARD CREEL, Director of Hearing Examiners (acting)  
DANIEL J. MURPHY, Director  
    Bureau of Deceptive Practices  
WILLARD F. MUELLER, Director  
    Bureau of Economics  
SAMUEL L. WILLIAMS, Director  
    Bureau of Field Operations  
CHALMERS B. YARLEY, Director  
    Bureau of Industry Guidance  
JOSEPH E. SHEEHY, Director  
    Bureau of Restraint of Trade  
HENRY D. STRINGER, Director  
    Bureau of Textiles and Furs

EXECUTIVE OFFICES OF THE FEDERAL TRADE COMMISSION

Pennsylvania Avenue at Sixth Street Northwest,  
Washington, D.C. 20580

Field Offices

30 Church St., New York, N.Y., 10007  
Room 486, U.S. Courthouse & Federal Office  
Building, 219 South Dearborn Street,  
Chicago, Ill., 60604  
450 Golden Gate Avenue, Box 36005, San  
Francisco, Calif., 94102  
Room 1212, 215 West Seventh Street, Los  
Angeles, Calif., 90014  
Room 1001, 131 State Street, Boston, Mass,  
02109  
Room 1000, Masonic Temple Building, New  
Orleans, La., 70130

Room 10511 U.S. Courthouse Building, P.O. Box  
61165, Houston, Tex., 77061  
Room 509, U.S. Courthouse, Seattle, Wash.,  
98104  
Room 1128, Standard Building, Cleveland, Ohio,  
44113  
Room 2806, Federal Office Building, Kansas  
City, Mo., 64106  
Room 915, Forsyth Building, Atlanta, Ga., 30303  
Anderson Building, 450 West Broad St., Falls  
Church, Va., 22046

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

Room 400, U.S. Court and Custom House, St.  
Louis, Mo., 63101  
Room 405 Thomas Building, 1314 Wood St.,  
Dallas, Tex., 75202  
Room 204, 327 North Tryon Street, Charlotte,  
N.C., 28202  
Room 231, U.S. Courthouse, Portland, Oreg.,  
97205

53 Long Lane, Upper Darby, Pa., 19082  
Room 647, Equitable Building, 730 17th Street,  
Denver, Colo., 80202  
Room 1308, New Federal Building, 51 S.W. First  
Avenue, Miami, Fla., 33130

# Letter of Transmittal

FEDERAL TRADE COMMISSION,  
Washington, D.C.

To the Congress of the United States:

It is a pleasure to transmit herewith the Fiftieth Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1964.

By direction of the Commission.

PAUL RAND DIXON,  
Chairman.

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

## TABLE OF CONTENTS

---

Chapter	Page
I. Introduction . . . . .	1
II. The Industry Guidance Program . . . . .	7
III. Combating Deception of the Consumer . . . . .	9
IV. The Fight For Fair Business Competition . . . . .	19
V. Wool, Fur, and Textile Acts Enforcement . . . . .	27
VI. Followthrough in Law Enforcement . . . . .	31
VII. Legislation Needed . . . . .	33
VIII. The Role of Economic Studies and Evidence . . . . .	35
IX. Appropriations and Financial Obligations . . . . .	41
Appendix (A) FTC Cases in the Courts . . . . .	43
Appendix (B) Deceptive Practice Civil Penalty Cases . . . . .	49
Appendix (C) Textile and Fur Court Cases . . . . .	51

## INTRODUCTION

---

Unprecedented emphasis on the use of industry guidance methods as alternatives, whenever possible, to formal adversary actions characterized the work of the Federal Trade Commission during fiscal 1964. In pursuing this policy, the Commission moved toward its original purpose of guiding business into legal channels without bringing down upon it the "menace of the law."

Only when persuasion encountered defiance or delaying tactics to prolong illegal practices did the Commission strike with the full force of the status it was given to enforce.

With an appropriation of \$12,214,000 and a staff of 1,144, it would have been simple indeed to build record statistics by showering complaints on corporations and individuals, but the Commission chose to ignore the numbers game and to concentrate on the real problem of encouraging businessmen to comply with the law by forcefully defining its requirements, by persuading them to discontinue illegal practices without litigation, and by tackling defiance on as broad a scale as the Commission's resources permitted.

Whenever a law violation was identified, the Commission, instead of applying the simple (and superficially vigorous) method of halting individual violators, undertook to find out if their competitors were doing likewise. If they were, the Commission then decided how best this competitively generated evil could be eliminated with the least delay. Indeed, if the Commission could persuade business to do its own housecleaning, the public interest would be served just as well, faster and at a fraction of the cost. In such cases, the Commission's principal role was to backstop good intentions with the force of law.

While the new approach has been several years in developing and has been employed successfully on a limited scale previously, never before has the Commission embarked on this guidance course with so much emphasis.

This is illustrated by the unprecedented use of Trade Regulation Rules, Advisory Opinions, and the correction of law infractions by accepting assurances of discontinuance from the violators, thus avoiding time-consuming litigation. The resulting speedup in averting and informally correcting violations redounded not only to the benefit of fair competition in business but also to the consuming public. Too often in the past while the Commission was slowly driving nails into the coffin of a stoutly defended illegality, competitors and the public continued to be victimized by it.

Significantly, too, the new guidance program has muscle behind it. For example, Trade Regulation Rules are issued only after public hearings have been held at which the exact points of illegality in objectionable practices have been illuminated and defined. This serves not only to put businessmen on notice of the Commission's interpretation of the illegality but it also simplifies the FTC's burden of proof in prosecuting cases. To know with certainty what the Commission had found to be illegal about a business practice, to know that this practice had been selected by the FTC as a target, and to know that the Commission's Trade Regulation Rule can be employed effectively in the prosecution of a case is a greater deterrent to continuation of the practice than to bring isolated cases against a few violators.

Many violations, however, did not lend themselves to handling by informal methods. The Commission had no alternative but to bring formal complaints looking to the issuance of cease-and-desist orders. The fiscal year saw the Commission issue 311 such complaints and 415 orders. In fiscal 1963, comparable statistics showed the issuance of 437 complaints and 475 orders. However, the comparative numbers of complaints and orders signifies no lessened efficiency inasmuch as in fiscal 1964 much greater emphasis was placed on informal methods of obtaining compliance with the law. For example, 416 assurances of discontinuance were accepted in fiscal 1964 as compared to but 239 the previous year. The 1964 total was nearly four times the average number for the years 1958-60, inclusive. Had the Commission been determined to prosecute whenever possible, many of these assurances of discontinuance could have been converted into complaints and, in time, orders.

It is unfortunate that statistics are so often misunderstood. Superficially, the more complaints and the more orders the Commission

issues, the more efficiently does it serve its purpose; yet, such statistics are misleading. Just as it is no compliment to a chef who can set a record for issuing reprimands for broken dishes, it is no compliment to the FTC for issuing a record number of complaints and orders for violations of the trade regulation laws. In both cases, the better purpose is not to pick up broken dishes or broken laws, it is to prevent their being broken. In short, the ideal statistic for the FTC to report would be that it had taken no actions at all because none were necessary. While the ideal will never be achieved, its validity points a goal toward which the Commission is aiming: To prevent violations of law rather than to achieve a statistical record for stopping them. A stern warning that will forestall a violation of a statute the FTC is enforcing makes better sense than posting additional statistics at a cost of months of litigation and thousands of dollars. Such money and time are better spent on fighting those who deliberately disobey the law.

With the Nation's business achieving a gross product of more than \$500 billion, the Commission's capacity to regulate business conduct would have been overwhelmed by the magnitude of the task were it not for the decision to enlist by means of industry guidance programs the support of reputable businessmen. Thus the Commission was able to concentrate its fire on those who chose to interpret inaccurately or ignore the law to their own advantage.

The Commission's accomplishments during fiscal 1964 are summarized by type of activity on the following pages.

## THE INDUSTRY GUIDANCE PROGRAM

---

Viewed broadly, all of the Commission's actions looking to enforcement of the trade regulation laws provide guidance for industry. Formal orders against particular violators certainly alert them and should alert other businessmen to the fact that the practice attacked is illegal. However, this chapter describes only that area of FTC work in which guidance is proffered by means other than adversary actions.

Fiscal 1964 witnessed an unprecedented expansion of effort not only to correct unlawful practices by voluntary procedures on as wide a basis as possible but also to forestall violations by giving dependable advice to individual businesses on the legality of actions they proposed to take. This called for using the Commission's newest as well as its time-tested methods.

The most recent of these, Trade Regulation Rules, produced important results in tackling five problems. The most conspicuous and difficult concerned prevention of unfair or deceptive advertising and labeling of cigarettes. A rule was promulgated requiring disclosure in advertising and on the pack, box, carton or other container, that cigarette smoking is dangerous to health and may cause death from cancer and other diseases. In promulgating this rule, consideration was given to data and arguments presented by interested persons, both in writing and orally at a public hearing, as well as to other information available to FTC, including the Report of the Surgeon General's Advisory Committee on Smoking and Health.

Other subjects dealt with on an industrywide basis through Trade Regulation Rules were: Misrepresentation of dry cell batteries as "leakproof"; deception as to the leather content of belts; misrepresentation of nonprismatic or partially prismatic instruments as binoculars; and deception as to the size of sleeping bags.

Public hearings were held on proposed rules relating to the following subjects: Deceptive advertising and labeling of previously used lubricating oil; deception as to the size of tablecloths and related products; deception as to the light output, wattage, and life of incandescent electric light bulbs; and the use of names suggesting foreign origin to describe cosmetics and toilet preparations not made wholly in a foreign country.

Among the subjects under study for Trade Regulation Rule proceedings at the close of the fiscal year were alleged discriminatory pricing practices in the marketing of gasoline, mergers in the cement industry, unlawful advertising allowances in the luggage industry, and deception as to the size of television picture tubes.

