

Annual
Report
of the **FEDERAL
TRADE
COMMISSION**

For the Fiscal Year Ended
June 30, 1959

Federal Trade Commission

EARL W. KINTNER, Chairman

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Letter of Transmittal

FEDERAL TRADE COMMISSION
Washington, D.C.

To the Congress of the United States:

It is a pleasure to transmit herewith the Forty-fifth Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1959.

By direction of the Commission.

EARL W. KINTNER
Chairman

THE PRESIDENT OF THE SENATE.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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THE YEAR'S HIGHLIGHTS

The fiscal year 1959 confronted the Federal Trade Commission with greater volume of business to police than ever before in its 45-year history. It responded to the challenge by bringing a record number of formal actions against offenders and by providing more guidance to businessmen on how, by self-policing, they could assist the Commission efforts to maintain vigor and honesty in the marketplace.

Considering that the Commission's Staff of less than 735 (including clerks, typists, and messengers) had to police the bulk of the Nation's \$450 billion economy stretched over 3 million square mil-44 0 TaTc () Tj 2.28 0 TD - 0 Tc () Tj 2.52 0 T6i 33.8 TaTc () Tj 2.28 0 TD - 0

to beware of them has unquestionably effected a retreat of fictitious pricing and misleading tire advertising.

Although the broad-scale attacks proved successful in these two instances, the Commission is quite aware that many areas of law violation do not lend themselves to similar cleanup attempts, particularly when individual hard-fought cases such as antitrust actions require many thousands of man-hours of staff time. It is inevitable

and tubes, regardless of the location of their customers and differences in freight costs. Such a system deprives customers of savings which their geographical location would otherwise make possible.

Fiscal 1959 also found the Commission pushing ahead in the enforcement of section 7 of the Clayton Act, which outlaws illegal mergers. The Commission challenged two of the Nation's largest retail food chains, bringing to 22 the number of merger cases being litigated. National Tea Co. was cited for acquiring 440 stores and the Kroger Co. for its acquisition of 40 corporations with approximately 1,900 stores. Another antimerger complaint challenged Diamond Crystal Salt Co., one of the Nation's five largest salt producers, for having acquired a major competitor.

Actions to halt price and other discriminations forbidden by the Robinson-Patman Act came thick and fast. Sixty-six complaints and 61 orders were issued, with a heavy concentration of the attack in the automotive parts and food Tj 3.6 2s

Many of these cases involved the practice of food brokers "splitting" their customary brokerage commissions with buyers.

Exclusive dealing also came under Commission fire. Among major actions was a complaint against the Nation's principal maker of molded shoes. It charged the company with selling only to those chiropodists and retailers who agreed not to use or deal in competitive products.

Restrictive practices likewise were attacked. A complaint was issued against the largest seller of photographic copying machines and supplies charging that it had illegally induced owners and operators of the machines to stop, or to reduce, purchases from competitors. It was alleged that the company had used its dominant position to monopolize the sale of photocopy paper and chemicals by imposing unreasonable tying arrangements on Photostat machine owners.

In two other cases the alleged restraint on trade involved gasoline. One major company was charged with illegally fixing and maintaining the resale prices of its products, and another was alleged not only to have illegally fixed gasoline prices but also to have followed a predatory pricing policy injurious to dealers marketing unbranded or private brands of gasoline.

Still other restraint-of-trade cases involved charges of price-fixing conspiracies in the "blackstrap" molasses industry and unlawful resale price maintenance in the sale of loudspeakers and electric organ accessories.

Cease-and-desist orders issued in this field included one requiring 17 of the Nation's leading paperbag manufacturers to stop conspiring to fix the price of multi-wall paper shipping sacks, which, incidentally, sell at a \$200 million annual rate,. Another order halted an association of 4,000

Commission has taken action in the past is given at the beginning of the appendix of this report.

More

is characterized by its lack of pattern. Apparently chicanery is willing to accept new ideas for extracting money from the gullible without relinquishing any of the time-tested

ingly paying all publishing costs without receiving the advertised promotional services.

In the chapter of this report dealing with "Litigation," further detail on deceptive practice cases is offered. Most of these, as well as those discussed here, are of immediate interest to the public; however, it would be a mistake to judge the value of such case work solely in terms of consumer protection. Most false advertisements and deceptive practices have the effect of diverting business from honest and reputable sellers. They, as well as the misled purchaser, are victimized, and fair competition is thereby injured.

It is hardly necessary to point out that the Commission's responsibility does not end with the issuance of cease-and-desist order. The order must be policed to insure that it is not being violated. In fiscal 1959 such Compliance policing was given increased attention with the result that judgments totaling \$55,660 were obtained—more than double the amount in any of the 3 preceding years. In addition, one contempt action resulted in a \$40,000 fine against a major cigarette company by the Court of Appeals for the Fourth Circuit for violating the court's decree enforcing an FTC order.

In its appellate work in fiscal 1959, the Commission fared well. The Supreme Court decided two FTC cases, both in favor of the Commission. It also denied four petitions for certiorari opposed by the Commission and granted four petitions on its behalf. At the year's end, the Commission had completed litigation in all courts in 23 cases. Twenty-nine were still pending.

In addition to its casework, the Commission also undertook an economic Investigation of trends in food marketing, with particular emphasis on the degree of concentration in this field. Prompting the study was the fact that a substantial percentage of all FTC antimonopoly investigations had arisen from alleged violations in the food industry. A first step in the Investigation was to obtain information via questionnaire from three groups of food marketers: chainstores, voluntary group wholesalers, and retailer-owned cooperative food distributors. Also the study called for a comparison of how the 3 groups fared from a competitive sales standpoint in 15 metropolitan centers during the period from 1948 to 1958. It was expected that the results of the study would be made public early in 1960.

At the year's end the Commission was supporting certain new legislation needed to strengthen its effectiveness in the antimonopoly field. A major proposal was that Commission orders

to obtain court affirmance of an order before instituting penalty action for noncompliance with it.¹

An important corollary proposal was authorization for the Commission to apply to the Federal district courts for preliminary injunctions against proposed mergers which the Commission has reason to believe would be in violation of section 7 of the Clayton Act. The Commission would similarly be empowered to seek orders requiring maintenance of the status quo in instances where such mergers had already been accomplished. In the absence of such Commission authority, corporations may now complete their merger arrangements or may dispose of assets acquired through merger in the face of pending Commission proceedings designed to ascertain the legality of the merger and, to direct disposition of assets in a manner appropriate to the public interest in cases where the mergers are found to be illegal.

¹ This legislation was incorporated into Public Law 86-107, approved July 23, 1959.

SCOPE OF AUTHORITY

Basic Functions of the FTC

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

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

This legislation confers upon the Commission two broad functions. Under the first, the Commission, subject to certain exceptions, is "empowered and directed to prevent persons, partnerships, or corporations,¹ * * * from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce," methods

two

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

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

The Wheeler-Lea Act amendments also conferred special authority upon the Commission for the control of false advertising of foods, drugs, cosmetics and curative or corrective devices. For such purposes the term "false advertisement" is defined to mean "an advertisement, other than labeling, which is misleading in a material respect; * * *" The term also is employed in section of the Oleomargarine Act to any representations or suggestions that oleomargarine is a dairy product. In cases of this type, jurisdiction of the Commission may be grounded in use of the United

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

The Commission is further empowered of

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meat, meat food products, livestock products in unmanufactured form, and poultry products.

It further provided, in substance, that the Commission could exercise jurisdiction over the wholesale operations of meatpackers if effective exercise of its power or jurisdiction with respect to retail sales of meat and meat food products would be impaired, and if, after notifying the Secretary of Agriculture, it was determined that the latter was not conducting an Investigation or proceeding involving the same subject matter.

A corresponding provision was made for the Secretary of Agriculture to exercise jurisdiction over the retail sales of meat, and meat food products if his authority over wholesale operations would otherwise be impaired, and if, the Commission was not investigating or proceeding with respect to the same matter.

Shortly after the enactment, of this statute, several conferences were held between officials of the two agencies to discuss the liaison arrangements which should be established under the act in order to coordinate their activities in the most efficient manner. Liaison officers were thereafter appointed for each agency and an effective system was derived for the 0Tc (coordinate) Tj 54.72 0 TD 0 ua.28 0 6c 0 Tfbk8l

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

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

Quantity-Limit Provision.—This is also contained in section 20.00p0-s3a-r."

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

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

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

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

The Wool Products Labeling Act, the Fur Products Labeling Act, and the Textile Fiber Products Identification Act ⁸

These three Federal statutes constitute "truth-in-fabrics" and "truth-in-furs" legislation. Under their terms the disclosure of content and other important factual information is required on labels and in advertising of textile and fur products.

Violations of these acts are classed as unfair methods of competition and unfair or deceptive acts and practices under the Federal Trade Commission Act. Mandatory labeling of textile, wool, and fur products is required. Labels on wool and textile products are required to disclose by percentages the constituent fibers contained therein. Labels on fur products as well as the advertising and invoicing of such products are required to disclose to prospective purchasers the true name of the animal from which the fur was taken. For this purpose an official Fur Products Name Guide has been issued by the Commission. The disclosure of other important information is required in order to inform the purchaser when the fur product is dyed, bleached, damaged, secondhand, or made of Scrapes or pieces. Under the Textile Act and the Fur Act, the country of origin or place of manufacture must be disclosed with regard to imported merchandise.

Under each act the Commission is specifically authorized to make inspections and tests of merchandise subject to the requirements of the acts and regulations. It is also directed and authorized to issue rules and regulations which have the force and effect of law. Under the Textile Act these regulations include the establishment of generic names for manufactured fibers for use in disclosing fiber content information.

⁸ 15 U.S.C. § 68, 12 U.S.C. § 69 and 15 U.S.C. § 70, respectively.

Under the Wool and Fur Acts, when necessary in the public interest, the Commission may institute seizure or condemnation proceedings for misbranded merchandise. Under all three acts it may apply to the Federal courts for temporary injunction pending the completion of a Commission proceeding under which a cease-and-desist order is sought. Suits to collect civil penalties for violation of Commission final orders under these acts are also available. Willful violations are punishable also by misdemeanor proceedings brought by the United States in the Federal district courts.

Manufacturers and distributors of products subject to these act may issue guaranties for the protection of their customers who rely in good faith upon representations made in connection with such guaranties.

Registered identification numbers are issued by the Commission to manufacturers and distributors for use on labels in lieu of their required name.

Flammable Fabrics Act, approved June 30, 1953, effective July 1, 1954⁹

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

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

Manufacturers and distributors may guarantee their merchandise as having passed reasonable and representative tests for flammability. Members of the trade who rely in good faith upon these guaranties are afforded certain protection against prosecution. Willful violations of the act, whether in placing prohibited products on the market or in issuing a false guaranty, may be prosecuted by the Government as

⁹ 67 Stat. 111,

misdemeanors. Upon conviction, fines up to \$5,000 or 1 year's imprisonment, or both, may be imposed by the court.

ADMINISTRATION

The Executive Director, as the Commission's chief operating official, manages the Federal Trade Commission's activities to achieve effective and economical operations. He has responsibility for operational and administrative direction of all the Commission's bureaus and field offices. The Office of the Executive Director also includes the Office of Administration.

OFFICE OF ADMINISTRATION

The Office of Administration gives policy guidance and general supervision to the management and organization programs, administrative services activities, and personnel programs of the Federal Trade Commission. The Office plans for effective organization and administration of the Commission's management programs, formulates and puts into effect basic administrative policies, and develops long-range plans relating to needs for personnel, space, supplies, equipment, etc. The Office of Administration Includes the Division of Personnel, the Division of Management and Organization, and the Division of Administrative Services.

Division of Personnel

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

Division of Management and Organization

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

This Division also prepares analyses of the Commission operations for the use of the Commission.

Division of Administrative Services

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

Publication Branch

This Branch of the Division of Administrative Services clears for format, economy of reproduction, and distribution, all material printed or duplicated by the Federal Trade Commission within the limitations of the laws and regulations as applicable thereto. This Branch also operates a class A cl or da

The demand for reference and research increased substantially during fiscal 1959, as did also the use of books and materials. Approximately 56,000 reference questions were answered during the year, and more than 70,000 books and other materials were loaned outside the Library. Numerous requests were received from public sources for bibliographies compiled in the Library.

Procurement and Services Branch

This Branch of the Division of Administrative Services is responsible for providing services and controls in-the necessary housekeeping functions as follows: procurement and maintenance of supplies, equipment, furniture, etc.; space control and building maintenance; communications including mail, telephone and telegraph, and messenger.

OFFICE OF THE COMPTROLLER

The Office of the Comptroller Includes the Division of Budget and Finance and the Division of Financial Statistics, thus placing all budget, fiscal, machine tabulation, and financial statistics in one office.

Division of Budget and Finance

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

Division of Financial Statistics

The primary function of the Division of Financial Statistics is to collect and summarize for each calendar quarter uniform, confidential financial statements from a probability sample of all enterprises classified as manufacturers, except newspapers, which are required to file U.S. Corporation Income Tax Form 1120. The quarterly summaries, entitled Quarterly Financial Report for Manufacturing Corporations, are published by the Government Printing Office and sold by the Superintendent of Documents.

The purpose of this sample survey is to produce, each calendar quarter, an income statement and balance sheet for all manufacturing corporations, classified by both industry and asset size. (Corporations account for more than 95 percent of total receipts from all manufacturing activity in the United States; manufacturing corporations account for approximately 60 percent of all corporate profits.)

The published quarterly summaries contain statistical tables which give profits per dollar of sales and rates of profit on stockholders' equity for each of 32 groups of manufacturing industries and 28 groups of asset sizes of corporate manufacturers. The summaries also contain quarterly estimates of 45 income statement and balance sheet items, and as many financial and operating ratios, for each industry and size group.

The quarterly summaries are used by various agencies in the executive and legislative branches of the Federal Government to analyze current business conditions, evaluate the current financial position of small business, estimate net income in national income statistics, estimate current tax liability and future tax receipts, and determine current monetary and credit policy.

The quarterly summaries are also used by thousands of non-Government subscribers, Executives for example use the quarterly summaries to measure efficiency and appraise costs by comparing a company's operating results with the average performance of companies of similar size or in the same line of business, to determine whether to undertake new ventures by comparing the profitability of various types of business activity, and as a guide to the relative movement of sales and profits in order to reduce controversies in wage negotiations.

OFFICE OF THE SECRETARY

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

The assistant secretary for minutes takes the minutes of, and records the executive meetings of the Commission, prepares directives for the signature of the secretary, and keeps the calendar of pending matters.

Legal and Public Records

The Office of the Assistant Secretary for Legal and Public Records embraces the Legal Research and Reporting Section, Formal Docket Section, Public Reference Section, and the Distribution Section.

and

Legal Research and Reporting Section

This Section is responsible for the preparation and publication

Statutes and Court Decisions, the latter including court decisions in Commission cases; for the codification and editorial preparation of various Commission material published in the Federal Register; for the collection and dissemination of relevant court decisions.

