

Annual
Report
of the **FEDERAL**
TRADE
COMMISSION

For the Fiscal Year Ended
June 30, 1962

Federal Trade Commission

PAUL RAND DIXON, *Chairman*
SIGURD ANDERSON, *Commissioner*
WILLIAM C. KERN, *Commissioner*
PHILIP ELMAN, *Commissioner*
EVERETTE MACINTYRE, *Commissioner*

JOHN V. BUFFINGTON, *Assistant to Chairman*
JOSEPH W. SHEA, *Secretary*
JOHN N. WHELOCK, *Executive Director*
FRANK C. HALE, *Program Review Officer*
JAMES MCI. HENDERSON, *General Counsel*
EARL J. KOLB, *Director of Hearing Examiners*
DANIEL J. MURPHY, *Director*

Bureau of Deceptive Practices

WILLIAM F. MUELLER, *Director*

Bureau of Economics

SAMUEL L. WILLIAMS, *Director*

Bureau of Field Operations

BRYAN H. JACQUES, *Director*

Bureau of Industry Guidance

JOSEPH E. SHEEHY, *Director*

Bureau of Restraint of Trade

HENRY D. STRINGER, *Director*

Bureau of Textiles and Furs

EXECUTIVE OFFICES OF THE FEDERAL TRADE COMMISSION

Pennsylvania Avenue at Sixth Street Northwest,
Washington 25, D.C.

Field Offices

30 Church St., New York 7, N. Y.	Room 10511, U.S. Courthouse and Federal Building, 515 Rusk Avenue, Houston, Tex.
Room 1310, 226 West Jackson Boulevard, Chicago 6, Ill.	Room 811, U. S. Courthouse, Seattle 4, Wash.
Room 306, Pacific Building, San Francisco 3, Calif.	Room 1128, Standard Building, Cleveland 13, Ohio.
Room 405, 215 West Seventh Street, Los Angeles 14, Calif.	Room 2806, Federal Office Building, Kansas City, Mo.
Room 1001, 131 State Street, Boston 9, Mass.	Room 915, Forsyth Building, Atlanta 3, Ga.
Room 1000, Masonic Temple Building, New Orleans 12, La.	958 North Monroe Street, Arlington 1, Va.

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

Room 1003—c, U.S. Court and Custom House, St.

Louis. Courthouse 18 -25.92 TD -0.008 Tc 0 Tw (Room) Tj 26.76 0 TD 0 Tc () Tj 2.4 0 TD 0 Tc Tj04 24.84 0

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-eighth Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1962.

By direction of the Commission.

PAUL RAND DIXON,
Chairman.

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

CONTENTS

Chapter	Page
1. The Year's Highlights	1
2. Scope of Authority	9
3. Executive Director	18
4. Office of the Secretary	22
5. Office of the General Counsel	23
Appellate Division	24
Division of Consent Orders	33
Legislation	33
6. Industry Guidance	35
Division of Trade Regulation Rules	35
Division of Advisory Opinions and Guides	36
Division of Trade Practice Conferences	39
7. Hearing Examiners	42
8. Restraint of Trade	43
Division of Mergers	45
Division of General Trade Restraints	46
Division of Discriminatory Practices	48
Division of Accounting	51
Compliance Division	52
Export Trade	54
9. Deceptive Practices	55
Investigation	56
Litigation	58
Division of Compliance	61
Division of Scientific Opinions	65
Monitoring of Advertising	66
10. Textiles and Furs	68
Division of Enforcement	69
Division of Regulation	72
11. Field Operations	74
12. Economics	75
Division of Economic Evidence	75
Division of Economic, Reports	76
Division of Financial Statistics	77
13. Appropriations and Financial Obligations	78

Chapter	Page
14. Appendixes	79
FTC Commissioners (1915-62)	79
Statutes Pertaining to the FTC	80
General Investigations by FTC since 1915	137

THE YEAR'S HIGHLIGHTS

A determined effort to provide dependable guidance to American businessmen on how to avoid illegal methods of competition and consumer deception highlighted the work of the Federal Trade Commission during fiscal 1962. At the same time, the Commission issued an all-time record number of orders halting unlawful business practices.

The year also witnessed the first results of major organizational and procedural changes the Commission made in order to cope with a mounting volume of work. With the Nation's economy expanding in size and complexity and building up heavier competitive pressures, necessity dictated that business evils be corrected faster and on a broader scale, even at the cost of a temporary slowdown while the Commission's reorganized staff became familiar with the new procedures. Thus, the performance pattern in casework was one of increasing momentum-not just in numbers but in effective and equitable law enforcement. Commencing with the advancement of many old cases (far enough along to warrant being completed under the former rules of practice), there followed at first a trickle, then a sharply increasing flow of casework freed from unwarranted delays. The new actions were, wherever possible, initiated not to correct isolated violations but to stamp out industrywide disregard of the laws prohibiting favoritism to powerful sellers and buyers and deception of the public, principally through advertising.

Of possibly even greater significance than the speedup of casework were two new procedures adopted late in the year. Both were designed to forestall rather than halt illegal business practices. D 0.0114

gressors. Such a guidance role for the Commission was envisioned by President Woodrow Wilson and the Congress in creating the Commission in 1914. In the years that followed, this basic objective was implemented almost entirely by assuming that the world of business would note and remember what adversary actions the Commission had brought, what inferences should be drawn from its rulings on particular sets of facts, and which of these rulings had been sustained in the courts. It is believed that Trade Regulation Rules and advisory opinions will offer a long needed and welcome addition to such previous guidance.

The fiscal year began with the introduction of the new procedures for handling cases. It was not an easy transition. Members of the staff, long accustomed to a single phase of casework; namely, investigation or trial, found themselves facing responsibility for both functions. Moreover, instead of pursuing the investigation of a single law violation, the staff was called upon to learn if competing business might not be engaged in the same illegal practices, and to recommend a broader and more equitable attack--designed to eliminate business evils instead of stopping single-law violations.

dairy industry, it ordered Foremost Dairies, Inc., to sell 10 acquired concerns.

Union Carbide Corp., the Nation's second largest chemical company and the largest producer of polyethylene resins used for making polyethylene film, was ordered to divest itself of Visking Corp., the largest manufacturer of such film.

Other divestiture orders involved Simpson Timber Co., Minnesota Mining and Manufacturing Co., the National Sugar Refining Co., Leslie Salt Co., Continental Baking Co., and Hooker Chemical Co.

At the end of the year there were 24 merger complaints in various stages of trial. Among these was a complaint challenging the acquisition of two competing grocery chains by the Grand Union Co., the operator of more than 470 supermarkets along the eastern seaboard.

Another

One group-action investigation was to determine whether drug manufacturers and distributors unlawfully are giving lower prices and other preferential treatment to any customers. Complaints were issued charging the Nation's largest drug wholesaler and a service organization composed of drug manufacturers, and wholesalers with knowingly inducing discriminatory promotional allowances from suppliers. Proceedings also were instituted against 18 suppliers on charges of illegal favoritism in paying such allowances.

Another broad-scale investigation revealed similar discrimination among competing customers by numerous publishers of magazines, comic books and paperbacks. By the close of the year six publishers were enjoined by orders.

Industrywide investigations also were used to ascertain the truthfulness of advertising claims for vibratory massage devices, cold remedies, analgesics, and air purifiers.

The Commission continued its efforts to assure that television demonstrations used to sell products must be valid and contain no

For example, a large manufacturer of electric floor polishers was ordered to stop furnishing its distributors and retailers with suggested list prices that it knows or should know are higher than the, usual retail prices in the trade areas where they are supplied.

A wide variety of other deceptive practices was enjoined by the Commission, among them:

- Advertising that various vitamin and mineral preparations will be beneficial in treating tiredness, nervousness and other conditions without disclosing that they -will be of no benefit whatever in the great majority of cases;

- Overstating the size of merchandise;

- Using bait advertisements featuring low prices in order to get leads on interested prospects to whom more expensive merchandise can be sold;

- Misrepresenting that imported items are domestic, that rebuilt television picture tubes are new, that persons completing a correspondence course on civil service preparation are guaranteed Government jobs, and that purchasers of home freezer plans can buy their food requirements and a freezer for the same or less money than they have been paying for food alone.

Vigorous enforcement of the Wool Products Labeling Act, the Fur Products Labeling Act, the Textile Fiber Products Identification Act and the Flammable Fabrics Act resulted in 144: orders against violators.

The high volume

These two new guides bring to eight the number issued by the Commission since the inception of the program in 1955. The earlier six cover (1) cigarette advertising, (2) tire advertising, (3) deceptive pricing, (4) bait advertising, (5) deceptive advertising of guarantees, and (6) advertising allowances and other merchandising payments and services.

The Bureau of Industry Guidance also drafted proposed guides which would require that the content of shoes be disclosed clearly and nondeceptively on labels and in advertising.

These staff proposals were sent to industry members and other interested parties for comments and suggestions, and the response was heavy. At the close of the year the Bureau was in the process of preparing guides, incorporating services.

Research was completed by the Bureau on another phase of the

Chapter Two

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 and 0

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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

merce, 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

Anti-Merger Law.—This statute, approved December 29, 1950,⁶ is in the form of a revision and restatement of section 7 of the original Clayton Act. It is specific legislation on the subject of suppression of competition through the merger or consolidation of corporations. Such conduct is prohibited, whether brought about by the direct or indirect acquisition of control.

act,

lations are punishable also by misdemeanor proceedings, brought by the United States in the Federal district courts.

Manufacturers and distributors of products subject to these acts 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 and in taking such action as may be necessary to enforce its

EXECUTIVE DIRECTOR

The Executive Director is the Commission's chief operating official, within the framework of policies established by the Chairman and the Commission. He reviews agency operations for greater effectiveness; implements, through staff offices and operating bureaus, the policies and decisions of the Chairman and the Commission. The following units perform the primary responsibilities indicated:

records of the Commission. All records such as salary, savings bonds, taxes, social security, retirement, health benefits and annual and sick leave and other records pertaining to employees of the Commission both departmental and field operations are maintained in detail. This Division performs the audit, prior to payment of all vouchers covering payment of travel expense, communications, supplies and equipment, and maintains the fiscal records necessary to reflect the financial position of the Commission at all times.

Division of Machine Tabulation

This Division performs important services for the operating bureaus as well as services for other organizational units of the Commission and renders assistance to other Government agencies.

The overall functions of this Division include processing and tabulations of financial data for the Division of Financial Statistics, tabulations of data used as evidence in litigated casts, tabulation of marketing surveys in connection with the administration of the antimonopoly statutes, and basic data for management reports.

OFFICE OF INFORMATION

[The Office of Information plans and directs the Commission's public information and public relations program, including news announcements on all complaints, answers by respondents, initial decisions, orders, compliance actions, and reports; conducts educational programs designed to alert the public on how to identify false and misleading selling schemes and illegal business practices; consults with business and consumer organizations to evaluate the relative severity of problem areas wherein consumers are being victimized; maintains liaison with consumer education groups, colleges, better business bureaus, and Government agencies to gain proper distribution of consumer educational information; writes special news releases, features, continuity, and other material for use on radio and television; writes speeches; and directs the writing and editing of the Commission's Annual Report to the Congress.]

[During fiscal year 1962 the office issued a total of 972 press releases. In addition, many oral and written inquiries from the press and public were answered each day.]

FEDERAL TRADE COMMISSION

ORGANIZATIONAL CHART - SEE IMAGE

21

OFFICE OF THE SECRETARY

The Secretary is responsible for the minutes of Commission meetings and is the legal custodian of the Commission's seal, papers and records, including legal and public records. He is the Commission's Liaison Officer with Congress and with other Government agencies. He signs official documents and letters reflecting Commission action, supervises the assignment of matters to the Commission, the transmittal of Commission directions to the staff, the setting of oral argument; and serves as Deputy Employment Policy Officer of the Commission.