Significant strides also were made under the older industrywide programs. A highlight of the Guides program was the issuance of revised Guides Against Deceptive Pricing. These Guides were issued as practical aids to businessmen in advertising the price of their merchandise. They deal with various forms of bargain advertising and other areas of price advertising which experience has shown to be especially troublesome to businessmen.

Guides also were issued for the Mail Order Insurance Industry, providing detailed guidance on practices to be avoided in offering insurance for sale by mail.

Trade Practice Rules were promulgated for the household furniture and braided rug industries. The former include provisions against such practices as deceptive use of wood names and misrepresenting the materials of which the stuffing and outer coverings of furniture are made. Among the practices covered by the braided rug rules are misrepresentation of rug size and deceptive use of terms such as "hand made" and "hand braided." In addition to the now rules promulgated, the rules for seven industries underwent some revision. At the close of the fiscal year, rule proceedings were underway in the fresh fruit and vegetable, phonograph record, gypsum, funeral service, and hearing aid industries, among others.

Under the Rule and Guide Compliance Program, 353 violation matters were disposed of on assurances that the unlawful practices would be abandoned. Since this compliance was voluntary, the expense of investigation and litigation was avoided. At the end of the year, 307 compliance matters were receiving attention under this program.

In addition to the regular compliance work, compliance checks were initiated under the Guides Against Deceptive Advertising of Guarantees as to guarantees for the following products: Antifreeze, electric blankets, lawnmowers, garden hose, and outboard motors. In instance of noncompliance, opportunity was afforded in appropriate situations for voluntary correction. Industrywide compliance checks were also undertaken under the rules for the feather and down and luggage and related products industries. These projects were in various stages of completion at the close of the fiscal year.

A survey was made of the advertising claims used by manufacturers of room dehumidifiers as to the amount of moisture their products will remove from the atmosphere. As a result of this survey, manufacturers of these products have agreed to use a uniform standard of measurement as a basis for such claims to assure their accuracy and prevent deception of consumers.

The staff also handled more than 1,600 requests from businessmen seeking advice as to the application of rules and guides to their particular practices.

Advice as to the legality of proposed courses of action is furnished in the form of advisory opinions which are binding upon the Commission. Under this procedure, a businessman may describe a course of action he proposes to follow and request an opinion as to its legality. During the past year, the second full year of its operation, 199 requests for advisory opinions were received. The Commission furnished formal opinions in 28 matters and 154 requests were disposed of by staff action. Forty-six requests for opinions were receiving attention at the end of the year.

The legal problems presented by the various requests covered virtually every aspect of the Commission's work. Significant among these were requests for approval of codes of ethics proposed by various associations and groups of businessmen. As usual, the most difficult and complex problems were in connection with requests received for Commission approval of proposed mergers and acquisitions. Other subjects presented for consideration had to do with price discrimination, cooperative advertising programs, guarantees, deceptive pricing, and claims and representations concerning the performance and characteristics of a variety of products.

## COMBATING DECEPTION OF THE CONSUMER

---

Cheating of consumers, principally by false advertising, is the evil for whose eradication the Commission's performance is judged by most Americans. If advertising can't be trusted and the public is being swindled by trick merchandising, the FTC fails in one of its major purposes. Aware of this fact, the Commission devoted more than half of its enforcement funds to the halting of deceptive practices (including improper labeling and advertising of furs and textiles) during fiscal 1964.

With more than 5,000 applications for complaint from businessmen and consumers, plus investigations initiated on its own motion; the Commission applied the principle of tackling deception on as broad a scale as possible. This was particularly effective when the deception had been engendered by competition, when half truths and exaggerations had to be matched or bettered in order for the maker or seller of a product to compete for sales. Moreover, less resistance to the Commission's enforcement efforts was encountered because respondents had the comforting knowledge that their competitors also would be required to stop violating the law. In some cases, the broadening of investigations disclosed that the problem under scrutiny was so widespread that it could be tackled better by first issuing a Trade Regulation Rule. This would serve the double purpose of spotlighting the illegality to encourage voluntary compliance with the law and of simplifying the Commission's adversary proceedings against any who persisted in the illegality.

Of course, when law violations were obviously of an isolated character or when the havoc they were creating demanded adversary proceedings on an individual basis, the Commission did not delay in taking such action. The same procedure also was followed in many other cases simply because funds and manpower

could not be stretched far enough to make industrywide investigations on other than a selective basis.

Significant areas in which the Commission acted during fiscal 1964 to prevent consumer deception include the following:

#### Health Products

A project involving about 50 cases was pursued in an effort to eradicate false advertising of vitamin and mineral preparations. In a typical case, the advertiser of a vitamin preparation was ordered to stop claiming the product would overcome nervousness, restlessness, listlessness, worry, irritability, tension, depression, loss of vigor and vitality, or lack of alertness, unless a clear disclosure be made that such symptoms are usually due to conditions other than vitamin deficiency and thus the product would not be of benefit in the great majority of cases (C-731).

In other typical cases involving health, the Commission took action to stop false claims that a chest rub would be of benefit to treat fever, colds, or chest congestion (C-603); misrepresentation of the optical quality of eyeglasses (8465) ; deceptive television advertising of the effectiveness of a home treatment for ingrown toenails (8478) and that a massaging couch would reduce body weight (7841).

Among the cases dealing with dangerous claims was an order to the seller of a swimming aid prohibiting him from claiming that his product would render the wearer unsinkable. The Commission stated in its opinion that "an advertiser is under a duty, before he makes any representations, which, if false, could cause injury to the health or personal safety of the user of the advertised product, to make reasonable inquiry into the truth or falsity of the representation. . . . To make a representation of this sort, without such minimum substantiation, is to demonstrate a reckless disregard for health and safety, and is clearly an unfair and deceptive practice . . ." (Docket 8538).

Complaint actions pending at the year end included charges that a food supplement would strengthen heart action (8579); that a drug preparation would restore normal structure and function to parts of the body crippled by arthritis and rheumatism (8601); that a water filtration device would remove waterborne micro-organisms and viruses which cause diseases (8628) ; and that an ear oil would cure and prevent deafness (8615). The advertiser of a "health book"

was charged with falsely advertising that following the procedures recommended in the book would cure and prevent cancer, tuberculosis, infantile paralysis, heart disease, arthritis, and mental illness (8619).

Project investigations were pending at year end to determine the truth or falsity of advertising for air filters, offered to cleanse air in the home of dust, grease, smoke, and germs; advertising of pain relievers, especially in regard to claims of speed, degree and duration of effectiveness, their safety and their effect upon tension and anxiety; and advertising of drugs offered to treat hemorrhoids. Other industries receiving investigatory attention at the year end included cosmetics, denture reliners and repair materials, and hearing aids.

## Food

Aside from the food supplements or health foods, the Commission took action during the year to prevent false advertising of food products, such as false advertising as to weight-reducing properties of bread. A consent order was accepted to prevent an advertiser from implying that his bread was lower in calories than ordinary bread, or would be of special benefit in weight-control diet, when there was no difference except his product was sliced thinner (Docket 8047).

False advertising of food-freezer plans was the subject of industrywide corrective proceedings. Seven cease-and-desist orders were issued during the year, to stop use of false claims:

- that purchasers will receive their food requirements and a freezer for the same or less money than they had been paying for food alone.
- that the food or the freezer is unconditionally guaranteed, or that refund will be made if not satisfied.
- that "home economists," "food counselors," or "consultants" will help the purchaser plan her food purchases, when the helpers have not had sufficient or proper training to warrant use of such titles.
- that purchasers will not be required to pay finance charges on food orders.
- that meat prices are quoted on a net weight basis, or that meat prices will remain constant throughout the time pur-

chasers remain a member of the plan (Dockets C-523, C-605, C-614, C-708, C-719, C-745, C-760).

#### Clothing and Shoes

Three operators of chains of clothing stores were ordered during the year to cease using the word “Mills” as part of their names, to imply that they own or operate mills or factories in which their goods are produced (Dockets 8476, C-618, C-744). The Commission has found that such practices unfairly attract consumers through misleading them into the belief that by purchasing from a factory or mill outlet they will receive lower prices and other advantages.

Another order prohibited a distributor of ladies' lingerie from falsely advertising that the products were made in France or were designed, styled, or created by the French couturier, Jacques Heim (Docket 8454).

A manufacturer of men's hats was ordered to cease misusing the terms “Milan,” “Genuine Milan,” and “Imported Milan” to designate hats not made in Italy, and not made of wheat straw. The hats were made of hemp, grown and processed in countries other than Italy (Docket 8190).

The operator of a chain of department stores was stopped from claiming that men's suits being offered at attractive prices were from the stock of famous-name shops, when the suits were not the same merchandise as that stocked by the famous shops (Docket C-759).

One of the Nation's largest shoe manufacturers was ordered to cease claiming that its shoes were “U.S. Navy” shoes when they had not been made for the Navy or in accord with Navy specifications (Docket C-699).

#### Packaging Deception

A manufacturer of gift-wrapping paper has been ordered to cease use of packages which deceptively exaggerated the quantity of paper contained in the packages. The packages, 24 inches long, had a transparent acetate “window” disclosing about 19 inches of the length of rolls of paper in the package. The ends of the rolls were not visible through the window. The rolls appeared to be as long as the box, but actually they were only 20 inches long. The Commission found this method of packaging to be unlawful, stating—

For a seller to package goods in containers which — unknown to the consumer — are appreciably oversized, or in containers

so shaped as to create the optical illusion of being larger than conventionally shaped containers of equal or greater capacity, is as much a deceptive practice, and an unfair method of competition, as if the seller were to make an explicit false statement of the quantity or dimensions of his goods. While the Commission is not concerned with required standardized or uniform packaging as such, it is concerned with all forms and methods of deceptive packaging of goods in commerce, no less than with false and misleading advertising or labeling of such goods. (Docket 8489.)

