

ANNUAL
REPORT
OF
FEDERAL
TRADE
COMMISSION

For the Fiscal Year Ended

September 30, 1979

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 (Paper cover)

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I. THE GOAL: ENSURING A VIGOROUS AND HONEST FREE MARKET

In 1979 the Federal Trade Commission continued to police the market against dishonest and anticompetitive trade practices. The Commission regards vigorous and truthful competition as the touchstone of its mandate, the most efficient means of ensuring that consumers obtain what they want at the lowest possible price. This mandate takes on particular importance in the present period of economic stress, when more and more consumers must stretch their dollars ever further.

II. THE STRATEGY: FIGHTING INFLATION

The Commission's strategies have been integrated to focus on the sectors of the economy most critical to consumers: health care, food, housing, transportation, energy, and clothing. The activities described below are examples of recent FTC actions; they were all initiated or carried on in Fiscal Year 1979 unless otherwise noted. (The Appendix provides a more detailed description of each FTC action taken in 1979.)

A. HEALTH CARE.

- acceptance of a consent agreement requiring Eli Lilly (which sells most of the insulin needed by diabetics in this country) to license its present and future insulin technology to other firms (Lilly had been charged with illegal monopolization of the insulin market).
- issuance of an administrative law judge's initial decision, subsequently affirmed in pertinent part by the full Commission, holding that the American Medical Association has unlawfully limited consumer access to information about the price and availability of medical services, and imposed unlawful restrictions on the ability of hospitals, health maintenance organizations, and other "lay" institutions seeking to contain health care costs to employ physicians on a salaried basis.
- issuance of a consent order which, for the present, prohibits the American Dental Association from restricting truthful advertising, and which will ultimately be conformed to the final order in the AMA case.
- issuance of a consent order barring the publication of relative value

scales (which can decrease competition and facilitate price fixing) by the California Medical Association.

These health care matters are still in progress:

- issuance of a complaint against another group, the Indiana Federation of Dentists, alleging that it unlawfully conspired to obstruct cost containment programs developed by dental insurers.
- issuance of a complaint against the Michigan State Medical Society alleging that the society engaged in a conspiracy to fix prices and to boycott cost-containment procedures instituted by insurers.
- publication of a staff report analyzing the extent, import, and legality of medical participation in the control of Blue Shield and certain other health care plans.
- a rulemaking involving prevention of alleged deceptive advertising of over-the counter drugs; staff proposes conforming terms used in advertising to those required by the Food and Drug Administration to be used on labels.
- a rulemaking to consider proposals to require sellers of hearing aids to give dissatisfied purchasers a refund of most of their purchase price up to 30 days after purchase.
- issuance of an administrative law judge's initial decision in Bristol-Myers litigation, involving advertisements for Bufferin, Excedrin and Excedrin P.M.
- a rulemaking to determine whether and how FDA-mandated warnings for labeling of antacids should be disclosed in advertising.
- examination of the effect of restrictions on advertising and commercial practices on the price and quality of professional services, focusing on the profession of optometry.

B. FOOD.

- issuance of a consent order requiring ITT-Continental, which makes Fresh Horizons bread, to disclose in advertising that its fiber content is derived from wood.
- issuance of a consent order requiring divestiture resulting from an alleged anticompetitive acquisition involving frozen foods (Nestle/Stouffers).
- issuance of an opinion and order requiring Borden, Inc. to cease and desist from monopolizing the processed lemon juice market with its ReaLemon product.
- issuance of a final order prohibiting interlocking directorates between Kraftco Corp. and SCM, two major producers of margarine and edible oils (recently affirmed by the Court of Appeals).

- issuance of a consent order prohibiting Howard Johnson Company from requiring its restaurant franchisees to purchase certain food products and supplies from Howard Johnson.