Formal Docket Section

The Formal Docket Section is responsible for the establishment, management, safety, completeness and accuracy, uses and retirement of the legal and related records of the Commission.

Public Reference Section

The Public Reference Section furnishes information and assistance to the public, and to the staff of the Commission in relation to public, legal, and court proceedings, and in matters of related procedure. The Section is responsible for the custody, location, safety, conditions, etc., of dockets, files, exhibits, etc.

Distribution Section

The Distribution Section controls the supply and distribution of all publications issued by the Commission, such as economic reports, annual reports, trade practice rules, Statutes and Court Decisions, etc.

Public Information

This office issued a total of 1,309 press releases during fiscal year 1959, compared with 1,238 in fiscal 1958. They covered news of Commission complaints, answers by respondents, initial decisions, orders, and Compliance actions. In addition, many oral and written inquiries from the press and public were answered each day.

FEDERAL TRADE COMMISSION

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Chapter Four

with the complaining party, the proposed respondent, competitors, customers, suppliers, and other informants.

After a matter has been entered for Investigation, it is referred to one of the Commission's nine branch offices for assignment to an attorney-examiner. In many cases, work on the same case is performed simultaneously by attorneys from two or more branch offices, with one such office having responsibility for coordination of the Investigation.

Upon completion of an Investigation, the examining attorney prepares a final report, setting forth the relevant facts and making an appropriate recommendation. This report is reviewed by the attorney in charge of the branch office and is then forwarded to headquarters for study and review by the project attorney who has primary responsibility for the case from its inception to final disposition. Depending upon the conclusion reached, the case is then referred to the Bureau of Litigation for the drafting of a complaint, to the Bureau of Consultation for the negotiation of a stipulation, or to the secretary or the Commission with a recommendation for closing.

In addition to the foregoing, the various branch offices spend a substantial amount of time investigating the manner in which respondents are complying with previously issued orders to cease and desist. This work must be performed with unusual care and attention to detail, since the evidence obtained may be used in support of civil penalty or contempt proceedings.

Investigations are also conducted to assist in the litigation of pending formal cases, since defenses asserted by respondents often raise issues requiring additional facts and evidence.

Matters investigated by the Bureau fall into two broad categories— restraint of trade and deceptive practices.

Of the 4,400 applications for complaint received during the year, 884 involved U.S. DEPARTMENT OF JUSTICE 11-07-2012 10:08 AM

prohibits price discrimination and discrimination in the payment of promotional allowances or in the furnishing of services or facilities. Many of these related to practices in the food industry, with particular reference to dairy products. Investigations were also made of exclusive dealing and tying arrangements under section the Clayton Act, and of interlocking directorates under section 8. Fifty- six of the complaints issued were under the Clayton Act.

The 660 deceptive practice investigations completed during the year under the Federal Trade Commission Act included 445 entailing charges of violation of section 5, and 142 entailing charges of false advertising of food, drugs, medical devices, or cosmetics in violation of section 12. The section 5 deceptive practice Investigation has resulted in issuance of 118 formal complaints, and acceptance of 94 stipulations to cease and desist. The section 12 investigations resulted in issuance of 27 complaints and acceptance of 11 stipulations. Additionally, 114 of the section 5 and section 12 deceptive practice investigations were terminated upon receipt of assurance that questioned practices had been discontinued without intent to resume, where it appeared that that method of disposition would adequately protect the public interest.

Typical of the deceptive practice charges receiving attention under section were fictitious pricing of clothing, floor coverings, electrical appliances, and cutlery; misrepresentation of correspondence courses in chemistry, detective work, airline stewardship, and real estate appraisal; misleading use of the term "Guaranteed" in connection with bedding, watches, and sewing machines; and false claims of Government approval respecting various products. Under section 12 the charges which were investigated included false claims that bread and macaroni products were low in calorie content and would effect weight reduction; that hearing aids were cordless and invisible and required nothing to be worn in the ear; that drug products would aid in preventing Asian flu or would effectively treat rheumatism or arthritis; that cosmetic products would rejuvenate the skin or cause the hair to become naturally curly; also, use of fictitious testimonials from nonexistent doctors in connection with an antibiotic preparation; and offering of oleomargarine as a dairy product.

As an adjunct to the investigative function, published and broadcast advertising is monitored on a sampling basis to detect claims which may be misleading or deceptive. Coverage was augmented during the year by establishment of a system whereby the small regular staff assigned to this work will be aided through off-duty scrutiny of advertising by the more than 350 professional members of the Commission's staff, both in Washington and

Commission orders, stipulations, trade practice rules, and advertising guides.

In respect of its duties under the Trade Mark Act of 1946, the Commission during the year sought cancellation of the trademark "Fiocco" which had been registered by Bart Schwartz International Textiles, Ltd., as a mark for rayon fabric. The petition for cancellation was granted by the Trade Mark Trial and Appeal Board of the Patent Office, and that decision is now undergoing review by the U.S. Court of Customs and Patent Appeals.

The Commission also obtained during the year a final order of cancellation respecting the trademark "Triumph" as a designation of wheat seed.

MERGER INVESTIGATIONS

The Commission's authority to enforce Compliance with section 7 of the Clayton Act, as amended, is derived from section 11 of the act. After vesting similar authority in the Interstate Commerce Commission, Federal Communications Commission, Civil Aeronautics Board, and Federal Reserve Board, over corporations engaged in operations in the areas of those agencies' authority, section 11 provides that the Federal Trade Commission shall have this authority " * * * where applicable to all other character of commerce * * *."

As a result, the Commission has cognizance over corporate mergers and acquisitions in widely diverse fields. In fiscal year 1959, this diversity of interest resulted in the Commission examining into mergers and acquisitions by corporations in such varied fields as foodstore chains, petroleum producers, department stores, producers of electrical products, proprietary and ethical drug manufacturers, dairies, plastics manufacturers and fabricators, bakeries, and numerous others.

Since there is no legal obligation for corporations intending to merge or make an acquisition to notify the Commission of their intention or of the accomplished fact, the Commission usually learns of a merger or acquisition from financial newspapers, trade journals, manuals of investments, and similar materials. In addition, some complaints are received against particular mergers.

Each acquisition or merger coming to the Commission's attention is made the subject of an information sheet containing such basic financial and operational data regarding the corporations involved as is readily available from recognized reference manuals. In fiscal year 1959, 980 information sheets were prepared. All mergers and acquisitions so recorded are examined by project attorneys in the Bureau of Investigation who, after evaluating readily available data, recommend whether further investigations should be undertaken. In making his determination, the project attorney usually obtains addi-

necessary, effective regulation of the advertising, is to have the products tested clinically. It is becoming increasingly necessary to have such tests made in

Act of 1953, and the recently enacted Textile Fiber Products Identification Act of 1958.

The Wool, Textile, and Fur Labeling Acts constitute "truth-in-fabrics" and "truth-in-furs" legislation. Under their terms, the disclosure of content and other important factual information is required in the labeling and advertising of textiles and furs. The Flammable Fabrics list prohibits the marketing of dangerously flammable wearing apparel and wearing apparel fabrics.

The Division drafts substantive rules, regulations and amendments thereto, as necessary, for a firm and fair enforcement of the acts. Such rules clarify and interpret the basic statutes, as well as provide for exemption of products under certain, circumstances. Where applicable, generic names for manufactured fibers are also established under these rules.

As provided for by the Fur Act, a "Fur Products Name Guide" has been established, and, when necessary, animal names are added upon recommendation by the Division. The Division maintains a public register for continuing guarantees filed with the Commission under the respective acts. Registered numbers are also issued for identification purposes in labeling products subject to the statutes.

The Division furnishes the Commission and its staff with legal and technical advice in connection with the enforcement of the respective statutes. The rendering of opinions and interpretations to industry as well as the public under the respective acts and regulations constitutes another important function of the Division.

In order to afford consumers the protection intended by Congress, each of the acts provides for inspections, analyses, tests, and examinations of products subject to their terms. Under this authorization, the Division plans and supervises nationwide inspection and industry counseling programs, carried on by Commission investigators at all merchandising levels. Where possible, investigators counsel members of industry as to their responsibilities under the respective acts, and effect on- the-spot correction of minor infractions. Where substantial or repeated violations are found, complete investigations are made, and corrective action recommended against responsible parties.

During fiscal 1959 special attention was given to the compliance under the Wool Act; of the woolen interlining and batting industries, as well as dealers in "reprocessed wool" and "reused wool fiber stocks. As result of these efforts, formal corrective actions has now been instituted by the Commission against an appreciable number of the concerns whose practices were found questionable as violating the c ()

"reprocessed wool" an reused wool" to wool." The same was true in connection with the upgrading of reclaimed stock from the so-called specialty fiber animals, such as the cashmere goat, vicuna, and camel.

During the year the Division also worked closely with Customs officials in New York in working out a program for examining and sampling the labeling of imported wool products. As a result an increased number of corrective actions in this field have been recommended to the Commission. Attention in this area was, of course, justified by the ever-increasing volume of wool and part-wool imports into the United States from both European and Asiatic countries.

Under the Fur Act, false comparative pricing in advertising, as well as invoicing, has continued to be the chief violation uncovered through Commission inspection work. In addition, inspections during the year have uncovered various instances of imported mink being passed off as domestic mink, as well as instances of low-grade mink being tip dyed to give the appearance of high-quality mink, without disclosure of the fact that such furs were dyed.

Under the Flammable Fabrics Act, close surveillance over those segments of industry that might normally produce potentially dangerous products has been maintained. In addition to inspections among our domestic manufacturers and distributors, careful watch has been kept over potentially dangerous imports.

During the year tests conducted by the Division's textile and fur screen OTc Tiece
reached an alltime high. 015 1269 004 FID 00889 Tich

Formal complaints issued under the Wool and Fur Acts during fiscal 1959 amounted to 46 percent of the total number of deceptive-practice complaints issued by the Commission. During the same period stipulations under these two acts accounted for 29 percent of the entire number of stipulations accepted by the Commission.

Immediately after enactment of the Textile Fiber Products Identification Act on September 2, 1958, the Division conducted many detailed investigations and informal conferences with representatives of various segments

The following statistics reflect the workload of the Division during fiscal 1959:

Division of Textiles and Furs workload statistics for fiscal 1959

	Wool	Fur	Flammable Fabric	Textile
Commercial establishments covered by industry compliance investigation	1,779	877	1,639	.....
Products examined for compliance (sampling method used in wool products)	2,924,558	74,394	5,765,164	.....
Fur advertisements examined for deficiencies		24,880	.....	.....
Matters investigated and referred for complaint	² 35	82	.....	.....
Matters investigated and referred for stipulation	³ 21	18	.....	.....
Compliance investigations of concern under cease- and-desist orders of stipulation				

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brought to 22 the number of merger cases in litigation. These cases brought under section 7 of the Clayton Act, are designed to ban mergers, acquisitions, and consolidations which may substantially lessen competition or tend to monopoly.

National Tea Co. (Docket 7453)

The Kroger Co. (Docket 7464)

Attacking increasing concentration in the food industry, the Commission issued complaints challenging numerous corporate acquisitions by two of the Nation's largest retail food chains.

National Tea Co. of Chicago was cited for its acquisition of 13 corporations with approximately 440 stores during a 7-year period.

The Kroger Co. of Cincinnati was charged with illegally acquiring more than 40 corporations with approximately 1,900 stores.

Each complaint alleges that the acquisitions may result in substantially lessening competition or tending to create a monopoly in the processing, manufacturing, purchasing, and distributing of grocery products and in the sale of merchandise in retail grocery stores.

In addition to charging violation of section 7 of the Clayton Antitrust Act, each complaint alleges that the acquisitions constitute an unfair method of competition and an unfair practice prohibited by section 5 of the Federal Trade Commission Act.

As to the economic significance of these cases, the complaints point, out that, the food industry is the largest segment; of the American economy. They further state:

Concentration of grocery store sales in large corporate chains has been intensified in the United States through sustained programs of corporate acquisitions. Twenty percent of the grocery stores in the United States account for over 72 percent of the total grocery store sales in the country. From 1954 to 1957, some 36 corporations absorbed 88 grocery chains and thereby acquired, during this period, over \$1 ½ billion in total sales.

Diamond Crystal Salt Co. (Docket 7323)

The third antimerger complaint issued during fiscal 1959 is against Diamond Crystal Salt Co., of St. Clair, Mich., one of the Nation's five-largest salt producers. The corporation is charged With illegally acquiring a major competitor,

was the Scott Paper Co. case in which the Nation's leading seller of sanitary paper products (toilet tissue, facial tissue, paper napkins, paper towels, and household wax paper) is charged with unlawfully acquiring three corporations in the paper industry.

The Commission reversed the ruling of the hearing examiner that a prima facie case had not been established.

Of the 22 merger cases pending as of June 30, 1959, 15 were in various stages of trial; 5 had resulted in initial decisions which were being appealed to the Commission; and 2 were awaiting decisions by hearing examiners.

Robinson-Patman Act Cases

A large percentage of the Commission's antimonopoly cases involved discriminatory practices in violation of section 2 of the Clayton Act, as amended by the Robinson-Patman Act. This section is designed to safeguard the competitive order against the effects of a seller's unjustified discriminatory prices. It also prohibits a seller from discrimination in the payment for or the furnishing of services or facilities, such as advertising or promotional aids, as between competing buyers, and forbids the payment or receipt of brokerage fees or commissions under certain conditions. One subsection runs against knowing inducement or receipt by a buyer of discriminatory prices.

Violation of section 2 was alleged in 66 cases during fiscal 1959. Sixty-one cease-and-desist orders were issued.

The automotive parts field and the food products field accounted for most of the cease-and-desist orders issued.

Thompson Products, Inc. (docket 5872), was ordered to stop giving automobile makers and other original equipment manufacturers illegal price advantages over its own wholesalers of automotive replacement parts. The Commission found that Thompson's lower prices to General Motors, Ford, Chrysler, and certain other original equipment manufacturers were not cost justified, and that the discriminations may adversely affect competition.

The Thompson order was one of six cases in which automobile parts suppliers were required to stop discriminatory pricing practices.

Additionally, in a continuing attack against discriminatory pricing in the automobile replacement parts industry, the Commission issued orders in seven cases requiring scores of jobbers to stop inducing and accepting discriminatory prices from their suppliers through the operation of so-called buying groups. The cases are as follows:

Warehouse Distributors, Inc., and 28 southeastern jobber members (docket 6837).

Midwest Warehouse Distributors, Inc., and 21 jobber members (docket 6888).

Six-State Associates and 14 New York and New England jobbers (docket 6765).

Mid-South Distributors and 17 jobber members (docket 5766). Cotton States, Inc., and 8 jobber members (docket 5767).

Metropolitan Automotive Wholesalers Cooperative, Inc., and 17 jobber members (docket 5724)

Southwest Automotive Distributors, Inc., and 33 jobber members (docket 6890).

