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Annual Report of the
FEDERAL TRADE
COMMISSION
1975

Annual

Report

of the

FEDERAL

TRADE

COMMISSION

For the Fiscal Year Ended

June 30, 1975

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(As of June 30, 1975)

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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 sixty-first Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended June 30, 1975.

By direction of the Commission.

CALVIN J. COLLIER,
Chairman.

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

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THE YEAR IN SUMMARY

With its fiscal 1975 budget, the Commission began making resource allocation decisions on a programmatic basis. It took steps to introduce cost/benefit analysis into resource planning decisions and embarked on a management improvement program designed to

issued by the Commission. In addition, during this year, the Commission also began designing a program to codify into trade regulation rules the definitions of unfair or deceptive conduct previously developed in individual case litigation, its industry guides, and trade regulation rules.

FISCAL YEAR 1975 PROGRAM ACCOMPLISHMENTS

Major program accomplishments for the Commission for fiscal year 1975 are discussed by mission as follows:

- MAINTAINING COMPETITION
- CONSUMER PROTECTION
- ECONOMIC ACTIVITIES
- EXECUTIVE DIRECTION AND POLICY PLANNING
- ADMINISTRATION AND MANAGEMENT

In fiscal 1975, the Commission issued 31 complaints and 28 final orders in the competition area, as compared with 28 complaints and 26 final orders in fiscal 1974. The litigation workload included 49 matters in adjudication at year-end. In addition, compliance efforts in fiscal 1975 resulted in 18 divestitures under seven different Commission orders. Through prosecution of civil penalty actions for failure to comply with Commission orders, over \$4 million in penalties were assessed or affirmed.

As a result of careful review of all pending investigations under comprehensive evaluation procedures, a number of unpromising files were closed, reducing the total of open formal antitrust investigations to less than 130.

The discussion following covers (1) a survey of accomplishments in each enforcement program in the Maintaining Competition mission, (2) a review of contributions made to the mission by regional offices and the General Counsel, and (3) an overview of adjudicative activity in which the Administrative Law Judges took part.

The Energy Program

Both segments of the Commission's energy program - the petroleum industry litigation (Exxon, et al., D. 8934) and the energy study - made significant strides during the year.

In the Exxon case, active pretrial discovery was conducted in preparation for trial of the Commission complaint, which alleges monopolization and conspiracy to monopolize the production, refining, and distribution of petroleum products by the eight leading firms in the industry. A large volume of documentary material was received and processed, and extensive depositions were completed.

The Congressionally-mandated energy study, involving a multi-disciplinary evaluation of competitive economic conditions in all sectors of the energy field, continued during the year. Difficulty in obtaining the necessary underlying data was encountered during the year. It was necessary to undertake subpoena enforcement proceedings to secure compliance with Commission compulsory process.

In addition, the Deepwater Port Act of 1974 assigned responsibility to the Commission for reviewing the applications submitted for licenses to construct port facilities for supertankers. The legislative purpose underlying the Act is to ensure that the limited number of sites which are suitable for this type of construction are licensed in a manner which will provide the greatest competitive benefits to the American consumer. These licenses are being monitored by the Commission's Energy Study unit.

Last, several interlocking directorates were dissolved in conjunction with initial consent disposition of complaints in six cases, on which formal action required the expiration of the 60-day time period for public comment.

The Food Program

The Commission's program to examine the food industry developed substantial knowledge and understanding of the industry's segments during fiscal 1975, and focused on five discrete areas:

Grower-Producer

Emphasis during fiscal 1975 was upon antitrust evaluation of Agricultural cooperatives, particularly with respect to the impact on marketing of the Capper-Volstead Act cooperatives exemption from federal antitrust law. A draft staff report regarding this question was completed and submitted to the Commission.

Other accomplishments included the filing of an initial decision adjudging violation of Section 5 of the FTC Act by Central California Lettuce Producers Cooperative (D. 8970).

Manufacturer-Processor

Activity in this area was highlighted by unanticipated settlement of the Deltown Foods case (D. 8951) involving dairy interests in the New York market; substantial progress in preparation for trial of the shared monopoly complaint against Kellogg, et al. ("Breakfast

Cereal" case, D. 8883); and issuance of three complaints. New complaints in this area involved Nestle Alimentana S.A. (D. 9003)

Commodities

A study of soybean and grain markets was conducted and will be completed in fiscal 1976. The broad, general knowledge and understanding of commodities marketing which has been attained provides the basis for further investigative activity in this important sector of the food economy.

