

FEDERAL  
TRADE  
COMMISSION

For the Fiscal Year Ended  
June 30, 1972

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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 the fifty-eight Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended June 30, 1972.

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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IX.

## **THE YEAR IN SUMMARY**

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Fiscal year 1972 saw a marked strengthening and a consolidation of Commission efforts to carry out its Congressional mandate to protect the American public, both consumers and businessmen, against unfairness and deception in the marketplace.

This concerted effort to ensure maximum utilization and benefit from its limited resources of dollars and manpower has become increasingly urgent in the face of a continued rise in the number of consumer protection matters requiring the Commission's attention under the multiple statutes it administers.

During fiscal year 1972, for example, the Commission issued a sharply increased number of consumer protection complaints and cease and desist orders. Consumer protection complaints were up from 208 in 1971, to 281 in 1972; cease and desist orders, from 199 in 1971, to 273 in 1972.

Complaints specifically involving deceptive advertising under Section 5 of the FTC Act increased. During 1972, the total number of Section 5 cases was 118, compared with 73 in the previous year.

In addition, Flammable Fabrics Act complaints rose from 51 in 1971 to 56 in 1972. Truth-in-Lending complaints reached a high of 89, compared with 29 for the year before.

Under the Commission's reorganization plan of 1970, the twelve Regional Offices were given added authority and responsibility. In fiscal year 1972, the Regional Offices handled 189 cases, compared with 89 in 1971, a sharp rise.



## Consumer Protection

In the general area of consumer protection activity, the Commission in fiscal year 1972 concentrated on consolidating the gains of the year before, while at the same time making further major advances.

First, the overall planning and priority process was both enlarged and refined. Planning and priorities are mandatory, since the Commission must closely monitor its activities to achieve the greatest benefits from the expenditures of its limited resources.

During the year, the Commission developed a number of detailed program planning guides. More are in progress.

Each guide is designed to identify and analyze a specific major consumer problem area concerning which effective corrective action can be taken by the Commission and its staff.

The guides evaluate the major impact and consequences of the unfairness or deception under examination. Attention is given, among other things, to the numbers and kinds of consumers affected, the potential economic and social loss resulting from the malpractice, its geographical dispersion, and the probable effectiveness of a Commission order.

Development of the guides permits the Commission to make rational choices among the many competing demands on its resources. Maximum return for each invested tax dollar can be thus assured.

Second, the Commission pressed forward with its exploration of ways in which Commission orders can be made more meaningful with regard to maximum consumer protection. In selected cases, proposed cease and desist orders were expanded to include the ordering of corrective advertising, the making of refunds, disclosing of product limitations or hazards, door-to-door sales "cooling-off" requirements, and the preserving of defenses for buyers signing negotiable instruments covering contracts for consumer goods and services.

Third, the Commission devoted a major effort toward extending and developing its power to deal effectively with widespread commercial abuses by means of Trade Regulation Rules. The effort was thwarted, at least temporarily, by an adverse court decision. In the absence of this power, the Commission must depend on voluntary cooperation with its Rules by industry members, supplemented by formal complaints against those considered to be the most flagrant offenders.

Therefore, the Commission at year's end is continuing to explore ways of making its Trade Regulation Rule proceedings effective pending appeal from the court's decision.

Fourth, during the year the Commission gave increasing attention to enforcement of its specialized statutes. Particular emphasis was placed on the Flammable Fabrics Act. The Commission has proceeded to enforce the recently established carpet and rug flammability standard, and the groundwork was laid for strict enforcement of the new standard for the flammability of children's sleepwear. Where the public safety is in issue, the Commission has used, and will continue to use, its powers to the utmost.

able, refinement and modification of the program is expected to result in increased usefulness to consumers and competitors. At a minimum, advertisers have been encouraged to examine factual claims carefully prior to their dissemination.

The Commission has also continued to work on planning procedures designed to allocate as rationally as possible the resources it devotes to antitrust litigation. To aid in this task, the Office of Policy Planning and Evaluation, with assistance from the Bureau of Economics, constructed a prototype model which can measure the benefits relative to the costs of alternate antitrust activities. When the model becomes fully developed, it promises to provide a universe of various antitrust problems across a large number of industries so that the Commission can weigh the advantages and disadvantages of pursuing its investigations in certain areas and not in others. Since this is the first major attempt within the Federal government to apply benefit-cost analysis to decision-making in the antitrust area, it represents an important innovation which, if successful, should substantially aid the policy deliberations and actions of the Commission.

Work on the effects of high market concentration continued during the year through both studies and investigations. The emphasis on this structural feature arises from the proposition of economic theory, which has been empirically confirmed, that high concentration can be a serious impediment to price competition. Analysis of the circumstances in which dominance of the market by the few can lead to a deterioration in overall industrial performance, not simply just in price behavior, is very complex. The Commission's efforts in the past year have increasingly sought to develop knowledge about those areas

## **CONSUMER PROTECTION**

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The Commission's activities directly relating to consumer oriented problems are entrusted to its Bureau of Consumer Protection. The Federal Trade Commission Act is the principal source of authority for the Bureau's work. Additional authority is found in the more specialized textile and fur statutes, and statutes specifically governing various aspects of consumer credit, and fair packaging and labeling of consumer goods.

Each of the Bureau's nine divisions specialize in a particular aspect of the overall consumer protection effort. Each Division, however, supports and closely coordinates its work with the work of each of the others in accordance with the policy objectives of the Commission. A unified effort on behalf of consumer interests is thus ensured.

### Compliance

This Division enforces more than 7,500 Commission cease and desist orders issued to prevent false, misleading and deceptive trade practices under the Federal Trade Commission Act; Truth In Lending Act; Wool Products Labeling Act; Fur Products Labeling Act; Textile Fiber Products Identification Act; and Flammable Fabrics Act as amended.

Investigations by the Division to determine whether respondents are complying with the mandates of an order start in many different ways. The Commission may have been dissatisfied with a respondent's initial effort to demonstrate compliance, or a

respondent may not have submitted a compliance report as required by the Commission's orders.

Alleged violations are also brought to the Division's attention by consumer complaints, Congressional inquiries, or the respondent's competitors.

During the past year, the Division initiated 147 investigations to determine the effects of orders issued during the 1960's. One hundred investigative reports have been received and are under review. Additional survey work has been planned for the coming year.

The Federal Trade Commission Act provides for a civil penalty of up to \$5,000 for each violation of a Commission order. When investigation of a respondent's practices discloses violations, the Division prepares the necessary pleadings for certification to the Attorney General, who is requested to bring suit for the recovery of penalties. Nine cases are currently in various stages of litigation in United States courts around the Nation, and five more are pending with the Justice Department. In the past year the courts awarded \$158,000 in civil penalty proceedings initiated by this Division.