The respondents in each of these proceedings were charged with knowingly inducing and receiving unlawfully discriminatory prices in violation of section 2(f) of the Robinson-Patman amendment to the Clayton Act.

In other proceedings related to the automobile industry, The Firestone Tire & Rubber Co. (docket 7141) as ordered to stop giving illegal price concessions to a favored few of its 14,000 franchised dealers, and the Nation's largest manufacturer of automotive luggage carriers, Market Forge Co. (docket 7243), was ordered to stop discriminating in price among its customers.

Four of the Nation's leading manufacturers of electric shavers were required by Commission orders to stop discriminating among their customers in both prices and promotional allowances. The companies are:

Sperry Rand Corp. (docket 6701).

Schick, Inc. (docket 6892).

North American Philips Co., Inc. (docket 6900).

Ronson Corp. (docket 7066).

Sperry Rand, Schick, and Ronson also were ordered to terminate illegal price-fixing agreements with distributors of their products.

Sun Oil Co. (docket 6641) was ordered to stop charging any of its service station customers less for gasoline and other petroleum products than it charges competing dealers in the same marketing area. The Commission's order also bars the company from illegally conspiring to fix the resale price of its products.

In the food products field, price discrimination orders were issued against Alton Canning Company, Inc., (docket 7265), William Freihofer Baking Co. (docket 7072), and Hudson House, Inc. (docket 7215).

Discriminatory prices to favored customers were prohibited also in an order against three affiliated Jacksonville, Fla., distributors of drug proprietaries, toiletries, and housewares (Sav-A-Stop, Inc., docket 7317).

Among the new price discrimination cases instituted during the year were two complaints charging two of the Nation's major dairy companies with discriminating in price among their customers in the sale of fluid milk and other dairy products. Cited in separate com-

plaints were The Borden Company (docket 7474) and Foremost Dairies, Inc. (docket 7475).

Both dairies are alleged to have discriminated among retailers and consumers in various Texas cities. Borden is additionally charged with discriminations in Indiana and Michigan. Among other things, the Borden complaint alleges that A. &P. and Kroger foodstores are granted lower prices than their independent competitors.

publishers and distributors of many popular and widely circulated magazines.

American News Co., and its wholly owned subsidiary, Union News CO., were charged with coercing suppliers into paying unlawful promotional allowances which they knew, or should have known, were not offered on

docket 7396). Similar attempts in the case of other manufacturers

Additional new complaints issued under section 2(d) involved Sunbeam Corp. (docket 7049), one of the Nation's major manufacturers of electric household appliances, electric shavers, electric tools, and lawnmowers and garden equipment; Marlun Manufacturing Co., Inc. (docket 7516), which manufactures "Black Angus" electric broiler-rotisseries; Fieldcrest Mills, Inc. (docket 7528), a large manufacturer of rugs, carpets, and "domestics" (blankets, bedspreads, sheets, pillow cases, etc.); and Oneida, Ltd. (docket 7236), a large silverware manufacturer.

Brokerage Cases

Violation of section 2 (c) of the Clayton Act was prohibited in some 28 orders issued during the year. This section of the statute prohibits payment or receipt of brokerage fees or commissions in transactions between a seller and persons or firms purchasing on their own account for resale. Most of the orders involved sellers or brokers of seafood products.

Many of these cases involved the practice of food brokers "splitting" or passing on part of customary brokerage commissions to buyers.

Numerous additional brokerage complaints were issued during the fiscal year.

Exclusive Dealing Cases

Exclusive dealing contracts and arrangements were challenged in two complaints charging violation of section 3 of the Clayton Act. One complaint is against Murray Space Shoe Co. (docket 7476), the Nation's dominant manufacturer of molded shoes, and alleges that the company sells only to those chiropodists and retailers who agree not to use or deal in competitive products.

In the second complaint, American Breeders Service (docket 7450), the Nation's largest supplier of bull semen used in artificially inseminating dairy cows, is charged with making sales on the condition that customers do not buy from competitors. Other provisions in its sales contracts are also challenged as unlawfully restrictive and oppressive, in violation of section of the Federal Trade Commission Act.

A consent order was issued requiring Judson Dunaway Corp. (docket 6925) to stop making exclusive dealing agreements with its customers. The company manufactures and sells a line of household products, including Delete, a rust and stain remover; Vanish, a bathroom cleanser and deodorizer; Elf, a drain cleaning agent; Expello, moth crystals and insect bombs; and Bug-a-Boo, moth crystals and aerosol insecticide.

Interlocking Directorates

Two competing west-coast lumber companies and a director of both Were charged with violating the interlocking directorate prohibitions

of the Clayton Act. Charged in a Commission complaint with violating section 8 were Booth-Kelly Lumber Co., Michigan-California Lumber Co, and the director, John W. Blodgett, Jr.

Section 8 prohibits any person from holding directorates in two competing companies where either one has capital, surplus, and undivided profits aggregating more than \$1 million..

Other Antimonopoly Proceedings

Numerous other practices restricting and restraining competition in various areas of the economy Were proceeded against during the year under section 5 of the Federal Trade Commission Act, which outlaws "unfair methods of competition" and other "unfair" acts and practices.

Highlighting the year's activities in this type of case was a complaint charging six leading makers of "wonder drugs" With attempting to monopolize the Nations \$330 million antibiotic industry and with fixing and maintaining "arbitrary, artificial, noncompetitive, and rigid" prices for the

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e the Nations \$330 million antibiotic industry and with fixing and maintaining "arbitrary, artificial, noncompetitive, and rigid" prices for the

industry (dockets 7461, 7462 and 7463); and unlawful resale price maintenance in the sale of loudspeakers and electric organ accessories (docket 7431) .

Among the orders to cease and desist issued against restrictive trade practices was 1 requiring 17 of the Nation's leading paperbag manufacturers to stop conspiring to fix the price of multiwallpaper shipping sacks. These firms are alleged to account for substantially all of the \$200 million annual sales of this commodity. Multiwallpaper shipping sacks are used to transport and store feed, fertilizer, cement, sugar, flour, and other bulk products.

Conspiracy to boycott was the subject matter of a cease-and-desist order against Columbus Coated Fabrics Corp. and two of its dealers (docket 6677). The Commission found that the company conspired to boycott a New Jersey concern which cut prices on Wall-Tex, a washable fabric wall covering made by Columbus.

Another boycott case involved agreements among the Nation's four largest publishers and distributors of vocational, aptitude, and psychological tests, and related materials to prevent competitors from buying these products (docket 6967)

Five wholesale distributors of General Motors diesel engines and replacement parts were ordered to stop conspiring to fix or maintain prices for the parts (docket 7002).

Six gummed paper manufacturers and their industry trade association were ordered to stop conspiring to fix prices (docket 7079), and an association of 4,000 retail jewelers was barred from illegally conspiring to fix or increase prices or profit margins in the sale of silverware (docket 6986).

ANTI-DECEPTIVE PRACTICE CASES

Forty-five years ago, when Congress was engaged in the passage of the original Federal Trade Commission Act, 1914.

categories of deceptive practices and about 225 different types of specific deception falling within these categories, with hundreds of variations, of these types.

Examples of categories are false and misleading advertising, delivering short measure, falsely disparaging competitors and their products, passing off one's merchandise as that of another, removing law required markings, using contest schemes unfairly, neglecting unfairly to disclose the material fact that products are used or reclaimed, and supplying lottery devices for use in the sale of merchandise. During the past year the Commission issued complaints and orders in numerous matters involving these particular categories.

Examples of specific types of deception coming within these categories in which the Commission undertook corrective action this year are the false advertisement of earnings and profits people could make in the sale of cigarettes by purchasing the advertiser's vending machines, false representation by advance-fee advertisers that they had purchasers for business properties, selling rugs of smaller dimensions than those shown on labels, unfair disparagement of aluminum cookware by a seller of stainless-steel utensils, falsely representing to aspiring writers that their book manuscripts would be published with resultant profitable royalties, passing off electric appliances as Westinghouse or General Electric when only thermostats purchased from those companies had been used by the manufacturer in the assembly of the products, illegal removal by an intermediate seller, from interlinings used subsequently in the manufacture of garments, of tags and labels required to remain with the linings under provisions of the Wool Products Labeling Act, selection of winners of a

One such case was Benrus Watch Co.,

employment as a result of acquiring special knowledge in the study of the subjects offered. The clincher to the sale of courses, in nearly all cases, is misrepresentation that the "school" will employ the graduate or is affiliated with or will place him with an employer in the field in which instruction allegedly is given. During the year there were 11 of these cases in litigation, the types of instruction purportedly offered being for employment with the U.S. Government, commercial airlines, detective agencies, real estate appraisers, chemical manufacturers, and reweavers. Orders to cease and desist issued in seven of the cases.

Pacific Northern Air College, Inc., et al., docket 7182, was one of four matters involving correspondence schools purportedly engaged in preparing enrollees for jobs with commercial airlines as stewards, hostesses, ticket agents, and teletype operators. After the Commission

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A consent order was approved by the Commission in Vantage Press, Inc., et al., docket 7005, one of four vanity press cases on the litigation docket during the year. The respondents agreed to stop using over 40 types of misrepresentation alleged by the complaint to have been false and deceptive.

Passing off

During the past year the Commission had in litigation nine cases in which respondents were vendors of various types of merchandise advertised or labeled in such a way as to mislead customers into thinking the goods were the products of well-known and reputable manufacturers. The Commission noted an unusual amount of activity in the passing off of electric appliances as "Westinghouse" or "General Electric," issuing six complaints and six orders against the sellers of merchandise so misrepresented.

Electric trivets of American Colonial design were the interesting subject of a passing off against which the Commission acted. In Williamsburg Electric, Inc., et al., docket 6994, the complaint charged that respondents, a Michigan corporation and individuals residing in Michigan, had nationally advertised their trivets to be "authentic Williamsburg." The complaint pointed out that many years ago the Commonwealth of Virginia had chartered Colonial Williamsburg, Inc., as a nonprofit educational corporation for the purpose of acquiring, restoring, and preserving historical buildings and objects in the State. In pursuance of these objectives, the complaint stated, a colonial crafts program had been inaugurated in 1935, a feature of which was the fabrication and sale of authentic reproductions of trivets used in Colonial Virginia and on exhibition in Williamsburg.

Not only were the respondents not affiliated with or licensed by the Virginia corporation to manufacture Williamsburg reproductions, the complaint stated, but the imitations were not even wrought iron as claimed.

The respondents have consented to the entry of an order forbidding a continuance of the practices.

Dietary foods and drugs

A weight-control-conscious America appears to be a growing target for vendors of foods and drugs claimed to be of aid in controlling and reducing body weight.

Advertisers of drugs containing an ingredient identified as phenylpropanolamine have represented that the preparations were safe to use by all obese persons, that fat people could lose weight without dieting, and that they could lose predetermined amounts of weight in specific time periods. Four orders issued during the year required that dissemination of such claims be stopped, and disposition of a related case is pending.

Sellers of bread and macaroni have recently been noted to be claiming that their products will help control weight or actually facilitate a reduction, and the Commission has issued complaints alleging deception. In Prince Macaroni Manufacturing Co., et al., docket 7513, the respondents have been charged with publishing misleading advertisements that Prince Macaroni is a low-calorie food and its consumption will result in a loss of weight.

Vending machines

The increasing popularity among the public of self-serve stores and machinery appears to have provided an impetus to the promotional activities of certain vending machine sellers who operate under the guise of offering employment. The grossness of exaggeration indulged in by these companies reached a point where, in April 1959 to

history that recourse has been had to the criminal provisions of the Federal Trade Commission Act for refusal of a witness to testify in obedience to the Commission's subpoena.

In two other cases, Bureau attorneys petitioned district courts for orders enforcing subpoenas calling for the production of documents from respondents. Company officials had refused to comply with the subpoenas at hearings in support of antimerger complaints. The cases were pending in U.S. district, courts in Chicago and New York as the year ended (dockets 6652 and 6653).

set it aside completely. As a matter of practice, however, since 1953 there have been very few instances where the decisions of the hearing examiners have been completely reversed or set aside.

Particularly since 1950, when the hearing examiners assumed the responsibility of taking full charge of the case from the time the Commission issues its complaint until he renders his initial decision, unjustified delays have been avoided in the scheduling of hearings and in the rendering of the Commission's decisions.

Performance during fiscal 1959 furnishes evidence that the Commission's hearing examiners have continued their efficient handling of cases. The following table illustrates this:

Fiscal Year	On Hand	Received	Total Handled	Dis-posed of	On Hand	Hearing Days
1955	126 (July 1, 1954)	165	291	124	167 (June 30, 1955) .	611
1956	167 (July 1, 1955)	201	308	187	181 (June 30, 1956) .	670
1957	181 (July 1, 1956)	250	431	232	199 (June 30 1957) . .	733
1958	199 (July 1, 1957)	377	575	328	248 (June 30 1958) . .	783
1959	248 (July 1, 1958)	376	624	392	232 (June 30 1959) . .	779

OFFICE OF THE GENERAL COUNSEL

In cases advancing beyond the agency to the courts, the General Counsel and the attorneys of his staff represent the Commission as its counsel. All litigation to which the Commission is a party in the Federal district courts and the courts of appeals is handled by the Office of the General Counsel. When cases reach the Supreme Court the legal services devolving upon the Commission are performed by this Office in collaboration with the Solicitor General of the United States, who represents the Government in that Court.

The General Counsel functions as the Commission's chief law officer and principal legal adviser. In addition to the court work, his office administers the Webb-Pomerene Export Trade Act; passes upon all trade practice rules before their approval and promulgation by the Commission; gives informal advice to businessmen on trade regulation matters involving laws administered by the Commission; reviews, analyzes' and prepares reports of the Commission on new legislation; polices Commission's cease-and-desist orders for compliance purposes; initiates penalty suits and contempt actions in their enforcement and integrates the order compliance with work programs for securing obedience to voluntary stipulations and trade practice rules.

The General Counsel also supervises the special legal assistants to the Commission and represents the Commission in hearings before congressional committees. He likewise reports upon and advises the Chairman of the Commission respecting clearance of industry voluntary agreements and programs utilized under the Defense Production Act, also respecting production pools, research and development programs and related agreements under the Small Business Act. Review by his office of these industry agreements, programs, and pools is directed to such purposes as aiding small business and eliminating or minimizing anticompetitive effects that may run counter to the basic policies of the Federal Trade Commission Act and the antitrust laws. As further service, legal studies and manuals for guidance of the Commission's professional staff are prepared under supervision of the General Counsel.

Fiscal 1959 Highlights

Commission case does not end when an order to cease and desist has been issued. Constant compliance policing shows how and if it is being obeyed and violators are subject to court proceedings.

During the fiscal year 1959 the Compliance Division secured total judgments of \$55,650 in civil penalty suits, more than double the amount obtained by such suits in either of the 3 preceding years.

In addition, one contempt action resulted in \$40,000 being paid into the U.S. Treasury. This was the fine imposed upon P. Lorillard Co. by the U.S. Court of Appeals for the Fourth Circuit upon a criminal contempt conviction of Lorillard for violating the court's 1950 decree enforcing a Commission order to cease and desist from using certain representations in advertising Old Gold cigarettes.