#### Television-Radio Advertising

Deceptive television demonstrations regarding product capabilities and qualities continue to engage the attention of the Commission. For example, a leading automobile manufacturer and its supplier of glass were ordered during the year to cease use of television commercials which purported to demonstrate superior visibility through car windows, when in fact the windows had been rolled down before the pictures were taken (Docket 7643). A leading toy manufacturer was ordered to stop use of demonstrations which implied falsely that a mechanical man was voice controlled and would respond to voice commands (8530) ; and a seller of kitchen knives was ordered to cease using demonstrations which deceptively purported to prove that the knives would cut through a 2-inch nail and would never get dull (Docket 8531).

#### Home Improvement and Repair Products

Use of the "model home" pitch, bogus "contests," deceptive "referral" schemes, bait and switch tactics, fictitious "regular" prices, misleading guarantees, misrepresentation of interest rates, and false designation of salesmen as graduates of a "home improvement academy" were among the types of practices prohibited in cases involving sale of siding, storm windows, awnings, and other home improvement products (Dockets C-511, C-625, C-711, C-724, C-737). Similar charges were involved in formal cases pending at yearend (8592, 8614,8624).

In the model-home pitch, the prospect is told that he will be given a special discount if he allows his home to be used to demonstrate the product, and that he will receive a commission of, say, \$100, on each sale made as a result of such showings. In the referral

scheme, he is promised a commission on sales made to friends, relatives, or neighbors whose names he furnishes; and in the bogus contest he is told that his home will be entered in a contest to determine which showed the greatest improvement, with winners to be given a prize such as a free trip to a foreign country or a new automobile. The bait-and-switch technique involves the advertising of an attractive offer, not in good faith, for the purpose of obtaining leads. When prospects respond, the salesman disparages the advertised product in order to sell more expensive models. Such practices, when false and deceptive, have been condemned by the Commission and the courts.

Misrepresentation of cellulose insulation material as to efficiency, economy, fire-retardant quality, and moisture-eliminating capacity was prohibited by consent order accepted from a trade association and four of its members (Docket C-594).

#### Household Appliances, Furniture, and Equipment

Use of deceptive prices and misleading guarantees were the most common practices requiring corrective attention in the advertising of home appliances, bedding, and furniture. For example, a manufacturer of cooker-fryers agreed to cease using “suggested retail prices” which were not bona fide estimates of actual retail prices but substantially more, and from representing that the product was unconditionally guaranteed for 2 years when the guarantee was subject to undisclosed conditions and limitations (Docket C-776; also 8440, 8460, 8569, C-531, C-580, C-704, C-721). One chain of furniture stores was prohibited from falsely representing itself as a manufacturer and as selling direct from the factory (C-532), and another was stopped from falsely representing its merchandise as “railroad salvage” when sale of salvage merchandise did not constitute any appreciable portion of the business (8555).

Four concerns selling electrical appliances and other merchandise through mail order catalogs were ordered to stop representing that they sell at wholesale prices (7655, 8449, 8517, 8561).

#### Consumer Finance

The Commission issued a consent order prohibiting a so-called “debt consolidation” concern from claiming that it consolidates debts, since it acts only as an agent distributing money which the client supplies, for which a service fee is charged. The concern also

claiming that the client will be assured of delay, restraint, or forbearance on the part of creditors. This is a first-of-its-kind case, the principles of which should go a long way toward protecting low-income people from being deceived by concerns which hold out false hopes of help in solving problems of excessive debt (Docket C-748).

In other actions involving consumer finance, the Commission stopped the use of practices such as:

- claiming that the interest rate on a home improvement contract would be 11 percent a year, when actually it was much higher.
- falsely representing that installment contracts for purchase of home appliances could be financed by the seller, and failing to disclose that the contracts would be discounted.
- falsely representing that delinquent accounts had been referred to an attorney or independent collection agency or credit bureau, including use of such practice by 20 of the Nation's largest publishing houses.

#### Insurance

The Commission continued to investigate mail order insurance and issued a cease-and-desist order against one of the larger advertisers (Docket C-726). Seven companies have given the Commission assurance of discontinuance of false advertising of the benefits and provisions of their policies, and 17 investigations are still being processed.

#### Other Misrepresentations Halted

Investigations of the advertising of "opportunities" for earning money at home have been initiated against 20 advertisers. This type of advertising is particularly vicious in that it solicits money from those least able to pay.

During the year, the Commission also stopped advertisers and sellers from using other deceptive practices, such as—

- enticing children to become salesmen by deceptive offers of "free" merchandise.
- inducing sales by claiming falsely to be a "consumer research" or "product testing" bureau.
- claiming falsely that products were made by union labor, or by blind persons.

- exaggerating profits small business investors can earn in Laundromat or vending-machine business.
- exaggerating profits farmers can earn by purchasing certain seed grain.
- failing to disclose the used, reclaimed, or rebuilt character of motor oil and golf balls.
- false claims by encyclopedia or magazine salesmen that they were making surveys, were teachers affiliated with an educational institution, or were competing for college scholarships.
- using deceptive "Help Wanted" ads and deceptive earnings claims to sell correspondence courses.
- use of misleading and coercive tactics to sell dance instruction courses.
- misrepresenting watches as to usual price, jewel content, composition of case, shock and water resistance, and guarantees.
- use of lottery schemes and games of chance to sell merchandise, especially to or through children.
- failure to disclose the abridgment of books.

#### Statistical Summary

In total, 161 orders to cease and desist and 129 formal complaints were issued in deceptive practice cases during the year. Many of these actions were part of broad-scale or project efforts in support of previously issued Trade Practice Rules or Guides, or otherwise were designed to eradicate unlawful practices on an industrywide basis.

Corrective action also was achieved in 298 cases on the basis of receiving adequate assurances that the practices under investigation had been discontinued without intent to resume.

Letters of applications for complaint received from the public numbered 4,523, about the same as the previous year when 4,562 were received. A total of 837 investigations were completed.

During the fiscal year, 511,102 radio and TV commercial scripts and 267,645 pages of print material were received. From this total, 42,646 advertisements were forwarded for consideration by the legal staff.

When the Commission's investigations disclose the use of practices which appear to be not only deceptive but fraudulent, the results of the investigation are being promptly referred to the Post Office De-

partment or Department of Justice for prosecution under applicable criminal statutes. Such action has recently been taken in cases involving interstate land sales; bogus “liquidation sales” of watches, appliances, and other merchandise; sales of aluminum siding; and referral schemes used to sell built-in vacuum cleaner systems.

#### Division of Scientific Opinions

This Division gave 523 written and 369 oral scientific opinions on a wide variety of foods, drugs, cosmetics, devices, and related commodities.

Intensive scientific and medical investigation and research was carried out on a group of closely related preparations or devices with a view to laying the foundation for dealing with the advertising of these articles on an industrywide basis.

Many previously initiated projects were carried forward, including those concerned with preparations offered for the treatment of hemorrhoids or piles, vitamin and mineral preparations offered as dietary supplements, with particular emphasis on such preparations represented to be of value because of their hematinic properties, air purification or filtration devices often promoted as providing health benefits, and analgesic drugs whose claims with respect to speed and duration of relief provided as well as their safety were in question. Substantial attention was given to the advertising for a wide variety of pesticide preparations, particularly from the standpoint of representations which might lead to their misuse in ways which might endanger health, and to denture liners and denture repair materials promoted for use by the general public.

The professional personnel of the Division devoted a great deal of time to participation in the drafting of complaints and other legal documents in specific cases and participation in the trial of contested cases. The Division secured the necessary expert medical or other scientific witnesses and served as scientific advisors to Commission attorneys prior to and during hearings.

## THE FIGHT FOR FAIR BUSINESS COMPETITION

---

There is an essential difference between free enterprise and free-swinging enterprise. The latter, characterized by conspiracies and favoritism designed to crush competition, particularly that offered by small businessmen, for the ultimate purpose of dictating prices is a major target of the FTC.

The Commission has no quarrel with the goal of any business to produce a better product or the same product at a better price, for this is the kind of competition that vitalizes our economy and redounds to the benefit of consumers. The Commission's war is on unfair methods of competition that limit markets and enrich only the favored few—with the public and reputable businessmen paying for the enrichment. The Commission's enforcement of the antitrust laws receives little publicity for the probable reason that most laymen do not understand the legal and financial complexities of the cases; moreover, the actions seem to be far removed from their own interests. To them it makes less than little difference if a manufacturer favors one of his customers over another, or if a powerful buyer can pressure his supplier into giving him preferential treatment over his competitors. Yet these are the kinds of practices that, without vigorous law enforcement, would eventually deprive the public of a competitive marketplace.

During fiscal 1964, FTC's Bureau of Restraint of Trade received 1,366 applications for complaint, principally from small businessmen who believed they were being victimized by unfair methods of competition. Those which appeared to have merit and over which FTC had jurisdiction were entered for investigation. In addition, the Commission undertook investigations on its own motion, with the result that a total of 351 formal investigations involving trade re-

straints were initiated, and 467, including those from previous years, were completed. The Commission issued 95 antimonopoly complaints and 136 orders to cease and desist. This work resulted from enforcement of general trade restraint prohibitions contained in Section 5 of the FTC Act and of sections 2, 3, 7, and 8 of the Clayton Act.

A major portion of the Commission's enforcement activity in the restraint-of-trade field involved discriminatory practices. During the fiscal year, 83 formal complaints and 113 orders to cease and desist were issued in this area.

Special emphasis was placed on formal and informal cases involving discriminatory practices found to be widespread in a number of industries. The existence of widespread violations in a given industry is a matter of serious concern to its members at all competitive levels. Competition may be substantially lessened as a result of discriminatory practices of a single competitor, but when the same practices become widespread, the cumulative effects are far reaching and often result in the destruction of competition.

Industries in which discriminatory practices were challenged on a broad scale include: (1) Carpets and rugs; (2) fluid milk and dairy products; (3) biscuit products; (4) macaroni products; (5) toy catalog jobbers; and (6) wearing apparel.