The Health Care Program

The Commission's health care program grew and changed during fiscal year 1975. The program has been revised and expanded to concentrate on three areas: drugs, hospital care, and physician services.

Progress was made in a number of existing investigations in the area of drugs and hospital

Commission, opportunity for additional comment was made available to the public, and the matter was under consideration by the Commission at the end of the year.

The Commission issued a complaint against the three largest national car leasing firms charging a conspiracy to monopolize the auto rental business at airports (Avis-Hertz-National, D. 9033). Four recommendations for complaint were also received by the Commission charging unlawful resale price maintenance by manufacturers or marketers of high-fidelity audio components.

New investigations were planned or initiated in several other consumer goods industries, including household appliances and detergents. Existing investigations involving toys and games, title insurance, and automotive crash parts continued.

Merger Enforcement

The joint Bureau of Competition and Bureau of Economics merger screening and evaluation process which selects cases for further consideration continued during fiscal 1975. The following 9 matters were reviewed by the Merger Screening Committee and acted upon by the staff or Commission.

Two cases already in adjudication in which trials were completed resulted in initial decisions requiring divestiture (Ash Grove's acquisition of Lee's Summit and Fordyce in the cement industry, D. 8785, and purchase of Airco shares by British Oxygen, which was alleged to lessen competition in the marketing of industrial gases, D. 8955). Six matters were disposed of by consent without need for extensive litigation. Final orders were entered in three of these cases: Deltown Foods acquisition of the "Sealtest" assets of Kraftco in the New York area, D.

United Auto Parts and other firms in the automotive parts field by Borg-Warner, File 731 0607; acquisition by Associated Dry Goods of competing retail outlets in Indiana from L. S. Ayres, D. 8905, and Kaiser Steel Corporation, acquisition of steel tube manufacturing assets and facilities of MSL Industries, D. 8878.

In addition, five new complaints were issued for adjudication: Jim Walter's acquisition of Panacon Corp. in the asphalt roofing industry, D. 8986; Gifford-Hill's acquisition of several companies in the ready-mix concrete, cement, aggregates, and prestressed concrete products field, D. 8989; Anaconda's acquisition in the coaxial cable industry of Systems Wire and Cable, D. 8994; Cargill's acquisition of Missouri Portland Cement, D. 9005; and a joint venture in the outboard marine motor market involving Brunswick Corporation, D. 9028.

D. 9028.

Two additional matters in which the terms of Commission orders were in dispute were finally resolved.

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Vertical Restraints

The bulk of routine Commission enforcement in the area of vertical restraints is now being performed by regional office staffs. Orders were issued in a variety of matters involving discriminatory practices, dealer restraints, and unlawful resale price maintenance: these included Duofold, C-2632; Colt Industries, C-2520; Ponder & Best, C-2552, Cubco, C-2670; and

restitution.

At the beginning of fiscal year 1975 there were nine civil penalty actions pending at various stages. During the year an additional penalty case, U.S. v. Papercraft Corp. was certified to the Department of Justice. Through vigorous prosecution of the pending civil penalty actions by the compliance staff, penalties were assessed or affirmed totaling \$4,292,700. In addition, injunctions have been awarded or affirmed in five of the cases.

Accounting

The accounting staff provided assistance in numerous investigations, studies and litigation matters in fiscal 1975. During that period, accounting services were utilized in 19 matters involving mergers and acquisitions; nine matters involving discriminatory pricing practices; and 36 matters involving other unfair methods of competition and restraint of trade.

In addition, accounting assistance was provided for the annual Rates of Return in Selected Manufacturing Industries report, and in special and economic studies.

Regional Office Support to Maintaining Competition

During fiscal 1975, the Commission's regional offices worked closely with the Bureaus of Competition and Economics to develop a significant and important program for antitrust law enforcement. In addition to their efforts in investigating and arresting such traditional trade restraint problems as allocation of markets and customers, resale price maintenance systems, boycotts, price fixing and bid-rigging conspiracies, the regional offices have also assisted state and local law enforcement agencies in improving their effectiveness in dealing with competition problems.

Generally, regional office efforts designed to promote competition fell within three broad areas:

- (1) reducing or preventing excess market power caused by industry merger, joint venture activity and excess concentration;
- (2) reducing or preventing excess market power caused by industry member conduct, such as allocation of markets and customers, resale price maintenance, boycotts, price and bid fixing, and price and service discrimination; and
- (3) assisting state and local law enforcement agencies to enhance their effectiveness in the antitrust area.