### Consumer Education

This Division developed and supervised a consumer education program designed to increase consumer competence in the marketplace and to increase consumer understanding of marketplace problems. Carried out primarily through the Commission's Regional Offices, the program content was limited to subjects related to FTC jurisdiction.

FTC's consumer education program complemented its enforcement activities, with resulting variety of emphases among the various Regional Offices. Major stress was given to the following topics: truth in lending terms and other credit practices, common-

Place market deceptions, unordered and undelivered merchandise, and unavailable supermarket specials. The three primary objectives of the program were:

- Preventive education; such as, how to identify and avoid deceptive business practices and misleading ads; how to take advantage of rights afforded by the truth in lending legislation or FTC actions, etc.
- Remedial education; such as, how and when to speak up to the retailer or to the manufacturer; when and how to report suspected violations of Commission orders or statutes enforced by the FTC.
- Education to increase participation of consumers in FTC Trade Regulation Rule hearings; such as those on holder-in-due-course, and undelivered merchandise.

Seeking consumer viewpoints, several Regional Offices conducted public hearings either on marketplace problems in general, or on specific problems, including talent and modeling agencies, debt collection, and used-car purchasing. Not only were consumer concerns and problems identified but widespread mass media exposure served to warpp42 Tc -0h TD -0roblemsuThe tc.

other governmental and community agencies or groups regularly conducting education programs.

## Evaluation

The Division of Evaluation is, in many ways, the "nerve center" of the Bureau. Its task, in large part, is to develop the Bureau's policy planning. It is thus responsible for carrying out the Commission's directive that the work of the Bureau proceed in a rational, orderly and efficient manner. The "shotgun" approach to consumer problems is thus avoided, and the Bureau is enabled, on a cost/benefit basis, to obtain the maximum amount of consumer protection for each dollar spent.

Analytic Program Guides were developed last year for a number of fields of possible interest to the Commission. Each of the Guides analyzes, among other things, the classes of consumers affected, the economic impact of the practices considered, the effectiveness of the Bureau's policies and educational programs. Each of the Guides also identifies the areas where the Bureau's policies and educational programs are most needed, and suggests ways in which the Bureau's policies and educational programs can be improved. The Guides are available to the public and are being distributed to all interested parties. The Guides are also being used by the Bureau as a basis for developing its policies and educational programs.

## National Advertising

This Division directs its law enforcement efforts toward national advertising practices, with an



from use of an advertised product. For example, consent orders negotiated last year with the six major domestic manufacturers of cigarettes, require that all advertisements of their cigarettes include a clear and conspicuous disclosure of the health hazards of cigarette smoking.

The beginning of fiscal year 1972 also marked the start of the Commission's Advertising Substantiation Program, implemented primarily by this Division. Under this program, advertisers, upon Commission demand, are required to substantiate objectively measurable claims of safety, performance, efficacy, and comparative price. By year's end, the Division sent "Orders to File Special Reports" to major advertisers in the following industries: domestic and foreign automobiles, television sets, air conditioners, electric shavers, cough and cold remedies, toothpastes and denture cleaners, soaps and detergents, and tires. Upon receiving answers to the requests from the industries involved, the Commission places the data on the public record so the consumer may be able to evaluate the support for certain claims. Complaint action has been recommended in several cases in which the substantiation submitted appears to be inaccurate or inadequate. Additional substantiation requests are currently in preparation for issuance to other industry groups.

The effect on the environment of commercial products continued to be a major concern, and advertising based on claims of beneficial product effect was scrutinized carefully throughout the year. In two cases currently in litigation, anti-pollution claims for gasoline were challenged as false. Another company was cited for misrepresentation of the hazards involved in the use of its detergent product and for misrepresentations of government approval and endorsement of the product as safe and non-polluting. Other matters involving representations of environmental impact of a company's practices or products were under consideration at the close of the fiscal year.

The Division in the past fiscal year also organized informational hearings to explore modern advertising practices and the

impact of advertising - particularly television advertising. The hearings, held in the fall of 1971, provided a forum for the presentation and discussion before the Commissioners of existing relevant information in this area and helped to identify areas where additional research would prove useful. The participants included experts in the behavioral and social sciences, in marketing and business administration, in consumer research and advertising, as well as advertising practitioners and consumers. The tremendous volume of information gathered for and during these hearings is now being analyzed. The ultimate goal will be to provide the Commission with a better understanding of advertising and marketing practices so that its charge to protect the public interest by regulating unfair or deceptive advertising can be carried out more effectively.

The Division has continued its close scrutiny of food products advertising. A joint proceeding of the Bureaus of Competition and Consumer Protection challenged, among other things, alleged false and misleading nutritional, health, and weight reducing advertising claims by four major manufacturers of cereals. Another food case concerned false nutritional and health food claims made in advertising of so-called "organic" products.

Product demonstrations on television also continued to be of interest to the Division last year. The advertising of four different products was challenged on the grounds that rigged television demonstrations falsely asserted non-existent differences between the advertised products and competing products. Another case alleged misrepresentations in television demonstrations of the superior drying qualities of an antiperspirant spray.

Final orders were obtained in several sweepstakes cases in which the Commission challenged various deceptive practices in the conduct of sweepstakes and contracts, including misrepresentation of the methods used in awarding prizes and the quantity and value of the prizes awarded.

In addition to its other activities, the Division, under the mandate of the Public Health Cigarette Smoking Act, prepared the

Commission's annual report to Congress on the labeling and advertising of cigarettes. The Commission also twice reported to Congress during the last fiscal year the results of its tests to determine the tar and nicotine content in cigarettes. Tests for the tar and nicotine content of so-called "little cigars" were conducted and will be published early in fiscal year 1973.

### General Litigation

This Division is charged with major responsibility for coping with those unfair or deceptive acts or practices which are outside the purview of the Division of National Advertising.

Door-to-door sales of magazines and encyclopedias were of special concern to the Division during the past year.

Complaints were issued against the nation's first, second, and fourth largest sellers of encyclopedias, door-to-door and by mail.

Two types of door-to-door magazine sales practices were also dealt with by the Division: "paid-during-service" and cash subscriptions.

"Paid-during-service" describes subscription sales made on an installment basis. Typical complaints

Again, as a result of Commission action last year, four consent orders involving cash subscriptions were accepted.

In another area of the Division's concern, so-called multilevel distributorship plans made considerable demands on the Division's enforcement resources. Characteristically, such plans offer two

lines. The Commission has frequently noted the expedience and economy of dealing at once with all firms engaged in a questionable practice, rather than singling out one violator for corrective action while his competitors continue unfettered in the same practices for which he is being held liable.

The work of the Division falls primarily into two major categories: Industry Guides and Trade Regulation Rules.