The Supreme Court decided two Commission cases during fiscal 1959, both in favor of the Commission. It also denied four petitions for certiorari opposed by the Commission and granted four petitions on its behalf.

During the year the Appellate Division represented the Commission in 46 cases in 10 of the 11 Circuits of the U.S. court of appeals and the U.S. Court of Customs and Patent Appeals, also in 4 U.S. district courts. It

Appellate Division in App. 7 Old Gold sig Tjof 742 on TD 9742 Cont

APPELLATE DIVISION

The principal function of the Appellate Division is to represent the Commission in proceedings in Federal courts.

Any person, partnership, or corporation against which the Commission has issued an order to cease and desist may petition a U.S. court of appeals to review and set aside the order. The Commission may petition a court of appeals to affirm and enforce violated order to cease and desist issued under authority of the Clayton Act. Disobedience of a court's decree enforcing a Commission order or subpoena may be punished by the court as a contempt. When a subpoena issued by the Commission has not been obeyed, the Commission may apply to a U.S. district court to order compliance with the subpoena. Any person suffering legal wrong because of final Commission action for which there is no other adequate remedy in any court may obtain a review in a U.S. district courts.

The Division represents the Commission in such litigation and in other proceedings involving the Commission that may arise in the Federal courts. With the Office of the Solicitor General it participates in the preparation and presentation of Commission cases in the Supreme Court of the United States.

In addition to the courtwork, personnel of the Division assist in preparing drafts of reports upon legislative proposals, for use by the Commission in response to requests from congressional committees and the Bureau of the Budget. The Division prepares opinions and makes recommendations on questions of substantive and administrative law and procedure arising in the work of the Commission and its staff, and in court proceedings.

During fiscal 1959 the Division completed litigation in 23 cases, 3 of which were antimonopoly proceedings, 14 involved deceptive practices, 4 concerned the Commission's subpoena powers, 1 was an action for contempt of a court which had enforced a Commission subpoena, 1 was a proceeding for contempt of a court which had enforced a Commission order to cease and desist, and 1 was a suit to enjoin the Commission from proceeding with a case before it.

Two cases were decided by the Supreme Court, both in favor of the Commission. The Court denied the one pending petition for certiorari to review a court of appeals decision in favor of the Commission, and also denied three such petitions filed during the year. It granted all four petitions filed on behalf of the Commission to review unfavorable decisions by courts of appeals.

Cases open for further action at the close of the fiscal year comprised in the Supreme Court and 24 in courts of appeals. These included 8 antimonopoly matters, 18 deceptive-practice matters, 1 subpoena, 1 contempt, and 1 trademark cancellation appeal.

The Division filed 24 briefs and memoranda upon the merits, participated in the preparation of 4 petitions for certiorari, presented 28 arguments, initiated 3 proceedings to obtain court orders, and filed 63 other papers in cases in litigation. It represented the Commission in 10 of the 11 U.S. courts of appeals, in the U.S. Court of Customs and Patent Appeals, and in 4 U.S. district courts.

Antimonopoly Cases in Federal Courts

In the Supreme Court

Decisions

No antimonopoly case was pending at the start of the year. The Court granted certiorari on behalf of the Commission in *Simplicity Pattern Co., Inc.*, New York, N.Y. (restraint of trade and discriminatory services in connection with dress pattern sales), reversed the court of appeals (which had set aside the Commission's order and remanded for further evidence and consideration), and in a unanimous decision held that "neither absence of competitive injury nor the presence of 'cost justification' defeats enforcement of the provisions of § 2 (e) of the [Clayton] Act."

Pending case

Henry Broch & Co., Chicago, Ill. (unlawful sharing of brokerage with customer), is pending on certiorari granted to r .4 Tf 0.001 Tc -0.001 Tw (Pen 0 T0[Clayton] Oct.") TIn CTD 0ser)

P. Lorillard Co., New York, N.Y., and General Foods Corp., White Plains, N.Y. (Third Circuit), discriminatory advertising allowances to chainstores through broadcasting company intermediaries. The Commission's orders were affirmed. (Petitions for rehearing were filed after the close of the year.)

Pending cases

Crown Zellerbach Corp., San Francisco, Calif. (Ninth Circuit), unlawful acquisition of competing paper company, remained pending throughout the year.

Sun Oil Co., Philadelphia, Pa. (Fifth Circuit), price discrimination in gasoline sales, and American, Motor Specialties Co., Inc., et al., New York, N.Y. (Second Circuit), unlawful receipt of price discriminations, arose during the year.

Anti-Deceptive-Practice Cases in Federal Courts

In the Supreme Court

Decision

No anti-deceptive-practice cases were pending at the start of the year. The Court granted cross-petitions for certiorari in Mandel Bros., Inc., Chicago, Ill. (misbranding and false advertising and invoicing of furs in retail sales), affirmed the Commission's order in its entirety (the court of appeals had set it aside in part), and unanimously held that the Fur Products Labeling Act applies to sales slips given in retail sales transactions.

Petitions for certiorari denied

R. B. James et al., Chicago, Ill. (distribution of lottery merchandising devices). Review of the court of appeals decision, affirming and enforcing the Commission's order, was denied.

American Life & Accident Insurance Co., St. Louis Mo., and Automobile Owners Safety Insurance Co., Kansas City, Mo. (deception in insurance advertising). Review of court of appeals decision, affirming and enforcing the Commission's orders, was denied. A later motion for permission to file petitions for rehearing out of time was also denied.

Wm. T. Loesch et al., Houston, Tex (deception in sale of hair and scalp preparations). Review of the court of appeals decision, affirming and enforcing the Commission's order, was denied.

Pending cases

Travelers Health Association, Omaha, Nebr. (misrepresentation of insurance policies). Certiorari has been granted to review the court of appeals decision setting aside the Commission's order.

Mohawk Refining Corp. et al., Newark, N.J., and Frank A. Kerran et al. (sub nom. Double Eagle Refining Co. et al.), Oklahoma City, Okla. (deceptive concealment in sale of used motor oils). Pending

upon petitions for certiorari to review courts of appeals decisions affirming and enforcing the Commission's orders.

In Courts of Appeals

Decisions and other disposition

Eleven cases pending at the start of the year reached decision before its close.

Carter Products Inc., New York, N.Y. (Ninth Circuit), false advertising of a drug product. The Commission's order was affirmed and enforced.

Better Living, Inc., Philadelphia, Pa. (Third Circuit), false advertising of aluminum doors, windows, and awnings. Affirmed and enforced.

Bernard Rosten, Chicago, Ill. (Second Circuit), and Surf Sales Co. et al., Chicago, Ill. (Seventh Circuit), sale and distribution of lottery merchandising services. Affirmed and enforced.

Shafe et al., Flint, Mich. (Sixth Circuit), false advertising of a drug product. Affirmed and enforced.

Harsam Distributors, Inc., et al., New York, N.Y. (Second Circuit), deception in sale of perfume. Affirmed and enforced.

Frank A. Kerran et al., Oklahoma City, Okla. (Tenth Circuit); Mohawk Refining Corp. Et al., Newark, N.J. (Third Circuit); and Royal Oil Corp. Et al., Baltimore, Md. (Fourth Circuit), deceptive concealment in sale of used motor oil. Affirmed and enforced.

Travelers Health Association, Omaha, Nebr. (Eighth Circuit), misrepresentation of insurance policies. The Commission's order was set aside. (Review of the decision is pending in the Supreme Court.)

North American Accident Insurance Co., Chicago, Ill. (Fifth Circuit), misrepresentation of insurance policies. Petition dismissed by stipulation after the Commission vacated its order to cease and desist

Three cases arose and reached decision during the year.

Wybrant Systems Products Corp. et al., New York, N.Y. (Second Circuit), and Leo O. Johnson, New Orleans, La. (Fifth Circuit), false advertising of hair and scalp preparations. The Commission's orders were affirmed and enforced, and petitions for rehearings were denied.

Elliot Knitwear, Inc., et al., New York, N.Y. (Second Circuit), deceptive fabric trade name. Remanded to the Commission for further proceedings.

Michigan Bulb Co. et al., Grand Rapids, Mich. (Sixth Circuit), deception in sale of nursery stock. Dismissed by stipulation.

Nine cases Were pending at the end of the year.

Bantam Books, Inc., New York, N.Y. (Second Circuit), deception in sale of reprints and abridgements.

David W. Erickson., Chicago, Ill. (Seventh Circuit); Ward Laboratories, Inc., New York, N.Y. (Second Circuit); and Ward Laboratories, Inc., New York, N.Y. (Second Circuit)

Evis Mfg. Co. et al., San Francisco, Calif. (Ninth Circuit), false and deceptive representations in sale of "water conditioner."

The Fair, Chicago, Ill. (Seventh Circuit), misbranding and false advertising of fur products.

Holland Furnace Co., Grand Rapids, Mich. (Seventh Circuit), unfair and deceptive practices in sale of furnaces and parts.

Mitchell S. Mohr et al., Los Angeles, Calif. (Ninth Circuit), deceptive practices in obtaining of credit information.

Renaire Corp. (Pennsylvania) et al., Springfield, Pa. (Third Circuit), price deception in sale of food freezer plan.

Subpena Cases in Federal Courts

In Courts of Appeals

Decisions

Hallmark, Inc., Chicago, Ill. (Seventh Circuit), appeal from district court enforcement of a Commission subpena. Affirmed.

Waltham Watch Co., New York, N.Y. (Second Circuit), appeal from district; court enforcement of a Commission subpena. Appeal dismissed.

In District Courts

Decisions

Gadget-of-the-Month Club, Inc., Los Angeles, Calif. (U.S. District Court, Southern District of California); Hallmark, Inc., Chicago, Ill. (U.S. District Court, Northern District of Illinois); Lifetime, Inc., Philadelphia, Pa. (U.S. District Court, Eastern District of Pennsylvania); Waltham Watch Co., New York, N.Y. (U.S. District Court, Southern District of New York); applications for Court

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hibiting unlawful sharing of brokerage with customers. Order to show cause issued by court.

Trademark Cancellation Proceeding in Federal Court

Bart Schwartz International Textiles, Ltd., New York, N.Y. (U.S. Court of Customs and Patent Appeals), appeal from a decision of the Trademark Trial and Appeal Board granting the Commission's petition to cancel a fabric trademark registration obtained by fraud.

Suit Against the Commission in Federal Court

Allen V. Tornek, New York, N.Y. (District of Columbia Circuit), petition for a temporary restraining order and mandatory injunction to enjoin the Commission from proceeding with a case before it. Petition dismissed and motion to reconsider denied.

DIVISION OF COMPLIANCE

This Division obtains and maintains compliance with the Commission's cease-and-desist orders. Without continuous surveillance the Commission is unable to know whether or how its orders are being obeyed.

Each respondent is required to report how he is complying with these orders and intends to do so in the future. Immediately following the entry of an order, the Division scrutinizes these reports and augments them where necessary by conferences, supplemental reports, or investigations. In addition, the Division— ^{by} ^{for t h e i r}

Requests and analyzes results of the investigations of complaints of violation of orders. ^{then}

Collaborates with U.S. attorneys at their request for prosecution in district courts of the United States in civil penalty suits based on violation of Commission orders. ^{complying}

Works out acceptance voluntary compliance programs. ^{at}

Discovers violations ^{collaborates the of their} Commission ord—and

Summary of civil suits since 1947 ¹

Fiscal Year	Total Judgement	Suits certified to the Attorney General	Fiscal Year	Total judgement	Suits certified to the Attorney General
1947	\$38,00.00	1	1955	40,132.69	11
1948 .....	.....	0	1956	19,342.70	9
1949	16,000.00	0	1957	24,704.60	12
1950	7,000.00	9	1958	21,557.38	11
1951	80,000.00	1	1959	55,650.00	10
1952	11,600.00	5			
1953	59,538.20	3	Total	383,375.57	.....
1954	8,9500.00	2			

This Division was established in May 1947

Civil Penalty Cases Concluded

Snappy Fashion Inc. et al. (E.D. N.Y.). Misbranding of Wool products. Judgment for \$5,200.

Muller Hair Experts (Fifth Circuit). Misrepresentation of the merits of a drug preparation designed for use in the treatment of hair and scalp conditions. Judgment of \$8,000 entered in the Southern District of Texas affirmed.

Paul R. Dooley, Inc., et al. (S.D. Calif.). Misrepresentation of the merits of a drug preparation designed for use in the treatment of hair and scalp conditions. Judgment for \$ 1,500.

Harry A. Burch (W.D. Wash.). Misrepresentation of correspondence courses. Judgment for \$10,200 and permanent injunction compelling future obedience to the order to cease and desist.

American Seal-Kap Corp., Sealright Co., Inc., and Smith-Lee CO., Inc. (N.D.N.Y.). Conspiracy to fix prices and restra51.S61.46 0 22esigned

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

Home Diathermy (S.D.N.Y.). Misrepresentations as to the therapeutic value of diathermy device.

Henry Modell et al. (S.D.N.Y.). Misrepresentations as to the origin of miscellaneous merchandise.

Moye Photographers (D.C.). Deceptive practices in connection with the sale of photographs.

Universal Wool batting Corp. (S.D.N.Y.). Misbranding of wool batting.

Maurice J. Lenett (Mass.). Failure to disclose former use of parts contained in automobile springs.

American Corp. (Md.). Misrepresentations made in connection with the sale of encyclopedias and other books.

Fong Poy (N.D. Calif.). False representations concerning the value of a drug preparation designed for use in the treatment of various conditions.

Vulcanized Rubber & Plastics Co. (E.D. Pa.). Misrepresentations as to the rubber content of combs designed for use on human hair.

Seymour S. Hindman (N.J.). Misrepresentation of military clothing.

In all civil penalty cases the Division prepares for transmission with the certification to the Attorney General, for filing in the U.S. district court, all the necessary pleadings and a trial memorandum, and offers full aid of its attorneys in prosecution and trial of the case. Usually the offer is accepted and the Division attorneys not only fully participate but often solely conduct trials. They also prepare all necessary further pleading's and briefs for filing with the court, which includes requests for admissions, interrogatories, objections, motions, and court findings, and personally arrange and take all necessary oral depositions of those witnesses who cannot be subpoenaed to appear personally.

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

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

Most orders involving restraints of trade are issued under the Clayton Act, and until July 23, 1959, when the President signed Public Law 86-107 amending section 11 of that act, had no finality unless enforced by decree by the U.S. Court of Appeals after proof of violation, and proof of a further violation was necessary for a fine in contempt. As amended, the same finality and penalties for violations apply to Clayton Act orders as apply to Federal Trade Commission Act orders, exempting only court proceedings initiated under section 11 prior to the date of the enactment of the amendment. During fiscal 1959 formal investigational hearings looking toward enforcement of Robinson-Patman Act orders were completed in eight cases and are pending for hearing in three cases.