Within the first category, the regional offices in fiscal 1975 continued their adjudicatory efforts in the matter of Walter Kidde and Company (D. 8957), challenging Kidde's acquisition of Arrow Lock Corporation, and in Heublein, Inc. (D. 8904) challenging the acquisition by Heublein Incorporated of United Vintners.

Within the second category, the regional offices received 156 complaints by 175 persons against 178 companies.

was the subject of complaints and orders obtained

Commission Improvement Act of 1974; the Deepwater Port Act of 1974; legislation to increase the criminal sanctions of the Sherman Antitrust Act; and the Privacy Act of 1974. Testimony was given on a number of bills dealing with the repeal of the so-called "fair trade laws"; the Hart-Scott Antitrust Improvement Act of 1974; parens patriae antitrust suits by state attorneys general; and exclusive territorial franchising in the food and soft drink industries. Testimony has also been given in a number of investigative areas not the subject of specific legislative proposals. These included hearings dealing with the impact of the Commission's activities on small business, the Congressional review of the Commission's management process and resource utilization, the Commission's investigation of the retail food industry, and the effectiveness of federal regulation of the airline industry.

Significant fiscal 1975 activities in the legal services area included recommendations on changes of policy and procedure in order to comply with the amendments to the Freedom of Information Act; and rendering advice with respect to many issues involved in the Commission's line of Business Program. Advisory opinions were rendered with respect to the lawfulness of a statistical price reporting plan, a fuel reservation program for transient

Fruehauf Corporation, D.

CONSUMER PROTECTION

In fiscal 1975, the dominant feature of the Consumer Protection mission at the Commission was the enactment of the Magnuson-Moss Warranty - Federal Trade Commission Improvement Act. The efforts that went into redirecting Commission consumer protection programs in order to begin to take advantage of the Act's opportunities, on the part of both the Bureau of Consumer Protection and the regional offices, were significant enough to merit separate discussion in this review of fiscal 1975 program accomplishments. Additional sections will follow on other Bureau and regional office programs, and on support to the Consumer Protection mission provided by the General Counsel and the Administrative Law Judges. In addition to these support missions, the Bureau of Economics began to utilize cost/benefit analysis of consumer protection rulemaking and enforcement proposals.

Implementation of the Magnuson-Moss Act

To capitalize on the potential of the Magnuson-Moss Act, and to comply with the strict deadlines Congress wrote into the Act for the creation of a brand new federal system of warranty regulation, the Commission reviewed and redirected its consumer protection programs during the last six months of fiscal 1975.

By confirming the Commission's authority to issue substantive trade regulation rules, and by empowering the Commission to seek consumer redress and civil penalties for rule violations, the Magnuson-Moss Act made the trade regulation rule the basic building block of the Commission's consumer protection programs. The Commission therefore accelerated its efforts to produce enforceable trade regulation rules and also began designing a program to

codify into trade regulation rules the definitions of unfair or deceptive conduct previously outlined in litigation, interpretive guides, and trade practices rules.

The Magnuson-Moss Act not only defined the scope and role of the Commission's rulemaking power, but also spelled out the procedural steps the Commission must follow in order to promulgate valid trade regulation rules. Accordingly, the Commission halted proceedings in connection with several major rules in process when the Act became law in order to bring its procedures into compliance. These rules subsequently were republished in accordance with the Act's requirements, and an entirely new set of procedural rules was proposed to govern future trade regulation rule proceedings.

Title I of the Magnuson-Moss Act also invested the Commission with responsibility for developing a system of warranty regulation designed to promote competition among warrantors, and establish standards for the fair and nondeceptive use of warranties. To that end, rules were prepared, under the Congressional deadline of January 4, 1976, for final promulgation, dealing with the content of warranties, their presale availability, and minimum requirements for informal dispute settlement. In addition, guidelines were issued to help warrantors meet their obligations under the self-enforcing sections of the Act relating to the description of warranties as full or limited. Finally, the Commission's staff undertook an extensive program to educate and provide advice to businesses concerning their responsibilities under the Act.