The Office Of the Secretary is also responsible for the

Division of Legal and Public Records

This Division, headed by the Assistant Secretary for Legal and Public Records, embraces the Formal Docket, Investigation Records, Correspondence, Public Reference and Distribution sections.

The Formal Docket and Investigation Records Sections are responsible for the establishment, management, safety, completeness, and uses establishm Tc (Go8eion sectioTD 0.0019

OFFICE OF THE GENERAL COUNSEL

The General Counsel serves as the chief law officer and principal legal adviser of the Commission. He and his staff represent the Commission as its counsel in all cases advancing beyond the agency or otherwise arising in the courts. All litigation in the U.S. courts of appeals, or the Court of Customs and Patent Appeals, is handled by the Office of the General Counsel. Commission cases reaching the Supreme Court, however, devolve upon the Solicitor General of the United States, who represents the Government in that court. Such cases are prepared for presentation with the collaboration of the Office of General Counsel.

In addition to the above-mentioned court work, the Office of General Counsel passes upon all trade practice rules and "guides" prior to their approval and issuance by the Commission; the General Counsel also has charge of the review, analyses and preparation of reports of the Commission on new legislation. The General Counsel likewise provides legal supervision in cases involving court, enforcement of subpoenas, as well as cases of enforcement through actions in contempt of court for disobedience to decrees affirming Commission orders.

As a further duty, the General Counsel represents the Commission in hearings before congressional committees. The Office of General Counsel also contains the Division carrying forward the consent order program for the settlement of cases on cease and desist orders entered by consent of the parties.

The General Counsel's Office examines and reports upon industry voluntary agreements and programs utilized under the Defense Production Act, also small business production pools, research and development programs, and related agreements under the Small Business Act. Such agreements and programs under these statutes are made subject to consultation with the Chairman of the Commission prior to their being put into effect. Their review by the Office of the General Counsel is directed to such purposes as aiding small business, eliminating or minimizing anticompetitive effects that may run counter to the laws administered by the Commission, including antitrust provisions, and preventing undue concentration of economic power.

Legal memoranda and manuals for guidance of the Commission's professional staff are subject to the supervision of the General Counsel, and his Office has direction of the research and reporting unit which

prepares and publishes the Commission's Interoffice Reporter, a monthly bulletin covering court proceedings and cases in the fields of antitrust and trade regulation. The unit likewise compiles and indexes for publication the "Federal Trade Commission Decisions" and "Statutes and Court Decisions." It also edits for publication the official actions as carried in the Federal Register and the Code of Federal Regulations.

APPELLATE DIVISION

The principal function of the Appellate Division is to represent t

sion's, behalf by the Department of Justice. Forty arguments were made by the Division staff, and nine others by the Department of Justice. Proceedings to obtain court orders enforcing subpoenas were initiated in three cases. One petition for the institution of a criminal contempt proceeding was also filed. In addition, approximately 200 other papers were filed in cases in Federal litigation. The Division made numerous other court appearances, and participated in several conferences in chambers. It represented the Commission in 10 of the 11 U.S. courts of appeals, and in 6 U.S. district courts.

Restraint of Trade Cases

In the Supreme Court

Decision

There was one restraint of trade case pending at the start of the year which reached decision before its close: Henry Broch & Co., seller's broker's unlawful sharing of brokerage with customer in violation of section 2 (c) of the Clayton Act. The Seventh Circuit had modified the Commission's order, limiting it to transactions between the particular seller and buyer involved in the proved violation. The court reversed and remanded with direction to affirm.

Petition for certiorari granted

SunOilCo. Petition granted to review the Fifth Circuit's decision setting aside the Commission's order (see statement, *infra*).

Petitions for certiorari denied

Review of courts of appeals decisions favorable to the Commission was denied in the following three cases:

Mid-South Distributors, Inc., price discrimination in the "group" purchase of automotive parts and equipment. The Fifth Circuit had affirmed the Commission's order.

Swanee Paper Corp., discriminatory payments for the benefit of a food store chain in connection with the advertising and resale of petitioner's paper products. The Second Circuit had modified and, as modified, enforced the Commission's order.

Crown Zellerbach Corp., unlawful acquisition of competitor paper company. The Ninth Circuit had affirmed the Commission's order.

In addition, the court denied a petition filed on the Commission's behalf to review an unfavorable decision:

Exquisite Form Brassiere, Inc., The District of Columbia Circuit ad set aside the Commission's order and remanded the case to the Commission (see statement, *infra*)

Courts of Appeals

Decisions and other dispositions

Nine of the 17 restraint of trade cases pending decision at the beginning of the fiscal year were decided before its close:

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Asheville, Tobacco Board of Trade, Inc. (Fourth Circuit), conspiracy involving the allocation of selling time to warehousemen on the Asheville, N.C., tobacco market. The Commission's order was modified and, as modified, enforced.

Exquisite Form, Brassiere, Inc. (District of Columbia Circuit), furnishing promotional allowances and services to certain customers, in connection with the sale of brassieres, which were not made available on proportionally equal terms to all competing customers. That part of the Commission's order pertaining to the furnishing of services was affirmed and enforced. As to the furnishing of allowances, the Commission's order was set aside and the case was remanded to the Commission to afford the company opportunity to present a defense under the good faith meeting of competition proviso of section 2(b) of the Clayton Act.

Sun Oil Co. (Fifth Circuit), price discrimination in the sale of gasoline. The Commission's order was set aside, the court holding that a supplier's grant of a lower price to one customer to enable it to defend itself against competitive "price cutting" was lawful under section 2 (b) of the Clayton Act.

The American News Co. and the Union News Co. (Second Circuit), inducing and receiving discriminatory promotional allowances from publishers. The Commission's order was modified and, as modified, was enforced.

The Grand Union Co. (Second Circuit), inducing and receiving discriminatory advertising and promotional allowances from suppliers. The court affirmed the Commission's decision that this activity was unlawful, but modified the Commission's order by limiting it to the particular arrangement involved in the case.

Mytinger & Casselberry, Inc. (District of Columbia Circuit), violation of the Federal Trade Commission Act by misrepresenting the effect of a consent decree of injunction issued by a Federal district court in a suit filed by the Food and Drug Administration, and exclusive dealing agreements in violation of the Clayton Act in the distribution of vitamin supplements. The Commission's order was affirmed and enforced.

Scott Paper Co. (Third Circuit), unlawful acquisitions of other corporations. The Commission's order was set aside and the case remanded to the Commission for the purpose of adducing additional evidence.

A. G. Spalding & Bros., Inc. (Third Circuit), unlawful acquisition of a competitor company. The Commission's order was affirmed and enforced.

The Timken Roller Bearing Co. (Sixth Circuit), exclusive dealing arrangements in violation of the Clayton Act in the distribution of

tapered roller bearings. The Commission's order was set aside. The time for filing a petition for a writ of certiorari has not expired.

In addition to

resale purchasers in the distribution of mechanics' service tools and related equipment; Union Carbide Corp. (Third Circuit), unlawful acquisition of the assets of a principal corporate customer.

Deceptive Practice Cases

In the Supreme Court

Petitions for certiorari denied

Review of courts of appeals decisions affirming and enforcing Commission orders was denied in the following four cases:

Clinton Watch Co. (Seventh Circuit), fictitious pricing of watches and misrepresenting guarantees.

Art National Manufacturers Distributing Co. (Second Circuit), fictitious pricing of watches.

Baltimore Luggage Co. (Fourth Circuit), fictitious pricing of luggage.

Exposition Press, Inc. (Second Circuit), misrepresenting royalties in connection with subsidy book publishing.

In addition, in Evis Manufacturing Co. (Ninth Circuit), false advertising of a water conditioning device, the court denied a petition filed on the Commission's behalf to review a decision setting aside the Commission's order.

In Courts of Appeals

Decisions and other dispositions

All of the deceptive practice cases pending at the beginning of the fiscal year reached decision before its close. In eight of these the Commission's order was affirmed and enforced:

Samuel A. Cannon (District of Columbia Circuit), misrepresenting information concerning employment opportunities.

Samuel A. Mannis (Ninth Circuit), false and deceptive invoicing and advertising of fur products in violation of the Fur Products Labeling Act.

Wren Sales Co. (Seitioning(Seitions0 TD -0.0261 u() Tj 3.36 0 T346.8 0 TD 0 134 () Tj -14.88

In Travelers Health Association (Eighth Circuit), misrepresenting insurance policies, the Commission's order was affirmed with the exception that it not apply to the states of Nebraska and Virginia. As thus modified, the order was enforced.

In Harry Carr (First Circuit), misbranding of wool products in violation of the Wool Products Labeling Act, the Commission's order was set aside. The court also denied the Commission's petition for rehearing.

In addition, the Seventh Circuit denied petition for rehearing filed by The Clinton Watch Co., fictitious pricing of watches and misrepresenting guarantees.

Eight cases arose and were decided or disposed of during the year. In six of these the Commission's order was affirmed and enforced:

Art National Manufacturers Distributing Co. (Second Circuit), fictitious pricing of watches.

Bakers Franchise Corp. (Third Circuit), misrepresenting the dietary qualities of bread.

Murray Space Shoe Corp. (Second Circuit), misrepresenting the therapeutic qualities of shoes.

National Trade Publications Service, Inc. (Eighth Circuit), deceptive practices in the solicitation and sale of magazine subscriptions.

Spencer Gifts, Inc. (Third Circuit), misrepresenting colognes as being perfumes.

United States Association of Credit Bureau, Inc. (Seventh Circuit), deceptive trade name and insignia and misrepresenting organization of business and methods of obtaining and collecting delinquent accounts.

In addition, two petitions for review were dismissed pursuant to stipulations of the parties:

Tuseck Enterprises Co. (Sixth Circuit), obtaining credit information through use of deceptive "skip-tracing" devices: and Nash, Inc. (Third Circuit), false advertising and fictitious pricing of leather billfolds.

Pending undecided cases which arose during the year include:

Ted Bates & Co. (First Circuit) ; Colgate-Palmolive Co. (First Circuit) ; and Carter Products, Inc. (Fifth Circuit), spurious demonstrations in television commercials in connection with the sale of shaving cream; Damar Products, Inc. (Third Circuit), false advertising of "cushion vibrator" device designed to effect weight reduction and the toning and firming of sagging muscles; Gimbel Bros., Inc. (Third Circuit), false advertising of fur products; Helbros Watch Co. (District of Columbia Circuit) fictitious pricing of watches; Korber Hats, Inc. (First Circuit), deceptive labeling of men's straw hats; Pati-Port, Inc. (Fourth Circuit), false advertising of patios and carports; Rayex Corp. (Second Circuit), fictitious pricing and false representations in

connection with the sale of sunglasses; and Grady L. Rushing (Fifth Circuit), deceptive representations in connection with the sale of a course of instruction purporting to prepare purchasers for Government jobs.

Subpoena Enforcement Cases

In the Supreme Court

Petition for certiorari denied

Elmer C. Adams, Sr., and Elmer C. Adams, Jr. Petition for certiorari to review Eighth Circuit decision (see statement, *infra*).

In Courts of Appeals

Decisions

Elmer C. Adams, Sr., and Elmer C. Adams, Jr. (Eighth Circuit). The court affirmed the district court's determination that it lacked jurisdiction to consider the sufficiency of the complaint and overruled the lower court's refusal to direct appropriate enforcement of the Commission's subpoenas.

St. Regis Paper Co., Intervenor (Seventh Circuit). The court affirmed the district court's enforcement of the Commission's subpoena to Horace G. Barden (see statement, *infra*).

Pending cases

Moore Business Forms (District of Columbia Circuit); Standard American, Inc. (Third Circuit); and John R. Harrell and Natalie E. Harrell (Seventh Circuit), on appeal from district court decisions (see statements, *infra*).