During fiscal 1959 the Commission directed that full supplemental reports of compliance be filed by the respondents in the case of American Iron and Steel Institute, Docket 5508, in which order to cease and desist issued in 1951 involving originally 89 respondents. This Division has secured from each of the steel manufacturers subject to this order detailed information and data on price lists, trade practices and policies, uniform standards, terms and conditions of sale, discounts and allowances, competitive bidding practices, and exchange of data among respondents which is being analyzed and evaluated in order to make a determination as to compliance.

Also, in the case of Cement Institute et al., Docket 3167, an industry-wide price-fixing conspiracy matter in which final decree of enforcement entered July 27, 1948, by the Court of Appeals for the Seventh Circuit, the manner and form of compliance by the cement manufacturing respondents is continuing to receive attention by this Division.

The Division has initiated, during fiscal 1959, and has outstanding, eight investigations of compliance with Clayton Act orders.

A total of 139 compliance investigations were instituted and supervised by the Division, duringof

regarding compliance; and (d) initiating and processing preliminary inquiries into compliance. Each category of these "matters" is a distinct operation requiring substantial man-hours. In other words, the same case often requires handling several times, as is apparent from the following table showing the number of "matters" and the number of "cases" handled, and disclosing that 1,501 "matters" handled involved but 504 cases.

Matters

	Fiscal 1959
Total pending July 1, 1957	1,274
Received during year	1,946
	3,220
Total for disposition during year	1,501
	1,719
Total pending June 30, 1959	

Cases

Cases pending July 1, 1957	449
Received during year	592
	1,041
Total for disposition during year	504
	537
Cases pending June 30, 1959	

OFFICE OF EXPORT TRADE

The Office of Export Trade performs legal and executive services in the administration of the Webb-Pomerene (Export Trade) Act (15 U.S.C. §§ 61-65).

American

be realized from the absence of competition; greater advantage in the profit potential of marketing; increasing efficiency and bargaining through cooperative action; and stronger ability to combat foreign business barriers.

The associations function chiefly as central selling agents or otherwise perform a variety of commercial services comparable to organized domestic trade associations.

There is a wide range among the members of an association as to volume of trade and commodities distributed. Trade associations now functioning exported about \$1 billion of American products which were representative of many industries and both large and small American firms.

Under section 4 of the act the Commission is empowered to prohibit unfair methods of competition in export trade. Companion authority is available to the Commission to investigate trade conditions overseas.

The Office of Export Trade acts as the guardian of export trade associations, always watchful that their practices and policies are conducted according to law. The Office also advises American businessmen as to the formal and operational standards of the act and cooperates with and assists other bureaus of the Commission and the Departments of Justice, State, and Commerce on international trade problems.

During 1958 the opportunities for trade and investment in foreign markets have expanded. The approximate value of American products shipped abroad by export trade associations during the last 2 years is as follows:

	1957	1958
Metal and metal products	\$90,794,509	\$72,295,230
Products of mines and wells	49,858,679	247,154,835
lumber and wood products	7,352,276	4,586,248
Foodstuffs	158,816,276	168,282,273
Miscellaneous-including abrasives, motion pictures, pencils, pulp, paper and paperboard, rubber tires and tubes, textiles and typewriters..	623,605,444	522,189,938
Total	930,427,446	1,015,138,524

LEGISLATION

The Textile Fiber Products Identification Act, Public Law
Act, bureau su

tile fiber products." As to Textile fiber products ready for consumer use, the bill would require disclosure on a label of the percentage, as well as the generic name, of the major fiber constituents of the product.

The act is to take effect 18 months after date of enactment and is to be enforced by the Federal Trade Commission through administrative procedures provided for under the Federal Trade Commission Act. Violators are subject to cease-and-desist orders, and, under certain circumstances, temporary injunction, pending Commission proceedings, may be sought in the U.S. district courts. Misdemeanor provisions are also provided for willful violations of the law.

Public Law 85-909, approved September 2, 1958, amended the Packers and Stockyards and Federal Trade Commission Acts to re-vest jurisdiction in the Commission over certain acts and practices of persons who qualified as "packers" under definition of the Packers and Stockyards Act and thereby came under the exclusive jurisdiction of the Secretary of Agriculture. Pursuant to this law, the Commission now has jurisdiction over "packers" except as to their activities, other than 0.0022 Tc (of) Tj 10.92 0 Te7w(3.36 00 T.001 Tc 0 Tw (Publ

have become so intermingled that the time-honored problem of “unscrambling eggs” is encountered.

While it is true that companies contemplating mergers have the privilege of obtaining an opinion from either the FTC or the Justice Department on the legality of the action, this premerger clearance is not mandatory (and relatively infrequently sought). This means that the Commission must, to a large

CONSULTATION

The program of obtaining voluntary compliance with the Commission's laws is administered by the Bureau of Consultation.

This highly important work is accomplished through the following means: (1) guide program, (2) trade practice rules, (3) stipulations, and (4) informal advice to small business.

The voluntary compliance program

The Guide Program had its beginning on September 15, 1955, with the issuance of Cigarette Advertising Guides. By maintaining close contact with the tobacco industry, the Bureau of Consultation has been able to secure the voluntary discontinuance or revision of 20 questionable claims, and to provide advice and guidance on proposed advertising during the past fiscal year.

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Furthermore, many business concerns, including some of the largest engaged in the manufacture and/or distribution of consumer goods, have either written to us or made public announcements of their intention to voluntarily comply with the guides. In addition, newspapers throughout the country and leading magazines have carried stories or feature articles on the guides, thereby performing a valuable service by informing the business community and the public of this practice.

Abandonment or correction of misleading or deceptive claims was obtained in 51 matters under the Tire Guides, and 48 under the Pricing Guides. The files were closed on assurances of compliance and the submission of revised advertising.

Advice and guidance on compliance, with guides was given to 68 firms and business groups in or related to the tire industry, and in 138 matters involving price representations.

Numerous other matters not susceptible for treatment on a voluntary compliance basis were forwarded to other bureaus and offices of the Commission for appropriate action.

DIVISION OF TRADE PRACTICE CONFERENCES

The Commission's trade practice conference programs for industries are administered by this Division. The objective of such programs is to obtain and maintain voluntary compliance with laws administered by the Commission on an industrywide basis. The work of the Division includes (1) the establishment and revision of trade practice rules for industries, (2) the furnishing of advice and guidance to industry members as to the requirements of such rules, and (3) the obtaining of voluntary compliance with such rules by the industry members subject thereto in the conduct of their business. To the extent that the objective of these programs is achieved, the need for individual complaint proceedings is reduced with consequent savings in the cost of law enforcement.

Rulemaking Work

A proceeding to establish rules is usually authorized pursuant to an application from a representative group in an industry. When an application is received, the proposal is given careful consideration by the Division and a report with recommendation made to the Commission. Such an application is granted only when the Commission has good reason to believe that the proceedings will constructively advance the best interests of the industry on sound competitive principles and substantially improve voluntary observance of the law by its members.

When the Commission authorizes a trade practice conference proceeding, the Division schedules and conducts an industrywide con-

ference at which all industry members are given an opportunity to propose and discuss appropriate trade practice rules for their industry. After consideration of all the matters presented at such conference and other available pertinent information, proposed rules are submitted to the Commission for release for public hearing. All interested or affected parties, including consumer groups, are invited to attend the public hearing and express their views concerning the proposed rules. After the hearing a study is made of the record of the entire proceeding, and final rules for the industry are submitted to the Commission with the recommendation that they be promulgated. The formulation and recommendation of trade practice rules for industries by the Division frequently entails technological and legal research, which includes consultation with legal experts and technicians of other Government agencies.

Accomplishments During Fiscal 1959

Statistics on rulemaking activities of the Division follow:

Trade practice rules in force on July 1, 1958	159
Industries for which new rules were promulgated	4
Industries for which revised rules were promulgated	10
Trade practice rules in force on June 30, 1959	163
Trade practice conference proceedings for industries pending on July 1, 1958	29
Trade practice conference proceedings authorized on the Commission's own motion	7
Applications for trade practice conference proceedings received	7
Applications for trade practice conference proceedings disposed of	23
Trade practice conference proceedings for industries pending on June 30, 1959 (A number of these proceedings were advanced during the year)	20

During fiscal 1959, the Commission promulgated trade practice rules for 14 industries. New rules were established for 4 such industries, and the existing rules for the other 10 were revised. The new rules promulgated apply to members of the following industries: Building Wire and Cable Manufacturing, Outlet and Switch Box Manufacturing, Work Glove, and Manifold Business Forms Industry. The revised rules promulgated apply to members of the Cut and Wire Tack, Macaroni and Noodle Products., Sunglass, Feather and Down Products, Fire Extinguishing Appliance, Gummed Paper and Sealing Tape, Industrial Bag and Cover, Tobacco Smoking Pipe and Cigar and Cigarette Holder, Waterproof Paper, and Wholesale Plum Tc (FireOt1tries,) Tj 53.64 0 TD 0 Waterpri.16 0 eTc (Tape,) Tj 29.16 0 TD TD 0 Tc (Fire) Tj

Rule Compliance Work

The work of the Division includes obtaining observance of rule promulgated for industries by their members. This involves the maintenance of liaison with industry members and their trade associations; the rendering of opinions respecting the application and requirements of the rules to current and proposed industry practices; and the securing of prompt and voluntary discontinuance in appropriate circumstances of practices which violate rule requirements.

In addition, many informal office conferences and discussions were held during the year by the Division's staff both with members of industries operating under trade practice rules and with trade association executives. At these meetings staff advice and opinions were given concerning the requirements and applicability of rule provisions to a great variety of specific practices. Also, many written staff opinions were given on rule requirement and application questions in response to written inquiries received from industry members, representatives of their trade associations, better business bureaus, and other interested parties. Such activity by the Division supplemented the guidance provided for by the rules. It also served to prevent industry members from introducing practices which would have resulted in injury to competition and the public before corrective action could have been taken to force their discontinuance. This work involved the giving of staff opinions on such

of diamonds; and false representations as to the gold and silver content of jewelry.

Watch Case Industry. Practices corrected include falsely representing the regular retail prices of watches; misrepresenting that watches are guaranteed; and failure to disclose the metal content of watch cases.

Bedding Manufacturing and Wholesale Distributing Industry. Continuing attention has been given, with most favorable results, to the elimination of deceptive price preticketing and advertising of industry products, and representations in advertising and labeling that such products are guaranteed without disclosure of limiting terms and conditions of the guarantee and the obligations of the guarantor.

Luggage and Related Products Industry. Discontinuance by a number of industry members of the use of fictitious prices and deceptive representations as to composition in the sale of luggage, brief cases, and billfolds has been effected in the administration of the rules for this industry.

Rayon and Acetate, Silk and Linen Industries. Vigilant administration of the rules for these three industries was continued during the year. Such action was necessary in order to prevent consumer deception as to the fiber content of industry products, including those of mixed fibers; the weaving or processing of these and other fibers to simulate silk or linen; and the tendency to pass off products made of rayon, acetate, or other fibers as silk or linen by (1) labeling them as such, (2) using terms connoting silk or linen, and (3) failing to disclose the presence of the mentioned fibers.

Radio and Television Industry.

Industry continued with Tj 2.304 0 TD 0. Tc () Tj 2.16 0 TD 00 01

DIVISION OF STIPULATIONS

The work of negotiating stipulations to cease and desist and obtaining compliance with approved stipulations is conducted by this Division.

The stipulation procedure which was established in 1925, affords a person charged with using unlawful practices an opportunity to present his side of the matter informally and to enter into an agreement or stipulation to discontinue those practices shown by the facts to be unlawful. A stipulation becomes effective when approved by the Commission and is a matter of public record.

Where a practice is in general use in an industry, stipulations may be negotiated concurrently with those engaged in the practice. Thus, the procedure may be utilized to effect voluntary correction of unlawful practices simultaneously on an industrywide basis.

The procedure is informal and provides a speedy means of law enforcement without the expense of formal litigation.

After the Commission approves a stipulation, the Division obtains from the parties a report showing how they are complying with their agreements. It also conducts a systematic check on compliance with older stipulations and initiates corrective action in cases of noncompliance.

Stipulation Procedure

After investigation by the Bureau of Investigation, matters appropriate for stipulation negotiations are referred for this procedure.¹ The party charged with engaging in unlawful practices is given a statement of the practices believed from the investigation to be unlawful and is afforded an opportunity to discuss the issues informally with a Division representative. He or his counsel may also present such factual information as he may wish to have considered, in person or in writing. A stipulation providing for discontinuance of any practices shown by the facts to be illegal may be entered into and, if approved by the Commission serves as a basis for disposing of the case.

The Commission approved 148 stipulations in fiscal 1959, and 3 were pending with it at the close of the year. The results of stipulation negotiations during the fiscal year are shown in the following summary:

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

Cases pending with the Division July 1, 1958	48
Cases received by the Division during fiscal 1959	168
Total	216

Disposition

Reported to the Commission for action on executed stipulations	144
Referred to the Bureau of Investigation	25
Referred to the Bureau of Litigation	1
Referred for attention under the Guides Against Deceptive Pricing	1
Total	171

Cases pending June 30, 1959 45

Practices Covered by Stipulations

Investigation having shown misleading advertising of automobile battery guarantees to have been in general use among battery advertisers, stipulations providing for the discontinuance of this type of advertising were negotiated concurrently with 21 major sellers of automobile batteries. This total included some of the largest oil, tire, and mail order companies. Batteries had been represented in advertising as granted unconditionally, when in fact the guarantees contained important limitations. Principal among these was that the value of a battery guarantee was reduced each month after the battery had been sold. The stipulations, which were approved simultaneously, provide for clear disclosure of these limitations.

Other practices covered by stipulations approved during the fiscal year include the following:

In 18 stipulations, manufacturers or distributors of various products agreed to stop using deceptive price representations in the sale of their products.

A manufacturer of a device containing radioactive material used to remove dust from phonograph records agreed to label the device so as to warn users of the possible harmful effects of the material.

A baking company agreed to discontinue ~~disc~~ continue

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

A correspondence school agreed to stop using the word "University" in its name.

A drug manufacturer agreed to discontinue advertising that its product has any beneficial effect on rheumatism, arthritis, or neuralgia beyond temporary relief of minor aches, pains, or discomforts.

Another advertiser of a drug preparation agreed not to represent that its product will cure pimples.

In seven stipulations, sellers of imported products agreed to stop representing that the products sold by them were made in the United States and to disclose the country of origin of the products.

In three stipulations the parties agreed not to use fictitious names in collecting past due accounts.

A seller of a home study correspondence course of training for civil service agreed not to misrepresent the nature or conditions of any position available to persons taking the course.

In three stipulations, manufacturers of shoes agreed to discontinue certain orthopedic claims for their products.

In three stipulations, distributors of blankets agreed not to misrepresent the fiber content of their products.

In another stipulation the parties agreed to stop selling various merchandise by means of a lottery.

In four stipulations, manufacturers of moccasins agreed to stop representing that their products are hand sewn except as to such parts as may be sewn by hand.