These food matters are still in progress:

- litigation involving the acquisition by Southland Corp., one of the nation's largest dairy processors, of Knowlton's, the largest independent dairy processor in the San Antonio area, on the grounds that the merger will reduce competition in an already highly concentrated industry (case recently resolved by consent agreement barring dairy acquisitions by Southland without Commission approval).
- litigation of two complaints challenging the mergers of major supermarket chains, Grand Union and Colonial Stores on the east coast, and National Tea and Applebaum's Food Markets in the midwest, which allegedly decrease competition among grocery stores and supermarkets in those areas (consent agreement accepted recently barring grocery store acquisitions by National Tea without Commission approval).
- a suit filed in District Court to seek civil penalties and enjoin a seller of bulk freezer meats from "bait and switch" practices.
- a rulemaking involving alleged false or deceptive food advertising claims for energy, fat and cholesterol attributes of food products.
- litigation involving ITT--Continental Baking Company, alleging attempts to monopolize the wholesale baking industry.
- litigation involving Sunkist Growers, Inc. for alleged exclusive dealing, contracts in restraint of trade, stabilization of prices, and monopolization of the Western United States citrus fruit industry.
- litigation involving Beatrice Foods Co. for the allegedly anticompetitive acquisition of Tropicana, a major producer of ready-to-serve orange juice.
- litigation against Kellogg and other major breakfast cereal manufacturers, involving alleged monopolization.
- litigation involving General Foods (maker of Maxwell House coffee) alleging predatory pricing and other abuses of market power to prevent the entry of new competitors into the Eastern U.S. coffee market.
- examination of the effect of state-imposed retail price controls on the prices consumers pay for milk.

C. HOUSING.

- issuance of consent orders involving two allegedly anticompetitive mergers in the cement industry (Lone Star Industries/Keystone Portland Cement, Crane Co./Medusa Corp.).

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- issuance of consent orders barring allegedly anticompetitive pricing practices in the roofing industry (Inland Empire Roofing Contractors Association), in pest control (New Jersey Pest Control Association), and in the home appliances market (Appliance Dealers Cooperative).
- issuance of three consent orders prohibiting MacLeod Mobile Homes, Inc., Harper Sales, Inc. and Mobile Home Multiplex Corp. from renting or selling lots in their mobile home parks only to those who purchase mobile homes from specified dealers.
-

flights in its Official Airline Guide, which is the only source of its kind for information on regularly scheduled flights.

- consent order requiring General Motors Corp. to stop selling cars with engines manufactured by GM divisions other than the one whose name appears on the car, unless it discloses that fact.
- consent order requiring manufacturers of heavy-duty trucks in the United States to list model years on identification papers to prevent deceptive marketing.
- consent order barring Ford Motor Company from misrepresenting fuel economy, structural strength, or quietness of Lincoln and Mercury cars.

These transportation matters are still in progress:

- an administrative law judge decision (on appeal) requiring General Motors to end allegedly anticompetitive discrimination among its dealers and between its dealers and independent body shops in the pricing of bumpers, fenders, grilles, moldings, and other crash parts.
- a rulemaking involving optional disclosures on the condition of the major components of used cars.
- litigation involving charges that an automobile dealer allegedly advertised credit terms on television in a deceptive manner.
- litigation involving Hertz Corp. for allegedly violating the Holder-in-Due-Course rule in the sale of used cars.
- investigation of competition in the automobile industry.
- litigation involving Tenneco, Inc., for allegedly anticompetitive acquisition of a competing manufacturer of shock absorbers and a potential competitor in the manufacture of automotive exhaust systems (administrative trial completed).
- litigation involving Ford and General Motors for allegedly granting anticompetitive advertising allowances to major automobile rental firms.

E. ENERGY.

- issued rule requiring the disclosure of octane ratings on gasoline pumps.
- issued rule requiring refrigerators, freezers, water heaters, washing machines, dishwashers, room air conditioners, and furnaces to be sold with

These energy matters are still in progress:

- Obtained a District Court injunction requiring that Reliance Electric Corporation's Drives Group be completely insulated from Exxon Corporation until the Commission can rule on allegedly anticompetitive effects of the acquisition by the nation's largest energy firm of the nation's leading producer of electronic variable speed drives.
- issuance of complaint against Ethyl Corp. and three other manufacturers of gasoline additives for allegedly engaging in practices which facilitate the reduction or elimination of competition.
- litigation against the 8 major oil companies for alleged illegal monopolization of the production and distribution of petroleum products in the Gulf Coast and eastern U.S. markets.
- in response to a Congressional request, public comments are being solicited and an investigation is being conducted on the need for rulemaking regarding whether the major integrated oil companies should be required to divest their ownership interests in major crude oil pipelines in the U.S.
- a rulemaking that would require manufacturers of home insulation to test and label their products with a standard measure of performance, or "R value."
- examination of the effects of federal regulation of petroleum product prices and product allocation on the structure and performance of the domestic petroleum industry.