The Act made civil penalties and consumer redress available for other enforcement situations in addition to violations of trade regulation rules. Under the Act, violators of the Federal Trade Commission Act are exposed to civil penalties if they knowingly engage in practices previously determined by the Commission to be unfair or deceptive, even though the violators themselves were not respondents in the earlier proceedings. Consumer redress actions are permitted against parties who engaged in unfair or deceptive practices which a reasonable person would also have known to be dishonest or fraudulent. Within three months after enactment of the Magnuson-Moss Act, the staff prepared and the

Commission approved comprehensive plans to implement the civil penalty and consumer redress sections of the Act. On March 11, 1975, two months after the Act was signed by the President, the Commission served its first notice that it might seek consumer redress from a respondent in complaints issued against two major sellers of undeveloped land, Horizon Corp., and AMREP Corp. These matters were proceeding at the end of fiscal 1975.

Prescription Drug Price Advertising Trade Regulation Rule

An important aspect of the Consumer Protection mission is to ensure that the marketplace provide consumers with a rational choice among competing products or services. In fiscal 1975, the Commission began an examination of private and public restraints on free market competition, with emphasis on advertising bans which prevent consumers from making the sort of well informed choices that foster price competition.

The prime examples of this type of approach are the Commission's proposed rules in the prescription drug advertising area. These rules are intended to promote disclosure of accurate drug price information by pharmacists to prospective customers, and eliminate restraints imposed on prescription drugs price advertising either indirectly by state-sanctioned private action or directly by government action. In attacking the problem of governmental restrictions on competition, the rules would preempt any nonfederal law or regulation that prohibits advertising or accurate price information for prescription drugs.

Other Consumer Protection Rulemaking

In addition to the prescription drug rule, during fiscal 1975, the Commission proposed six additional rules. Further, an additional six rules developed during the fiscal year were proposed in the first month of fiscal year 1976.

While the Magnuson-Moss Act lent impetus to the Commission's rulemaking efforts, its procedural sections also halted rulemaking activity underway at the time of its enactment until the proceedings could be made to conform to the Act's requirements. For example, prior to passage of the Act the Commission had already proposed a broad trade regulation rule on private proprietary vocational and home study schools, which would require, inter alia, disclosures of dropout and placement rates, an end to generalized employment and earnings claims, a ten-day reaffirmation period for students' enrollment contracts, and pro rata tuition refunds for uncompleted courses. Hearings on the rule had been held in Boston, New York and Washington, but additional hearings were suspended until the rule could be republished and hearings procedures revamped in accordance with the new requirements of the Magnuson-Moss Act.

A partial list of other trade regulation rules proposed during 1975 includes:

Food Advertising Rule - The proposed rule would govern a variety of nutrition claims made in food advertising, including emphatic nutrition claims, nutrient comparison claims, nourishment claims, and claims for food intended to be combined with other foods.

Unfair Credit Practice Rule - The proposed rule would eliminate from consumer credit contracts a number of provisions alleged to be unfair to consumers.

Mobile Home Sales and Service - The proposed rule would require that warrantors establish systems designed to assure that the provisions of their warranties are carried out and prohibit certain alleged misrepresentations in connection with mobile home sales.

Flammable Products - The proposed rule would require disclosure of certain fire hazards associated with cellular plastics used in construction, and ban combustion characteristic descriptions unless based on specified substantiation.

Hearing Aids - The proposed rule would require a 30-day trial period for hearing aids with refund available for most of the purchase price, plus disclosure that many persons with hearing loss will not receive significant benefit from a hearing aid, and would ban a variety of allegedly deceptive and unfair sales techniques.

Three Congressional-mandated rules under Title I of the Magnuson-Moss Act were developed during fiscal 1975 and proposed shortly after the year's end. As previously discussed, they covered warranty content, minimum requirements for informal dispute settlement, and presale availability of warranties.

Trade regulation rules developed during fiscal 1975 and proposed shortly after the end of the year included rules on health spas, on the disclosure of performance characteristics of room air conditioners, and on practices in the funeral industry.

Additional work was carried out on trade regulation rules proposed or adopted during the previous years. A proposed rule on disclosure requirements and prohibitions concerning franchising was revised and republished, and considerable effort was devoted to developing a possible final rule. Voluminous comments were received and analyzed on possible revision of the rule on care labeling of textile wearing apparel.

labeling rule on care possible textile possible

labeling wearing possible

used in construction required them to establish a \$5 million research program to study flammability hazards associated with the products and to engage in extensive corrective advertising to warn past users of the hazards (Society of the Plastics Industry, Inc.). A broad restitution order was also issued by an administrative law judge in his initial decision in Koscot Interplanetary, Inc. The matter was appealed to the Commission.