A seller of hairbrushes agreed not to misrepresent the bristle content of its brushes.

the Bureau of Investigation. One matter was referred for attention under the Guides Against Deceptive Pricing.

Stipulation Compliance Check

Results accomplished under the program for checking compliance with older stipulations are shown below:

On hand July 1, 1958	85
Initiated during the fiscal year	150
Received from the Bureau of Investigation	53

Total	288
	=====
Filed as showing compliance	197
Reported to the Commission with recommendation for filing after voluntary correction of violations	36
Referred to the Bureau of Investigation	26
Total	259
	=====
On hand at end of the end of fiscal year	29

DIVISION OF SMALL BUSINESS

This Division was created July 1, 1951, specifically for the purpose of enabling the Commission to more fully assist small business in obtaining the protection, relief, and guidance afforded under the statutes administered by it.

The principal functions of the Division are—

1. To give informal staff advice to small businessmen on how to conduct their businesses within the statutes administered by the Commission;
2. To advise small businessmen as to the proper method of preparing applications for complaint against illegal practices of competitors, suppliers, and others;
3. To perform liaison functions with the House and Senate Select Committee on Small Business, the Small Business Administration, and other agencies dealing with the problems of small business;
4. To inform small businessmen of the functions and jurisdiction of other governmental agencies concerned with the interests of small business.

Inquiries which fall within the primary jurisdiction or responsibility of other governmental agencies are referred to them for appropriate attention. When the information requested is known to be available at a nongovernmental source, the inquirer is so advised.

In performing its duty to protect small business from predatory practices of competitors and suppliers, the Commission, through this Division, renders services to the small businessman, who, without the safeguards afforded by the Commission, might not be able to com-

pete through lack of resources and otherwise in areas where unfair or restrictive business practices exist.

Statistical Summary

Matters in process July 1, 1958	28
Received during fiscal year	554
Completed during fiscal year	562
Matters in process June 30, 1959	

ECONOMICS

The functions of this Bureau are to give economic and statistical assistance to the Commission in its investigative and trial

Commission issued on June 30, 1959, an interim report, "Economic Inquiry Into Food Marketing."

The interim report included tabular presentation of sales and earnings by size groups, as well as acquisitions and integration by food chain stores. Data on sales according to areas served, acquisitions, integration, and services rendered group members were presented for both voluntary group wholesalers and retailer-owned cooperatives. The 10 tables giving chain store data and the 12 tables giving data for voluntaries and cooperatives in the interim report presented only part of the information developed in the questionnaires. It is planned to follow the interim report with a full report covering all of the factual material gathered.

APPENDIXES

Federal Trade Commissioners- 1915-59

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar. 16 1915-Mar. 18, 1918
Edward N. Hurley	Illinois	Mar. 16, 1915-Jan. 31, 1917
William J. Harris	Georgia	Mar. 16, 1915-May 31, 1918
Will H. Parry	Washington	Mar. 16, 1915-April 21, 1917
George Rublee	New Hampshire	Mar. 16, 1915-May 14, 1916
William B. Colver	Minnesota	Mar. 16, 1917-Sept. 25, 1920
John Franklin Fort	New Jersey	Mar. 16, 1917-Nov. 30, 1919
Victor Murdock	Kansas	Sept. 4, 1917-Jan. 31, 1924
Huston Thompson	Colorado	Jan 17, 1919-Sept. 25, 1926
Nelson B. Gaskill	New Jersey	Feb. 1, 1920-Feb. 24, 1925
John Garland Pollard	Virginia	Mar. 6, 1920-Sept. 25, 1921
John F. Nugent	Idaho	Jan. 15, 1921-Sept. 25, 1927
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926
Charles W. Hunt	Iowa	June 16, 1924-Sept. 25, 1932
William E. Humphrey	Washington	Feb. 25, 1925-Oct. 7, 1933
Abram F. Myers	Iowa	Aug. 2, 1926-Jan. 15, 1929
Edgar A. McCulloch	Arkansas	Feb. 11, 1927-Jan. 23, 1933
Garland S. Ferguson	North Carolina	Nov. 14, 1927-Nov. 15, 1949
Charles H. March	Minnesota	Feb. 1, 1929-Aug. 28, 1945
Ewin L. Davis	Tennessee	May 26, 1933-Oct. 23, 1949
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25, 1933
James M. Landis	Massachusetts	Oct. 10, 1933-June 30, 1934
George C. Mathews	Wisconsin	Oct. 27, 1933-June 30, 1934
William A. Ayres	Kansas	Aug.23, 1937-Feb. 17, 1952
Robert E. Freer	Ohio	Aug. 27, 1935-Dec. 31, 1948
Lowell B. Mason	Illinois	Oct. 15, 1945-Oct. 31, 1956
John Carson	Michigan	Sept. 28, 1949-March 31, 1953
James M. Mead	New York	Nov. 16, 1949-Sept. 25, 1955
Stephen J. Spingarn	New York	Oct. 25, 1950-Sept. 25, 1953
Albert A. Carretta	Virginia	June 18, 1952,-Sept. 25, 1954
Edward F. Howrey	Virginia	April 1, 1953- Sept. 12, 1955
John W. Gwynne	Iowa	Sept. 26, 1953-May 31, 1959
Robert T. Secrest	Ohio	Sept. 26, 1954-
Sigurd Anderson	South Dakota	Sept. 12, 1955-
William C. Kern	Indiana	Sept. 26, 1955-
Edward T. Tait	Pennsylvania	Nov. 2, 1956-
Earl W. Kintner	Indiana	June 9, 1959-

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

13. Buying

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

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

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

(b) Making false claim of being the authorized distributor of some concern, or failing to disclose the

(b) Obtaining orders on

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

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

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

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

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

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

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

26. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

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

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

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

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

(c) Misrepresenting the history or circumstances involved in the making and offer of the products or the source or origin thereof (foreign or domestic), or of the ingredients entering therein, or parts thereof, or the opportunities brought to the buyer through purchase of

misrepresenting scientific 2172t955 facts be

(d) Falsely representing products as leg official standards or specifications.

(e) Falsely claiming Government or offic and misrepresenting success and standing the false and misleading claims with respect the

(f) Making use of a misleading trade na business is di.1-fent than is the fact, such as debtors representing itself to be a delivery s connected with a Government agency.

(g) Misrepresenting fabrics or garments a to attach tags thereto indicating the wool, r therein, .and the identity 2. the manufacturj Labeling Act, or removing or mutilating tags f217sale to the public.

29. Failing and refusing to deal justly and fairly with customers in consummating transactions undertaken through such practices as refusing to correct mistakes in filling orders or to make promised adjustments or refunds, and retaining, without refund, goods returned for exchange or adjustment, and enforcing,

Statutes Pertaining to the Federal Trade Commission

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

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated bellow.
2. Clayton Act, sections 2, 3, 7, 8 and 11, approved October 15, 1914 (38 Stat 730, 731, 732), amended as indicated below.
3. Webb-Pomerene Export Trade Act, approved April 10, 1918 (40 Stat. 516).
4. Wheeler-Lea Act, approved March 21, 1938 (52 Stat. 111), amending the Federal Trade Commission Act.
5. Robinson-Patman Act, approved June 19, 1936, and amendment thereto approved May 26, 1938 (49 Stat. 1526; 52 Stat. 446), revising and extending section 2 of the Clayton Act.
6. Wool Products Labeling Act of 1939, approved October 14, 1940 (54 Stat. 1128).
7. Public Law 15, 79th Congress, approved March 9, 1945, 7. Rongress,

created and established, to be known as the Federal Trade Commission (hereinafter referred to as the commission), which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed: Provided, however, That upon the expiration of his term of office a Commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The commission shall choose a chairman from its own membership. ² No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

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

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. ³ The commission shall appoint a secretary, who shall receive a salary of \$5,000 a year, ⁴ payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.⁵

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

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed other

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

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.⁶

SEC. 3. That upon the organization of the commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending

for the Government, and for other purposes," approved February 12, 1913;

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation

section.⁸ After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the

(e) Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in

dened, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission had been rendered.

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

(l) Any person, partnership, or corporation who violates an order of the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.¹²

SEC. 6. That the Commission shall also have power—¹³

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

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

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the **application**

to be violating the antitrust Acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

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

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

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

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

jurisdiction

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

SEC. 14.¹⁴ (a) Any person, partnership, or corporation who violates any provision of section 12(a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than six months, or by both such fine or imprisonment; except that if the conviction is for a violation committed after a first conviction of such person, partnership, or corporation, for any violation of such section, punishment shall be by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment: Provided, That for the purposes of this section meats and meat food products duly inspected, marked, and labeled in accordance with rules and regulations issued under the Meat Inspection Act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

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

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

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

¹⁴Section 5(b) of the amending Act of 1938 provides:

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

(2) In the case of oleomargarine or margarine an advertisement shall be deemed misleading in a material respect if in such advertisement representations are made or suggested by statement, word, grade designation, design, device, symbol, sound, or any combination thereof, that such oleomargarine or margarine is a dairy product, except that nothing contained herein shall prevent a truthful, accurate, and full statement in any such advertisement of all the ingredients contained in such oleomargarine or margarine.¹⁵

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

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

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

(e) The term "cosmetic" means (1) articles to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof

Packers and Stockyards Act

[Public Law 85-909, 85th Congress, 13.R. 9020, September 2, 1958]
AN ACT To amend the Packers and Stockyards Act, 1921, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Packers and Stockyards Act, 1921, as amended; (42 Stat. 159, as amended; 7 U.S.C. 181 and the following), is amended as follows:

(1) By amending section 202 by inserting after the word "unlawful" the words "with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products".

(2) By amending section 406 by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this Act is made subject to the power or jurisdiction of the Secretary, as follows:

"(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

"(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, livestock products in unmanufactured form, or poultry products, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or proceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within ten days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this Act involving the same subject matter.

"(3) Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.

"(c) The Federal Trade Commission shall have no power or jurisdiction over any matter which by this Act is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section.

"(d) The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this Act, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions

Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meatp o w e r

revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of Tc 3icular

SEC. 3. TYING OR EXCLUSIVE LEASES, SALES, OR CONTRACTS. (38 Stat. 731; 15 U.S.C.A., sec. 14.)

SEC. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other om 7 Tj n.8 07 TDIO.0241 C5- s N 3 h 0 e f f e o f

of every private right of action arising under said laws and based in whole or in part on any matter complained of in said proceeding shall be suspended during the pendency thereof and for one year thereafter: Provided, however, That whenever the running of the statute of limitations in respect of a cause of action arising under section 4 is suspended hereunder, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within four years after the cause of action accrued.

SEC. 6. LABOR OF HUMAN BEINGS NOT COMMODITY OR ARTICLE OF COMMERCE. (38 Stat. 731; 15 U.S.C.A., sec. 17.)

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

SEC. 7. ACQUISITION BY CORPORATION OF STOCK OR OTHER SHARE CAPITAL OF OTHER CORPORATION OR CORPORATIONS. (38 Stat. 731; 15 U.S.C.A., sec. 18.)

SEC. 7.⁴ That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any line sha6c7a11b0.03nTc (line) Tj 1etdsha(in) Tj 8.64 0 TD 0 Tc () Tj 1.92 0 TD -0.0327acTm

constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

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

Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Civil Aeronautics Board, Federal Communications Commission, Federal Power Commission, Interstate Commerce Commission, the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 of the Public Utility Holding Company Act of 1935, the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in such Commission, Secretary, or Board.

SEC. 8. INTERLOCKING DIRECTORS, OFFICERS, OR EMPLOYEES OF BANKS AND DIRECTORS OF OTHER CORPORATIONS. (38 Stat. 732 (as amended by 48 Stat. 718); 15 U.S.C.A., sec. 19.)

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

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

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

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

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

(5) A bank, banking association, savings bank, or trust company not located and having no branch in the neighborhood

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

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

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

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

SEC. 9. WILLFUL MISAPPLICATION, EMBEZZLEMENT, ETC.,

SEC. 10. LIMITATIONS UPON DEALINGS AND CONTRACTS OF COMMON CARRIERS, WHOSE INTERLOCKING DIRECTORS, ETC. (38 Stat. 734; 16 U.S.C.A., sec. 20.)

SEC. 10. That after two years from the approval of this Act no common carrier engaged in commerce shall have any dealings in securities, supplies, or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership, or associ

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Federal Trade Commission where applicable to all other character of commerce to be exercised as follows:

Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated

setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28, United States Code.

Any party required by such order of the Commission or Board to cease and desist from a violation charged may obtain a review of such order in said United States court of appeals by filing in the court a written petition praying that the order of the Commission or Board be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission or Board and thereupon the Commission or Board shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have the same Jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by substantial evidence, determined as provided in

the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the trial court being first had upon proper application and cause shown.

SEC. 14.

SEC. 17. PRELIMINARY INJUNCTIONS, TEMPORARY RESTRAINING ORDERS. (38 Stat. 737; first two paragraphs are 28 U.S.C.A., sec. 381.)

SEC. 17.⁸ That no preliminary injunction shall be issued without notice to the opposite party.

No temporary restraining order shall be granted without notice to the opposite party unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every such temporary restraining order shall be endorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed ten days, as the

attorneys, or those in active concert or participating with them, and who shall, by personal service or otherwise, have received actual notice of the same.

SEC. 20. RESTRAINING ORDERS OR INJUNCTIONS BETWEEN AN EMPLOYER AND EMPLOYEES, EMPLOYERS AND EMPLOYEES, ETC., INVOLVING OR GROWING OUT OF TERMS OR CONDITIONS OF EMPLOYMENT. (38 Stat. 738; 29 U.S.C.A., sec. 52.)

SEC. 20. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application which must be in writing and sworn to by the applicant or by his agent or attorney.

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

SEC. 21. DISOBEDIENCE OF ANY LAWFUL WRIT, PROCESS, ETC., OF ANY UNITED STATES DISTRICT COURT, OR ANY DISTRICT OF COLUMBIA COURT. (38 Stat. 738;

judge of any district court of the United States or any court of the District of Columbia.

SEC. 24. CASES OF CONTEMPT NOT SPECIFICALLY EMBRACED IN SECTION 21 NOT AFFECTED. (38 Stat. 739; 28 U.S.C.A., sec. 389.)

SEC. 24.¹⁴ That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all the other cases of contempt not specifically embraced within section twenty-one of this Act, may be punished in conformity to the usages at law and in equity now prevailing.

SEC. 25. PROCEEDINGS FOR CONTEMPT LIMITATIONS. (38 Stat. 740; 2S U.S.C.A., sec. 390.)

SEC. 25.¹⁵ That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this Act.

SEC. 26. INVALIDING OF ANY CLAUSE, SENTENCE, ETC., NOT TO IMPAIR REMAINDER OF ACT. (38 Stat. 740; 15 U.S.C.A., sec. 27.)