Industry Guides are interpretations by the Commission of the laws it administers. They represent advance statements to business as to the position likely to be taken by the Commission in the event of litigation over the subject matter covered. Generally, Guides constitute an attempt to head off such litigation in advance by laying down ground rules relating to practices which may result in corrective action by the Commission. Where such action is undertaken, however, it remains the staff's obligation to prove that the specific practice engaged in by the charged company was unfair or deceptive, since a Guide does not constitute an advance finding of the fact but is merely an advisory interpretation.

Trade Regulation Rules, on the other hand, are legally binding upon all parties within the intended scope of the stated principles. Issued only after full open hearings at which all interested parties are given an opportunity to participate, a Rule is always based on a finding by the Commission that the practices in question are inherently unfair or deceptive when engaged in contrary to the Rule's provision.

During fiscal year 1972, the Commission adopted two new Trade Regulation Rules and three new Industry Guides. It also amended an existing Trade Regulation Rule as well as a previously adopted Industry Guide. At the same time, staff effort was invested in five new proceedings relating to proposed Trade Regulation Rules.

Pumps\* and Care Labeling of Textile Wearing Apparel. The first Rule requires that a minimum octane number derived from a formula set forth in the Rule be posted in a conspicuous and permanent manner on gasoline pumps.

The second new Rule requires that a tag or label be affixed or attached to any article of textile wearing apparel, disclosing instructions for the care and maintenance of such article or apparel.

In addition, the Commission amended an existing Rule on Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets so as to clarify rule provisions relating to the disclosure of picture size measurements.

Three new Industry Guides adopted by the Commission during the year were:

Guides for Private Vocational and Home Study Schools, which proscribe the use of unfair and deceptive acts and practices to obtain enrollments.

Guides for Use of the Word "Free" and Similar Representations which require certain necessary disclosures, and apply to all "free" and similar offers, however made, which are conditional upon the purchase of merchandise or services.

Guides for the Decorative Wall Paneling Industry, which deal with disclosures in advertising and labeling that relate to the construction, composition or appearance of industry products.

The Commission also issued Guides for the Feather and Down Industry, which supersede the Trade Practice Rules for this industry originally issued on April 26, 1951. The Guides deal

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\*(On April 4, 1972 in Civil Action No. 1180-71, National Petroleum Refiners Association v. Federal Trade Commission, the U.S. District Court for the District of Columbia ruled that the Federal Trade Commission did not have the authority to issue Trade Regulation Rules and that, therefore, the Commission's rule requiring the posting of octane ratings was null and void. This decision has been appealed and is currently pending in U.S. Court of Appeals, District of Columbia. During the year, Congress considered making a specific grant of rulemaking authority to the Commission. This proposal was framed principally in two pieces of legislation, S. 986 and H.R. 4809.)

generally with disclosures, tolerances; and other representations affecting the advertising and marketing of the industry products.

In addition to the Rules and Guides adopted by the Commission during the fiscal year, work continued at the Division level on five important new proposed Trade Regulation Rule proceedings:

Preservation of Buyers' Claims and Defenses in Consumer Installment Sales. A proposed Rule that relates to the commercial holder-in-due-course doctrine and the problem of preserving consumers' rights against sellers when the products they buy are damaged or perform unsatisfactorily.

Disclosure Requirements and Prohibitions Concerning Franchising. A proposed Rule designed to deal with problems of consumer deception in the soliciting of prospective franchisees.

Undelivered Mail Order Merchandise and Services. A proposed Rule that deals with the problem of undelivered merchandise and would require those who advertise and solicit the purchase of merchandise by mail order to deliver such merchandise within 21 days from receipt of payment or to make prompt

and the transcript of the public hearing in connection with its original proposal in this rulemaking area, the Commission amended and revised the original proposal which had been released for written comment. The proposed Rule provides for certain disclosures to be made in advertising in connection with representations concerning power output, power band or frequency response, or distortion characteristics of sound power amplification equipment.





## Consumer Credit and Special Programs

This Division is charged with developing and coordinating the Commission's consumer protection programs in the broad areas of consumer credit and packaging. Specifically, this includes the Truth-In-Lending Act, the Fair Credit Reporting Act, and the Fair Packaging and Labeling Act.

During the year, the emphasis began to shift away from Truth-in-Lending cases, as the impact of prior enforcement actions continued to promote a high degree of overall compliance. During the three years of Truth-in-Lending compliance activity (the Act's effective date was July 1, 1969), 125 formal complaint cases have been issued by the Commission. These, coupled with staff rendered informal advice and the correction of a substantial number of relatively minor violations (over 45,000) by informal procedures, has permitted a shift in emphasis to other areas, such as the Fair Credit Reporting Act.

Effective near the beginning of fiscal year 1972, the Fair Credit Reporting Act represents the first Federal regulation of the vast "consumer reporting" industry, composed primarily of credit bureaus and investigative reporting companies. The staff responded to hundreds of industry and consumer inquiries and commenced several investigations which are expected to be culminated in the coming months.

During the year, the first Commission-issued formal Interpretations under this Act were issued. This new procedure provides a means for rendering formal legal advice by the Commission and was instituted because of the absence of statutory authority to implement the FCRA by administrative regulations. The first such Interpretations published for public comment in March 1972, prompted over 1,000 comments - enough interest to warrant a public hearing, which was scheduled for July 20 and 21, 1972.

The staff's FCRA enforcement program included several surveys during the year, including one covering all major life

insurance companies, since they are the Nation's primary users of investigative-type consumer reports. Another survey consisted of inquiries from consumers who had been notified that their application for credit had been denied because of information in their credit bureau files. These surveys proved to be extremely valuable in determining the impact of this new law and in providing a basis for the development of recommendations for legislative improvements.

In the area of credit cards, the staff surveyed a large number of major credit card issuers to determine the extent of their compliance with the new amendment to the Truth In Lending Act banning unsolicited credit cards and limiting a consumer's liability in the event of lost or stolen cards.

The Commission issued a public statement reminding all credit card issuers not to persist in stating on the back of credit cards and on billing statements that consumers are liable for unauthorized purchases until the card issuer is notified that the card was lost or stolen. The first formal complaint and order involving unsolicited credit cards was issued during the past year.

In related activities involving credit cards, the Commission challenged one of the Nation's largest credit card registration services for alleged misrepresentations as to the value of its services after the effective date of the new amendment. The company is currently appealing to the full Commission a Hearing Examiner's finding of law violations.

Other consumer credit cases involved credit billing practices; alleged false advertising of mail order loans; unsolicited loans by mail; advertising and sales practices in connection with the rental of television sets in low-income areas; door-to-door magazine sales practices; and land sales practices.