In District Courts

Decisions and other dispositions

Ace Books Inc. (Southern District of New York). The court ordered compliance with the Commission's subpoena but directed the hearing to be held at the company's place of business.

Horace G. Barden (Northern District of Illinois, Eastern Division). The court enforced a Commission subpoena to Mr. Barden issued in connection with an investigation of St. Regis Paper Co., stayed a temporary injunction issued by an Illinois State court in a suit by St. Regis 'against 'this party, and restrained St. Regis from further prosecution of that suit and from taking advantage of the temporary injunction it had obtained.

George A. Cooper (Southern District of New York), the Commission's application for enforcement of its subpoena was granted.

John B. Harrell and Natalie E. Harrell (Eastern District of Illinois). The Commission's application for an order requiring respondents to testify and produce documentary evidence in an investigation was denied. The court held that the Commission had no power

to issue subpoenas duces tecum to individuals and partnerships under section 9 of the Federal Trade Commission Act. Notice of appeal has been filed.

Moore Business Forms (District of Columbia). The court directed compliance with the Commission's subpoena.

Standard American, Inc. (Eastern District of Pennsylvania). The court directed compliance with the Commission's subpoenas, ordering respondents to testify and produce documents within 30 days at a time and place to be fixed by the Commission and authorizing the Commission to take such documents into custody and to remove them to Washington, D.C., for a 36-day period.

Miscellaneous Proceedings Against the Commission

In the Supreme Court

Pending cases

Texaco, Inc. Petition for certiorari filed to review Fifth Circuit's denial of application for leave to adduce additional evidence (see statement, *infra*).

Texaco, Inc. and The B. F. Goodrich Co. (District of Columbia Circuit). Petition filed for stay, injunction or other appropriate process to preserve the status quo pending conclusion of review proceedings in lower courts (see statements, *infra*).

In Courts of Appeals

Decisions

Texaco, Inc. Petition for leave to adduce additional evidence in an administrative proceeding pending before the Commission was denied by the Fifth Circuit.

Texaco Inc. and The B. F. Goodrich Co. Petition for injunction pending appeal was denied by the District of Columbia Circuit (see statements, *infra*)

Pending cases

Texaco, Inc. and The B. F. Goodrich Co. (District of Columbia Circuit). Appeal from the district court's denial of companies' motion for temporary restraining order and preliminary injunction (see statements, *infra*).

Texaco, Inc. and The B. F. Goodrich Co. (District of Columbia Circuit). Application for the allowance of an interlocutory appeal in connection with district court's certification (see statements, *infra*).

In District Courts

Decisions

The Procter & Gamble Co. (District of Columbia). Complaint for declaratory judgment and for injunction to restrain the taking of further evidence pursuant to the Commission's remand of an administrative proceeding to the hearing examiner. Prosecution was vol-

untarily discontinued and complaint dismissed without prejudice on praecipe of the company.

Texaco, Inc. and The B. F. Goodrich Co. (District of Columbia) Companies' motion for temporary restraining order and preliminary injunction was denied.

Pending cases

Texaco, Inc. and The B. F. Goodrich Co. (District of Columbia). Complaint for declaratory judgment and injunction to restrain the taking of further evidence pursuant to the Commission's remand of an administrative proceeding to the hearing examiner. The court refused to enjoin the hearing, thus permitting the taking of further evidence by the hearing examiner. The court continued the crossmotions of the parties for summary judgment until October 2, 1962, and certified the question of whether the Commission's remand order was unlawful and improper.

Grove Laboratories, Inc. (District of Columbia). Complaint for declaratory judgment and injunctive relief. The Commission's answer includes a counterclaim for mandatory injunction requiring the company to file a special report with the Commission.

Joseph B. Hall, official of the Kroger Co. (Northern District of Illinois, Eastern Division). Complaint for declaratory judgment and injunctive relief pending upon the Commission's supplemental motion to its alternative motion to dismiss or for summary judgment.

Contempt Proceeding

In Court of Appeals

Pending case

Holland Furnace, Co. (Seventh Circuit). Upon the Commission's petition, the court issued an order to show cause why this company should not be held in criminal contempt for willful violations of that court's order commanding obedience to the Commission's order to cease and desist from certain unfair and deceptive practices in the sale of furnaces and parts.

Proceeding for Enforcement of Commission Order

In the Supreme Court

Decision

St. Regis Paper Co., order to file special reports in connection with an antimerger investigation. The Court affirmed the Second Circuit's holding (1) that the Commission may compel production of retained copies of a company's reports to the Census Bureau, and (2) that when default in filing special reports to the Commission has been established, section 10 of the Federal Trade Commission Act requires the imposition of the \$100 per day penalty. On mandate, the District Court for the Southern District of New York entered its judgment requiring

payment of penalties in the amount of \$56,700 (subsequently satisfied by payment to the United States).

Pending Civil Penalty Case

The Commission continues to urge enactment of bills to require that notification of proposed mergers by corporations of significant size engaged in inter state commerce be made to the Commission, and that the Commission be authorized, following hearings and opportunity for judicial review, to issue preliminary injunctions or restraining orders against proposed mergers pending determination as to violation of section 7 of the Clayton Act.

Another series of pending bills would empower the Commission to issue temporary cease and desist orders to restrain and conti6(to) Tj 10.08 0 TD 0 Tc () Tj 3(ion as v Tc (45.3by) Tj 12.6 0

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BUREAU OF INDUSTRY GUIDANCE

This Bureau administers the program for obtaining voluntary industrywide compliance with laws administered by the Commission. The objective of this program is to obtain the maximum amount of law observance quickly and inexpensively. Because the action is industrywide in scope competitive inequities are minimized.

Until the last month of the fiscal year the principal procedures administered by the Bureau were those for promulgating Trade Practice Rules and Guides. On June 1, 1962 the Bureau was given two new functions: (1) The administration of the new Trade Regulation Rule procedure, and (2) the preparation of advisory opinions which are binding upon the Commission. A description of these new functions, together with a statement of the accomplishments of the Bureau during the fiscal year, follows.

DIVISION OF TRADE REGULATION RULES

This Division administers the newly established Trade Regulation Rule procedure. Rules promulgated under this procedure express the experience and judgment of the Commission, based on facts of which it has knowledge derived from studies, reports, investigations, hearings and other proceedings, or within official notice, concerning the substantive requirements of the statutes it administers. Trade Regulation Rules may cover all applications of a particular statutory provision and may be nationwide in effect or they may be limited to particular areas or industries or to particular products or geographic markets, as may be appropriate. Where a rule is related to all issue in an adjudicative proceeding thereafter instituted, the Commission may rely upon such rule, provided that the respondent shall have been given a fair hearing on the legality and propriety of applying the rule to the particular case.

Industry members may apply for rules and participate in the proceedings for their establishment. They are thus fully informed as to the legal requirements on the subject and are made aware that a violation of the rule is an invitation to litigation. Such awareness of the consequences of unlawful conduct constitutes a compelling factor in obtaining voluntary law observance.

Where litigation is unavoidable, the availability of a Trade Regulation Rule on the subject saves both time and the expenditure of funds in proceeding against the unlawful practice in question. In such a case, it would only be necessary to present proof that the alleged violator had engaged in the banned practice. It would not be necessary to present evidence that the practice itself was violative of law since the respondent could not challenge the validity of the rule, as such.

Finally, the promulgation of rules applicable to all members of an industry ~~across~~ **across**

IVISION C

The response to this new program has been overwhelming, as shown by the large number of requests for opinions received. Problems presented to date encompass almost the entire spectrum of laws administered by the Commission. For example, requests were received for opinions concerning the legality of proposed quantity discounts, exclusive dealing contracts, payment of advertising allowances, the furnishing of services or facilities, proposed corporate mergers, brokerage payments or payments in lieu of brokerage, and questions involving possible restraints of trade under section 5 of the FTC Act, as well as advertising copy of a myriad of products.

A considerable amount of time was spent by members of the staff in conferences with persons seeking information concerning the advisability of requesting formal, binding opinions. In many instances, such informal conferences have either satisfactorily disposed of the problem or have provided the means whereby a more complete and detailed submission of facts would be forthcoming when the written request was later received.

Guides

Stated briefly, guides are a restatement in layman's language of the law as previously decided by the Commission and the courts. They are interpretive rules which serve to:

- (1) Spell out the legal boundaries of trade practices subject to regulation by the Commission;
- (2) Aid in obtaining a maximum degree of compliance which the law through administration of the Guides on an industrywide basis;
- (3) Prevent consumers from being deceived and competitors from being injured through preventing unfair trade practices from ever being used in the first instance; and
- (4) Spotlight persistent violations which warrant the application of the Commission's mandatory processes.

Generally speaking, guides may be issued in one of two forms: (1) Guides which apply to specific practices in a particular industry, such as the Cigarette and Tire Advertising Guides; (2) Guides which apply to business practices common to many industries, such as Deceptive Pricing, Bait Advertising, Guarantees, and Guides for Advertising Allowances.

Accomplishments during fiscal 1962

Fiscal 1962 proved to be an extremely active year in obtaining compliance and giving interpretations under the various Guides. The following statistical summary indicates the accomplishments under the guide program for fiscal 1962:

Individual complaints disposed of	853
Guide interpretations	310
Total	1,163
Number of guides distributed upon request	90,118

During fiscal 1962 two new guides were issued, substantial progress was made in the revision or formulation of four additional guides, and the administration of existing guides continued at a high level. The two new guides approved and issued by the Commission were the Guides for Advertising Fallout Shelters and the Guides for Advertising Shell Homes.

The Guides for Advertising Fallout Shelters were prepared at the request of and in close cooperation with the Office of Civil Defense of the Department of Defense. Immediately after their issuance on December 5, 1961, there was considerable activity in their administration. Several months later, however, the construction of fallout shelters declined materially with the result that activity in the administration of these guides during the last quarter of fiscal 1962 was on a somewhat limited basis.

On April 25, 1962, the Commission adopted Guides for Advertising Shell Homes. Because this is a relatively young industry and because its principal market is the low-income group, industrywide Commission action concerning deceptive practices in the industry was considered necessary in the public interest. Copies of the guides were sent to all known shell home builders in an effort to acquaint them with the requirements of the guides and to ascertain whether their advertising complied therewith.

These guides have also elicited interesting responses from industries faced with problems similar to those covered by the guides, such as the jewelry industry, the automobile industry, and the insurance industry.

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band industry; and the rebuilt, reconditioned and other used automotive parts industry. In addition, existing trade practice rules for the mirror industry; luggage and related products industry; optical products industry; wall coverings industry; and tobacco distributing industry were revised. With the promulgation of rules for these 10 industries, having an estimated aggregate annual sales volume of several billion dollars, there are presently 166 industries operating under trade practice rules.

As a result of an application filed by industry representatives, trade practice proceedings were initiated and conferences held for the wire rope industry and the kosher foods industry.

Among other applications for trade practice proceedings received and given attention during the year were those for the major electrical appliances industry; metal-clad door and Florida day, Inc. (catalog joins) beverage industry.

Other pending proceedings which were advanced during the year include those for the Florida fresh citrus fruit industry; household furniture industry; and the fresh fruit and vegetable industry.

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a result of this survey, approximately 40 rule-compliance matters were initiated and voluntary compliance obtained in each instance.

Industrywide action was undertaken to require members of the cosmetic and toilet preparations industry to disclose the domestic manufacture, compounding, mixing, or blending of products compounded or otherwise manufactured in this country and sold under various names implying foreign origin. This project continues in fiscal 1963.