In the carpet and rug industry, in separate proceedings, the Commission issued cease-and-desist orders enjoining 12 major carpet and rug manufacturers from discriminating in price between retailers through the granting of annual volume rebates. The Commission found that the discriminatory rebates were neither cost justified nor defensible on the ground of meeting competition in good faith. Three companies took appeals from the orders, whereupon the Commission suspended the requirement that compliance reports be filed by nine respondents pending final review in the appellate court.

In the fluid milk and dairy products industry, 300 letters of complaint were received from independent dairies charging large interstate dairies with discriminatory pricing. Each of these complaints was the subject of preliminary inquiry. Seven new field investigations were instituted concerning milk-pricing practices in market areas in different sections of the country. The results of these investigations are under review.

A cease-and-desist order was issued against The Borden Co. (Docket 7474) enjoining discriminatory pricing in the sale of fluid milk. The Commission found that the company's price discriminations in favor of large retailers caused competitive injury at both the primary and secondary levels. Also a cease-and-desist order was issued against Central Arkansas Milk Producers Association (Docket 8391) proscribing coercive and discriminatory practices by the association.

In the biscuit industry, four manufacturers were required to discontinue discriminating in price between competing resellers of biscuits, crackers, and related products. The order against one of them, United Biscuit Co. (Docket 7817) also enjoined discriminatory payments of promotional allowances.

Cease-and-desist orders issued against four manufacturers of macaroni products prohibited them from favoring certain customers with preferential prices, allowances, and services or facilities. A fifth manufacturer was enjoined from granting preferential allowances to certain favored customers.

In six separate proceedings, the Commission ordered toy jobbers, owning or otherwise affiliated with toy catalog publishing companies, to stop knowingly inducing and receiving discriminatory allowances from suppliers.

Investigations in the wearing apparel industry disclosed the existence of widespread discriminatory payments of promotional allowances. The Commission offered 267 manufacturers an opportunity to dispose of their violations through consent agreements. By the end of fiscal 1964, the Commission had issued consent orders prohibiting 231 manufacturers from discriminating among competing customers in the payment of promotional allowances. The effective date of these orders has been postponed pending further developments in a number of adjudicative proceedings against nonconsenting manufacturers and completion of investigations of additional manufacturers.

In other proceedings, large national concerns were ordered to discontinue discriminating in price in the sale of their products to competing customers: Purolator Products, Inc. (Docket 7850); Pacific Molasses Co. (Docket 7462); Universal-Rundle Corp. (Docket 8070); Westinghouse Electric Corp. (Docket 8053); the Kiwi Polish Co. (C-616), and Tung-Sol Electric, Inc. (Docket 8514). An

order was issued against a large group of automotive parts jobbers enjoining the inducing and receiving of unlawful price discrimination from suppliers, National Parts Warehouse et al. (Docket 8039).

In the enforcement of the Celler-Kefauver Antimerger Act, the Commission has concentrated upon merger trends in a number of important industries. During the fiscal year, the Commission issued six formal complaints and seven cease-and-desist and divestiture orders involving mergers and acquisitions.

In the cement industry, the Commission has been primarily concerned with a growing trend toward vertical integration through the acquisition by cement companies of producers of ready-mix concrete, the largest consumers of cement. In order to fully inform itself as to the causes for and the competitive effects of this merger trend, and to enable it to establish standards for judging the legality of such mergers, the Commission has announced its intention to conduct a Trade Regulation Rule proceeding in this industry. In addition, the Commission has issued complaints challenging acquisitions by Lone Star Cement Corp. and American Cement Corp. of major customers for cement in the ready-mix concrete industry. The former case (Docket 8585) is now in pretrial hearings while the latter was settled by a consent order requiring divestiture of the acquired company (C-681). The Commission has also been concerned with horizontal mergers of cement producers. During the last year the Commission issued its decision and order in Permanente Cement Co., Docket 7939, finding such a merger to have violated section 7, and a hearing examiner entered an initial decision in Diamond Alkali Co., Docket 8572, finding another horizontal acquisition to have been unlawful.

In the milk industry, the third of the Commission's four cases challenging numerous acquisitions by the largest dairy companies was settled by the entry of a consent order requiring substantial divestiture and prohibiting future acquisitions (The Borden Co., Docket 6652). In the last of these four cases, Beatrice Foods Co., Docket 6653, the hearing examiner entered a similar order requiring substantial divestiture and limiting future acquisitions by the respondent. This case is now on appeal before the Commission.

The Commission also has been actively conducting investigations and proceedings concerning acquisitions on both the retail and processing sides of the grocery products industry. On the retail side,

proceedings challenging chain store acquisitions were argued on appeal before the Commission in National Tea Co., Docket 7453, and the Grand Union Co., Docket 8458. On the processing and manufacturing side of this industry, the Commission entered its decision in the Procter & Gamble Co., Docket 6901, finding that the acquisition by that company of the Clorox Chemical Co. violated section 7 of the Clayton Act. It also issued a complaint challenging the acquisition of S.O.S. Co. by General Foods Corp., Docket 8600.

In the enforcement of section 5 of the FTC Act, relative to general trade restraints, the Commission issued 6 formal complaints and 16 cease-and-desist orders during the fiscal year. Several industries were receiving substantial attention in investigations and in formal cases which involve the entire spectrum of general trade restraints, including conspiracy. The industries in which such efforts were being expended include floor coverings, steel reinforcement bars, tobacco, and ball and roller bearings.

Substantial effort and manpower continued to be devoted to the gasoline industry and the illegal practices found there. At the fiscal year's end, there were 15 investigations underway together with 7 formally docketed cases.

In a different area of general trade restraints, the initial decision of the hearing examiner in Community Blood Bank of the Kansas City Area, Inc., held that the respondents, Community Blood Bank of the Kansas City Area, Inc., the Kansas City Area Hospital Association, its member hospitals, and 14 hospital pathologists, combined and conspired to boycott two proprietary blood banks in the distribution and sale of citrated whole blood (human). The case is one of first impression in the field of blood banking and is being followed with great interest, inasmuch as there are allegedly similar situations in many other areas of the United States.

Another case at the initial decision level which is being observed by numerous competitors in the ice cream industry is Carvel Corp., et al., Docket 8574. At issue in this proceeding is the extent to which a large franchising organization can maintain captive control over its allegedly independent franchisees under the guise of trademark protection. Based upon the theory developed in the Carvel matter, several other franchise systems were being studied for possible violations of law.

A Commission ruling that has international as well as national significance is that against Grand Caillou Packing Co., Docket 7887. The charge was that respondent, Peelers Co., the owner of patents on automatic, bulk-fed shrimp-processing machinery, leased this machinery to shrimp canners located in Northwestern United States at discriminatorily higher rates than charged to gulf coast shrimp canners. Also, respondent sold such machinery to foreign purchasers and refused to sell the same to domestic shrimp canners. The Commission found that the dual leasing rates charged to the Northwest canners had the effect of injuring competition between the Northwest and the gulf coast canners. The Commission concluded that the acts of the respondents constituted serious abuses of the monopoly rights granted to them under the U.S. patent laws and hence were unfair methods of competition in violation of the FTC Act. The Commission not only prohibited the discriminatory leasing rates but also provided the opportunity for domestic shrimp processors to buy as well as lease the machinery on par with foreign processors.

On April 30, 1964, the Commission issued its decision in the National Macaroni Manufacturers Association, Docket 8524. The complaint charged, in essence, that the principal domestic manufacturers of macaroni products, acting through the respondent trade association, entered into an agreement fixing the composition of such products at a 50 percent semolina-50 percent farina blend and that they did so in order to depress the price of durum wheat. The Commission found that the agreement affected in a substantial degree the price of durum during the period in which the agreement was in effect.

The Commission's opinion stated:

“We do not hold that all efforts at product standardization, or all buying agencies or other cooperative buying arrangements, or all attempts to cope with scarcity or other conditions of economic dislocation, are unlawful under the antitrust laws\* \* \*. But where all of the dominant firms in a market combine to fix the composition of their product with the design and result of depressing the price of an essential raw material, they violate the rule against price-fixing agreements as it has been laid down by the Supreme Court.”

In a somewhat unusual procedure, the Commission has been requested by certain courts to conduct an investigation and report to

them. For example, on May 14, 1964, the Court of Appeals for the Fourth Circuit remanded two private actions to the appropriate District Courts in North Carolina and Virginia, with the direction that the District Courts request the Federal Trade Commission to “investigate and advise” upon the validity of two proposed plans for allocation of selling time on two tobacco markets.

### Compliance Work

The Commission still is faced with the serious problem of insuring compliance with outstanding orders, particularly those affecting trade restraints. They involve extremely complex pricing and distribution problems having an impact not only on the individual respondent, but in many instances on the economy of the industry in which the respondent sells. Unfortunately, this complex problem has not received the degree of attention necessary due to insufficient manpower. An average workload of 450 active cases during fiscal 1964 placed a too heavy demand for the size of the compliance staff. With the implementation of the advisory opinion program, the requests for advice involving orders in the restraint of trade area have been increasing. In addition, the compliance attorney personnel were instrumental, during fiscal 1964, in the negotiation of divestiture of over 65 plants or other facilities under final orders to divest.

The compliance staff also continued its investigation and processing of the remainder of the 56 judgement cases referred to the Commission by the Department of Justice for investigation and recommendation. These matters involve investigational and legal problems of the first magnitude. Many of the judgments cover, for example, not only a multiplicity of defendants, but all or a substantial segment of an entire industry. By the year's end, 46 of these cases had been completed and forwarded to the Attorney General.

As of the close of this fiscal year, the following civil penalty cases involving violations of outstanding Commission orders were pending:

W. B. Saunders Co. (E.D. Pa.) alleged conspiracy to boycott—medical books.

Select Magazines, Inc., et al. (S.D.N.Y.) Alleged discrimination in advertising and promotion programs—publishing industry.

Macfadden Publications, Inc. (S.D.N.Y.) alleged discrimination in advertising and promotion programs—publishing industry.