With regard to packaging, the Commission issued final regulations dealing with reduced-price claims involving "cents-off," "economy size," "introductory offers," and related claims. The staff broadened the scope of its packaging compliance program by

conducting a preliminary study in the area of toy packaging practices.

One special project was begun during the year, with a substantial amount of preliminary investigative activity and planning work accomplished. This is a study of the impact of creditors' remedies on consumers, with a special emphasis upon "standard" contractual provisions that are relied upon by creditors to the detriment of low-income consumers. The coming year should see this project develop into a full-scale program having major implications for affected segments of the marketplace.

During the year, an annual report on packaging was submitted to Congress, and on Truth in Lending to the Federal Reserve Board.

## Textiles and Furs

Approximately 90 percent of the fiscal year 1972 man-hours of the Division of Textiles and Furs was spent on activities related to the Flammable Fabrics Act, including enforcement of formal cases, cooperation with the Department of Commerce in the promulgation of new standards of flammability, and investigation of burn injury cases.

Although most new cases alleging violations of the Wool Products Labeling Act, the Textile Fiber Products Identification Act, or the Fur Products Labeling Act are being assigned to the Regional Offices, approximately 10 percent of the Division's time continues to be spent on those matters. During the fiscal year 1972, rulemaking proceedings were initiated under the Textile Act upon four applications by fiber producers for generic names for textile fibers claimed not to fall within existing generic classifications.

To facilitate its enforcement of the Flammable Fabrics Act, and to answer questions being raised by respondents, the Commission published in the Federal Register on November 10, 1971, a

statement of its Policy for Enforcement of the Flammable Fabrics Act, setting forth the enforcement policy, objectives and procedures. The Commission also announced that a toll-free telephone number would be available to consumers who wished to know the names of retailers who purchased flammable goods from respondent manufacturers or importers. The toll-free number was established on November 30, 1971, and has been used by consumers not only for information about specific formal matters but also for general information concerning products subject to the Flammable Fabrics Act.

During the first month of the past fiscal year, the Division began its enforcement of the Standard for the Surface Flammability of Carpets and Rugs (DOC FF 1-70). The Division inspected carpet mills, and found that a substantial amount of carpet was being manufactured which did not conform to the Standard as promulgated by the Department of Commerce.

Extending the inspection program to carpet mills throughout the country, the Division's efforts resulted in over 100 formal cases involving violation of the Flammable Fabrics Act. The Division also engaged in extensive industry counseling and public education about the Standard.

In December 1971, the Division began enforcement of the Standards for the Surface Flammability of Small Carpets and Rugs, (DOC FF 2-70). Here, too, a considerable amount of industry counseling and public education was necessary. This Standard applies to carpets and rugs less than 4 ft.-by-6 ft. in size and requires that such carpets either meet the flammability standards or bear a cautionary label warning the consumer that they do not meet the minimum flammability requirements.

The Commission last year approved an alternative procedure for washing flame-retarded hide rugs before testing under the carpet flammability standard. The procedure provides a way to determine the permanency of the flame-retardant treatment. The Commission also tentatively approved an alternative washing procedure for Flokati rugs.

The Division worked closely with the Department of Commerce and private industry concerning problems associated with the enforcement of the Standard for the Flammability of Children's Sleepwear, (DOC FF 3-71 became effective on July 29, 1972). Early in 1972 the Commission had issued an enforcement policy statement relating to the Children's Sleepwear Standard.

Following publication of the Department of Commerce's Flammability Standard for Mattresses, (DOC FF 4-72) in June 1972 (to become effective in June 1973), the Division began a detailed evaluation of the Standard and met with many industry members affected by the Standard.

The Division continued its enforcement of Commercial Standard 191-53, the Flammability Standard for Wearing Apparel, including matters relating to compliance with the present flammability standard by sleepwear manufacturers and sleepwear fabric manufacturers.

The Division investigated some 79 burn injury cases brought to its attention through various sources, including fire officials, newspaper reports, Congressional inquiries, and the burn victims themselves.

The Division Was also involved in rulemaking proceedings under the Flammable Fabrics Act regulations relative to Reasonable and Representative Tests and Recordkeeping Requirements Relating to Carpet Guarantees under DOC FF 1-70.

The Textiles and Furs Laboratory, relocated during the year in larger quarters in the main Commission Building, greatly increased the number of tests performed in determining the flammability of products subject to the Flammable Fabrics Act and for which the Department of Commerce has promulgated standards. The laboratory has also continued its testing for fiber content of fibers, yarns, and fabrics subject to the labeling Acts enforced by the Commission. Fur products represented as "natural" were also analyzed to ascertain whether they were dyed or color-altered.

During fiscal year 1972, the laboratory made the following number of tests and analyses:

<u>Wool</u>	<u>Textile</u>	<u>Fur</u>	<u>Flammable Fabrics</u>	<u>Total</u>
71	81	75	3,503	3,730

A total of 1,752 Continuing Guaranties were filed with the Division under the Wool, Textile, Fur and Flammable Fabrics Acts. There are now approximately 37,200 such guaranties on file and available for inspection by the public. A confidential file, also maintained by the Division, now records over 40,000 registered identification numbers under the Wool, Fur and Textile Acts, with the

conflicts, and suggest uniformity. In addition, local programs designed to prevent trade restraints, discriminatory trade practices, and anti-competitive methods were reviewed.

Second, regular liaison was established with the President's Office for Consumer Affairs, the Department of Justice, the Securities and Exchange Commission, the Postal Service, and members of the Attorneys General Committee on Consumer Affairs, on problems of general interest and methods of cooperation.

Third, work continued on the processing of a continuous flow of requests for information on consumer protection complaints and legal research matters from state and city officials throughout the Nation. Finally, there was increased cooperation with other Federal agencies in connection with their consumer protection work for cities, counties, and states that wished to establish local units of consumer protection as part of their official structure of government.



APPENDIX II-1

DIVISION OF TEXTILES AND FURS  
OPERATIONS AND STATUS REPORT FOR YEAR ENDING JUNE 30,1972

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## Hearing Aids

Concern for consumer purchasing power was a motivating force behind the Bureau's investigations into the hearing aid industry. Complaints concerning the high price of hearing aids prompted investigations into various distribution practices to determine whether these practices contribute to or maintain the allegedly high prices.

## Cereal Industry

Last year the Bureau, assisted by the Bureaus of Economics and Consumer Protection, devoted significant resources to an investigation of the ready-to-eat cereal industry. The investigation resulted in a complaint, now in adjudication, alleging that monopoly structure of the industry has been created and maintained through various practices, including the use of deceptive advertising. The complaint is challenging the alleged unfair and deceptive practices, as well as the resultant market structure.