Statistics relating to rule compliance activities during fiscal 1962 are as follows:

Compliance matters pending July 1, 1961	418
New compliance matters initiated during the year	533
Total for disposition	951
Disposed of during year	684
Pending June 30, 1962	267

Statistics relating to rule interpretation work during fiscal 1962 are as follows:

Rule interpretation matters pending July 1, 1961	17
Rule interpretations received during fiscal 1962	171
Total for disposition	188
Rule interpretations completed during fiscal 1962	177
Rule interpretation matters on hand June 30, 1962	11

HEARING EXAMINERS

When a formal complaint is issued by the Commission, it is assigned to a hearing examiner who has the responsibility of taking testimony in support of and in opposition to the allegations of the complaint. During the year, a staff of 22 hearing examiners served the Commission.

The Administrative Procedure Act outlines the powers and duties of all hearing examiners in the Federal service, including the Federal Trade Commission. Their appointment and tenure are under the authority of the Civil Service Commission.

Hearing examiners are in charge of cases from the time the Commission issues its complaint until the initial decision is rendered. They hold pretrial conferences; conduct hearings; rule upon offers of proof, admissibility of evidence and all procedural and other interlocutory motions; and make and file an initial decision in each proceeding. In the performance of their duties as adjudication officers, hearing examiners are exempt from direction, supervision, or control of the Commission except for administrative purposes.

When a hearing examiner has completed the taking of testimony in any case, he allows the attorneys for both parties to file proposed findings of fact and draft of order. Thereafter he prepares and files an initial decision which, under the Administrative Procedure Act and the Commission's rules, becomes the decision of the Commission if no petition for review is granted or if the Commission itself does not put the case on its own docket for review. In any event, the decision of the hearing examiner becomes a part of the formal record and is taken into consideration by the Federal courts in any review of the case. The Commission may adopt, in whole or in part, the decision of the hearing examiner or may set it aside completely, in which case the Commission either rewrites the decision or remands it to the hearing examiner for the taking of further testimony.

As a result of procedural changes and the employment of six additional hearing examiners, the backlog of cases pending before hearing examiners was reduced from 380 at the beginning of fiscal 1962 to 159 at the end of the year.

BUREAU OF RESTRAINT OF TRADE

The Bureau

DIVISION OF MERGERS

The function of this Division, is to analyze all acquisitions and mergers which come to its attention and which are within the jurisdiction of the Commission, to fully investigate and to litigate those which appear to be unlawful.

In its fiscal year 1962, the Commission recorded 1,633 acquisitions and mergers. After preliminary investigation of these acquisitions and mergers, consisting principally of accumulating and analyzing published financial, economic and industrial data, and communicating by letter or

etta Co. Two attorneys were assigned to this case and one economist. During fiscal year 1962 and due to the resignation of the two attorneys originally assigned to this case, two new attorneys have been assigned. A full investigation will have to be conducted before this case can go

from such suppliers towards the Macy 100th anniversary sale, constituted an unfair practice. These cases will provide the guidelines for the Commission in the antimonopoly field.

The decisions of the Commission in the cases of the Sandura Co. and Snap-On Tools Corp. related to restraints on competition in the distribution systems of the respondent companies through resale price maintenance, exclusive territories, and restrictions on customers. These cases will provide the guidelines for the work of the Commission in the antimonopoly field.

Principal cases of this Division, considered as a group, for they are designed to litigate practices being utilized on an industry-wide basis, concern the distribution of gasoline products and other petroleum products. The groundwork in this area has been established by virtue of the first Sun Oil Company case, now pending review in the Supreme Court of the United States. The issue involves the availability to a wholesaler who sells to an exclusive, franchised service station outlet of a "good-faith meeting competition" defense under section 2(b) of the Robinson-Patman Act.

Another matter pending having far-reaching importance is the second Sun Oil Co. proceeding, now before the Commission for review of the initial decision. This decision held a consignment arrangement between the respondent and its unnamed conspirators, entered into it for the purpose of enabling the respondent and its service station dealers to meet a competitive situation in a limited geographic area, to be an unlawful combination or conspiracy in restraint of trade.

These two cases involving Sun Oil Co. illustrates just two of the active cases initiated by this Division against the gasoline industry. There are 5 cases in litigation at various stages. In addition, investigations have been initiated against 14 other companies in this field. Most of these have been returned to the Division and are now under review.

During the fiscal year 1962, 52 formal investigations, relating to section 5 of the Federal Trade Commission Act, were initiated. Seven complaints were issued charging section 5 violations and 209 formal investigations were closed. At the beginning of fiscal 1962, there were 551 section 5 formal investigations pending; and at the close of the fiscal year there were 387 section 5 formal investigations pending. Although a substantial number of pending formal investigations have been disposed of during the fiscal year, an even larger backlog confronts this Division.

In fiscal year 1962, 8 complaints charging section 5 violations and 9 orders to cease and desist involving section 5 violations were issued. During fiscal year 1962, the Division received and assigned to its staff more than 925 separate letters of complaint. In many instances, the facts developed by extensive correspondence disclosed the necessity to initiate full field investigations.

DIVISION OF DISCRIMINATORY PRACTICES

This

American Motors Corp., a leading manufacturer and distributor of refrigerators, ranges, home freezers, washing machines and dryers, is charged with selling these products to B. F. Goodrich and other large buyers, including utility companies, for resale, at prices substantially lower than the prices at which these products are sold to competing dealers. It is alleged that the price discriminations substantially lessen competition between the dealers paying the higher prices and the favored dealers paying the lower prices.

Westinghouse Electric Corp., with annual gross sales in excess of \$1½ billion is charged with discriminating in price in favor of General Motors and certain other large volume buyers in connection with the sale of automotive miniature and sealed lamps. The company sells lamps to the favored buyers at prices which are substantially lower than the prices at which lamps are sold to competing buyers, the maximum differential being 29.2 percent.

American Bakeries Co., one of the large national baking concerns with multiple plants throughout the United States, is charged with discriminating in price and in the payment of advertising allowances and in the furnishing of services and facilities. The company allegedly sells its products to large chains, such as The Kroger Co. and F. W. Woolworth, at varying discounts ranging up to 7 percent off the net prices at which nonfavored competing dealers purchase. In addition the company favors Food Fair Stores, Inc., with advertising allowances and services which are not available to competing dealers.

In fiscal 1962, the staff expended a substantial number of man-hours, and five trial attorneys, in particular devoted almost full time to investigations and litigated cases involving discriminatory pricing in the sale of fluid milk by national dairies, large regional dairies and retail grocery chains. At present, proceedings are pending against nine national and large regional dairies, including National Dairy Co., Inc., The Borden Co., Beatrice Foods, Inc., H. P. Hood & Sons, Inc., Dean Milk Co., and others. In addition, 27 milk matters are under investigation. An investigational hearing, entailing considerable time, was conducted to develop the facts relating to a milk price war in Indianapolis, Ind.

During the year, special emphasis was placed on investigations and proceedings where it appeared that violations existed on an industry-wide scale. This approach was considered necessary in order to achieve maximum compliance in these industries and, at the same time, avoid inequities which result when corrective action is taken against a few members, leaving competitors to continue the illegal practices. Industries in which concentrated enforcement activities were directed involve (1) men's, women's and children's wearing apparel, (2) groceries, (3) magazines and books, (4) fresh fruits and vegetables.

Investigations in the wearing apparel industry disclosed that a very large number of manufacturers discriminated between competing customers in the payment of allowances for cooperative advertising and promotional services in violation of section 2 (d) of the act. Pursuant to the Commission's revised rules of practice, 154

The current section 2 and section 3 workload is tremendous and continues to increase. On July 1, 1961, 810 section 2 and 13 section 3 investigations were pending. On June 30, 1962, 1,198 section 2 and 12 section 3 investigations were pending. This is an increase of 387, or approximately 32.3 percent. During the fiscal year 1962, 647 section 2 investigations were instituted, as compared with 549 section 2 and 7 section 3 investigations instituted in the previous year. This was an increase of 98, or approximately 15 percent.

In fiscal year 1961, 100 section 2 and two section 3 complaints were issued. During fiscal 1962, 42 section 2 complaints were issued and, in addition, 206 complaints were forwarded to the Division of Consent Orders, under the revised rules, for approval and service, together with proposed orders and consent settlement agreements. Consent settlement agreements disposing of many of the complaints have been successfully negotiated; and upon approval by the Commission, cease and desist orders will be issued. Thus, during the fiscal year 1962, 248 section 2 complaints were either issued or were being processed under the new consent settlement rules. This was an increase of 148, or 148 percent.

During fiscal year 1962, 74 section 2 and 1 section 3 orders were issued, as compared with 91 section 2 and 2 section 3 orders issued in fiscal year 1961. The reduction of orders in 1962 is due primarily to personnel changes resulting from the reorganization and the large number of vigorously contested cases. In fiscal year 1962, 3 section 2 complaints were dismissed.

On June 30, 1962, 124 section 2 complaints in contested cases were pending. As noted above, 206 section 2 complaints have been forwarded for processing under the revised consent settlement rules. While many of the latter complaints will be disposed of by consent settlement agreements, it is anticipated that many others will be the subject of litigation. Thus, at the close of fiscal year 1962, 330 section 2 complaints were pending, as compared with 162 section 2 and three section 3 cases pending as of June 30, 1961. This is an increase of 165, or 50 percent.

DIVISION OF ACCOUNTING

The Division of Accounting furnishes accounting services in connection with the investigation and trial of legal cases and in general economic investigations. From time to time the services of the Division are also utilized in connection with hearings by congressional committees.

The Division prepares accounting analyses and studies of the pricing policies of respondents or proposed respondents in connection with the Commission's law enforcement work in regard to (1) alleged price

discrimination under section 2 of the Clayton Act as amended by the Robinson-Patman Act; (2) cost data submitted by respondents in justification of alleged price discrimination under the Robinson-Patman Act; (3) alleged price fixing in cases arising under section 5 of the Federal Trade Commission Act; and (4) alleged sales below cost in violation of section 5 of the Federal Trade Commission Act.

In addition, the Division compiles production and sales statistics and analyzes financial data of companies and competitors involved in mergers under section 7 of the Clayton Act. It also compiles statistics concerning the financial position and operating results of companies under section 6 of the Federal Trade Commission Act.

During the last fiscal year the Division of Accounting furnished accounting services in 112 legal cases and investigations. These included 78 Robinson-Patman Act cases, 18 section 7 Clayton Act cases, 14 section 5 Federal Trade Commission Act cases, and 2 Department of Justice cases. In addition, the Division of Accounting prepared a report on "Rates of Return for Identical Companies in Selected Manufacturing Industries--1940, 1947-60". This report is a continuation of a series of reports which are in demand by professional economists and business concerns. Also, the profit data for companies in the various industries have been and are used extensively in hearings by the Subcommittee on Antitrust and Monopoly, Senate Committee on the Judiciary, and the Subcommittee on Antitrust and Monopoly, House Committee on the Judiciary.

ommendations have gone forward to the Justice Department in seven of these matters.

With respect to Commission compliance matters, particularly heavy demands have been made on the staff and resources of this Division since its organization July 1, 1961. During fiscal year 1962 a peak of 15 attorneys only were available for restraint of trade compliance work. Seventy orders in the section 5 restraint of trade area were under active compliance consideration. In addition, there was undertaken a review of all outstanding orders issued under section 5 of the Federal Trade Commission Act for establishment of a random spot check investigation procedure to determine whether violations are occurring even though no complaints have been brought to the attention of the Commission. Fifteen matters were in the process of investigation in the field during fiscal year 1962. Two hundred and eighty Clayton Act matters were under active compliance consideration, divided as follows: 47 under section 2 (a) of the act, 104 under section 2(c), 69 under sections 2(d) and 2(e), 10 under section 2(f) and 23 involving violation of a combination of sections. Nine section 3 exclusive dealing matters involving questions as to compliance with outstanding Commission orders, were in an active status, including three matters under investigation in the field. Eighteen section 7 orders, compliance with which requires divestiture of a variety of illegally acquired properties, were pending during fiscal year 1962.