In advertising cases, the advertising substantiation program continued to be a major law enforcement effort. Advertising substantiation rounds were conducted covering television sets, dental products, and dishwashers in fiscal 1975. Complaints were developed from those rounds during the year and issued shortly after the year's close in Matsushita Electric Corp. and General Electric Co., both alleging misrepresentation of test results relating to the ease of service of the respondents' color television sets. The 1975 rounds also led to a complaint shortly after the end of the fiscal year in Block Drug Co., Inc., alleging false and unsubstantiated advertising for the respondent's denture adhesive and unsubstantiated advertising for its denture cleanser.

Advertising substantiation rounds for previous years also led to a number of complaints in fiscal 1975. Three cases against major automakers involved mileage claims for the firms' cars. In General Motors, a consent order was issued prohibiting deceptive fuel economy claims. In Ford Motor Co., complaint counsel won a summary decision shortly after the fiscal year ended on a complaint alleging unsubstantiated mileage claims. In Chrysler Corp., the complaint alleging deceptive mileage advertising was tried and submitted to the administrative law judge for decision.

Other cases stemming from earlier substantiation rounds included consent orders against three makers of acne preparations prohibiting misrepresentations of efficacy claims and the making of claims without a reasonable basis (Savoy Drug and Chemical Co., American Image Corp., Hugh Mooney t/a Organic Masque Co.). Six complaints against hearing aid manufacturers, previously proposed under consent order procedures, were issued under Part III of the Commission's rules, alleging false efficacy and novelty claims (Sonotone Corp., Seeburg Industries, Inc., Textron, Inc., Radioear Corp., Dahlberg Electronics, Inc., Beltone Electronics Corp.).

Several advertising cases involved issues of public health or safety. In National Commission on Egg Nutrition, a complaint issued alleging that the respondent had misrepresented the state of scientific opinion on the relationship between the consumption of eggs, dietary cholesterol, and heart disease. The Commission sought and was granted an injunction against the respondent's advertising by the Seventh U.S. Circuit Court of Appeals. In Morton-Norwich Products, Inc., a consent order required the respondent to disclose that its salt product was not to be used by persons on a sodium or potassium restricted diet. In C.E.B. Products, Inc., the respondent was required by consent order to disclose that its cosmetic could cause severe eye pain, and to correct or recall existing packaging and advertising to comply with the order.

Disposition or other significant developments in a number of cases already in litigation at the beginning of the fiscal year: In The Great Atlantic & Pacific Tea Co., Inc., the administrative law judge issued an order prohibiting the respondent from failing to have advertised specials available and from over-pricing advertised items. The judge's order became final when no appeal was taken to the Commission. An administrative law judge also issued an order in Encyclopedia Britannica, Inc., prohibiting a variety of allegedly deceptive practices in connection with the respondent's door-to-door sales of encyclopedias and recruitment of salespersons. The case was appealed to the Commission.

In Beneficial Corp., an administrative law judge ruled that the respondent had deceptively advertised through its use of the "Instant Tax Refund" slogan, and had unfairly used confidential information collected in the course of its tax preparation business in order to solicit loans. A consent order in Tax Corporation of America prohibited similar practices with respect to confidential tax information and other misrepresentations related to tax preparation.

In Warner-Lambert Co., an administrative law judge issued an order forbidding the respondent to advertise that its Listerine mouthwash is beneficial in the treatment of colds and sore throats, and ordering the respondent to engage in corrective advertising for two years. The case was appealed to the Commission.

The Commission entered orders prohibiting advertising misrepresentations relating to the assertedly nonpolluting nature of respondents' gasoline in Standard Oil of California and Crown Central Petroleum Corp. The Commission also ordered the cessation of false uniqueness claims and other false and unsubstantiated advertising for respondents' air conditioners in Fedders Corp.

An extended trial was in progress during much of the fiscal year in Retail Credit Co., on a complaint alleging that the respondent, a national consumer reporting agency, had engaged in unfair and deceptive

Regional Office Support to Consumer Protection Mission

The Commission's regional offices continued to carry a substantial portion of the overall Consumer Protection mission. In several consumer protection programs, the regional offices share enforcement responsibilities with the Bureau of Consumer Protection, and in a number have primary enforcement responsibility. Significant activities in joint programs included the regional offices' participation in the land sales program investigations of the marketing practices of various interstate land sales firms. The Commission's complaint against a major land sale company, AMREP Corporation, is an example of this enforcement activity.

In the Truth in Lending Program the Commission approved three regional office complaints charging Coventry Builders, Inc., United Builders, Inc., and Capital Builders, Inc., with significant violations of the Truth in Lending Act.