## Shopping Centers

Shopping centers are a relatively recent development in retail marketing and have assumed a vital role in the sale of every kind of consumer product. Their rise to economic significance has been made possible by the growth of suburban areas around the Nation's major cities and the development of beltways permitting rapid movement by automobile. The Commission issued two complaints last year alleging that restrictive provisions in shopping center cases may foreclose competition. Additional efforts are being devoted to developing a program to eliminate such restrictive agreements where they are found to affect competition adversely.

## Franchising

The Bureau's concern for the independent businessman was also reflected in its activity in the franchising area. Restrictions which allegedly limit franchisees' business decisions were challenged in a complaint, and the Bureau began several investigations to learn whether franchisor restrictions upon the purchasing of materials or supplies are unlawful restraints.

## Fair Trade

In keeping with its continuing interest in abuse of the fair trade exception to the antitrust law, the Bureau of Competition, during fiscal year 1972, began a comprehensive review of the fair trade programs of several national manufacturers. One such investigation resulted in a complaint.

## Robinson-Patman Enforcement

Potential Robinson-Patman violations often are discovered during investigations into other complaints and industry programs. Thus, the Bureau's existing investigations into shopping centers, small and minority business programs, auto parts distribution practices, and zone pricing by the petroleum industry, all involved simultaneous Robinson-Patman analysis.

During fiscal year 1972, several important cases involved alleged Robinson-Patman violations, including store brand and national brand marketing practices. Eight cases involving Robinson-Patman matters currently are in adjudication.

## Automobile Parts

The Commission has long had an interest in the auto parts industry, especially with regard to so-called "crash parts." During the past fiscal



pliance must first be obtained and processed, followed by investigations to see if there is order compliance.

Once the Bureau determines that an order has been violated, it starts a civil penalty action by certifying the facts to the Department of justice, which in turn files a case in an appropriate district court. Although the Bureau has been active in its compliance duties, during the past year it has also vigorously pursued civil penalty actions.

An important tool for assuring compliance is the imposition of a substantial civil penalty, and the Bureau has been seeking this remedy on the theory that failure to divest, or forbidden acquisition with subsequent holding, are continuing violations. The District Court in the Tenth Circuit ruled against the Commission in U.S. v. ITT Continental, a decision currently on appeal. The Bureau has continued its efforts in U.S. v. Beatrice Foods, a case in which over \$2 million in civil penalties is being sought.

#### USDA Liaison

To avoid unnecessary duplication of effort by the two agencies, the Bureau conducts and maintains liaison activities for the Commission with the Packers & Stockyards Division of the, U.S. Department of Agriculture, which has related responsibilities with respect to meat packers.

#### Accounting

During fiscal 1972, accountants in the Bureau furnished accounting services in connection with 16 price discrimination and discriminatory allowances cases, 23 anti-merger cases and 13 cases involving unfair methods of competition and deceptive practices. Accounting services were also furnished to the Bureau of Con-

sumer Protection in connection with hearings on trade practice rules for franchising.

The Bureau accountants also compiled and prepared for publication the Report of the Federal Trade Commission on Rates Of Return in Selected Manufacturing Industries 1961-1970, and preliminary work was done on the report for 1962-1971. This report is used by other government agencies, economists, universities also

## **ECONOMICS**

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Professionally competent research and advice on matters requiring well-reasoned economic analysis are indispensable to the Commission's efforts in the areas of consumer protection and anti-monopoly.

In creating the Federal Trade Commission, Congress intended that economic reporting and analysis would be instrumental in efforts to curb monopoly power.

### **Economic Studies and Reports**

Since its peak in 1969, the downward trend in merger activity has continued, justifying the Bureau's increased emphasis on studies and analyses of the effects of high concentration in many industries.

Appendix IV-1, page 44, indicates that substantial proportion of manufacturing industries is concentrated; i.e., where four firms account for 50 percent or more of sales. A considerable body of economic evidence shows that pricing is likely to be less than competitive in such industries. In the future, the Bureau's principal effort will be directed towards helping the Commission determine what should be done about industries characterized by high concentration.

## Statistical Reports

During the past fiscal year, the Bureau issued two annual statistical reports on merger activity. Entitled *Current Trends in Merger Activity, 1971* and *Large Mergers in Manufacturing and Mining 1948-1971*, they serve as standard statistical sources for researchers in the merger fields.

As noted earlier, mergers continued their downward movement from the peak reached in 1969. In manufacturing and mining combined, the preliminary estimate of acquisitions was 1,011 in 1971, down from 2,307 in 1969 and 1,351 in 1970 (Appendix IV-2, page 45). The preliminary estimate of the dollar value of assets acquired was \$2.5 billion in 1971, in contrast to \$11.4 billion and \$6.3 billion in 1969 and 1970, respectively.

The services sector, second only to manufacturing as the most important area of merger activity, experienced the same, though more moderate, downward trend. Therefore, services' relative contribution to overall merger activity increased to around 50 percent, up from about 33 percent in 1969.

Acquisitions involving very large firms, those with over \$100 million in assets, showed a continuation of the decline begun in 1969, when 20 were recorded. In 1970, 12 large-company acquisitions were recorded. Four of these were spin-offs from existing firms. In 1971, only five took place, two of these spin-offs from existing firms.

The Bureau of Economics also monitors changes in aggregate concentration, the share of total corporation assets in the manufacturing sector held by the largest 100 and 200 manufacturing corporations. In 1969, the respective percentages were 48.2 percent and 60.1 percent; in 1970, the respective percentages were 48.5 percent and 60.4 percent.

## Economic Reports

In fiscal year 1972, one staff economic report was issued, entitled, Interfuel Substitutability in the Electric Utility Sector of the U.S. Economy. Also approved for release was a statistical report entitled Value of Shipments Data by Product Class for 1,000 Largest Manufacturing Companies of 1950. This report contains the underlying data for the Report of the Federal Trade Commission on Industrial Concentration and Product Diversification in the 1,000 Largest Manufacturing Companies: 1950, (January 1957).

The release of the backup data underlying the FTC's earlier report, referred to above, will provide valuable raw material for additional studies to be undertaken by academic scholars interested in the area of industrial organization. The Commission's willingness to make available the basic data behind a study represents a desire to broaden the participation in research, a necessary undertaking if knowledge on critical matters affecting antitrust and consumer protection policy is to be advanced.

## Concentrated Industries

The Commission has approved studies of electrical machinery, autos, prescription drugs, and the energy sector. In each, a particular issue is being examined. For electrical machinery, the Bureau will make an examination of the efficacy of the antitrust litigation of 1960 in stopping the price-fixing conspiracy. Some feel that unless there is a reduction in concentration, price coordination will continue in markets like electrical equipment.

the industry. The policy would, however, increase output and bring with it the attendant effects of congestion and pollution. Therefore, the study of autos will examine the impact upon the industry of the Environmental Protection Agency's efforts to reduce and eliminate these social costs. Such information is critical to an intelligent determination of appropriate antitrust policy.