Reports of compliance submitted in connection with restraint of trade orders to cease and desist are frequently technical in nature, complicated in form and bring to issue a complex of legal considerations. For example, reports relative to divestiture orders in section 7 matters, are oftentimes particularly involved. In addition to the task of assuring compliance with current orders of the Commission, however, this Division faces a backlog of major proportions, involving compliance consideration as to orders issued in past years.

The undertaking of new and more vigorous and direct investigative and enforcement measures both as to Clayton Act and restraint of trade matters under section 5 of the Federal Trade Commission Act, has created additional drains on the manpower resources of the staff. The use of investigational hearings, for example, although requiring the special detailing of headquarters Compliance staff personnel, was found to provide an effective, direct and efficient method of securing necessary information in a number of compliance matters. In fiscal year 1962, 32 investigation subpoena hearings were conducted by the staff of the Compliance Division.

During fiscal year 1962, the Commission's first civil penalty actions were developed and brought under the 1959 amendment to the Clayton Act. On April 14, 1962, U.S. v. Time, Inc., et al. (62 Civil 1364), was filed in the District Court for the Southern District of New York.

This action seeks civil penalties of \$110,000 from defendants for a violation of a Commission order issued under section 2(d) of the Clayton Act. In a similar action filed against the Hearst Corp. (U.S. v. The Hearst Corporation, S.D.N.Y. 62 Civil 2057) on June 11, 1962, the Government is asking for civil penalties of \$75,000. Several other actions of this nature are now pending Commission approval and certification to the Attorney General for enforcement.

EXPORT TRADE

By the Webb-Pomerene (Export Trade) Act of 1918, the Congress of the United States authorized cooperative activity among American exporters, within certain circumscribed bounds, for the purpose of promoting the foreign trade of the United States. This legislation was

DECEPTIVE PRACTICES

The Bureau of Deceptive Practices is responsible for the investigation and trial of all cases involving acts or practices alleged to be deceptive in violation of sections 5 and 12 of the Federal Trade Commission Act, and for obtaining and maintaining compliance with cease-and-desist orders entered in such cases. The actions under section 12 are directed at preventing false advertising of food, drugs, cosmetics and therapeutic devices. Under section 5 the Bureau's responsibilities extend, with few exceptions, to all types of goods and services sold in commerce, and to all forms of possible deception, including false advertising, misbranding, oral misrepresentation, and deceptive sales schemes. The Bureau also monitors published and broadcast advertising, on a sampling basis, to detect advertisements which may be questionable. Much of the Bureau's work arises through letters of complaint from businessmen or consumers who feel that they have been injured or deceived by unfair trade practices.

To maintain high levels of employment and income in our mass production economy, it is imperative that consumers be given only truthful information about the availability and properties of the hundreds of goods and services offered for sale. The consumer armed with truthful information is best able to make the choices which direct the forces of production in our competitive free enterprise system. To the extent that the consumer's choices are dulled or frustrated by his being deceived in the marketplace, the system fails to achieve maximum success.

Deception practiced on a consumer not only injures him in his health or his pocketbook; it may destroy his confidence in advertising generally, and it injures the honest businessman, by diverting trade from him. Just as truthful, informative advertising lubricates the wheels of trade, so it may be said that deceptive advertising is sand in the gears. Thus the Bureau's activity to prevent deceptive trade practices serves simultaneously to benefit both businessmen and consumers.

Investigation and trial work in the various types of cases are carried on by three divisions of the Bureau, that is, the Division of Food and Drug Advertising, the Division of General Advertising, and the Division of General Practices. Obtaining and maintaining com-

pliance with deceptive practice cease-and-desist orders is the function of the Division of Compliance; and the Division of Scientific Opinions furnishes the other divisions with

the year end. A total of 278 other investigations were disposed of during the year on the basis of informal assurances that questioned practices had been discontinued without intent to resume. Twenty-three of those assurances were in the form of stipulations to cease and desist.

A number of the investigations were referred to the Bureau of Industry Guidance for use in the drafting or administration of rules or guides designed to prevent deceptive practices on a voluntary and industrywide basis. The investigations thus referred included matters of possible deception in regard to manufacturer list prices, foreign origin disclosures, labeling of furniture, and advertising of room air conditioners. The Bureau during the year cooperated with industry groups in the following (on) Tj j 3yTj -365.6 0 TD 0.0022 Tc (of) Tj 10.92n2 Tc () Tj 6.3

programs had misrepresented the accuracy of their survey results.

Advertising of toys was given attention during the year, to prevent false claims as to performance, safety and components, especially in television advertisements which might be misleading to children.

The Berlin crisis and other international disturbances provided the launching pad for the use of "scare" tactics and other methods of false and deceptive advertising to promote the sale of fall-out shelters, shelter equipment and radiation protection devices. Numerous complaints were received as a result of a wide and intensive, although short-lived advertising program promoting the sale of fall-out shelters. As a result of investigations in this field, most of these matters have been settled on an informal basis, while some others are still pending in this Bureau.

A project involving more than 200 vendors of antibiotics used in the treatment of patients in 1947 (out of 17,000)

have violated the law. Orders in this type of case prohibited the use of such unlawful practices as:

Advertising of a drug preparation as a cure for rheumatism, arthritis, insomnia, constipation or blindness (C-11).

Advertising of vitamin or mineral preparations for tiredness, poor appetite, or weakened resistance without disclosing that most persons

representing or deceptively concealing the country of origin of merchandise (8154, 8182); misrepresenting vendor as manufacturer of product (8476, 8484); misrepresenting the usefulness of legal forms in a "do-it-yourself" will kit sold by mail (8480); use of deceptive advertising and threats of legal action against children to sell "Cloverine Salve" (8474); use of bait advertising and deceptive price, quality and guarantee claims to sell storm windows, paint, awnings, and other home improvement products (8459, 8483, 8486, 8518); use of deceptive packaging to misrepresent the size of wrapping paper (8489); false advertising as to optical properties of sunglass lenses (8465); and false advertising as to efficacy of a treatment for ingrown toenails (8478).

Cease-and-desist orders were issued during the year in 213 cases as a result of work by attorneys of the Bureau of Deceptive Practices. This included 176 cases under section 5 or 12 of the FTC Act (137 under section 5 and 39 under section 12), and 37 wool, fur or textile cases which were pending with this Bureau's attorneys at the time of the reorganization on July 1, 1962. As previously indicated, 58 of the section 5 or 12 orders were under the simultaneous complaint-and-order procedure adopted in July 1962. The Bureau's attorneys also completed supplemental litigation in 20 cases during the year, involving matters such as petitions for modification of cease-and-desist orders.

Consent orders obtained during the year under procedures which were applicable to cases pending on July 1, 1962, and orders obtained during the year in contested cases, included the following:

Richardson-Merrell, Inc., formerly known as Vick Chemical Co., Docket 8392, consented to an order prohibiting claims that the product designated "Vicks Double-Buffered Cold Tablets" will cure a common cold or shorten its duration.

Zenith Laboratories, Inc., Docket 8426, consented to an order prohibiting use of the term "quality control" and misdescription of its laboratory facilities and procedures, in advertising drugs.

False claims respecting savings to be realized through purchase of drugs by mail were prohibited in consent orders accepted from National Drug Plan, Inc., Docket 8099, and from Nutri-Health, Inc., Docket 8178.

Claims that a drug preparation will cure alcoholism were prohibited in consent order accepted from Soberin Aids Co., Docket 8366.

Claims of sedatives being harmless and safe to take were prohibited by consent orders accepted from Thompson Medical Co., Inc., Docket 8399, and from Sedaquil, Inc., Docket 8400.

Murray Space Shoe Corp., Docket 7476, was prohibited from claiming that its shoes will correct, prevent or relieve arthritis, high blood pressure, indigestion, or stomach ulcers.

Preticketing and other fictitious pricing of merchandise was prohibited by order issued against Rayex Corp., Docket 7346, and against George's Radio and Television Co., Inc., Docket 8134.

Use of term "Milan", implying Italian manufacture, was prohibited respecting hats made in Japan, by order against Korber Hats, Inc., Docket 8190.

Use of deceptive television demonstrations as to the performance of shaving creams was prohibited by orders issued against Colgate-Palmolive Co. and its advertising agency, Docket 7736, and against Carter

Products, Inc., and its advertising agency, Docket 7943.

An order entered against Bakers Franchise Corp., Docket 7472, prohibits use of misleading statements to designate the caloric content or weight-reducing properties of bread.

Order against Damar Products, Inc., Docket 7769, prohibits claims that a vibratory massage device will be of benefit to effect weight reduction.

Bait advertising and other deceptive practices in the sale of houses and home improvements were prohibited by orders entered against Lifetime, Inc., Docket 7616; Pati-Port, Inc., Docket 7665; Luxury Industries Inc., Docket 7728; Celtic Construction Co., Inc., Docket 8349; and Crawford Industries, Inc., Docket 8423.

Misrepresentation of imported clocks as having been made by the old and well-known Waltham Watch Co., of Waltham, Mass., was prohibited by order against Waltham Watch Co., of Chicago, Docket 7997.

DIVISION OF COMPLIANCE

This Division has the continuing responsibility of obtaining and maintaining compliance with cease and desist orders against deceptive trade practices under the Federal Trade Commission Act, 15 U.S.C. § 57c(8) (Federal Trade Commission Act, 15 U.S.C. § 57c(8)).

for particular types of advertising. Lastly, field investigation may be requested, to determine whether an order is being violated and, if so, to gather evidence for an enforcement action. On June 30, 1962, 69 compliance investigations were in progress.

When an investigation discloses violations of an order, the Division prepares for certification to the Attorney General of a suit seeking civil penalties of up to \$5,000 for each violation or each day of violation as provided by the statute; or the Division may prepare papers for the institution of criminal contempt proceedings if the violations involve an order that investigations were in progress.

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Gene J. Davidson (E.D. Pa.) Misrepresentation in connection with the sale of vending machines.

American Album, Inc., et al. (N.D. Ohio) Misrepresentations of photographic albums and certificates for photographs.

Jacob Hauptmann (E.D. Pa.) Misrepresentations as to regular price of rugs and other merchandise.

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

Wilson Chemical Co., Inc. (M.D. Pa.) Misrepresentations in connection with the sale of salves and other merchandise.

Charles C. Bennett (N.D. Tex.) Selling and distributing lottery devices.

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

Murray Epstein, et al. (S.D. Cal.) Misrepresenting the manufacturer and country of origin of sewing machines.

Coty, Inc. (Del.) Misrepresenting the country of origin of perfumes.

The Great Minneapolis Surplus Store, Inc., et al. (Minn.) Misrepresenting the usual and regular retail price of commodities.

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

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

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

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

William T. Loesch (S.D. Tex.) Misrepresentations in connection with sale of preparations for treatment of the hair and scalp.

Mick Dalton, et al. (Nebr.) Misrepresentations of photographic albums and certificates for photographs.

Statistics on matters and cases handled in fiscal 1962

"Matters" consist of (a) reports of compliance for processing; (b) complaints of alleged violation of orders; (c) conferences and opinions regarding compliance; and (d) initiating and processing preliminary inquiries into compliance. Each category of these "matters" is a distinct operation requiring substantial man-hours. In other words, the same case often requires handling several times, as is apparent from the following table showing the number of "matters" and the number of "cases" handled, and disclosing that of 1,138 "matters" handled involved but 680 cases.

Matters	Fiscal 1962
Total pending July 1, 1961	1,213
Received during year	973
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Total for disposition during year	2,186
Disposed of during year	1,138
Total pending June 30, 1962	1,048

other appropriate factors. Similarly, magazines are obtained on a basis which provides a representative spot checking.

