Annual Report of the

FEDERAL TRADE COMMISSION

For the Fiscal Year Ended

June 30, 1969

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Letter of Transmittal

FEDERAL TRADE COMMISSION,

Washington, D.C.

To the Congress of the United States:

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

By direction of the Commission.

MILES W. KIRKPATRICK,

Chairman.

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

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INTRODUCTION

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

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

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

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

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

Adding to its broad responsibility to halt unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce, and its specific assignment to enforce the Wool, Fur and Textile Acts, the Commission during fiscal 1969 was confronted with readying enforcement for the newly enacted Truth in Lending and the Fair Packaging and

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

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

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

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

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

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

Inc. and American Cynamid Company, the FTC's charges of fraudulent procurement of a patent on the major antibiotic, tetracycline, were upheld in September of 1968 by the Sixth Circuit Court of

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

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

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

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

Evidence of this is that the states made 477 requests of FTC for advice and assistance in

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

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

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

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

Economic evidence was assembled for 71 investigations, of which 58 concerned acquisitions, and 53 of these involved transactions in which the acquired company had assets of $10 million or more. In addition, 50 proposed acquisitions in food distribution industries were analyzed, about 21/2 times as many as in the previous year.

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

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

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

Chapter II

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

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

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

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

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

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

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

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

health

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

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

Retirees seeking to supplement meager incomes are often the target of franchise sellers. The tack is to misrepresent potential earnings, exclusive territories, affiliations, and product efficacy. Complaint proceedings were instituted against chinchilla, vending machine, and

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

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

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

Chapter III

TEXTILES AND FURS

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

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

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

A comprehensive study of the effects of using iron or copper salts or a combination of the two in the dressing of dark ranch mink skins was made by the Bureau as the result of the development of a new process of dressing ranch mink skins. Substantial basic research was done to develop ways and means of policing

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

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

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

The Bureau continued to investigate and stop the practice whereby manufacturers of wool products misbranded woolen products by labeling reprocessed or reused wool as wool or by designating wool products by a more popr7e0b739.0.36 0 TD 0 Tc ( ) Tj 2.64 0 TD 000058 TsByD 0.

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

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

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

While this investigation is continuing, a consent agreement was entered into and a cease and desist order issued against one of the dressers, Manhattan Fur Dressing Corporation, docket C-1530. A complaint was issued in

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

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

The sale and distribution of dangerously flammable fabrics continues to receive the highest priority of attention in the Bureau. Eighteen investigational cases were opened Identif2y

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

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

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

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

MAINTAINING FREE AND FAIR COMPETITION IN BUSINESS

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

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

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

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

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

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

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

Informal cases:

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

Formal Cases:

Complaints issued	13
Contested orders	4
Consent orders	7
Cases pending litigation	
June 30, 1969	11

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

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

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

Six cases in various stages of litigation were concluded during the year--two were dismissed by the Commission; three major divestitures were ordered in matters related to the cement industry (however, one order has been stayed pending further consideration by the Commission); and a final order of divestiture was entered against The Plastic of 40 (further and

Compliance matters (apparel)

Compliance reports accepted 59

Compliance reports rejected 5

Compliance investigations open June 30, 1969 5

Formal cases

Complaints issued 12

Consent Orders issued 10

Cases pending in litigation June 30, 1969 5

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

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

At various stages in litigation are the following cases:

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

The complaint in Beatrice Foods Co., Inc. and Kroger Co. (D. 8663) charges Beatrice with selling fluid o. (D. 869 Tj 15.84 0 TDtu0.0014 Tc (in) Tc D.

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Chapter V

THE INDUSTRY GUIDANCE PROGRAM

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

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

Industry Guides

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

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

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

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

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

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

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

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

In another aspect of the Division's consumer protection program,

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

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

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Public comment was also received on proposed$300tonf225 Re4114 T-

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

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

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

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

Of major interest is the Automobile Price Advertising proceeding. Notice of Public Hearing was published during the year looking toward a hearing in the fall of 1969 to consider various pricing practices employed in the sale of automobiles, down to and including the validity under l

citizens complained to the Commission of the difficulties encountered when unrequested and usually unwanted cards fell into unauthorized hands as well as from those who were simply annoyed by the practice or worried and mystified as to their legal rights under the situation created. In response to a rising demand for action, a Notice of Rulemaking Proceeding for the Mailing of Unsolicited Credit Cards was published in which

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

Advisory Opinions

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

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

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

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

The Commission issued three opinions dealing with cooperatives,

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

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

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

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

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

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

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

Eight opinions were issued concerning the Textile Act. Advisory opinions in two different textile cases would prevent the use of brand names connoting, contrary to use 0.0022 Tc (contrary

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

OFFICE OF THE GENERAL COUNSEL

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

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

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

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

There have been significant benefits accruing to the public as a direct consequence of the Commission's proceeding in the above matter. Prices have been lowered on the drugs involved. Moreover, the Department of Justice followed up on the Commission's proceeding and secured a criminal conviction against the drug companies in the U.S. District Court for the Southern District of New York, resulting in criminal fines amounting to $450,000. Several antitrust treble damage suits brought by states, cities, hospital and consumer groups and consolidated for trial

Dakota enacted consumer protection laws during the year,

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

- Three supervisory units were created within the Of

Chapter VII

THE ROLE OF ECONOMIC STUDIES AND EVIDENCE

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

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

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

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

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

Chart 1

MANUFACTURING AND MINING FIRMS ACQUIRED
1948-1968

3 GRAPHS -- SEE IMAGE

*Firms with assets of $10 million or more.
Source: Bureau of Economics, Federal Trade Commission.

corporations with assets of $10 million and over rose from $96.3 million to $42.6 million, or an increase of only 48 percent.