In the prescription drug study, the focus will be on the impact of expiring patents on sales promotion costs. It is alleged by many students of the industry that patents are a major barrier to new entry. When patents expire, therefore, more competition should arise, unless heavy outlays on sales promotion substitute for the absence of patents.

In the energy area, one structural study is completed and the remaining one is near completion. The performance studies, the effect of oil-company acquisitions of non-oil fuel producers on research and development and pricing, are in the planning stages.

### Policy Planning

In fiscal year 1972 the Bureau began intensive work to develop a model which will help the Commission plan a rational allocation of resources in its antitrust litigation. This work is well under way, and the initial results indicate a potential for considerable success.

### Economic Evidence

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The Bureau's Economic Evidence staff during the past fiscal year was active in over

The Premerger Notification Program completed its third full year





assets of all 200,000 manufacturing <sup>1</sup> corporations in the United States. These figures compare with 102 corporate manufacturers, each with assets exceeding \$1 billion, which accounted for 48 percent of the total assets of all manufacturing corporations two years earlier and whose total assets average \$2.6 billion. (See FTC Annual Report 1970, Table 2, p. 48.)

Profit rates (rates of return) slipped from levels reached in the second quarter of 1971, but remained above the low point reached in the fourth quarter of 1970. Profit rates of all manufacturing corporations on stockholders' equity and sales, both before and after taxes, for each quarter in the 1961-1971 period, are given in Appendix IV-4, page 47. This appendix shows the quarter-by-quarter profit rates from the first quarter 1961 through to the second quarter 1966 peak to the fourth quarter 1970 through, and the profit rates for 1971 and the first quarter in 1972.

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<sup>1</sup> The total asset figure in Appendix IV-3, page 46, arises from <sup>n</sup>



APPENDIX IV-2

MANUFACTURING AND MINING FIRMS ACQUIRED  
1948-1971

EXHIBIT - TEXT NOT AVAILABLE - SEE IMAGE

## APPENDIX IV-1

### Distribution of Manufacturing Industries by 4-Firm Concentration - Ratio Quartiles, 1966

EXHIBIT - TEXT NOT AVAILABLE - SEE IMAGE

Note: The manufacturing sector is composed of 417 industry categories. Excluded from the above tabulation are: 15 industry categories composed of products "not elsewhere classified" within major industry groups; 18 local or small regional market industries; and the newspaper and periodical industries. The Census did not publish 1966 concentration ratios for 29 industries. For these 29 industries, 1963 concentration ratios were used.

Source: Annual Survey of Manufacturers: 1966, Value-of Shipment Concentration Ratios by Industry, U.S. Bureau of the Census. See also, Studies by the Staff of the Cabinet Committee on Price Stability, January 1969, p. 57.



APPENDIX IV-3

EXHIBIT - TEXT NOT AVAILABLE - SEE IMAGE

APPENDIX IV-4  
Profit Rates of All Manufacturing Corporations 1961 - 1972

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## **REGIONAL OPERATIONS**

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As a Federal law enforcement agency with responsibility for regulating many types of business activities throughout the Nation, the Commission maintains, in addition to its central headquarters in Washington, D.C., Regional Offices in various major metropolitan areas. The Commission has 12 Regional Offices, which operate under the general supervision of the FTC Executive Director. These Offices are located in Atlanta, Boston, Cleveland, Chicago, Dallas-New Orleans, Kansas City, Los Angeles, New York, San Francisco, Seattle and Washington, D.C. The Commission also maintains 12 smaller subordinate offices in cities located within the above regions. (See pages iii-iv.)

Responsibility for carrying out the Commission's mandate to preserve free and fair competition is shared by the Regional Offices and headquarters. To facilitate coordination of their respective activities, the Commission in fiscal year 1972 established the Office of the Assistant Executive Director for Legal Coordination. This office is responsible for planning, coordinating and reviewing all consumer protection and antitrust functions of the Regional Offices.

At present, about one-third of the Commission's staff is located in Regional Offices, including approximately 145 lawyers, 100 consumer protection specialists, and 135 clerical personnel. Consumer protection specialists, first used on a large scale in fiscal 1971, have increasingly handled the bulk of the work involved in business and consumer education, textile and fur, flammability, and Truth-in-Lending investigations, and Federal-state coordination activities. Perhaps most importantly, they actively participate with regional attorneys in the conduct of investigations and litigation.

## Casework and Investigations

A major goal of the Commission is to achieve more effective participation of Regional Offices in Commission law enforcement activities. Regional Offices have been delegated authority to initiate preliminary investigations; to conduct investigational hearings; to issue subpoenas and accept returns; to negotiate consent settlement agreements for the Commission's approval; to draft proposed complaints for administrative litigation; and to serve as trial counsel in litigation proceedings.

Regional Offices also continue to perform investigations at the request of the Commission's Bureau of Competition and the Bureau of Consumer Protection.

The number of cases handled in Regional Offices rose dramatically during the past year, as evidenced by Appendix V-1 on page 52.

Significantly, in fiscal year 1972, Regional Office attorneys assumed the duty of handling trials of cases, either on their own or in conjunction with attorneys from headquarters. A prime example is the favorable initial decision obtained by regional attorneys in a case involving the first Irrigated order requiring respondent to make restitution of the money of defrauded consumers. Favorable trial results have been obtained in other cases involving unfair and deceptive practices and representations in connection with shipments of unordered greeting cards, and misrepresentations regarding the effectiveness of an automotive safety device.

In addition to casework, Regional Offices devoted major efforts during the past year to uncovering problem areas that might need corrective action by the Commission. Investigations, sometimes accompanied by public hearings, were undertaken into such diverse matters as the practices of traders on the Navajo and Hopi Indian Reservations; restrictive practices on the part of hospital supply companies; vocational and correspondence schools

and employment placement services; talent agencies; retail gasoline marketing; contracts for future consumer services; debt collection practices; marketing abuses in the ghetto; price fixing by title insurance companies; new and used-car dealer practices; retail merchandising of carpets; and restrictive leasing practices of shopping centers.

In addition to their law enforcement activities, Regional Offices in fiscal year 1972 continued to be heavily involved in other functions essential to the work of the agency. These included coordination and liaison activities with Federal, state and local authorities and groups active in consumer protection; implementing business and consumer education programs; and processing literally thousands of individual complaints from aggrieved consumers and businessmen.