In addition to broadcasting

the cases from the drafting of complaints to the briefing and argument of such cases before the Commission. Thus the practice in this Division is for the same attorney to handle a case from the time of its inception as a formal action until the completion of that case either by issuance of an order or by dismissal.

The remaining three attorneys of this Division handle all of the compliance matters pertaining to the acts administered by the Bureau of Textiles and Furs. During fiscal year 1962, they handled 306 matters. One hundred and forty cases were on hand at the start of the year and 166 additional cases were added during the year. One hundred and twenty cases were disposed of and 186 active cases are being carried over into fiscal year 1963.

The compliance attorneys receive cases following the issuance of cease and desist orders by the Commission. The following table shows the number of cases received during the year to

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(b) The Fur Products Labeling Act

Intensive concentration has been made under this Act against the practice of using false and deceptive comparative prices and fictitious prices, and failure to disclose tip-dyeing of furs.

Also under the Fur Products Labeling Act, a complaint was issued against an advertising copywriter who wrote advertisements for fur retailers. Although the advertising agent did not own or operate a fur store, his relation to the products which were falsely and deceptively advertised was so close that he was made a respondent. This case is presently pending before the Commission upon respondent's petition for review of the initial decision.

(c) Textile Fiber Products Identification Act

In the enforcement of this act considerable emphasis has been placed on violations occurring as regards the name and amount of constituent fibers in the fabric. Many of these violations so ot 1yoducts Identification Act

In the

compliance inspection work, which is reflected in the chart shown below.

The Textile Act continues to be the most important casewise of those handled by this Division. A sampling technique is used, and during the fiscal year increased from slightly under 31 million textile products for labeling, invoicing, and advertising deficiencies to nearly 55 ½ million. Public acceptance and industry compliance with the Textile Act continues to be very good.

Division of Regulation Workload statistics—fiscal 1962

	Textile	Wool	Fur	Flammable fabrics
Number of inspections made	3,235	2,025	942	2,967
Products inspected (sampling method, except furs)	55,459,940	4,894,100	86,721	51,866,536
Deficiencies noted	1,801,941	147,609	12,466	-----
Registered numbers issued	1,641	337	189	-----
Continuing guaranties filed	470	918	540	1,002
Advertisements examined	250,714	3,147	25,057	-----
Assurances of discontinuance	-----	1,425	-----	-----
Incoming correspondence	-----	11,971	-----	-----
Outgoing correspondence	-----	14,954	-----	-----
Interpretations and opinions	26,572	13,916	9,396	1,584

BUREAU OF FIELD OPERATIONS

Under the reorganization effectuated July 1, 1961, the Bureau of Field Operations was created to take over the field investigative activities of the former Bureau of Investigation. The investigative work of the Commission falls into three major categories, namely, restraints of trade and monopolies; unfair and deceptive acts and practices; and misbranding

DIVISION OF FINANCIAL STATISTICS

The Division of

APPROPRIATIONS AND
FINANCIAL OBLIGATIONS

FUNDS AVAILABLE FOR THE FISCAL YEAR 1962

Funds available to the Commission for the fiscal year 1962 amounted to \$10,314,582.
Public

APPENDIXES

Federal Trade Commissioners—1915-62

Name

State from which appointed

Statutes Pertaining to the Federal Trade Commission

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

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated below.
2. Clayton Act, sections 2, 3, 7, 8 and

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 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 and paid on the presentation of itemized vouchers therefor approved by the commission.

² Under the provisions of section 3 of Reorganization Plan No. 8 of 1950, effective May 24, 1950 (as published in the Federal Register for May 25, 1950, at P. 3175), the functions of the Commission with respect to choosing a chairman from among the membership of the Commission were transferred to the President. Under said plan, prepared by the President and transmitted to the Senate and House on Mar. 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, there were also transferred to the Chairman of the Commission, subject to certain limitations, "the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among or (of) Th. business and there

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

for the Government, and for other purposes," approved February 12, 1913; and also the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

Sec. 5. (a) (1) Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

(2) Nothing contained in this Act or in any of the Antitrust Acts shall render unlawful any contracts or agreements prescribing minimum or stipulated prices, or requiring a vendee to enter into contracts or agreements prescribing minimum or stipulated prices, for the resale of a commodity which bears, or the label

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(b)

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 Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require: Provided, however, That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate circuit court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days⁹ from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A Copy of such petition shall be forthwith transmitted by busclerkD 0 Tc ii (re thadetermin.8.8.205 TD 26000 FED (2512) TTDQ (0E8 ST) T8; (450.4St) 1297DD0620.0D T0 6805S III5 (coAp Crapi

(e) Such proceedings in the circuit court of appeals shall be given precedence, over other cases pending therein, and shall be in every way expedited. No order of the Commission or judgment of court to enforce the same shall in anywise relieve or absolve any person, partnership, or corporation from any liability under the Antitrust Acts.

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

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

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 time to time such officials and employees to the commission as he may direct.

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

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

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

Upon the application of the Attorney General of the United States, at the request of the commission, if the

jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The Commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths.

and every day of

(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.

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

(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 intended for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such article; except that such term shall not include soap.

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

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

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.¹⁶

Sec. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (1) of section 5, it shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection.

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

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

Original approved September 26, 1914.

Amended and approved March 21, 1938.¹⁷

Packers and Stockyards Act

[Public Law 85-909, 85th Congress, H.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

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, meat food products, livestock products in unmanufactured form, or poultry products if the Commission within ten days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.

“(e) The Secretary of Agriculture and the Federal of

cludes the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled "An Act to amend section seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes,"" approved February twelfth, nineteen hundred and thirteen; and also this Act.

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

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

Sec. 2. DISCRIMINATING IN PRICE, SERVICE, OR FACILITIES.² (49 Stat. 1526; 15 U.S.C.A., sec. 13, as amended.)

Sec. 2. (a) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any Insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: Provided, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: Provided, however, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and

³ This section of the Clayton Act contains the provisions of the Robinson-Patman Anti-Discrimination Act, approved June 19, 1936, amending Section 2 of the original Clayton Act, approved Oct. 15, 1914.

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

revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in

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 commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

Sec. 4. VIOLATION OF ANTITRUST LAWS—DAMAGES. (38 Stat. 731; U.S.C.A., sec. 15.)

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

Sec. 4A.³ Whenever the United States is hereafter injured in its business or property by reason of anything forbidden in the antitrust laws it may sue therefor in the United States district court for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by it sustained and cost of suit.

Sec. 4B. Any action to enforce any cause of action under sections 4 or 4A shall be forever barred unless commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this Act shall be revived by this Act.

Sec. 5. PROCEEDINGS BY OR IN BEHALF OF UNITED STATES UNDER ANTITRUST LAWS. FINAL JUDGMENTS OR DECREES THEREIN AS EVIDENCE IN PRIVATE LITIGATION. INSTITUTION THEREOF AS SUSPENDING STATUTE, OF LIMITATIONS. (38 Stat. 731; 15 U.S.C.A., sec. 16.)

Sec. 5. (a) A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws or by the United States under section 4A, as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken or to judgments or decrees entered in actions under Section 4A.

(b) Wherein the United States is injured by a defendant, it may sue therefor in the United States district court for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by it sustained and cost of suit.

of every private

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Sec. 10. LIMITATIONS UPON DEALINGS AND CONTRACTS OF COMMON CARRIERS, WHOSE INTERLOCKING DIRECTORS, ETC. (38 Stat. 734; 15 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 association when the said common carrier shall have upon its board of directors or as its president, manager, or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership, or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors, and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

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

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

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

Sec. 11. JURISDICTION TO ENFORCE COMPLIANCE, COMPLAINTS, FINDINGS, AND ORDERS. APPEALS, SERVICE. (38 Stat. 734; 15 U.S.C.A., sec 21.)

Sec. 11 (a).⁶ That authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Civil Aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938; in the Federal Reserve Board where applicable to

⁶This section, and also section 7, which amend the respective sections of the Clayton Act, were enacted by Act of Dec. 29, 1950. (P.L. 899; 64 Stat. 1125; 15 U.S.C. 21.)

banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce to be exercised as follows:

(b) Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 2, 3, 7, and 8 of this Act, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect, and containing a notice of hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission or Board requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the Commission or Board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission or Board. If upon such hearing the Commission or Board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share capital, or assets, held or rid itself of the directors chosen contrary to the provisions of (capital,) T.04(0a)11(1)(c)

occurred or within which such person resides or carries on business, by filing in the court, within sixty days after the date of the service of such order, 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 such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the commission or board until the filing of the record, and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the commission or board, as

order of the court. Tc (com
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board may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b); or

(2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the commission or board has been affirmed, or the petition for review has been dismissed by the court of appeals, and no petition for certiorari has been duly filed; or

(3) upon the denial of a petition for certiorari, if the order of the commission or board has been affirmed or the petition for review has been dismissed by the court of appeals; or

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

(h) If the Supreme Court directs that the order of the commission or board be modified or set aside, the order of the commission or board rendered in accordance with the mandate of the Supreme Court shall become final upon the upon Tc (of the 752.0 TD 0.0512 (the 11 24 0 TD 0 Tc 3) Tj 2.4 0 TD -0.0n

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an inhabitant, but also in any district wherein it may be found or transacts business; and all process in such cases may be served in the district of which it is an inhabitant, or wherever it may be found.

Sec. 13.SUBPOENAS FOR WITNESSES IN PROCEEDINGS BY OR ON BEHALF OF THE UNITED

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

Sec. 17. PRELIMINARY INJUNCTIONS, TEMPORARY RESTRAINING ORDERS. (38 Stat. 737; first two paragraphs are 28 U.S.C.A., see. 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 court or judge may fix, unless within the time so fixed the order is extended for a like period for good cause shown, and the reasons for such extensions shall be entered of record. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time period

Sec. 22. RULE TO SHOW CAUSE OR ARREST. TRIAL. PENALTIES. (38 Stat. 738; 28 U.S.C.A., sec. 387.)

Sec. 22.¹² That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer or lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: Provided, however, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail or be required to give bail.

Sec. 23. EVIDENCE, APPEALS. (38 Stat. 739; 28 U.S.C.A., sec. 388.)

Sec. 23.¹³ That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

Sec. 24. CASES OF CONTEMPT NOT SPECIFICALLY EMBRACED IN SECTION 21 NOT AFFECTED
D. (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; 28 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.*

¹³Sections 21 to 25, inclusive, were repealed by Act of June 25, 1948, c. 645 (62 Stat. 683), 88 0 Te 6 0 TD 0 25Tc () ed if

Export Trade Act

[Public—No. 126—65th Congress]

[H.R. 2316]

the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.
Sec. 5.

Wool Products Labeling Act of 1939

[Public—No. 850—76th Congress—3d Session]

[S. 162]

[54 Stat. 1128; 15 U.S.C.A., § 68]

An Act to protect producers, manufacturers, distributors, and consumers from the unrevealed presence of substitutes and mixtures in spun, woven, knitted, felted, or otherwise manufactured wool 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 "Wool Products Labeling Act of 1939."

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, plural or singular, as the case demands.

(b) The term "wool" means the fiber from the fleece of the sheep or lamb or hair of the Angora or Cashmere goat (and may include the so-called specialty fibers from the hair of the camel, alpaca, llama, and vicuna) which has never been reclaimed from any woven or felted wool product.

(c) The term "reprocessed wool" means the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state.

(d) The term "reused wool" means the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in any way by the ultimate consumer, subsequently has been made into a fibrous state.

(e) The term "wool product" means any product, or any portion of a product, which contains, purports to contain, or in any way is represented as containing wool, reprocessed wool, or reused wool.

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

(g) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, as amended, and the Federal Trade Commission Act approved March 21, 1938.