St. Regis Paper Co., et al. (S.D.N.Y.) alleged conspiracy to exchange price information.  
Accounting

In addition to furnishing accounting services in the investigation and trial of cases involving price discrimination, sales below cost, and mergers, the Accounting Division made a special effort during the year to providing accounting services in the investigation and trial of cases in the food industry.

The Division also continued the tabulation and computation of rates of return of the profitableness of identical companies in selected manufacturing industries. In connection with this activity, extensive financial and statistical data on the motor vehicle industry were furnished to the President's Council of Economic Advisers and financial and statistical data on the steel industry were computed for the Subcommittee on Antitrust and Monopoly, Senate Committee on the Judiciary.

## WOOL, FUR, AND TEXTILE ACTS ENFORCEMENT

---

The Commission's enforcement of the laws requiring truthful labeling and advertising of textiles and furs was pursued vigorously during the fiscal year, and, at the same time, efforts were continued to educate these industries on the laws' requirements. This combination of force and persuasion utilized to the fullest the capacity of the 95-man staff assigned to police the Nation's third-largest industry.

Textile and fur inspectors spotchecked more than 94 million items in the course of their routine inspections and noted more than 5 million deficiencies. Also examined were more than a half million advertisements. A total of 57,310 interpretations and staff-opinions were rendered concerning the acts and the rules and regulations issued to supplement them.

Although the Textile Fiber Products Identification Act has been in effect 4 years, many manufacturers and distributors are not yet fully cognizant of all of the requirements. Moreover, with the hundreds of thousands of suppliers, manufacturers, distributors, and retailers throughout the country, it has been impossible for FTC's Bureau of Textiles and Furs to contact more than a small fraction of the people and firms involved. Hence, emphasis continued to be centered on educating them and advising them on requirements of the law by all means available. Formal cases under this act were limited to instances where there appeared to be an intention to misbrand, or where violations of the act recurred despite the efforts of the Bureau to correct the practices by administrative treatment.

During the fiscal year, 11,837 inspections were made of fiber and yarn suppliers, fabric and garment manufacturers, and wholesale and retail outlets. This total is slightly less than the preceding year due to a slight reduction of the Bureau's field force.

The Commission approved for issuance or issued 126 complaints and 88 cease-and-desist orders under the 4 statutes administered by the Bureau. These included 17 orders under the Wool Products Labeling Act, 52 under the Fur Products Labeling Act, 9 under the Textile Fiber Products Identification Act, and 10 under the Flammable Fabrics Act. The Bureau began the fiscal year with 229 formal cases, added 349 new cases, and disposed of 266.

Misbranded mohair and wool sweaters and hand-knitting yarns from abroad gave the Bureau its biggest single problem under the Wool Act. Many of these sweaters represented as containing high percentages of mohair were found to contain considerably less mohair, and in some instances substantial quantities of azlon and nylon which were not set forth on the labels. Forty-one investigations of importers and distributors of the questioned items were initiated. As a result of the Commission action, together with the assistance of the Bureau of Customs, thousands of dozens of misbranded items were withheld from the American market. Other Wool Act cases involved the misbranding of imported and domestic fabrics and wearing apparel.

A substantial portion of the cases under the Fur Products Labeling Act this year, as in the past, have involved fictitious pricing. During the second half of fiscal 1964, the Bureau reoriented its investigation of these cases to comply with the new "Guides Against Deceptive Pricing." Emphasis has been placed on rule 44 under the Fur Act which requires persons using comparative pricing to keep records disclosing the basis for their claims.

Considerable time and effort of the Bureau in fiscal 1964 was expended in enforcing the Flammable Fabrics Act.

In the course of a routine inspection of a New York dress manufacturer, some lightweight rayon fabric used in cocktail and party dresses was picked up and tested, and was found to be dangerously flammable. A follow-up of this discovery revealed that millions of yards of goods of the type involved had been imported into the United States from abroad over a period of several years by a number of importers. Steps were immediately taken to stop the importation and to notify dress manufacturers of the dangerous character of the goods. As a result the Commission issued eight orders against importers and distributors of the fabric (Dockets C-682, C-683, C-684, C-687, C-685, C-688, C-686, and C-689). Cus-

tomers of these importers and distributors were contacted and at the close of fiscal 1964, 105 garment manufacturers had signed "Affidavits of Discontinuance" of the use of dangerously flammable fabrics in wearing apparel.

"Assurances of Discontinuance" continued to be utilized during fiscal 1964 to obtain future compliance with the acts and their rules and regulations. A total of 1,178 such assurances were accepted informally, while "Affidavits of Discontinuance" were received in 125 formal cases.

The Compliance Section of the Bureau's Division of Enforcement consisting of only three attorneys had a successful year. This section opened the year with 135 cases to which 89 new orders and 26 old orders were added, making a total of 250 cases during the period. At the same time, 122 cases were disposed of, leaving 128 pending cases as of June 30, 1964. Two civil penalty action cases were certified by the Commission to the Department of Justice.

Three compliance cases were resolved during the year resulting in a total of \$31,500 in penalties. These cases were a fur retailer (Docket 6558), \$7,000; a wool manufacturer (Docket 6800), \$12,500, and a blanket manufacturer (Docket 7258), \$12,000. In addition, a New York garment manufacturer was fined \$2,500 in a criminal action for willful violation of the Wool Products Labeling Act (See app. C.)

## FOLLOWTHROUGH IN LAW ENFORCEMENT

---

Fiscal 1964 witnessed unprecedented activity for the Office of the General Counsel. Not only did it handle a record amount of appellate casework, but more assistance was required of it in furtherance of the Commission's stepped-up program for obtaining voluntary compliance with the law. To this was added the continuing workload of negotiating consent settlements by which about three-fourths of the FTC's cases are concluded, plus increased activity in carrying out the Commission's responsibilities under the Webb-Pomerene Act of 1918 as a result of the Nation's efforts to expand export trade.

Any individual or firm against which the FTC has issued an order to cease and desist may petition a U.S. Court of Appeals to review and set aside the order. Consequently, it behooves the Commission, acting through the Division of Appeals in the General Counsel's Office, to present ably the justification for the order; otherwise all the time and money spent in obtaining it would be lost. Furthermore, inept defense of Commission orders before the courts would encourage more respondents, particularly powerful corporations, to challenge orders against them. On the other hand, when a U.S. Court of Appeals affirms an FTC order, any disobedience of the court's decree may be punished by the court as contempt.

During the year, the General Counsel, through the Division of Appeals, handled a record 133 cases. The Division completed litigation in 42 of these, of which 12 were restraint of trade matters, 11 involved deceptive business practices, 3 concerned the FTC's subpoena powers, and 16 were extraordinary matters such as suits against the Commission for injunction or declaratory judgment. At the year's end, there were 91 cases open for further action or pending final disposition, a significant increase of 21 cases over fiscal 1963. (The status of the more important court cases at the year's end is outlined in app. A of this report.)

The Division of Consent Orders of the General Counsel's Office supervises the negotiation of consent orders to be entered in appropriate cases. These cases constitute in numbers the great majority of FTC enforcement proceedings. A total of 197 executed agreements containing consent orders to cease and desist were forwarded to the Commission during the year. The savings in time, money, and personnel which would otherwise be expended on adversary litigation by Government and private business, and the expanded effectiveness of the Commission made possible by such savings, cannot be overemphasized.

The General Counsel's Division of Export Trade achieved effective liaison with other Government agencies and private business to develop a coordinated effort to expand foreign trade. The Webb-Pomerene Act of 1918 authorizes American exporters to engage collectively in foreign trade by means of cooperatively organized trade associations. It permits members of the associations certain exemptions from the antitrust laws in joint foreign trade ventures. However, the associations are required to file reports with the FTC, for they are subject to FTC's supervision. Presidential Executive Order 11132, issued December 12, 1963, established an interagency Committee on Export Expansion for the purpose of developing coordinated and effective expansion policies and programs. The General Counsel, through the Division of Export Trade, contributes to the effectiveness of this committee.

With the acceleration of the Commission's industry guidance programs, and with the development of procedures for handling vastly increased caseloads, the General Counsel has assigned on a selective basis members of his staff to assist the operating bureaus in their conduct of rulemaking proceedings, preparation of subpoenas and orders to file special reports, and the development of technical procedures in the acquisition of evidence.

The General Counsel's Division of Legislation furnished advice and comment to the Commission on 55 bills which were pending in Congress and 17 draft bills or reports which had been submitted to the Bureau of the Budget by other agencies and on which that Bureau desired the opinion of the Commission. Also, the responsibilities of the Commission under the laws which it administers demonstrate the need for certain additional legislation. The Commission has considered the enactment of certain laws directly pertinent to its responsibilities to be vitally necessary.

## LEGISLATION NEEDED

---

The following represent the legislative proposals in which the Commission is most interested:

1. Amend section 7 of the Clayton Act (15 U.S.C. 18) to require prior notice to the Federal Trade Commission and other appropriate agencies of any proposed mergers of corporations of significant size which are engaged in interstate commerce, and to provide adequate means of preventing illegal mergers.

2. Amend section 2(c) of the Wool Products Labeling Act (15 U.S.C. 68 (e)), which defines a wool product, so that it will read as follows:

The term “wool product” means (1) any fibers or fibrous materials, including fibers or fibrous materials reclaimed from other products, which are, contain, or in any way are represented as containing wool, reprocessed wool, or reused wool, and (2) any yarn, fabric or other product containing or made in whole or in part of such fibers or fibrous materials.

3. Amend section 2(d) of the Flammable Fabrics Act (15 U.S.C. 1191(d)) so as to include blankets which are dangerously flammable.

4. Amend section 5(a) of the Clayton Act (15 U.S.C. 16 (a) ) so as to include a final order of the Federal Trade Commission; that is, amend section 5 (a) to read:

A final judgment, decree or final order to cease and desist of the Federal Trade Commission heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws or by the United States under section 4A, as to all matters respecting which said judgment or decree would be an estoppel

as between the parties thereto: Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken or to judgments or decrees entered in actions under section 4A.