APPENDIX V-1

FTC REGIONAL OFFICE CASELOAD  
FOR FISCAL YEAR 1972

	FY 1971	FY 1972
Cases approved in FY 1971 and carried over to FY 1972 .....		49
Cases submitted to the FTC Headquarters by Regional Offices .....	59	126
Cases transferred to Regional Offices from Headquarters or within the Regional Offices .....	30	18
Cases withdrawn .....	0	4
Total .....	89	189*
Cases settled by Cease and Desist Orders .....	35	151
Cases pending negotiation by Consent Settlement .....	49	26
Cases in litigation .....	5	11
Total .....	89	188*

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\*There were seven investigation files which resulted in four consent complaints and two contest complaints.

## HEARING EXAMINERS

Hearing examiners try cases in which respondents contest allegations that they have violated one or more of the laws administered by the Commission. Sitting as independent administrative trial judges, examiners initially handle all adjudicative matters for the agency, presiding over hearings and receiving testimony and documentary evidence.

The Commission's antitrust and consumer protection cases typically raise complex legal, economic, and scientific issues, and frequently involve practices by major firms which are nationwide in scope. Conducting the trial of such cases is a substantial undertaking i n Tw (th Tj 2.4 60 TD 0.010189Tc (a)nomsaini) Tj 524 Tj 8.64 0 T

APPENDIX VI-I

WORKLOAD OF FTC HEARING EXAMINERS<sup>1</sup>  
Fiscal Years 1971 & 1972

	Fiscal Year 1971	Fiscal Year 1972
<u>Complaints</u>		
On Hand at Beginning of Year .....	38	47
Received .....	34	42
Remanded .....	6	17
Total .....	78	90
<u>Dispositions</u>		
Initial Decisions .....	19	21
Other <sup>2</sup> .....	12	17
Total .....	31	38
On Hand at End of Year .....	47	52

<sup>1</sup> Includes only FTC cases; does not reflect work for other agencies.

<sup>2</sup> Includes cases in which litigation before hearing Examiners was concluded before entry of initial decisions - for example, cases settled by consent order and cases in which examiners filed reports and recommendations.



various courts of appeals and district courts. (See Appendix VII-I on page 59.)

In response to requests from Congressional Committees and the Office of Management and Budget, the General Counsel's Office prepared reports which were submitted to the Commission on 120 bills pending in Congress. The Office also helped draft statements for the Chairman and various members of the staff who testified before Congressional Committees.

During the past year, the Office worked very closely with



- Ingredient labeling of food products;
- A uniform system of quality grades of food products;
- Taxing of cigarettes based upon tar and nicotine content;
- A health warning in all cigarette advertising;
- Improved automobile safety; and
- Ad substantiation

The second largest category of legislation on which the Commission submitted reports either favoring or opposing the bills in question, covered legislation designed to maintain competition. Included in this category were bills which would:

- Make ( ) 1i24 0 TD 0.0254 Tc sI44 0 TD 0 0247 Tc (bsale) Tj -21.0 TD 0 Tc ( ) Tj 3I44 0 TD 0 0236 Tc ( )
- tProhibit Tj 3.576 0 TD 0 Tc 0

On April 20, 1972, the Commission announced the creation of a task force on industry self-regulation chaired by the Assistant General Counsel for Legal Services. The task force was created in response to recommendations contained in a preliminary staff study of industry self-regulation through product standards, certifications and seals of approval. Its membership includes representatives from the Bureaus of Competition, Consumer Protection, Economics, and the Office of General Counsel.

A precis of the preliminary staff study was made available to the public for the purpose of eliciting comments which would aid the task force in accomplishing its mission of exploring more fully the implications of industry standardization and certification programs.

Ultimately, the task force is to submit recommendations to the Commission concerning the procedures that standards-making bodies and certifiers of consumer products should follow in developing, maintaining and administering their programs; the Commission's ultimate role in the area of self-regulation; product categories in which the availability of additional performance information would benefit consumers in making rational choices in the marketplace; certifiersTj 13.56 Tc (procedures) Tj -41.64 0 TD 0.0187 Tc ndations

## APPENDIX VII-I

### FTC CASES IN THE COURTS

This Appendix summarizes the significant Federal Trade Commission cases handled by the Office of the General Counsel in the courts during fiscal year 1972, together with a brief discussion of what is involved in each case or group of cases.

### RESTRAINT OF TRADE CASES

The most significant court decision in fiscal year 1972 was the Supreme Court's decision in Federal Trade

Two important Section 5 restraint of trade cases were pending in courts of appeals at the close of the fiscal year: Golden Grain Macaroni Co. (D. 8737), in the Ninth Circuit (San Francisco), involves a Commission determination that a series of acquisitions of stock and assets of competitors violated Section 5 (although such practices were found not to constitute an attempt to monopolize as charged in the complaint). The Commission has ordered divestiture of the acquired stock and assets.

In National Association of Women's and Children's Apparel Salesmen (D. 8691), in the Fifth Circuit (New Orleans), review is sought of the Commission's finding that respondents violated Section 5 by using certain restrictive practices in connection with the conduct and operation of trade shows.

In the area of discriminatory pricing practices under the Robinson-Patman Act the Fifth Circuit (New Orleans) in Colonial Stores, Inc. (D. 8768) held that a chainstore buyer that induces and receives discriminatory advertising allowances prohibited by Section 2(d), may not, in order to avoid violating Section 5 of the FTC Act, rely upon a supplier's representation that it makes proportionally equal allowances to all the buyer's competitors, when the buyer did not otherwise inquire into the matter.

In Nabisco, Inc. (D. 5013), the Fifth Circuit (New Orleans) agreed with the Commission's determination that a 1944 cease and desist order was a consent order, set aside an order issued in 1954 modifying the consent order, and vacated the court's stay of enforcement proceedings, thus freeing the Commission to consider what future action, if any, might be appropriate.

In the field of illegal mergers (Section 7 of the Clayton Act), the most significant court action in fiscal year 1972 was the Eighth Circuit's (St. Louis) decision in Mississippi River (D. 8657). The court affirmed and enforced the Commission's order which requires divestiture of a number of ready-mixed concrete companies. The case presented a unique challenge to vertical mergers in that the respondent first acquired the ready-mixed concrete



enforced a Commission cease and desist order which required a seller of office supplies to furnish the buyer with a copy of the order before shipment. The Supreme Court denied certiorari in the Star Office Supply case.

In Marco Sales Co. (D. 8770) the Second Circuit (New York) set aside a Commission order to cease and desist from a lottery punchboard scheme and remanded the case to the Commission, affording the Commission the opportunity, to explain the difference between that punchboard scheme and the schemes approved in the Commission's Trade Regulation Rule on Games of Chance in the Food Retailing and Gasoline Industries.