(h) The term "commerce" means commerce among the several States or with foreign

sell or offer for sale in commerce, any such wool product which is misbranded within the meaning of this Act and the rules and regulations hereunder is guilty of an unfair method of competition, and an unfair and deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

This section shall not apply—

(a) To any common carrier or contract carrier in respect to a wool product shipped or delivered for shipment in commerce in the ordinary course of its business; or

(b) To any person manufacturing, delivering for shipment, shipping, selling, or offering for sale, for exportation from the United States to any foreign country a wool product branded in accordance with the specifications of the purchaser and in accordance with the laws of such country.

MISBRANDED WOOL PRODUCTS

Sec. 4 (a) A wool product shall be misbranded—

(1) If it is falsely or deceptively stamped, tagged, labeled, or otherwise identified.

(2) If a stamp, tag, label, or other means of identification, or substitute therefor under section 5, is not on or affixed to the wool product and does not show—

(A) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool if said percentage by weight of such fiber is 5 per centum or more; and (5) the aggregate of all other fibers: Provided, That deviation of the fiber contents of the wool product from percentages stated on the stamp, tag, label, or other means of identification, shall not be misbranding under this section if the person charged with misbranding proves such deviation resulted from unavoidable variations in manufacture and despite the exercise of due care to make accurate the statements on such stamp, tag, label, or other means of identification.

(B) the maximum percentage of the total weight of the wool product, of any nonfibrous loading, filling, or adulterating matter.

(C) the name of the manufacturer of the wool product and/or the name of one or more persons subject to section 3 with respect to such wool product.

(3) In the case of a wool product containing a fiber other than wool, if the percentages by weight of the wool contents thereof are not shown in words and figures plainly legible.

(4) In the case of a wool product represented as wool, if the percentages by weight of the wool content thereof are not shown in words and figures plainly legible, or if the total fiber weight of such wool product is not 100 per centum wool exclusive of ornamentation not exceeding 5 per centum of such total fiber weight.

(b) In addition to information required in this section, the stamp, tag, label, or other means of identification, or substitute therefor under section 5, may contain other information not violating the provisions of this Act or the rules and regulations of the Commission.

(c) If any person subject to section 3 with respect to a wool product finds or has reasonable cause to believe its stamp, tag, label, or other means of identification, or substitute therefor under section 5, does not contain the information required by this Act, he may replace same with a substitute containing the information so required.

(d) This section shall not be construed as requiring designation on garments or articles of apparel of fiber content of any linings, paddings, stiffening, trim-

Territory, or possession, or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

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

The neglect or refusal to maintain and so preserve such records is unlawful, and any such manufacturer who neglects or refuses to maintain and so preserve such records shall forfeit to the United States the sum of \$100 for each day of such failure, which shall accrue to the United States and be recoverable in a civil action.

CONDEMNATION AND INJUNCTION PROCEEDINGS

Sec. 7. (a) Any wool products shall be liable to be proceeded against in the district court of the United States for the district in which found, and to be seized for confiscation by process of libel for condemnation, if the Commission has reasonable cause to believe such wool products are being manufactured or held for shipment, or shipped, or held for sale or exchange after shipment, in commerce in violation of the provisions of this Act, and if after notice from the Commission the provisions of this Act with respect to said products are not shown to be complied with. Proceedings in such libel cases shall conform as nearly as may be to suits in rem in admiralty, and may be brought by the Commission.

If such wool products are condemned by the court, they shall be disposed of, in the discretion of the court, by destruction; by sale; by delivery to the owner or claimant thereof upon payment of legal costs and charges and upon execution of good and sufficient bond to the effect that such wool products will not be disposed of until properly stamped, tagged, labeled, or otherwise identified under the provisions of this Act; or by such charitable disposition as the court may deem proper. If such wool products are disposed of by sale, the proceeds, less legal costs and charges, shall be paid into the Treasury of the United States.

(b) Whenever the Commission has reason to believe that—

(1) Any person is violating, or is about to violate, sections 3, 5 8, or 9 of this Act, and that

(2) It would be to the public interest to enjoin such violation until complaint is issued by the Commission under the Federal Trade Commission Act and such complaint dismissed by the Commission or set aside by the court on review, or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act,

the Commission may bring suit in the district court of the United States or in the United States court of any Territory, for the district or Territory in which such person resides or transacts business, to enjoin such violation by

The falsification of, or failure to set forth, said information in said invoices, or the falsification or perjury of the consignee's declaration provided for in said Act of June 17, 1930, insofar as it relates to said information, 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 fails to set forth,

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SEPARABILITY CLAUSE

Sec. 13. If any provision of this Act, or the application thereof to any person, partnership, corporation, or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person, partnership, corporation, or circumstance shall not be affected thereby.

EXCEPTIONS

Sec. 14. None of the provisions of this Act shall be construed to apply to the manufacture, delivery for shipment, shipment, sale, or offering for sale any carpets, rugs, mats, or upholsteries, nor to any person manufacturing, delivering for shipment, shipping, selling, or offering for sale any carpets, rugs, mats, or upholsteries.

Approved, October 14, 1940.

Insurance Act

[Public Law 15, 79th Congress,¹ Chapter 20, 1st Session]
[S. 340]

An Act To express the Intent of the Congress with reference to the regulation of the business of insurance

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that the continued regulation and taxation by the several States of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States.

Sec. 2. (a) The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

(b) No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of Insurance: Provided, That after June 30, 1948, the Act of July 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

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amended, known as the Fair Labor Standards Act of 1938, or the Act of June 5, 1920, known as the Merchant Marine Act, 1920.

Sec. 5. As used in this Act, the term "State" includes the several States, Alaska, Hawaii, Puerto Rico, and ~~the~~ ^{Dis8}several

Fur Products Labeling Act

[Public Law 110, 82d Congress, Chapter 298, 1st Session]

[H.R. 2321]

[65 Stat. 179; 15 U.S.C.A. § 69]

An Act To protect consumers and others against misbranding, false advertising, and false invoicing of fur products and furs

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 "Fur Products Labeling Act."

Sec. 2. As used in this Act—

(a) The term "Person" means an individual, partnership, corporation, association, business trust, or any organized group of any of the foregoing.

(b) The term "fur" means any animal skin or part thereof with hair, fleece, or fur fibers attached thereto, either in its raw or processed state, but shall not include such skins as are to be converted into leather or which in processing shall have the hair, fleece, or fur fiber completely removed.

(c) The term "used fur" means fur in any form which has been worn or used by an ultimate consumer.

(d) The term "fur product" means any article of wearing apparel made in whole or in part of fur or used fur; except that such term shall not include such articles as the Commission shall exempt by reason of the relatively small quantity or value of the fur or used fur contained therein.

(e) The term "waste fur" means the ears, throats, or scrap pieces which have been severed from the animal pelt, and shall include mats or plates made therefrom.

(f) The term "invoice" means a written account, memorandum, list, or catalog, which is issued in connection with any commercial dealing in fur products or furs, and describes the particulars of any fur products or furs, transported or delivered to a purchaser, consignee, factor, bailee, correspondent, or agent, or any other person who is engaged in dealing commercially in fur products or furs.

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

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

(i) The term "Fur Products Name Guide" means the register issued by the Commission pursuant to section 7 of this Act.

(j) The term "commerce" means commerce between any State, Territory, or possession of the United States, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession or the District of Columbia.

(k) The term "United States" means the several States, the District of Columbia, and the Territories and possessions of the United States.

MISBRANDING, FALSE ADVERTISING, AND INVOICING DECLARED UNLAWFUL

Sec. 3. (a) The introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product which is misbranded or falsely or deceptively advertised or invoiced, within the meaning of this Act

(2) if there is not affixed to the fur product a label showing in words and figures plainly legible—

(A) the name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur, and such qualifying statement as may be required pursuant to section 7(c) of this Act;

(B) that the fur product contains or is composed of used fur, when such is the fact;

(C) that the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(D) that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(E) the name, or other identification issued and registered by the Commission, of one or more of the persons who manufacture such fur product for such the name, or persons 31 1c (w.4 0 1D 0.0109 1c (such) 1j 20

ENFORCEMENT OF THE ACT

Sec. 8. (a) (1) Except as otherwise specifically provided in this Act, sections 3, 6, and 10 (b) of this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

(2) The Commission is authorized and directed to prevent any person from violating the provisions of sections 3, 6, and 10(b) 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, 6, or 10(b) 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.

(b) The Commission is authorized and directed to prescribe rules and regulations governing the manner and form of disclosing information required by this Act, and such further rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(c) The Commission is authorized (1) to cause inspections, analyses, tests, examinations to be made of any fur product oeteo

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- (b) Whenever the Commission has reason to believe that—
- (1) any person is violating, or is about to violate, section 3, 6, or 10 (b), of this Act; and
 - (2)

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

(c) The term

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

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

STANDARD OF FLAMMABILITY

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

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

(d) The Commission is authorized to—

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

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District

PENALTIES

Sec. 7. Any person who willfully violates section 3 or 8 (b) of this Act shall be guilty of a

course of its business; or (b) to any converter, processor, or

(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 in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation or between the District of Columbia and any State or Territory or foreign nation.

(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.

distributor, or seller of the textile fiber product to which the false or deceptive advertisement relates, if such publisher or other advertising agency or medium furnishes to the Commission, upon request, the name and post office address of the manufacturer, distributor, seller, or other person residing in the United States, who caused the dissemination of the advertising material; or

(5) to any textile fiber product until such product has been produced by the manufacturer or processor in the form intended for sale or delivery to, or for use by, the ultimate consumer: Provided, That this exemption shall apply only if such textile fiber product is covered by an invoice or other paper relating to the marketing or handling of the textile fiber product and such invoice or paper correctly discloses the information with respect to the textile fiber product which would otherwise be required under section 4 of this Act to be on the stamp, tag, label, or other identification and the name and address of the person issuing the invoice or paper.

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(4) If it is an imported textile fiber product the name of the country where processed or manufactured.

(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~~ products,

(d) The Commission is authorized to cause inspections, analyses, tests, and examinations to be made of

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

SEPARABILITY CLAUSE

Sec. 13. If any provision of this Act, or the application thereof to any person, as that term is herein defined, is held invalid, the remainder of the Act and the application of the remaining provisions to any person shall not be affected thereby.

APPLICATION OF EXISTING LAWS

Sec. 14. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of the United States.

EFFECTIVE DATE

Sec. 15. This Act shall take effect eighteen months after enactment, except for the promulgation of rules and regulations by the Commission, which shall be promulgated within nine months after the enactment of this Act. The Commission shall provide for the exception of any textile fiber product acquired prior to the effective date of this Act.

Approved September 2, 1958.

General Investigations by the Commission, since 1915

Since its establishment in 1915, the Federal Trade Commission has conducted numerous general inquiries which

competitors rather than capital stock. ⁴ (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., o. p. 3/2/37

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Chain Stores (Senate).—Practically every phase of

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

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"

Distribution Cost Accounting (F. T. C.).—To provide a guide for current legislation and determine ways for improving accounting methods, the Commission studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection (Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling. H- Doc. 287, 77th, 215 p. o. p., 6/23/41).

Distribution.—See Millinery Distribution.

Distribution of Steel Consumption.—A study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers. (1949-1950) The results of the study were transmitted to the subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) o. p., 3/31/52.