## THE ROLE OF ECONOMIC STUDIES AND EVIDENCE

---

It is not enough for the Commission simply to put out the fires of illegality whenever the smoke and flames become conspicuous enough. It also is important to explore underlying causes of and developments in economic problems so they might be tackled in the most effective way. Indeed, to garner the facts about them and to analyze these facts correctly is to provide both the Commission and the Congress with information vital to the taking of proper corrective action ranging from adversary proceedings to new legislation.

The Commission's Bureau of Economics is divided into three divisions: The Division of Economic Reports conducts inquiries into the developments of particular industries as well as broad trends reflecting changes in the structure of American industry to determine how competition is affected; the Division of Economic Evidence\* provides economic information and analyses needed for the prosecution of casework; and the Division of Financial Reports collects and prepares, in cooperation with the Securities and Exchange Commission, financial reports covering various manufacturing industries.

### Economic Reports

In progress is the preparation of a number of special industry studies as well as certain broad studies relating to changes in economic concentration in American manufacturing.

A preliminary report on Concentration and Mergers in American Manufacturing prepared for the Senate Subcommittee on Antitrust and Monopoly reveals significant changes in the concentration of industry.

---

\*The name of this division has been changed to "Division of Industry Analysis."

A few highlights from this study are:

Between 1950 and 1962, the share of the total assets of all manufacturing companies held by the 200 largest firms rose from 46.7 percent to 54.6 percent, or an increase of about 17 percent.

The following table, taken from the report, shows the distribution of the assets of all manufacturing companies at year end 1962. Significantly, the study shows that one-eighth of all assets of manufacturing companies are controlled by the five largest companies, that one-fourth are controlled by the 20 largest companies, and that about three-fourths are held by the 1,000 corporations with assets in excess of \$25 million.

At the other end of the scale, an estimated 240,000 unincorporated manufacturers controlled less than 2 percent of total manufacturing assets. Moreover, the combined share of the approximately 240,000 unincorporated manufacturers and the 178,000 incorporated manufacturers with assets of less than \$10 million was substantially smaller than that of the 20 largest companies (19.7 percent as compared with 25.0 percent).

Total assets is one of three well recognized measures of concentration. Two others--net capital assets and net profits (after income tax)--used in the report revealed even greater concentration. Thus, while the 20 largest companies accounted for 25 percent of total assets, they hold 31 percent of net capital assets and secure 38 percent of profits after taxes. (See chart 1.)

One reason for the observed increases in concentration may be the extensive merger activity of the large manufacturing corporations. The report shows, for example, that 216 of 1,000 largest firms in 1950 had been acquired by 1962. Moreover, many other large companies have been acquired. The report shows that between 1948 and 1962, 591 large companies (each with assets of \$10 million or more), with combined assets of \$19.5 billion, disappeared through mergers.

The 200 largest industrial companies were among the most active acquirers. Over the period 1951-62 these 200 companies took over at least 1,869 firms. Although the assets for the acquired companies are available for only 55 percent of the acquired companies, the data show that mergers accounted for over 15 percent of the increases in total assets of the 200 largest between 1950 and 1962.

An examination of the financial strength of 165 acquired com-

CHART 1. Concentration of manufacturing corporations assets and income: 1962.

GRAPHIC - SEE IMAGE

TABLE 1. Concentration of total manufacturing assets, fourth quarter 1962

Corporate size group	Assets (millions)	All manu- facturing	Corpora- tions only
		Percent	Percent
5 largest .....	\$36,447	2.3	12.5
10 largest .....	54,353	18.4	18.7
20 largest .....	73,825	25.0	25.4
50 largest .....	105,421	35.7	36.2
100 largest .....	136,222	46.1	46.8
200 largest .....	165,328	55.9	56.8
500 largest .....	199,894	67.6	68.7
1000 largest .....	221,279	74.8	76.0
Corporations with assets over \$10 million <sup>1</sup> .....	237,410	80.3	81.6
All corporations <sup>2</sup> .....	291,022	98.4	100.0
Total manufacturing businesses <sup>3</sup> .....	295,690	100.0	

<sup>1</sup> There were 2,041 manufacturing corporations in operation the first quarter of 1963.

<sup>2</sup> This group includes about 180,000 manufacturing corporations.

<sup>3</sup> Includes asset estimates for approximately 240,000 manufacturing proprietorships and partnerships.

Source: Bureau of Economics, Federal Trade Commission.

panies (each of which was among the 1,000 largest in 1950) reveals that only 10 percent of these companies lost money in the year prior to acquisition.

During fiscal 1964, the Division prepared A Report on Cigarette Advertising and Output, which was submitted into the record of the Commission's hearings on cigarette advertising. The report shows, among other things, that between 1952 and 1962 per capita cigarette consumption increased by about 8 percent and total domestic consumption rose by 25.5 percent. During the same period, however, the cigarette advertising expenditures of the six largest cigarette producers (accounting for about 99 percent of total domestic cigarette sales) mounted by 213.2 percent.

Substantial changes, the study showed, have occurred in smoking habits. While regular size nonfilter cigarettes garnered 77.6 percent of all sales in 1952, their share declined to 21.5 percent in 1963. On the other hand, the sales and share of the market accounted for by Menthol and filter cigarettes increased at an amazing rate. Menthol and filter cigarettes combined rose from 4.2 percent of total U.S. cigarette sales in 1952 to almost 60 percent in 1963. Filter cigarettes alone accounted for only 1.3 percent of all cigarette sales; by 1963 they represented 43.0 percent of the total.

The report shows also that 50 percent of the cigarettes sold during 1962 were of brands not in existence on January 1, 1950.

In addition to the above studies, substantial progress has been made in economic research into the rapidly growing polyethylene and polypropylene resin and film industry, the fruit and vegetable canning industry, the manufacture and distribution of rubber tires, and the operation of export trade associations.

#### Division of Economic Evidence

The Division of Economic Evidence has concentrated its efforts primarily on mergers during the past year. The continuation of the recent high rate of mergers may be bringing about substantial changes in the competitive structure and behavior of the important industries. Many current acquisitions are of medium and large-sized independent firms, and have involved companies that have contributed to a healthy competitive climate in their industries. The elimination of such companies may have long-lasting as well as serious effects, not only because significant factors have been elim-

inated, but also because entry of new firms may become ever more difficult.

The Division of Economic Evidence reviews mergers reported by major press and trade sources and examines in depth those that appear to present a threat to competition. Studies indicate that companies ranked among the largest 500 in the United States are playing a leading role in the current acquisition trend, and the present merger movement is the most prolonged in recent American history.

While in earlier merger movements the most important acquisitions were of the horizontal and vertical types, recently the trend has been toward an increasing number of conglomerate mergers, as many large firms have sought to absorb other companies in unrelated activities. Such conglomerate acquisitions may pose serious longrun problems for competition. The Commission decision barring the acquisition of Clorox Chemical Co., the Nation's leading producer of household liquid bleach, by Procter & Gamble Co. (FTC Docket 6901, Nov. 26, 1963), the leading manufacturer of household cleansing agents other than bleach, provides useful guidelines on the type of economic investigation involved in what the Commission preferred to call a "product-extension" merger rather than a pure "conglomerate" merger.

In view of the complex nature of numerous mergers falling outside the traditional horizontal and vertical classifications, economic analysis plays a significant role in the Division's work. Among the industries most closely scrutinized are chemicals, petroleum products, cement, cosmetics, drugs, baking, retail food distribution, paper, automatic vending products, textiles, power tools, plastics, coffee, dairy products, and department stores.

The Division of Economic Evidence also continues to take an active part in designing and carrying out surveys relating to the enforcement responsibilities of the agency. It assists in the preparation of certain cases involving price fixing price discrimination, other restraints of trade, and monopoly; and it participates in analyzing industry requests for premerger clearance, and reviews certain false and deceptive claims, where such claims are based on data collected by questionable sampling techniques.

## Division of Financial Statistics

This Division's Quarterly Financial Reports for Manufacturing Corporations, compiled in collaboration with the Securities and Exchange Commission, continue to provide important basic indicators of financial trends in the economy.

Based on a cross section of reports from some 11,000 manufacturing corporations (of an estimated total of 200,000 corporate manufacturers in the United States), the FTC-SEC Quarterly Reports contain estimates for 13 income statement and 32 balance sheet items, as well as 44 financial and operations ratios for each of 34 manufacturing industries. Data are also shown in 10 size classifications for corporate manufacturers. These reports, which have been particularly useful for private firms in measuring efficiency and appraising profit prospects, are sold by the Superintendent of Documents on a subscription basis.

New high levels of economic activity have been reflected in the Quarterly Financial data. In the past fiscal year, total assets of the Nation's manufacturing corporations reached an unprecedented \$302.6 billion. New record highs were also established for net profits before Federal income taxes (\$33.8 billion) and net profits after taxes (\$19.5 billion).

## APPROPRIATIONS AND FINANCIAL OBLIGATIONS

---

### FUNDS AVAILABLE FOR THE COMMISSION FOR THE FISCAL YEAR 1964

Funds available to the Commission for the fiscal year 1964 continued in Public Law 88-215, 88th Congress, amounted to \$12,214,750.

#### Obligations by activities, fiscal year 1964

1. Antimonopoly:	
Investigation and litigation .....	\$5,507,990
Economic and financial reports .....	718,954
Trade practice conferences, industry guides, and small business .....	148,520
Compliance investigations for Attorney General .....	539,432
2. Deceptive practices:	
Investigation and litigation .....	3,006,758
Trade practice conferences, industry guides, and small business .....	297,040
Textile and fur enforcement .....	1,073,148
3. Executive direction and management .....	264,379
4. Administration .....	650,862
Total .....	12,207,083

#### Settlements made under Federal Tort Claims Act

During the fiscal year 1964 the Commission paid claims in the total of \$356.08. No other claims are pending for the same period.

## APPENDIX (A)

### FTC Cases in the Courts

---

Following is a summary of the principal FTC cases before the courts during fiscal 1964, together with a brief discussion of what is involved in each case or group of cases.