Under the Textile, Wool and Fur Labeling Program the New York Regional Office sought condemnation of misbranded merchandise. Boverman Fabrics, Inc., was charged with importing substantial amounts of misbranded woolen products. That action resulted in prompt remedial action by the importer, and it promises to become a useful enforcement tool in this area.

Under the Vocational School Program, regional office efforts continued to be directed toward the elimination of unfair and deceptive practices in the vocational school industry. As a result of regional office investigations, the Commission issued complaints against American Tractor Trailer Training, Inc., New England Tractor Trailer Training, Inc., and Commercial Programming Unlimited.

In addition to enforcement responsibilities in programs jointly conducted by the regional offices and the Bureau of Consumer Protection, the regional offices conduct programs in which the regional offices have sole enforcement responsibility within the Commission. Under the Health Spa Program, the regional offices concluded several pending matters, including a consent order in-

volving Jack La Lanne Management, Inc., which contained a pro rata refund for patrons who were misled by the firm's sales and promotional efforts. In addition, a Health Spa Trade Regulation Rule containing a pro rata refund provision (in addition to a cooling-off period") was drafted in substantial part by the New York Regional Office in cooperation with the Bureau of Consumer Protection.

In the Idea Promotion Program, investigational efforts continued toward the goal of producing a Trade Regulation Rule (in the idea promotion industry). Pursuant to those efforts, nonpublic hearings were held in Dallas and Los Angeles. Formal complaints were issued against Idea Research and Development, Inc., and the Raymond Lee Organization. Five other formal investigations were also initiated as a result of the industrywide investigation.

In the Regional Advertising Program the regional offices continued to monitor and investigate regional advertising in their respective geographic areas. Concurrently with the effort, the San Francisco Regional Office completed investigation and drafting of a proposed Trade Regulation Rule with respect to the Protein Supplement Industry. Regional offices will bear increasing responsibility under the codification program implemented under the Magnuson-Moss Warranty - Federal Trade Commission Improvement Act.

General Counsel Support to Consumer Protection

As noted in the discussion of the Competition mission, the General Counsel staff represented the Commission in 156 court cases during fiscal 1975. Twenty-two of these cases involved appeals to the appellate courts from Commission orders which resulted from adjudicative proceedings in the area of consumer protection. Fifty-seven of the collateral suits initiated by or against the Commission were related to the Commission's consumer protection activities.

There were two significant decisions issued during fiscal year 1975 relating to the Commission's enforcement authority. In the National Commission on Egg Nutrition case, the Seventh Circuit reaffirmed the principle (established in the Rhodes Pharmacal case 25 years earlier) that the Commission is entitled to temporary injunctive relief under Section 13(a) upon showing a reasonable basis for believing that the law is being violated; and it does not have to meet the standards of irreparable injury, probability of success on case

Legislative matters which were of concern to the Consumer Protection mission included Commission testimony on bills dealing with the vocational school industry; consumer credit problems; equal credit opportunity; and, hearing aids. A number of bills of importance to the mission were enacted during this fiscal year: Title I of P.L. 93-637, January 4, 1975, "Consumer Product Warranties"; the Energy Policy and Conservation Act, P.L. 94-163, December 22, 1975; and, the Real Estate Settlement Procedures Act of 1974 (P.L. 93-533, December 22, 1974).

The legal services activities dealing with the Consumer Protection mission included completion of the revised trade regulation rule procedures. Advisory opinion activities included Commission opinions ranging from a definition of the preemptive effect of Commission trade regulation rules over conflicting requirements of state or local law, to the disclosures deemed necessary to assure non-deception in the practice of "dry testing" mail order sales of proposed continuity book series.

Administrative Law Judges Support to Consumer Protection

The number of cases referred to the Administrative Law Judges in the area of consumer protection has increased sharply in the past several years. In fiscal 1975, 47 new cases were referred for trial, whereas in fiscal 1974, 31 cases were referred. Many of these matters involved large corporations and posed difficult issues. During fiscal 1975, the following were major consumer protection cases in trial or pretrial before the Administrative Law judges: American Home Products Corp., D. 8918; The Great Atlantic Pacific Tea Company, D. 8916; Beneficial Corp., D. 8922; Bristol-Myers, D. 8817; Chrysler Corporation, D. 8995; Control Data Corp., D. 8940; Encyclopedia Britannica, D. 8908; Fedders Corp., D. 8932; FMC Corp., D. 8961; Ford Motor Company, D. 9001; Genesco, Incorporated, D. 9019; Grolier, Inc., D. 8879; Horizon Corporation, D. 9017; Koscot Interplanetary, Inc., et al., D. 8888; Sterling Drug, Inc., et al., D. 8919; Warner-Lambert Co. Inc., D. 8891; AMREP Corporation, D. 9018; Kroger Company, D. 9040.