Distribution Methods and Costs (F. T. C.).—This inquiry into methods and costs of distributing important consumer commodities (F. T. C. Res., 6/27/40 was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F. T. C. Act. Eight parts of the F. T. C. Report on Distribution Methods and Costs were transmitted to Congress and published under the subtitles: Part I, Important Food Products (11/11/43, 223 p., o. p.); Part III, Building Materials—Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o. p.); Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements (3/2/44, 189 p. o. p.); Part V, Advertising as a factor in Distribution (10/30/44, 50 p. o. p.); Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p.); Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area (6/30/45, 59 p.); Part VII, Cost of Production and Distribution of Fish in New England (6/30/45, 118 p.); and Part IX, Cost of Production and Distribution of Fish on the Pacific Coast (7/25/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

Divergence Between Plant and Company Concentration (F. T. C.).—In this 1950 report, the Commission measured the divergence between plant and company concentration for each of 340 manufacturing industries. The Divergence between Plant and Company Concentration (F. T. C. Report, 1950) (C)

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 (Senate).—Begun by the Commissioner of Corporations⁸ (S. Res. 487, 62d, 3/1/13), this inquiry disclosed extensive use of bogus independent fertilizer companies for competitive purposes (Fertilizer Industry, S. Doc. 551, 64th, 269 p., o. p., 8/19/16). Agreements for abolition of such unfair competition were reached.

Fertilizer (Senate).—A second fertilizer inquiry (S. Res. 307, 67th, 6/17/22) developed that active competition generally prevailed in that industry in the U. S., although in some foreign countries combinations controlled certain important raw materials. The Commission recommended improved agricultural credits and more extended cooperation by farmers in buying fertilizer (Fertilizer Industry, S. Doc. 347, 67th, 87 p., o. p., 3/8/23).

Fertilizer (F. T. C.).—The Commission's 1949 report on The Fertilizer Industry (100 p.) is concerned primarily with restrictions and wastes which interfere with the supply of plant food materials in the quantities needed and at prices low enough to facilitate maintenance of soil fertility. The Nation's resources of nitrogen, phosphate, and potash are discussed, and the inter-relationships of producers and mixers are reviewed. The report also summarizes available information concerning cartel control of nitrogen, phosphates, and potash.

Fish—See Distribctef(0 Tc () iscusse) Tj 36.96 0 TD 0.012 Tc -0potash.

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gress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit 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 was published in seven parts: I. Country Grain Marketing (9/15/20, 350 p., o.p.); II. Terminal Grain Markets and Exchanges (9/15/20, 333 p., o.p.); III. Terminal Grain Marketing (12/21/21, 332 p., o.p.); 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. 5-13, o.p. 1133/17). Other reports were: Food Investigation, Report of the F.T.C. on Flour Milling and Jobbing (4/4/18, 27 p., o.p.) And Commercial Wheat Flour Milling (9/15/20, 118 p., o.p.).

Food (President) Continued—Canned Foods,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. 163, 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., o.p., 2/11/27); Competition and profits in Bread and Flour (S. Doc. 98, 70th, 509 p., o.p., 1/11/28); and Conditions in the Flour Milling Business, supplementary (S. Doc. 96, 72d, 26 p., o.p., 5/28/32).

Food—Wholesale Baking Indur0 Tc Tc ((SF.TB Fedrv4obTD 0 TD -0.0158 Tc (Baking) TDt ((B)FakBk(6D16D28

was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days or the population of Finland for nearly 1 year. The Commission suggested that "a

mission recommended greater control and lower maximum profits (Maximum Profit Limitation on Meat Packing Industry, S. Doc. 110, 66th, 179 p., o. p. 9/25/19).

Food—Milk.—See Distribution Methods and Costs.

Food—Milk and Milk Products (Senate), Wartime, 1917-18—Covering an inquiry (S. Res. 431, 65th, 3/3/10) into fairness of milk prices to producers and of canned-milk prices to consumers, the Report of the F. T. C. on Milk and Milk Products 1914-18 (6/6/21, 234 p., o. p.) showed a marked concentration of control and questionable practices many of which later were recognized by the industry as being unfair.

Food—Milk and Dairy Products (House).—Competitive conditions in different milk-producing areas were investigated (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: Report of the F. T. C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds (H. Doc. 152, 74th, 901 p., o. p., 4/5/35); Report of the F. T. C. on the Sale and Distribution of Milk and Milk Products (Connecticut and Philadelphia Milksheds, interim report, H. Doc. 387, 74th, 125 p., o. p., 12/31/35); Chicago Sales Area (H. Doc. 451, 74th, 103 p., o. p., 4/15/36); Boston, Baltimore, Cincinnati, St. Louis (H. Doc. 501, 74th, 243 p., o. p., 6/4/36); Twin City Sales Area (H. Doc. 506, 74th, 71 p., o. p., 6/13/36); and New York Area Milk Sales Area (H. Doc. 95, 75th, 138 p., o. p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products, H. Doc. 94, 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food—Peanut Prices (Senate).—An alleged price-fixing combination of peanut crushers and mills was investigated (S. Res. 139, 71st, 10/22/29). The Commission found that an industry-wide decline in prices of farmers' stock peanuts during the business depression was not due to a

Foreign Trade--Antidumping Legislation (F. T. C.), To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (Antidumping Legislation and Other Import Regulations in the United, States and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed, 6/27/38).

Foreign Trade—cooperation in American Export Trade (F. T. C.).-This Inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U. S. manufacturers for export trade, was enacted as a result of Commission recommendations (Cooperation

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Industrial Concentration and Product Diversification in the 1,000 Largest Manufacturing Companies: 1950 (F. T. C.).—This purely statistical report published in January 1957 has 127 pages of text which state the findings in 52 text tables and 22 charts covering all manufacturing, food, electrical apparatus, and transportation equipment, and 529 pages of appendix tables covering these and other manufacturing industries. The 4 leading shippers of each product are identified, but shipments by individual companies are not disclosed.

Interlocking Directorates (F. T. C.).—This 1950 report on Interlocking Directorates summarizes the interlocking relationships among directors of the 1,000 largest manufacturing corporations. It also covers the interlocking directorates between these corporations and a selected list of banks, investment trusts, insurance companies, railroads, public utilities, and distributive enterprises.

International Alkali Cartels (F. T. C.).—In a report (1950) on International Cartels in the Alkali Industry, o. p., the Commission discussed the nature, extent, and effect of International agreements concerning baking soda, soda ash, and caustic soda to which organized groups of American and European alkali producers were parties from 1924 until 1946.

International Electrical Equipment Cartel (F. T. C.).—In its 1948 report on this subject (107 p., also 10 p. processed summary) the Commission points out the high degree of economic concentration in the electrical equipment industry which exists in each of the important industrial nations.

International Petroleum Cartel.—A staff study of the activities of the seven major oil companies in relation to control over the international oil industry. Staff Report to the Federal Trade Commission submitted to the Subcommittee on Monopoly of the Select Committee on Small Business, U. S. Senate Committee print No. 6, 82d Cong.—2d sess. 378 p., 1952.

International Phosphate Cartels (F. T. C.).—The F. T. C. Report on International Phosphate Cartels (F. T. C. Res. 9/19/44) developed facts with respect to the practices, arrangements and agreements between domestic phosphate companies and foreign competitors through international cartels, through which minimum export prices were fixed. These prices varied from market to market, depending upon competition, ocean freight rates, and other factors. The agreements established fixed quotas in each grade, and sales were allocated among members of the Phosphate Export Association according to their quotas and the grade involved. The report (processed, 60 p.) was transmitted to Congress 5/1/46.

International Steel Cartels (F. T. C.).—A report to Congress concerning numerous cartel agreements relating to steel which were adopted between World War I and World War II. Certain American companies participated in these agreements, which were both national and international in scope.

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Packer Consent Decree.—See Food (President) Continued—Meat Packing.

Paper—Book (Senate), Wartime, 1917-18.—This inquiry (S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints [Book Paper Industry—A Preliminary Report (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and Book Paper Industry—Final Report (S. Doc., 79, 65th, 125 p., o. p., 8/21/17)].

Paper—Newsprint (Senate), Wartime, 1917-18.—High prices of newsprint (S. Res. 177, 64th, 4/24/16) were shown to have been partly a result of certain newsprint association activities in restraint of trade. Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers. The Commission for several years conducted monthly reporting of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [Newsprint Paper Industry, preliminary (S. Doc. 3, 65th, 12 p., o. p., 3/3/17); Report of the F. T. C. on the Newsprint Paper Industry (S. Doc. 49, 65th) 162 p., o. p., 6/13/17); an Newsprint Paper Investigation SInvestiga6 0 TD

line companies which were unfair to small producers (Report on Pipe-line Transportation of Petroleum, 467 p., o. p., 2/28/16), some of which practices were later remedied by the Interstate Commerce Commission.
Petroleum-Regional Studies (Senate and F. T. C.).—Reports published

Price Bases (F.T.C.).—More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F.T.C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method¹⁵ 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 ad8 0 TD 0 Tpe2 TjTDubh3l40.44 0918 0 TD 0 Tjcl(TD)

Resale Price Maintenance (F. T. C.).—The question whether a manufacturer of standard articles, Identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led to the first inquiry, resulting in a report, Resale Price Maintenance (H. Doc. 1480, 65th, 3 p., o. p., 12/2/18). Other reports were: A Report on Resale Price Maintenance (H. Doc. 145, 66th, 3 p., o. p., 6/30/19) and resale Price Maintenance (F. T. C. motion, 7/25/27; reports, Part 1, H. Doc. 546, 70th, 141 p., o. p., 1/30/29, and Part II, 215 p., o. p., 6/22/31). The Report of the F. T. C. on Resale Price Maintenance, o. p., (F. T. C. Res., 4/25/39)

prior to the decision was also requested. The Commission submitted a list of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (Stock Dividends, S. Doc. 26, 70th, 273 p., o. p., 12/5/27).

Sugar.—See Food.

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Sulphur Industry (F. T. C.) in its report to Congress on The Sulfur Industry and International Cartels (6/16/47), o. p., the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association an

on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations.

Textiles—Woolen Rag Trade (F.

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

Wartime Inquiries, 1917-18, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flax, 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 till 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 had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Chromium Processors (W. P. B.), Wartime, 1942-43.—For the War Production

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copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M-9-a and b, and M-9-c.

Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.—A survey and inspection of a specified list of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Cost of Living (President)—President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1943-44.—Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M-38, M-11, M-11-b, M-126, L-81, L-131, and L-131-a, all amended.

Electric Lamp Manufacturers (W. P. B.), Wartime, 1942-43.—At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W. P. B. Limitation and Conservation Orders L-33 and M-9-c.

Fertilizer and Related Products (O. P. A.), Wartime, 1942-43.—At the request of O. P. A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

Food—Biscuits and Crackers (O. P. A.), Wartime, 1942-43—As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food—Bread Baking (O. E. S.), Wartime, 1942-43.—This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O. E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O. P. A.

Food—Bread Baking (O. P. A.), Wartime, 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, Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, its purpose

chines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Nickel Processors (W. P. B.), Wartime, 1942-43.—The Commission was designated by the War Production Board to investigate the transactions of some 600 nickel processors for the purpose of determining the extent to which they were complying with W. P. B. Preference Order No. M-6-a, issued 9/30/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

Optical Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 8/12/52) the manner in which an antitrust consent decree entered (Sept. 1948) against the American Optical Company and others, restraining them from discriminatory and monopolistic practices, was being observed, and report (2/10/54) to the Attorney General.

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mine whether requirements of its Conservation Order No. M-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

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

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

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

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

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

Textile Mills, Cotton (W. P. B.), Wartime, 1943-44.—For the War Production Board the Commission conducted a compliance investigation of manufacturers of cotton yarns, cordage, and twine to ascertain whether they were in violation of Priorities Regulation 1, as amended, by their failure to fill higher rated orders at the time they filled lower rated orders.

Tin Consumers (W. P. B.), Wartime, 1942-43.—The principal consumers of tin were investigated ~~and a~~ ~~n~~ ~~u~~ ~~f~~ ~~the~~ ~~W~~

tributing important commodities. The 1941-45 wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; Cigarette Shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food—Biscuits and Crackers; Food—Bread Baking; Food—Fish; Food—Flour Milling; Household Furniture; Industrial Financial Reports; Metal-Working Machines; Paperboard; Priorities; Steel Costs and Profits; and War Material Contracts.