Pending deceptive practice cases in courts of appeals at the close of the fiscal year included: Eastern Detective Agency, Inc. (D. 8793) in the District of Columbia Circuit involving misrepresentations about a training school; LaSalle Extension University (D. 5907) in the Seventh Circuit (Chicago) involving misrepresentation about a correspondence school; Standard Educators, Inc. (D. 8807) in the District of Columbia Circuit involving misrepresentations in the sale of encyclopedias; Zale Corporation (D. 8810) in the Fifth Circuit (New Orleans) involving violation of the Truth In Lending Act, and Skylark Originals (D. 8771) in the Third Circuit (Philadelphia) involving certain deceptive practices in connection with a mail-order business.

#### SUITS FOR ENFORCEMENT BROUGHT BY THE COMMISSION

During fiscal year 1972, the Commission filed a petition for temporary injunction, temporary restraining order, and other equitable relief under the Flammable Fabrics Act against a manufacturer of carpets, James Carpet, Inc. and James O. Smith, (D. 8876). The United States Court for the Northern District of Georgia issued a temporary restraining order, which is now in

effect pending the completion of administrative proceedings before the Commission.

Several courts of appeals upheld the Commission in requiring the filing of special reports pursuant to Section 6(b) of the Federal Trade Commission Act.

In *Litton Industries* (File 691 0629), the Ninth Circuit (San Francisco) affirmed an order of the United States District Court for the Central District of California, granting in part the Commission's application for enforcement. The Ninth Circuit held that Litton, a conglomerate, must respond to the Commission's request for a special report in connection with a general investigation of conglomerates, notwithstanding that Litton was involved in a case before the Commission challenging one of its acquisitions. The court held that the overlapping investigation and prosecution did not constitute a denial of constitutional due process.

In *Genuine Parts Company* (File 671 0673) the Fifth Circuit (New Orleans) affirmed an order of the United States District Court for the Northern District of Georgia (in an action brought by Genuine Parts on complaint for declaratory  
United States









tive complaints, the United States District Court for the Northern District of Illinois, Eastern Division, entered judgment for the Commission in part and dismissed the complaint in all other respects. The case has been appealed to the Seventh Circuit (Chicago).

In *Sydney N. Floersheim* (D. 8721), the United States District Court for the District of Columbia, in denying the Commission's motion to dismiss, ruled that the Commission's rejection of certain "debt collection" forms was a final agency action subject to court review, although the court upheld the Commission on the merits. The court also ruled that judicial review of the rejected compliance report must be taken at petitioner's risk and denied to stay of the penalty provisions of Section 5(l) of the Federal Trade Commission Act. Plaintiff has appealed to the District of Columbia Circuit.

In *Coca Cola Company, et al.* (D. 8824) the United States District Court for the Northern District of Georgia denied the Commission's motion to dismiss a complaint for injunctive relief and declaratory judgment, challenging the Commission administrative proceeding to require Coca Cola to award prizes to all winners of its contests.

Several recent actions have been initiated against the Commission. In *Tyson's Corner Regional Shopping Center, et al.* (D. 8886), in the United States District Court for the District of Columbia, plaintiffs are seeking declaratory judgment and a preliminary injunction challenging the Commission's administrative proceedings against certain restrictive leasing practices in the operation of a large shopping center. In *John Spector*, plaintiff is seeking declaratory judgment and injunctive relief challenging the Commission's investigation of his business.

Several other actions instituted against the Commission (and the Board of Governors of the Federal Reserve System) challenged the validity of various portions of Regulation Z promulgated under the Truth In Lending Act. In *N.C. Freed Co. and International Roofing Corp.* (File 99-90) the United States District

Court for the Western District of New York held as invalid and null and void section 226.9(a) requiring notice of a "three day rescission" right in transactions where a "security

## POLICY PLANNING AND EVALUATION

The Office of Policy Planning and Evaluation was established as a result of the Commission's internal reorganization of 1970. The establishment of that Office reflected the Commission's awareness that one of its most important needs was to plan its

- Nature of industry and product concerned;
- Size and relative market significance and geographic area affected;
- Demographic characteristics of affected consumers;
- Nature and amount of public benefit expected to result from successful enforcement activity.

The CAES was designed also to provide the basic framework for future use as a management tool to track automatically the progress of individual enforcement activities.

The Office also developed a system by which the Commission's actual use of its resources,also5

- Demographic expenditure data relating to given groups of consumers;
- Number of complaints;
- Health and safety factors;
- Relative importance of advertising and consumer credit.

These quantitative data, when complete, will form the basis of a comprehensive data base or library, providing for Commission planning a basic quantitative information input. By comparing present and proposed courses of action with the competitive and consumer characteristics associated with the area of such activity, recommendations generally reflecting cost/benefit measurements can be formulated to guide Commission enforcement activity. This is essentially what the inventory and benchmark tools have been designed to accomplish.

During the year, the Office of Policy Planning also continued the preparation of selected analytical program guides giving detailed plans for various major areas of Commission activity. These guides state the objectives of actual or proposed enforcement activity in their areas, contain specific information on market structure, the buyer and seller behavior which is relevant to consumer or competitive problems in the area, the extent to which the area is susceptible to treatment under Commission laws, the estimated cost of enforcement, the impact that this type of enforcement could be expected to have on consumers and competitors, the possible relevance of private litigation, and a comparison of various means of attaining enforcement objectives, with a proposed selection of the best means and explanation of criteria for making that choice.

It is anticipated that when complete, the analytical program guides for the major areas of Commission responsibility will provide staff members with specific Commission guidance for standards of case selection and will lay down methods and standards for evaluating progress made toward achieving the objectives of the programs. Analytical program guides have been

prepared by the Office and the Bureaus of Consumer Protection and Competition for several major areas of



seen when the budgets for 1962 and 1971 are compared in terms of 1958 dollars: \$8.8 million and \$11.0 million, respectively, for an increase of only 25 percent over 10 years.

This increase can be compared directly with an increase in GNP (in 1958 dollars) of 40 percent; an increase in total personal consumption expenditures of 45 percent; or an increase in durable goods consumption expenditures of 82 percent. In addition, during the period 1960-1968 (most recent data available), corporations increased from 1,141,000 to 1,542,000, a growth of 35 percent. The amount of advertising expenditures (1960-1970) increased 66 percent. The number of mergers (1960-1969) increased 187 percent. Of these mergers, 446 involving assets of \$10 million or more occurred in 1968-1970 alone. Total assets involved for these three years exceeded \$29.7 billion.

The Department of Commerce has estimated the growth of manufacturing over the period 1969-1980 to be 49 percent; wholesale and retail trade, 63 percent; and the total 120.0 percent.

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**FUNDS AVAILABLE  
TO THE COMMISSION  
DURING FISCAL YEAR 1972**

For fiscal year

U.S. GOVERNMENT PRINTING OFFICE : 1972 0 - 488-792