Following extensive consultation with companies and other interested organizations and a May 20, 1975, public hearing before the Commission, the LB survey form was revised for the 1974 reporting year. Information on allocated costs and net operating income by line of business will be sought for the first time. On July 1, 1975, the revised form was forwarded to the General Accounting Office for clearance.

Quarterly Financial Report

In April 1975 the first Quarterly Financial Report which expanded survey coverage to the mining, retailing and wholesale trade sectors was published. In addition to a stratified sample of some 11,000 manufacturing corporations, the survey now includes approximately 2,400 retailing corporations, 600 mining firms, and 2,300 wholesale trade corporations. A special survey of corporations with assets of \$10 million or more was conducted to determine the impact on reported profits of widespread shifts from FIFO to LIFO

form reporting of overseas subsidiary holdings on a net equity basis led to a decline of approximately 2.5 percentage points in measured aggregate concentration for the 100 largest corporations.

Premerger Notification

The Premerger Notification program, revised to secure 1972 product line data, was transferred organizationally to the Bureau of Economics' Division of Economic Evidence. As a result, future accomplishments will be reported under the Maintaining Competition mission.

Industry Analysis

Three formal Bureau of Economics staff reports were completed in fiscal year 1975. One, on Food Chain Profits, introduced a new QFR based survey of retail food chain profits and analyzed longer-term trends in the profitability of food retailing. An economic report on The U.S. Sugar Industry analyzed the structure, conduct, and performance of that industry, with particular emphasis on why sugar prices rose by unprecedented amounts in 1974. A staff report on Price and Profit Trends in Four Food Manufacturing Industries used Quarterly Financial Report and other data to analyze price and profit developments in the fluid milk, meat, bread, and beer industries between 1972 and 1975. The reasons for rapid consumer price increases during this period and the consequences of price controls and their removal were evaluated.

Economics staff also contributed a chapter to a Bureau of Competition Staff Report on Agricultural Cooperatives and played a significant role in a joint task force Report on Retail Prescription Drug Pricing Practices.

Numerous other staff studies were completed for publication in congressional hearings, conference symposia, etc. These included testimony on the relationships between market power and inflation and on the measurement of food sector profit and price

EXECUTIVE DIRECTION AND POLICY PLANNING

Executive Director

The Executive Director's activities in fiscal 1975 concentrated upon improving the methods through which the Commission reviews the status of pending matters and renders guidance to the staff with particular emphasis on increasing cost/benefit analysis and reducing delay. The highlight of this effort was the Mid-Year Review held in early February 1975. During this session the full Commission used the program budget and case status and cost information provided by the management information systems to evaluate at the mid-point of the fiscal year the resource commitments and actual accomplishments of each Commission program. This review resulted in a shift in resources among the number of programs, provided guidance to the staff and increased the staff's accountability to the Commission.

In addition to providing day-to-day programmatic guidance to the staff, the Executive Director in fiscal 1975 was involved in such areas as:

- Continuing to strengthen the role of planning in the Commission's decisionmaking process.
- Increasing responsibility of operating units for financial and programmatic control.
- Recommending to the Commission appropriate resource allocations and providing an analysis of each program's status at the Mid-Year Review.

Second, the Budget overview focused on the enhancement of consumer benefit (e.g., cost/benefit analysis) as a critical standard by which the effectiveness of programs in both law enforcement missions could be assessed.

This work was continued in the fiscal 1975 Mid-Year Review Report. The Office used economic analysis in an attempt to predict the likely consumer benefits of each fiscal 1975 program of the Bureau of Consumer Mid-Ye TD 0.026 Tc10j 13.56 0 Y

ADMINISTRATION AND MANAGEMENT

During fiscal 1975, the Commission's Administration and Management mission continued to provide the Commission and its staff with a full range of support services. This section outlines the personnel, financial, administrative and management services activities under this mission.