#### RESTRAINT OF TRADE CASES

Among the most important and far-reaching restraint of trade decisions occurring in fiscal 1964 was that rendered by the Seventh Circuit in *The Goodyear Tire & Rubber Co. and The Atlantic Refining Co.* (FTC Docket 6486), two of the Commission's six TBA cases. The court affirmed the Commission's holding that the sales commission method of marketing tires, batteries, and accessories through independent gasoline stations constituted an unfair method of competition. The petitioners were found to have utilized Atlantic's economic power over its dealers to influence their purchasing Goodyear products. On such transactions Atlantic received an "override" or commission payment from Goodyear. In the remaining undecided TBA cases, briefs were filed and oral arguments held in the Fifth Circuit in *Firestone Tire & Rubber Co. and Shell Oil Co.* (FTC Docket 6487), and in the District of Columbia Circuit in *Texaco, Inc. and The B. F. Goodrich Co.* (FTC Docket 6485).

In another significant case, the Second Circuit affirmed the Commission in *R. H. Macy & Co.* (FTC Docket 7869). The Commission found that Macy's had violated section 5 by soliciting \$1,000 from each of a number of its suppliers to help defray promotional costs of Macy's 100th Anniversary Celebration. The court ruled that this activity amounted to inducement and receipt of promotional payments unlawful under section 2 (d) of the Robinson-Patman Act, and was thus violative of the Federal Trade Commission Act.

In addition to these, a number of other restraint of trade matters were in the process of litigation at the close of the year: *Luria Bros. & Co.* (FTC Docket 6156), a highly complex case involving illegal restrictive agreements and arrangements by several scrap iron and steel companies, is pending in the Third Circuit; *American Cyanamid Co.* (FTC Docket 7211), involving a conspiracy in restraint of trade in the manufacture and distribution of antibiotic drugs, is pending in the Sixth Circuit; and *Sandura Co.* (FTC

Docket 7042), in the Sixth Circuit, and Brown Shoe Co. (FTC Docket 7606), in the Eighth Circuit, were both briefed and argued and were awaiting decision at the year's end. The former involves such restraints on competition as resale price maintenance, apportioning of exclusive territories, and restrictions upon retail customers; at issue in the latter is the legality of Brown's franchise stores program, whereby in exchange for various valuable benefits and services, selected shoe retailers were required to "concentrate" their purchases upon Brown products, in effect reducing the number of retail outlets available to competitive manufacturers.

In the FTC's Robinson-Patman Act enforcement, there were several note-worthy court decisions in fiscal 1964. In American Oil Co. (FTC Docket 8183), a section 2(a) case, the Seventh Circuit held that the Commission had erred in finding competitive injury in a case arising from a gasoline "price war" in Georgia. American had granted price concessions to Smyrna dealers, but not to its dealers in the adjoining Marietta area. In the court's view, the record lacked substantial evidence to show that whatever injury might have resulted to Marietta dealers by virtue of the discriminations, which the court considered insubstantial and essentially temporary in nature, could be attributed to the generally depressed selling prices of several gasoline companies engaged in the "price war." The Commission was unsuccessful in its attempt to obtain Supreme Court review.

In another section 2(a) case, Mueller Co. (FTC Docket 7154), the Seventh Circuit affirmed the Commission's decision that a manufacturer's discriminatory discounts to favored "limit" jobbers of waterworks parts and equipment would likely have anticompetitive effects upon nonfavored "regular" jobbers, in an industry characterized by keen competition and low margins of profit.

Under the Robinson-Patman Act's section 2(c) "brokerage" provision, the Ninth Circuit upheld the Commission's order against Western Fruit Growers Sales Co. (FTC Docket 8194). This matter involved a question of whether, on brokerage paid in certain transactions by a company engaged in packing, selling, and distributing citrus fruit, the recipients of such brokerage were "the other parties to such transactions" within the meaning of section 2(c), i.e., the actual purchasers (as the Commission found), or whether the recipients were acting only as brokers for Western in the questioned transactions. But in Central Retailer-Owned Grocers, Inc. (FTC Docket 7121), the Seventh Circuit ruled that the record did not contain substantial evidence showing that lower prices granted by suppliers to a buying organization owned by grocery wholesalers (in turn owned by retailer groups), were in fact allowances and discounts in lieu of brokerage in violation of section 2(c).

In the section 2(d) area, the Fifth Circuit decided Shreveport Macaroni Mfg. Co. (FTC Docket 7719). The court agreed with the Commission's statutory construction in a case where a Louisiana manufacturer, engaged in interstate commerce, made disproportionate advertising allowances to two

food chain customers who were also engaged in interstate commerce, but who resold the products in issue only in Louisiana, and where the nonfavored competing customers of the manufacturer were all located in Louisiana.

In the illegal merger field, section 7 of the Clayton Act, the Seventh Circuit reversed the Commission's decision in Consolidated Foods Corp. (FTC Docket 7000). It held that the record did not contain substantial evidence establishing that Consolidated Foods' acquisition of Gentry, Inc., a company engaged primarily in the production of dehydrated onion and garlic, would have the probable anticompetitive results proscribed by the statute.

Other merger cases pending at the close of the fiscal year were: The Pillsbury Co. (FTC Docket 6000), in the Fifth Circuit, involving the acquisition by Pillsbury of Ballard, its most significant regional competitor in the Southeastern United States in the family-flour and flour-base home-mixes lines of commerce, and Pillsbury's acquisition of Duff, a significant competitor in the sale of flour-base home mixes throughout the country; and Procter & Gamble Co. (FTC Docket 6901), in the Sixth Circuit, involving the acquisition of the Clorox Chemical Co., a household bleach manufacturer, by Procter & Gamble, a leading manufacturer of related products, such as soaps, detergents, and cleansers.

#### DECEPTIVE PRACTICE CASES

In the Colgate-Palmolive and Ted Bates & Co. proceeding (FTC Docket 7736), the Supreme Court granted petition for certiorari filed by the Commission to review the First Circuit's decision setting aside a Commission cease-and-desist order directed against a deceptive television "demonstration." And in a similar television advertising "mockup" case, Carter Products, Inc. (FTC Docket 7943), also involving qualities claimed for a shaving cream product, the Fifth Circuit likewise set aside the Commission's order and remanded the case to the Commission for the entry of a new order. The Commission's order issued on remand has also been appealed to the Fifth Circuit, and currently is being held on suspense pending the outcome of Colgate.

In Continental Wax Corp. (FTC Docket 7351), the Second Circuit affirmed the Commission's finding of deception in a case involving labeling and advertising of the performance characteristics of a liquid household floor wax. The court held that the Commission did not abuse its discretion in requiring the excision of the trade name "Six Month Floor Wax," since the addition of proposed qualifying language would not suffice to cure the deception inherent in the name.

In Mary Carter Paint Co. (FTC Docket 8290), the Fifth Circuit overturned the Commission's finding that the use of the word "free" in the company's price advertising and sale of paint was misleading and deceptive.

The Commission continued to combat consumer deception in the marketing of watches. In Waltham Precision Instrument Co. (FTC Docket 6194) the Seventh Circuit affirmed and enforced the Commission's order in a case involving false and deceptive advertising of watches imported from Switzer-

land allegedly containing “25 jewels.” And in Delaware Watch Co. (FTC Docket 8411), the Second Circuit similarly upheld an order of the Commission directed against misrepresenting base-metal watch case parts as being composed of precious metals or stainless steel. Additional deceptions in this case included failure to disclose the foreign origin of the watch case parts, and misrepresenting the watches as “water-resistant.”

In Country Tweeds, Inc. (FTC Docket 8085), the Second Circuit sustained the Commission’s ruling that this company had falsely represented the results of laboratory tests conducted upon samples of cashmere fabrics which it distributed.

With regard to the FTC Act’s section 12, which prohibits the false advertising of food, drugs, devices, and cosmetics, the Seventh Circuit reviewed and decided National Bakers Services, Inc. (FTC Docket 74,80). This company, engaged in licensing bakers to produce “Hollywood Bread,” was found by the Commission to have represented that its bread was lower in calories, thus substantially different from, ordinary breads. In truth, the only difference consisted in its being sold in thinner slices. In another section 12 proceeding, petition for review was filed in the Ninth Circuit in Staffer Laboratories, Inc. (FTC Docket 7841). At issue is the Commission’s order requiring Staffer to cease representing that the device and plan which it distributes will result in weight reduction, or tone and firm sagging muscles.

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

During fiscal 1964 a number of suits were filed against the Commission or were pending disposition in the Federal courts. The cases noted in the following discussion are typical:

The Commission filed an appeal in the Fifth Circuit in J. Weingarten, Inc. (FTC Docket 7714) from the decision of the U.S. District Court for the Eastern District of Texas (Beaumont Division) enjoining the Commission from remanding an administrative proceeding to an examiner for the taking of additional evidence. Briefs were filed and oral argument was heard. The decision was pending at the close of the year.

In Topps Chewing Gum, Inc. (FTC Docket 8463), the District Court for the District of Columbia granted the Commission’s motion for summary judgment and dismissed Topps’ complaint for injunction and declaratory judgment based upon alleged unreasonable delay in conducting an administrative proceeding. After its motion for an injunction pending appeal was denied by the District of Columbia Circuit, Topps abandoned its appeal.

Lone Star Cement Corp. (FTC Docket 8585) filed a complaint in the U.S. District Court for the Western District of Washington (Northern Division) for declaratory judgment and injunctive relief alleging that the Commission lacked authority to conduct further proceedings regarding one of the mergers challenged in its complaint, because of an alleged failure to satisfy the statute’s interstate commerce requirements. The court denied Lone Star’s

motions for summary judgment and preliminary injunction, and granted the Commission's motion to dismiss for failure of plaintiff to exhaust administrative remedies.