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

Approved, October 15, 1914.*

Flammable Fabrics Act

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

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

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

SHORT TITLE

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

DEFINITIONS

SEC. 2. As used in this Act—

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

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

¹⁴ See footnote 13.

¹⁵ See footnote 13.

* Original act.

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

1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and footwear covered by section 2 (d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together with such proposals for legislation as he deems appropriate.

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

ADMINISTRATION AND ENFORCEMENT

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

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

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be

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Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

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

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

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

PENALTIES

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

GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act; if such person (1) establishes a guaranty received in good faith signed by and containing, the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not, under the provisions of section 4 of this Act, so highly flammable as to be thereunder, 2.28 0 TD 0106

Textile Fiber Products Identification Act

[Public Law 85-897, 85th Congress, H. R. 469, September 2, 1958]

AN ACT To protect producers and consumers against misbranding and false advertising of the fiber content of textile fiber products, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Textile Fiber Products identification Act."

DEFINITIONS

SEC. 2. As used in this Act—

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

(b) The term "fiber" or "textile fiber" means a unit of matter which is capable of being spun into a yarn or made into a fabric by bonding or by interlacing in a variety of methods including weaving, knitting, braiding, felting, twisting, or webbing, and which is the basic structural element of textile products.

(c) The term "natural fiber" means any fiber that exists as such in the natural state.

(d) The term manufactured fiber means any fiber derived by a process of manufacture from an any substance which, at any point in the manufacturing process, is not a fiber.

(e) The term "yarn" means a strand of textile fiber in a form suitable for weaving, knitting, braiding, felting, webbing, or otherwise fabricating into a fabric.

(f) The term "fabric" means any material woven, knitted, felted, or otherwise produced from, or in combination with, any natural or manufactured fiber, yarn, or substitute therefor.

(g) The term "household textile articles" means articles of wearing apparel, costumes and accessories, draperies, door coverings, furnishings, beddings, and other textile goods of a type customarily used in a household regardless of where used in fact.

(h) The term "textile fiber product" means—

(1) any fiber, whether in the finished or unfinished state, used or intended for use in household textile articles;

(2) any yarn or fabric, whether in the finished or unfinished state, used or intended for use in household textile articles; and

(3) any household textile article made in whole or in part of yarn or fabric;

except that such term does not include a product required to be labeled under the Wool Products Labeling Act of 1939.

(i) The term "affixed" means attached to the textile fiber product in any manner.

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

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

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

(m) The term "ultimate consumer" means a person who obtains a textile fiber product by purchase or exchange with no intent to sell or exchange such textile fiber product in any form.

MISBRANDING AND FALSE ADVERTISING DECLARED UNLAWFUL

SEC. 3. (a) The introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product which is misbranded or falsely or deceptively advertised within the meaning of this Act; or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce, and which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(d) This section shall not apply—

(1) to any common carrier or contract carrier or freight forwarder with respect to a textile fiber product received, shipped, delivered, or handled by it for shipment in the ordinary course of its business;

(2) to any processor or finisher in performing a contract for the account of a person subject to the provisions of this Act if the processor or finisher does not change the textile fiber content of the textile fiber product contrary to the terms of such contract;

(3) with respect to the manufacture, delivery for

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voiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

(b) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if a stamp, tag, label, or other means of identification, or substitute therefor authorized by section 5, is not on or affixed to the product showing in words and figures plainly legible, the following:

(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 per centum or more of the total fiber weight of the product, but nothing in this section shall be construed as prohibiting the use of a nondeceptive trademark in conjunction with a designated generic name: Provided, That exclusive of permissible ~~is~~

the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.

(f) This section shall not be construed as requiring designation of the fiber content of any portion of fabric, when sold at retail, which is severed from bolts, pieces, or rolls of fabric labeled in accordance with the provisions of this section at the time of such sale: Provided, That if any portion of fabric severed from a bolt, piece, or roll of fabric is in any manner represented as containing percentages of natural or manufactured fibers, other than that which is set forth on the labeled bolt, piece, or roll, this section shall be applicable thereto, and the information required shall be separately set forth and segregated as required by this section.

(g) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if the name or symbol of any fur-bearing animal is used in the advertisement of such product unless such product, or the part thereof in connection with which the name or symbol of a fur-bearing animal is used, is a fur or fur product within the meaning of the Fur Products Labeling Act: Provided, however, That where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word "fiber", "hair", or "blend", may be used.

(h) For the purposes of this Act, a textile fiber product shall be misbranded if it is used as stuffing in any upholstered product, mattress, or cushion after having been previously used as stuffing in any other upholstered product, mattress, or cushion, unless the upholstery product, mattress, or cushion containing such textile fiber product bears a stamp, tag, or label approved by the Commission indicating in words plainly legible that it contains reused stuffing.

REMOVAL OF STAMP, TAG LABEL, OR OTHER IDENTIFICATION

SEC. 5. (a) After shipment of a textile fiber product in commerce it shall be unlawful, except as provided in this Act, to remove or mutilate, or cause or participate in the removal or mutilation of, prior to the time any textile fiber product is sold and delivered to the ultimate consumer, any stamp, tag, label or other identification required by this Act to be affixed to such textile fiber product, and any person violating this section shall be guilty of all unfair method of competition, and an unfair or deceptive act or practice, under the Federal Trade Commission Act.

(b) Any person—

(1) introducing, selling, advertising, or offering for sale, in commerce, or importing into the United States, a textile fiber product subject to the provisions of this Act, or

(2) selling, advertising, or offering for sale a textile fiber product whether in its original state or contained in other textile fiber products, which has been shipped, advertised, or offered for sale, in commerce.

may substitute for the stamp, tag, label, or other means of identification required to be affixed to such textile product pursuant to section 4(b), a stamp, tag, label, or other means of identification conforming to the requirements of section 4(b), and such substituted stamp, tag, label, or other means of identification shall show the name or other identification issued and registered by the Commission of the person making the substitution.

(c) If any person other than the ultimate consumer breaks a package which bears a stamp, tag, label, or other means of identification conforming to the requirements of section 4, and if such package contains one or more units of a textile fiber product to which a stamp, tag, label, or other identification conforming to the requirements of section 4 is not affixed, such person shall affix a stamp, tag, label, or other identification bearing the information on the stamp,

tag, label, or other means of identification attached to such broken package to each unit of textile fiber product taken from such broken package.

RECORDS

SEC. 6. (a) Every manufacturer of textile fiber products subject to this Act shall maintain proper records showing the fiber content as required by this Act of all such products made by him, and shall preserve such records for at least three years.

(b) Any person substituting a stamp, tag, label, or other identification pursuant to section 5(b) shall keep such records as will show the information furnished in the stamp, tag, label, or other identification when removed and the name or names of and

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EXCLUSION OF MISBRANDED TEXTILE FIBER PRODUCTS

SEC. 9. All textile fiber products imported into the United States shall be stamped, tagged, labeled, or otherwise identified in accordance with the provisions of section 4 of this Act, and all invoices of such products required pursuant to section 484 of the Tariff Act of 1930, shall set forth, in addition to the matter therein specified, the information with respect to said products required under the provisions of section 4(b) of this Act, which information shall be in the invoices prior to their certification, if such certification is required pursuant to section 484 of the Tariff Act of 1930. The falsification of, or failure to set forth the required information in such invoices, or the falsification or perjury of the consignee's declaration provided for in section 485 of the Tariff Act of 1930, insofar as it relates to such information, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act; and any person who falsifies, or perjures the consignees declaration insofar as it relates to such information, may thenceforth be prohibited by the Commission from importing, or participating in the importation of, any textile fiber product into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act. A verified statement from the manufacturer or producer of such products showing their fiber content as required under the provisions of this Act may be required under regulation prescribed by the Secretary of the Treasury.

GUARANTY

SEC. 10. (a) No person shall be guilty of an unlawful act under section 3 if he establishes a guaranty received in good faith, signed by and containing the name and address of the person residing in the United States by whom the textile fiber product guaranteed was manufactured or from whom it was received, that said product is not misbranded or falsely invoiced under the provisions of this Act. Said guaranty shall be (1) a separate guaranty specifically designating the textile fiber product guaranteed, in which case it may be on the invoice or other paper relating to said product; or (2) a continuing guaranty given by seller to the buyer applicable to all textile fiber products sold to or to be sold to buyer by seller in a form as the Commission, by rules and regulations, may prescribe; or (3) a continuing guaranty filed with the Commission applicable to all textile fiber products handled by a guarantor in such form as the Commission by rules and regulations may prescribe.

(b) The furnishing of a false guaranty, except where the person furnishing such false guaranty relies on a guaranty to the same effect received in good faith signed by, and containing the name and address of the person residing in the United States by whom the product guaranteed was manufactured or from whom it was received, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce, within the meaning of the Federal Trade Commission Act.

CRIMINAL PENALTY

SEC. 11. (a) Any person who willfully does an act which by section 3, 5, 6, 9, or 10 (b) is declared to be unlawful shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$5,000 or be imprisoned not more than one year, or both, in the discretion of the court: Provided, That nothing in this section shall limit any other provision of this Act.

(b) Whenever the Commission has reason to believe that any person is guilty of a misdemeanor under this section, it may certify all pertinent facts

to the Attorney General. If, on the basis of the facts certified, the Attorney General concurs in such belief, it shall be his duty to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

EXEMPTIONS

SEC. 12. (a) None of the provisions of this Act shall be construed to apply to—

- (1) upholstery stuffing, except as provided in section 4(h);
- (2) outer coverings of furniture, mattresses, and box springs;
- (3) linings or interlinings incorporated primarily for structural purposes and not for warmth;
- (4) filling or padding incorporated primarily for structural purposes and not for warmth;
- (5) stiffenings, trimmings, facings, or interfacings;

General Investigations by the Commission, since 1915

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

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

Agencies initiating or requesting investigations are indicated in parentheses in the headings. Investigations, the results of which have been published, are listed below. Following this listing are unpublished investigations conducted by the Commission.

Accounting Systems (F. T. C.).—Pointing the way to a general improvement in accounting practices, the Commission, published *Fundamentals of a Cost System for Manufacturers* (H. Doc. 1356, 64th, 31 p, o. p., 7/1/16) and *System of Accounts for Retail Merchants* (19 p., o. p., 7/15/16).

Accounting Systems.—See *Distribution Cost Accounting*.

Advertising as a Factor in Distribution.—See *Distribution Methods and Costs*.

Agricultural Implements.—See *Farm Implements and Distribution Methods and Costs*.

Agricultural Implements and Machinery (Congress).⁸—Prices of farm products reached record lows in 1932 but prices of many farm implements, machines, and repair parts maintained high levels resulting in widespread complaints in the next few years. The Commission investigated the situation (Public Res. 130, 4th, 6/24/36) and, following submission of its report, *Agricultural Implement and Machinery Industry* (H. Doc. 702, 75th, 1,176 p., 6/6/38, o. p.), the industry made substantial price reductions. The report criticized certain competitive practices on the part of the dominant companies which the companies later promised to remedy. It showed, among other things, that a few major companies had maintained a concentration of control which resulted in large part from their acquisition of the capital stock or assets of competitors prior to enactment of the Clayton Antitrust Act in 1914 and thereafter from their purchase of assets of

¹ The wartime cost-finding inquiries, 1917-18 (p. 122), include approximately 370 separate investigations.

² Documents out of print (designated "o. p.") are available in depository libraries.

³ Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses.

competitors rather than capital stock. (See also under Farm Implements and Independent Harvester Co.)

Agricultural Income (Congress).—Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 61, 74th, 8/27/35), and table and juice grapes, fresh fruits and vegetables (Public Res. 112, 74th, 6/20/36), the Commission made recommendations concerning, among other things, the marketing of commodities covered by the inquiry; corporate consolidations and mergers;⁵ unbalanced agricultural-industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that act Public, 328, 75th) in 1937. [Report of the F. T. C. on Agricultural Income Inquiry, Part I, Principal Farm Products, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p., o. p.); Part II, Fruit, Vegetables, and Grapes, 906 p. 6/10/37, o. p.; Part III, Supplementary Report, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 p., o. p.).]

Agricultural Prices.—See Price Deflation.

Antibiotic Manufacture.— study of the antibiotic industry, including origin of the industry, production and manufacture of antibiotics, marketing programs of antibiotic manufacturers, pricing practices, patent ownership and licensing, trademarks, and consumer purchasing patterns. The report was authorized on July 22, 1953, but did not advance beyond the planning stage until July 13, 1956. It was undertaken because of the great public interest in the availability of medicines at reasonable prices and because of the contribution to medicine costs attributable to antibiotics.

Automobiles.—See Distribution Methods and Costs, and Motor Vehicles.

Bakeries and Bread.—See under Food.

Beet Sugar.—See under Food—Sugar.

Building Materials.—See Distribution Methods and Costs.

Calcium Arsenate (Senate).—High prices of calcium arsenate, a poison used to destroy the cotton

Chain Stores (Senate).—Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/5/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities (For subtitles of 33 reports published under the general title, Chain Stores, 1931-33, see F. T. C. Annual Report, 1941, p. 201.)

In the Final Report on the Chain-Store Investigation (S. Doc. 4, 74th, 110 p., o. p., 12/14/34), legal remedies available to combat monopolistic tendencies in chain-store development were discussed. The Commission's recommendations pointed the way to subsequent enactment of the Robinson-Patman Act (1930) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

Cigarette Shortage (F. T. C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944-5.—In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that it was not attributable to violations of laws administered by the Commission; but that certain undesirable practices such as hoarding and tie-in sales had developed. (Report of the F. T. C. on the Cigarette Shortage, 33 pages, processed, o. p., 2/13/45.)

Coal (Congress and F. T. C.), Wartime, 1917-18, Etc.—From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were: Anthracite Coal Prices, preliminary (S. Doc. 19, 65th, 4 p., o. p., 5/4/17); Preliminary Report by the F. T. C. on the Production and Distribution of Bituminous Coal (H. Doc. 152, 65th, 8 p., o. p., 5/19/17); Anthracite and Bituminous Coal Situation, summary (H. Doc. 193, 65th, 29 p., o. p., 6/19/17); and Anthracite and Bituminous Coal (S. Doc. 50, 65th, 420 p., o. p., 6/19/17)—pursuant to S. Res. 217, 64th 2/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1/17; Washington, D. C., Retail Coal Situation (5 p., release, processed, o. p., 8/11/17)—pursuant to F. T. C. motion; Investment and Profit in Soft-Coal Mining (two parts, 5/31/22 and 7/6/22, 218 p., o. p., S. Doc. 207, 65th)—pursuant to F. T. C. motion; and Report of the F. T. C. on Premium Prices of Anthracite (97 p., o. p., 7/6/25)—pursuant to F. T. C. motion.

Coal, Cost of Production (F. T. C.), Wartime, 1917-18.—President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U. S. Fuel Administration in continuing price control, the Commission compelled monthly cost production reports, collecting cost records for 1917-18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (Cost Report of the F. T. C.—Coal, 6/30/19, summarized for principal coal-producing states or regions: (1) Pennsylvania, bituminous, 103 p., o. p.; (2) Pennsylvania, anthracite, 145 p., o. p.; (3) Illinois, bituminous, 127 p., o. p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p., o. p.; (5) Ohio, Indiana, and Michigan, bituminous, 286 p., o. p.; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p., o. p.; and (7) trans-Mississippi States, bituminous, 459 p., o. p.).