Division of Personnel

During fiscal 1975, personnel management services were expanded into an agency-wide program. to assist in the development and evaluation of personnel. The Division consolidated and systematized its training and employee development efforts during fiscal 1975, focusing on executive and management development, legal training, clerical/secretarial training and upward mobility. The most significant improvement in fiscal 1975 was the attorney performance evaluation system. Implementation occurred during early fiscal year 1976, and has proved to be a valuable tool to both staff attorneys and supervisors alike.

As part of its position management efforts, the Personnel Division conducted reviews of the research analyst position and the entire legal secretarial support structure. Actions taken as a result of this review included a three-fold approach to improving the secretarial support function - an expanded career ladder, a more effective recruitment effort, and an expanded training program.

Financial Management

The major accomplishment of the Division of Budget and Finance in fiscal 1975 was the implementation of the Commission's first program budget. The Commission's fiscal 1975 OMB budget and subsequent congressional budget were both constructed using the programmatic format and approach. These budget documents contained a comprehensive expression of Commission priorities both to serve as an internal document as well as an external communication of appropriation requests. This represents a fundamental improvement in the internal

GAO. A physical inventory was completed on May 30, 1975, and the implementation phase begun on an automated system.

A Prospectus for Proposed Lease Under the Public Buildings Act of 1949 to consolidate five satellite offices in Metropolitan Washington, D.C., was developed and submitted to GSA. During fiscal 1975, it was approved by GSA and sent to Congress. It was subsequently approved by the Senate Public Works Committee, but is with the House Public Works Committee.

Management Activities

During Fiscal 1975, the Management Division completed a number of specific projects designed to improve support services to the Commission's management and enforcement staffs at the lowest reasonable price.

A prototype, automated line of Business system to tabulate data was implemented. A Commission-wide Case/Project Tracking System was implemented to assist management in planning for and controlling resource allocations to preliminary and formal investigations, projects, rulemakings, compliance matters, litigated matters and court proceedings.

In response to the Freedom of Information Act, a reporting system was implemented to facilitate the preparation of an annual report to the Congress which reflected the number and types of requests, how they are processed, the number denied or partially granted, reason for denial, responsible official, fees collected, and a copy of the fee schedule.

To assist in the efficient operation of all legal and management computer systems, the Management Division conducted extensive analysis necessary to solicit proposals for processing consolidation to occur in fiscal 1976. This analysis also formed the foundation for a five year plan to provide the FTC with data processing support. The staff will finalize its recommendations and present them to the Commission in early fiscal 1976.

Two particular cost reduction projects were undertaken that deserve special notice. First, procedures were established for printing the FTC Decisions that will improve the timeliness of the printing process with an estimated minimum annual cost savings of over \$60,000 at present values. Second, automated legal research services were installed in the Library for use by the attorney staff in order to test alternatives for improvements to legal services.

Several Management Analysis projects were initiated which included the Records Management Study, Text Processing Study, and Legal Search Study.

Library Services

The library staff completed legislative histories of the Magnuson-Moss Act and the Fair Credit Reporting Act. Several partial legislative histories of interest were completed. A card catalog for the Los Angeles Regional Office library was completed. Four extensive bibliographies on subjects of interest to Commission staff were published. A vertical serials list for patron use was produced by the library staff. The Acquisitions Section implemented a new internal financial control system for library and non-library purchases. The library staff began orientation lectures and library tours for all new attorneys and economists. Two training manuals for use in the Circulation Section were developed.

**FUNDS AVAILABLE
TO THE COMMISSION
DURING FISCAL 1975**

For fiscal year 1975, funds of \$38,983,000 were appropriated for the Commission. Actual expenditures for the year were \$38,962,000; these expenditures are detailed below by activity.

Obligations by Activities for Fiscal Year 1975

| | |
|---|---------------------|
| 1. Maintaining Competition: | <u>\$12,723,000</u> |
| Investigation and Litigation | 12,723,000 |
| 2. Consumer Protection: | <u>17,570,000</u> |
| Investigation and Litigation | 14,064,000 |
| Consumer Credit Enforcement | 1,224,000 |
| Fair Packaging and Labeling | 58,000 |
| Flammable Fabrics, Textile, Fur and Wool Enforcement | 681,000 |
| Other Special Statutes | 1,543,000 |
| 3. Economic Activities: | <u>3,107,000</u> |
| Investigation and Litigation | 18,000 |
| Economic and Financial Reports | 3,089,000 |
| 4. Executive Direction and Policy Planning | <u>2,158,000</u> |
| 5. Administration and Management | <u>3,404,000</u> |
| Total Obligations - Fiscal Year 1975 | <u>\$38,962,000</u> |