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

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

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

(Dollar amounts in millions)

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

[1] Corporate manufacturing totals are for the first quarter of each year.

[2] Ten million dollars and over.

[3] Figures for 1968 are preliminary.

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

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

of acquired large firm assets totaled $12.6

cent of the assets of all recorded large acquisitions. These proportions are higher than those of 1967 and continue the upward trend of recent years. The unique development of 1968 with respect to conglomerate mergers was their dramatic change in character and

more than 2 percent of U.S. merchandise exports. For 1967, the total exports assisted both directly and indirectly by Webb associations amounted to $647

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

[Dollars in millions]

Type of acquisition	1964		1965		1966		1967		1964-1967		1968[1]	
	No.	Assets (millions)	No.	Assets (millions)	No.	Assets (millions)	No.	Assets (millions)	No.	Assets (millions)	No.	Assets (millions)
Horizontal												
Vertical												
Conglomerate												

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

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

Fifty proposed acquisitions were analyzed under the Commission's Enforcement Policy with Respect to Mergers in the Food Distribution Industries in fiscal 1969, which was roughly 21/2 times as large as the number reviewed in the previous fiscal year. Three industry-wide section 6(b) surveys were made for prospective use as evidence in section 7 cases, and an economic memorandum on the structure of the textile mill products industry was prepared for use by the Commission in drafting guidelines for permissible mergers in this industry.

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

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

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

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

Rates of return (profit rates after taxes) on stockholders' equity for all manufacturing corporations averaged 12.1 percent for the four quarters of 1968, compared to an average of 11.7 percent for the four quarters of 1967. Highest average profit rates in 1968 were recorded for for for for

CHART 2

PROFIT RATES OF ALL MANUFACTURING CORPORATIONS

1961-1969

GRAPHIC - SEE IMAGE

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

Consumer Protection

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

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

On the basis of special investigational surveys and hearings, no evidence was found to indicate that leading chain store operators in the District of Columbia and San Francisco employ discriminatory policies designed to exploit low-income customers. Each of the largest food chain operators had an official policy of price and quality uniformity. However, to a significant degree, systematic departures from store-to-store price uniformity were discovered.f1d.

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

The effect games can have on of

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

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

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

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

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

FIELD OPERATIONS

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

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

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

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

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

(1) the long term leasing of tires from tire manufacturers by bus companies and the competitive effects thereof ;

(2) the reciprocal patronage and dealings between industrial concerns to the alleged detriment of competing firms and businesses;

(3) the advertising rate structure employed by metropolitan newspapers and the anticompetitive results attendant upon any illegal discriminations and other questionable practices;

(4) deceptive and fraudulent practices perpetrated in the sale of home improvements such as aluminum siding, patios, storm windows, etc.;

(5) the importation of used and reconditioned foreign cars which are sold as new to the American public;

(6) survey of automobile sticker prices in relation to the actual sale price of automobiles to consumers and the trade-in-allowances given;

(7) survey of the operation of the PDS Code (paid during service magazine subscription solicitors code) ; and

(8) survey of pricing practices of major food chains in ghetto areas.

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

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

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

APPROPRIATIONS AND FINANCIAL OBLIGATIONS

FUNDS AVAILABLE FOR THE COMMISSION FOR THE FISCAL YEAR 1969

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

Programs by activities, fiscal year 1969

1. Antimonopoly:
   Investigation and litigation . . . . . $ 6,131,000

APPENDIX (A)

records which Columbia distributed through its operation. The court affirmed that part of the Commission's order prohibiting agreements on royalties paid to recording artists. Although the court also affirmed the Commission's findings

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

Two Robinson-Patman decisions in fiscal 1969 involved the application of the

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

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

While there were no court

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

There were a number of court decisions last year in cases involving other types of deceptive practices under Section 5. In S & S Pharmaceutical Co. (D. 8696), the Fifth

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

There were a number of deceptive practice cases pending in courts of appeals at the close of fiscal 1969: Joseph L. Portwood (D. 8681) in Tenth Circuit (Denver), which involves unfair or deceptive methods in attempting to sell "unordered merchandise"; Lester S. Cotherman (Consolidated Mortgage Co.) (D. 8723) in the Fifth Circuit (New Orleans), involving false advertising of money-lending services; Cinderella Career & Finishing Schools, Inc. of

had

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

APPENDIX (B)

Bureau of Textiles and Furs
Civil Penalty and Criminal Cases

During fiscal 1969 a judgment in the amount of $15,000 with injunction was

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

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

Criminal Cases Concluded

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

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