⁷ See footnote 4.

Coal, Current Monthly Reports (F. T. C.).—The Commission (December 1919) initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917-18 (Coal—Monthly Reports on Cost of Production, 4/20/20 to 10/30/20, Nos. 1 to 6, and two quarterly reports with revised costs, 8/25/20 and 12/6/20, processed, o. p.). An injunction to prevent the calling for the monthly reported (denied about 7 years later) led to their abandonment.

Coffee (F. T. C.).—In its 1954 Economic Report of the Investigation of Coffee Prices, the Commission reported that the coffee price spiral of 1953-54 "cannot be explained in terms of the competitive laws of supply and demand." The report lists and discusses six major factors responsible for the price spiral, and recommends Congressional action to correct some of the "market imperfections" and "irregularities" found. (523 pp., 7/30/54.)

Combed Cotton Yarns.—See Textiles.

Commercial Bribery (F. T. C.).—Investigating the prevalence t h e

copper, on which the United States will become increasingly dependent, is likewise dominated by a few corporate groups which in the past have operated cooperatively in cartels to regulate production and prices."

Corporation Reports.—See Quarterly Financial Reports.

Corporate Mergers and Acquisitions (F. T. C.)—To determine the impact on the Nation's economy of corporate mergers and acquisitions, the Commission made a study of the merger movement for the years 1940-46, inclusive. The results of the study were transmitted to Congress in a report entitled *The Present Trend of Corporate Mergers and Acquisitions* (23 p., o. p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel—all predominantly "small business" fields.

In 1947 the Commission published *The Present Trend of Corporate Mergers and Acquisitions* (23 p., o. p.). This is a review of some of the economic effects of the loophole in the Clayton Act existing at that time in the fact that there was no prohibition against mergers by the acquisition of assets.

In 1948 the Commission published *The Merger Movement: A Summary Report* (134 p., o. p., also 7 p. processed summary). In this report the legal history of the antimerger provisions of the Clayton Act is reviewed. Significant individual mergers are examined in detail. Maps, diagrams, charts and tabular statistical materials are used to illustrate the economic effects of the then in force antimerger legislation.

The Report on Corporate Mergers and Acquisitions (210 p.) was published in May 1955. This study, bringing up to date much of the statistical material in the 1947 and 1948 reports, showed, among other things, that 1,773 formerly independent competitive firms in manufacturing and mining industries alone had disappeared in the period 1947-54 as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only 3 industries, food, nonelectrical machinery, and textiles and apparel—all predominantly small business fields.

Cost Accounting.—See Accounting Systems.

Cost of Living (President), Wartime, 1917-18.—Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See *Foods (President), Wartime, 1917-18*, herein.] Proceedings of the conference were published (*High Cost of Living*, 119 p., o. p.).

Cotton Industry.—See Textiles.

Cottonseed Industry (House).—Investigating alleged price fixing (S. Res. 439, 69th, 3/2/27), the

Distribution Cost Accounting (F. T. C).—To provide a guide for current legislation and determine ways for improving accounting methods, the Commission studied distribution cost accounting in connection with selling, warehousing, handling, delivery,

mission found that although some association activities were in restraint of trade, there were no substantial antitrust violations (Report of the F. T. C. On Commercial Feeds, 206 p., o. p., 3/29/21.
Fertilizer

gress enacted the Packers and Stockyards Act (1921), adopting the Commissions recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p. 150.)

Food (President) Continued—Grain Trade.—Covering the industry from country elevator to central market, the Report of the F. T. C. on the Grain Trade as published in seven parts: I. Country Grain Marketing (9/15/20, 350 p., o. p.); II. Terminal Grain Markets and Exchanges (9/15/20, 333 p., o. p.); III. Terminal Grain Marketing (12/21/21, 332 p., o. p.); IV. Middlemen's Profits and Margins. 9/26/23, 215 p., o. p.); V. Future Trading Operations in Grain (9/15/20 347 p., o. p.); VI. Prices of Grain and Grain Futures (9/10/24, 374 p., o. p.); and VII. Effects of Future Trading (6/25/26, 419 p., o. p.). The investigation as reported in vol. V, and testimony by members of the Commission's staff (U. S. Congress House Committee on Agriculture, Future Trading, hearings, 67th, April 25-May 2, 1921 was an important factor in enactment of the Grain Futures Act (1921). (Further reference to the grain trade is made under Grain Elevators, Grain Exporters, and Grain Wheat Prices, p. 149.)

Food (President) Continued—Bakeries and Flour Milling.—One F. T. C. report was published by the Food Administration (U. S. Food Administration, Report of the F. T. C. on Bakery Business in United States, pp. 13, o. p., 1133/17). Other reports were: Food Investigation Report of the F. T. C. on Flour Milling and Jobbing (4/4/18, 27 p., o. p.) and Commercial Wheat Flour Milling (9/15/20, 118 p., o. p.)

Food (President) Continued—Canned Foods,¹⁰ Private Car Lines, Wholesale Food Marketing.—Under the general title Food Investigation were published Report of the F. T. C. on Canned Foods—General Report and Canned Vegetables and Fruits (5/18/18, 83 p., o. p.); Report of the F. T. C. on Canned Foods Canned Salmon (12/27/18, 83 p., o. p.); Report of the F. T. C. on Private Car Lines, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p., o. p.); and Report of the F. T. C. on Wholesale Marketing of Food (6/30/19, 268 p., o. p.), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

Food—Bread and Flour (Senate).—Reports on this inquiry (S. Res. 183, (68th, 2/26/24) were: Competitive Conditions in Flour Milling (S. Doc. 97, 70th. 140 p, o. p., 5/3/26); Bakery Combines and Profits (S. Doc. 212, 69th, 95 p., 2/11/27); Competition and Profits in Bread and Flour (S. Doc. 98, 70th, 509 p, o. p., 1/11/28); and Conditions in the Flour Milling Business, Supplementary (S. Doc. 96, 72d, 26 p., o. p., 5/28/32).

Food—Wholesale 2.4 0 TD (p.,) Tj 11.04 0 TD () Tj 2.4 0 TD (o.)TTD 0.013 Tc 0 Tw (Food d9Tc () Tj 1.92 0 T

Other Import Regulations in the United States and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34;

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Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers associations (referred to F. T. C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the F. T. C. on Lumber Manufacturers' Trade Associations, incorporating regional reports of 1/10/21, 2/18/21, 6/9/21, and 2/15/22 (150 p., o. p.); 2/18/21,

to repress trade restraints Book Paper Industry—Preliminary Report (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and Book Paper Industry—Final Report (S. Doc. 79, 65th, 125), o. p., 8/21/17)].

Paper—Newsprint (Senate), Wartime, 1917-18.—High prices of newsprint (S. Res. 177, 64th, 4/24/16) were shown to have been partly a result of certain newsprint association activities in restraint of trade. Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers. The Commission for several years conducted monthly reporting of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [Newsprint Paper Industry, preliminary (S. Doc. 3, 65th, 12 p., o. p., 3/3/17; Report of the F. T. C. on the Newsprint Paper Industry (S. Doc. 49, 65th) 162 p., o. p., 6/13/17); and Newsprint Paper Investigation (in response to S. Res. 95, 65th, 6/27/17; S. Doc. 61, 65th, 8 p., o. p., 7/10/17)].

Paper—Newsprint (Senate).—The question investigated (S. Res. 337, 70th, 2/27/29) was whether a monopoly existed among newsprint manufacturers and distributors in supplying paper to publishers of small dailies and weeklies (Newsprint Paper Industry, S. Doc. 214, 71st, 116 p., o. p., 6/30/30).

Petroleum.—See International Petroleum Cartel.

Petroleum Products.—See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).—At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: Investigation of the Price of Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and Report on the Price of Gasoline in 1915 (H. Doc. 74, 65th, 224 p., o. p., 4/11/17—both pursuant to S. Res. 109, 63d, 6/18/13¹² and S. Res. 457, 63d, 9/28/14, which reports discussed high prices and the Standard Oil Companies division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; Advance in the Prices of Petroleum Products (H. Doc. 801, 66th, 57 p., o. p., 6/1/20)—pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; Letter of Submittal and Summary of Report on Gasoline Prices in 1924 (24 p. processed, 6/4/24, and Cong. Rec., 2/28/25, p. 5158)—pursuant to request of President Coolidge, 2/7/24; Petroleum Industry—Prices, Profits and Competition (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)—pursuant to S. Res. 31, 69th, 6/3/36; Importation of Foreign Gasoline at Detroit, Mich., (S. Doc. 206, 72d, 3 p., o. p., 2/27/33)—pursuant to S. Res. 274, 72d, 7/16/32; and Gasoline Price (S. Doc. 178, 73d, 22 p., o. p., 5/10/34)—pursuant to S. Res. 166, 73d, 2/2/34.

Petroleum—Foreign Ownership (Senate).—Inquiry was made (S. Res. 311, 67th, 6/29/22) into acquisition of extension oil interests in the U. S. by the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American interests (Report of the F. T. C. on Foreign Ownership in the Petroleum Industry, 152 p., o. p., 2/12/23).

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations,¹² this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipeline companies which were unfair to small producers (Report on Pipe-Line Transportation of Petroleum, 467 p., o. p., 2/28/16), some of which practices were later remedied by the Interstate Commerce Commission.

¹² See footnote 8.

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

kets and price levels. In the cement industry the basing-point method was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-hauling or cross-freighting to be an economic evil (Report of the F. T. C. on Price Bases Inquiry, Basing-Point Formula, and Cement Prices, 218 p., o. p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, troth before and after adoption of its N. R. A. code (Study of Zone-Price Formula in Range Boiler Industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

Price Deflation (President).—To an inquiry (3/21/21) of President Harding, the Commission made prompt reply (undated presenting its views of the causes of a disproportional decline of agricultural prices compared with consumers prices (Letter of the F. T. C. to the President of the U. S., 8 p., o. p.).

Profiteering (Senate), Wartime, 1917-18.—Current conditions of profiteering (S. Res. 255, 65th, 6/10/18) as disclosed by v im34(its) Tfromj 1.5616352 0 TD 0.0223 Tc (5sion made) TD509TD 0. cor6 0.018Tc ()55

to the President on Steel Sheet Piling (42 p., processed, 6/10/36 o. p.) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system¹⁸ and provisions of the steel industry's code.

Stock Dividends (Senate).—The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same information for an equal period prior to the decision was () dividend 0.0188eTcc () -12.96e4t 270 TD 0 Tcc () 1,c (to)aT3 Tot((188 Tcc(

the F. T. C. on the Cotton Trade (S. Doc. 311, 67th, 28 p., o. p., 2/2/23). After second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, 68th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations.

Textiles—Woolen Rag Trade (F. T. C.), Wartime, 1917-18.—The Report on the Woolen Rag Trade Southern

Departments, War Industries Board, Price Fixing Committee, Fuel and Administration, Food Administration, and Department of Agriculture. The Commission also conducted cost inquiries for the Interior Department, Tariff Commission, Post Office Department, Railroad Administration, and other Government departments or agencies. It is estimated that the inquiries helped to save the country many billions of dollars by checking unjustifiable price advances.

Wartime Costs and Profits (F. T. C.).—Cost and profit information for 4,107 identical companies for the period 1941-45 is contained in a Commission report on Wartime Costs and Profit for Manufacturing Corporations, 1941 to 1945 (30 p., processed, with 10 p. appendix). Compilation of the information contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-15, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flags, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper—Book, Paper—Newsprint, Profiteering, and Textiles—Woolen Rag Trade, o. p.

The following are unpublished investigations by the Commission for the use of other government agencies:

Aluminum Foundries (W. P. B.), Wartime, 1942-43.—Details were obtained for the War Production Board at its request, from aluminum foundries throughout the U. S. covering their operations for May 1942 and their compliance with W. P. B. Supplementary Orders m-1-d, M-1-c, and M-1-f.

Antifreeze Solutions, Manufacturers of (W. P. B.), Wartime, 1943-44.—War Production Board Order L-258 of 1/20/43 prohibited production of salt and petroleum-base antifreeze solutions. While production of these products had ceased, great quantities were reported to be still in the hands of producers and distributors. To enable W. P. B. to determine what further action should be taken to protect essential automotive equipment from these solutions, it requested the Commission to locate producers inventories as of 1/20/43, and to identify all deliveries made from such inventories to distributors subsequent to that date.

Capital Equipment (W. P. B.), Wartime, 1942-43.—For the War Production Board, a survey was made in connection with Priorities Regulation No. 12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had been related

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Food—Bread Baking (O. P. A.), Wartime, 1941-42.—In the interest of the low income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O. P. A. (Jan. 1942) in an unpublished report.

Food—Flour Milling (O. E. S.), Wartime, 1942-43.—Requested by the Director of the Office of Economic Stabilization, thD 0.03aael4t0i Tc ()the3-Tc d .88 0 TD 0.0291 Tc (for) Tj -455.0uw () Tj 2.64 0 TD 0.015

plete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all nonportable power-driven shears, presses, hammers, bending machines, and other machines for cutting, trimming bending,

Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W. P. B.

Quinine, Manufacturers and Wholesalers of (W. P. B.), Wartime, 1942-43. At the instance of the War Production Board, investigation was made to determine whether requirements of its Conservation Order No. M-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Silverware Manufacturers (W. P. B.), Wartime, 1942-43.—Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the copper orders, that is W. P. B. General Preference Order No. M-9-a, Supplemental Order No. M-9-b, and Conservation Order m-9-c, as amended.

Silverware Manufacturers and Silver Suppliers (W. P. B.), Wartime, 1942-43.— The activities of silverware manufacturers and silver suppliers under W. P. B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L-140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).—The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised how certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (Mexican Sisal Hemp, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Steel Costs and Profits (O. P. A.), Wartime, 1942-43.— A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942 at the request of O. P. A., was made to that agency. The inquiry covered 29 important steel-producing companies.

Steel Industry (O. P. M.), Wartime, 1941-42.—This investigation covered practically every steel mill in the country and was conducted for the purpose of determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed. i. e., the technique used in the steel industry in meeting the requirements of O. P. M. (later the War Production Board) orders and forms controlling the distribution of pig iron, in controlled (D. 62-01729-0012016 (6. D. 2520018) 13.24.0031) 0 w226889

industrial corporation financial data; investigated compliance by basic industries with W. P. B. priority orders; and studied methods and costs of distributing important commodities. The 1941-45, wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; cigarette shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food—Biscuits and Crackers; Food—Bread Baking; Food—Fish; Food—Flour Milling; Household Furniture; Industrial Financial Reports; Metal-Working Machines; Paperboard; Priorities; Steel Costs and Profits; and War Material Contracts.