At the close of fiscal 1963, a complaint for declaratory judgment and injunctive relief filed by John Kaslow, t/a J. C. Martin Co. (FTC Docket 6145), had been dismissed by the U.S. District Court for the District of Columbia on the Commission's motion for summary judgment, and Kaslow had appealed to the District of Columbia Circuit. His applications for stay of judgment had been denied by the district court, the court of appeals, and by the Supreme Court. In fiscal 1964, the circuit court considered Kaslow's appeal on the merits, and affirmed without opinion the judgment of the court below. Kaslow filed petition for certiorari and a second application for stay pending appeal. The Supreme Court denied both the petition and application.

In the U.S. District Court for the Northern District of Ohio (Eastern Division), Standard Drug Co., Inc., et al. (FTC Docket 8576), filed a complaint for mandatory injunction claiming various inadequacies in the pretrial procedures taken in the administrative proceeding, and challenging the validity of the Commission's complaint in light of its subsequently promulgated deceptive pricing guides. Standard's motion for a temporary restraining order was denied. Motion to dismiss or, in the alternative, for summary judgment has been filed on the Commission's behalf and is awaiting disposition by the court.

Puritan Fashions Corp. (File 621 0552) and Reliance Mfg. Co. (File 621 0517) filed a complaint against the Commission for declaratory judgment and injunctive relief in the U.S. District Court for the District of Columbia. They seek a construction of the Federal Reports Act which would compel the Commission to submit to the Bureau of the Budget for clearance all section 6(b) orders which it issues. The Commission concedes that while its orders requiring submission of data for general statistical purposes only may properly be subject to Budget Bureau scrutiny, its status as an independent administrative agency precludes submission of section 6(b) orders when the information sought by the Commission is for law-enforcement purposes.

#### SUITS TO COMPEL COMPLIANCE WITH COMMISSION ORDERS AND SUBPOENAS

Holland Furnace Co. (FTC Docket 6203), an important criminal contempt proceeding, remained pending in the Seventh Circuit throughout fiscal 1964. Upon the Commission's petition, an order by the court has been issued to show cause why Holland should not be held in criminal contempt for willful violations of the Commission's court-enforced order prohibiting various unfair and deceptive representations and practices in the sale of furnaces and furnace parts to the public. Significant steps in the prosecution of this matter are expected to occur in the near future.

In Lafayette Iron Works (FTC File 345 6736), consent judgment was entered in June 1963, in a suit filed on the Commission's behalf in the U.S.

District Court in New Jersey to compel compliance with a section 6(b) order requiring a special financial report. Proceedings later brought to effect compliance with the Court's order were terminated upon Lafayette's compliance.

In Artnell Co. (FTC File 237 8136), suit was filed in the U.S. District Court for the Northern District of Illinois to enforce a section 6(b) order requiring Artnell to submit quarterly financial data for the use of the Commission in its financial reports program. The Commission's motion for summary judgment was granted, and Artnell has appealed to the Seventh Circuit. Briefs have been filed by the parties, and the case awaits argument.

Throughout fiscal 1964, the Commission remained active in enforcing compliance with subpoenas in the courts. In John R. and Natalia E. Harrell (File 612 3895), the U.S. District Court for the Eastern District of Illinois, upon the receipt of a mandate by the Seventh Circuit, issued an order enforcing the Commission's subpoena.

In Eclipse Sleep Products of New England, Inc., et al. (File 622 3487), the Commission successfully filed for enforcement of subpoenas in U.S. District Courts in Massachusetts and in the Eastern District of New York. Similarly, in Roytex, Inc. (621 0563), the U.S. District Court for the Southern District of New York issued an order directing compliance upon application by the Commission.

A pending subpoena enforcement proceeding is Fund Raising Corporation of America, Inc. (File 632 3279), in the U.S. District Court for the Northern District of Ohio.

## APPENDIX (B)

### Deceptive Practice Civil Penalty Cases

---

#### CASES CONCLUDED

Sears, Roebuck & Co. (D.C.). Misrepresentations of savings afforded purchasers of automobile tires. Dismissed.

American Albums, Inc., et al. (N.D. Ohio). Misrepresentations of photographic albums and certificates for photographs. Judgment for \$10,000.

American Broadloom Carpet Co. (E.D. Pa.). Misrepresentations as to regular price of rugs and other merchandise. Judgment for \$1,500 together with permanent injunction compelling obedience to the order.

Seawol Sewing Machines (S.D. Cal.). Misrepresenting the manufacturer and country of origin of sewing machines. Judgment for \$1,500.

Sydco Industries, Inc. (S.D.N.Y.). Misrepresenting regular and usual retail price of certain products. Dismissed.

Radio-Television Training School, Inc. (S.D. Cal.). Misrepresentations in connection with the sale of a correspondence course in the field of radio and television. Judgment for \$20,000.

Ohio Art Co. (N.D. Ohio). Failure to disclose foreign origin of toys. Judgment for \$6,000.

Curtis Bros., Inc. (D.C.). Fictitious pricing of furniture. Withdrawn.

Fluidless Contact Lenses, Inc. (E.D. Mich.). Deceptive advertising of contact lenses. Judgment for \$2,000.

Aloore Products Corp. (S.D.N.Y.). Failure to disclose foreign origin of imported merchandise. Judgment for \$2,000.

Nationwide Clothiers, Inc. (E.D.N.Y.). Fictitious pricing of wearing apparel. Judgment for \$5,000 together with permanent injunction compelling obedience to the order.

Lincoln Institute (S.D. Ill.). Misrepresentation of a correspondence course designed to train civil service applicants. Judgment for \$6,000, together with permanent injunction compelling obedience to the order.

Rhodes Pharmacal Co. (N.D. Ill.). Misrepresentation of a drug preparation advertised for use in the treatment of arthritis and rheumatism. Judgment for \$12,500.

Recoton Corporation, et al. (S.D.N.Y.). Misrepresenting the nature and quality of phonograph needles. Judgment for \$1,000, together with permanent injunction compelling obedience to the order.

Valley Steel Products Co. (E.D. Mo.). Misrepresentation of the size of steel pipes and tubing. Judgment for \$2,000.

## CASES PENDING

Tropic Industries, Inc. (N.D. Calif.). Misrepresentation of cooking equipment and supplies therefor.

International Motels, Inc. (N.D. Calif.). Misrepresentation of a correspondence course designed to train purchasers in the field of motel management.

Commercial Distributors of America, Inc. (E.D. Pa.). Misrepresentation in connection with the sale of vending machines.

American Candle Co., Inc. (E.D.N.Y.). Misrepresentations as to the composition of candles.

Peanut Novelty Co. (N.D. Tex.). Selling and distributing lottery devices.

Velox Service, Inc. (S.D.N.Y.). Misrepresenting price, value and performance of certain merchandise.

Parfumerie Lido, Inc., et al. (E.D.N.Y.). Misrepresenting the usual and customary regular price and country of origin of perfume.

Universal Educational Guild, Inc. (E.D.N.Y.). Misrepresentations in connection with the sale of an encyclopedia.

Post-Graduate School of Nursing, Inc. (N.D. Ill.). Misrepresentations in connection with a correspondence course designed to qualify purchasers in the field of practical nursing.

Atlantic Products (Nebr.). Misrepresentations of photographic albums and certificates for photographs.

Vitasafe Corp. (S.D.N.Y.). Misrepresentation of a free trial offer of vitamin capsules and refusal to cancel orders for undelivered merchandise.

American Rug & Carpet Co., Inc. (S.D.N.Y.). Deceptive use of oriental names to describe domestic rugs.

United Products Co. (N.D. Ohio). Misrepresenting earnings from servicing candy vending machines and the assistance given to purchasers of such machines.

R. D. Anderson (W.D. Ky.). Misrepresentations made in connection with the interstate sale of silverware coupons and silverware.

Israel Rettinger (E.D.N.Y.). Misrepresenting the manufacture of rainwear and other merchandise.

Pruvo Pharmacal Co. (E.D. Wis.). Misrepresenting the therapeutical value of a drug preparation.

Roland S. Jenkins (N.D. Ohio). Misrepresentation in connection with the interstate sale of vending machines and vending machine supplies.

Endeavor Press (S.D.N.Y.). Misrepresentation in connection with the interstate sale of contest aids.

International Photographers (S.D. Calif.). Misrepresentation in connection with the interstate sale of photographs and photographic albums.

David Fischer (S.D.N.Y.). Fictitious pricing of waterproof coatings and paint.

George R. Hoffmann (Kans.). Misrepresentation in connection with the interstate sale of correspondence courses.

## APPENDIX (C)

### Textile and Fur Court Cases

---

In the Textiles and Fur field, the first fur case in which civil penalties were obtained for alleged violations of a Commission cease-and-desist order was settled by consent. Judgment entered by the Federal District Court (No. Dist. of Ohio) against I. J. Fox, Inc., Cleveland, Ohio (FTC Docket 6558), in addition to providing for penalties of \$7,000, imposed an injunction against further violation of the order. In another case, one of the few to date involving failure to maintain records required under the Wool Products Labeling Act and violations of a Commission order (FTC Docket 7257, Litchfield Woolen Mills Company) was terminated in the District of Minnesota. Judgment by consent provided for penalties of \$12,000 along with an injunction. A third civil penalties case was settled in the Southern District of New York on judgment for \$12,500 for alleged violations of a Commission order under the Wool Act (FTC 6800, S.M.S.A. Corp. (formerly Stamina Industries, Inc.)). A criminal case under the Wool Act was terminated by imposition of a \$2,500 fine against Woody Fashions, Inc., a New York coat manufacturer. The indictment, returned in the Southern District of New York, charged the defendants with misbranding "cashmere" coats.

Two new cases in the Textiles and Fur field were filed in the Federal district courts on certification by the Commission: One seeking civil penalties for alleged violations of a cease-and-desist order under the Wool Act (Lawrence Blanket Co., FTC Docket 4946, Dist. Mass.) and one by Information returned in the Southern District of New York, charging a New York manufacturer with criminal violation of the Fur Act (Stone & Stone, Inc.).