F. CLOTHING.

- issuance of consent orders against Jonathan Logan and other manufacturers of well-known clothing brands (Pendleton, Gant, Jaymar-Ruby, Huk-A-Poo, Pranx, Motherhood Maternity) banning interference with competitive retail pricing.
- issuance of a consent order prohibiting Federated Department Stores from entering into agreements with shopping center developers which would exclude discount or other price-competitive stores.

This clothing matter is still in progress:

- examination of proposals to amend the care labeling rule to require laundering and cleaning instructions in labels.

G. CREDIT.

- issuance of a consent order requiring Hertz Corp. to refund approximately \$1.25 million in cash to customers with credit balances. The complaint

alleges that Hertz did not notify its credit customers that their accounts reflected a credit balance and that Hertz did not refund the credit balances without a specific request from the customer.

- issuance of a consent order requiring Montgomery Ward to pay \$175,000 in civil penalties to settle charges that it violated the Equal Credit Opportunity Act. Wards allegedly failed to provide reasons for denial of credit to those customers who requested an explanation, in violation of the Act.
- Federated Department Stores agreed to pay \$50,000 to settle charges that it violated the Equal Credit Opportunity Act by failing to include alimony and other forms of income in assessing credit worthiness of applicants.
- consent order requiring Ford and Ford Motor Credit Co. to establish an accounting system for its dealers to refund promptly any excess credit balance funds realized from the sale of repossessed cars.

These credit matters are still in progress:

- a

tivities, involving planning by international oil companies for the allocation of oil supplies among member nations in the event of an emergency disruption in middle eastern oil supplies.

- **Oil Industry.** The Commission staff testified before Congress several times regarding a number of competition concerns in the oil industry (for example, acquisition of non-petroleum energy firms by large oil companies and the leasing of oil drilling rights on the outer continental shelf).
- **Conglomerate Mergers.** The FTC forwarded a statement favoring consideration of new legislation limiting conglomerate mergers. The Chairman testified before the Senate on the need for conglomerate merger legislation and endorsed the approach taken in a staff proposal for legislation which was also submitted to the Senate.
- **Media Concentration.** A symposium was held, and Congressional testimony was presented by Commission staff about the issues raised by mergers and acquisitions in the media sector, such as impact on diversity of information sources.
- **Medigap Insurance.** A report was issued and testimony presented questioning the value some consumers receive from health insurance designed to supplement their Medicare or Medicaid insurance.
- **Land Sales.** FTC staff testified in favor of strengthening legislation that woul

tion on life insurance cost disclosure which, if adopted by the states, would permit consumers to make price comparisons amongers to m

for a law violation would be in the public interest. During FY 1979 the Commission used this important tool in support of both its competition and consumer protection missions. For example:

- the Commission sought a preliminary injunction to block the acquisition by Exxon Corp. of Reliance Electric, and obtained an order permitting the stock acquisition but requiring Exxon Corp. to hold Reliance's Drive Group as a wholly separate entity until the case can be decided on its merits. This decision was the first time in the sixty-year history of the Clayton Act that interim equitable relief had been entered solely on the basis of the actual potential competition doctrine.
- the Commission sought an injunction against the acquisition of Harnischfeger Corporation by

the FTC provided an incentive for the agency to indicate to the adv

Following are some examples that observers have cited, although it should be cautioned that in the underlying Commission action mentioned

activities. Information is now being gathered on the impact of the Commission's rulemaking efforts concerning cooling-off, franchising, and vocational schools. Data are being collected before possible issuance of proposed rules on R-value, care-labeling, and used cars.

In FY 1979, the Commission spent \$776,000 to study the impact of other proposed rules or enforcement efforts, including those governing contact lenses, eyeglasses advertising, and corrective advertising. Results of all these studies should be available within the year.

The Commission also has o700 0.00 0.00 rgBT277.3200 666.2400 TD0.0600 Tc-1.2600 Tw(ational sc)T,

A. PART II (Investigative Stage)
CONSENT AGREEMENTS ACCEPTED
AND PUBLISHED FOR COMMENT

1. Consumer Protection Mission

792 3016 C.L. Energy Development, Inc., et al.

The order would prohibit the company from making ga

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the G.R. Valve would be required to have on hand reasonable substantiation for any claims made in its ads.

- 792 3060 Gordon Cooper
The former astronaut and an endorser of the G.R. Valve would be prohibited from making claims about the G.R. Valve and other products without independent substantiation from a source other than the advertiser.
- 782 3077 Westinghouse Credit Corp.
The order would require the company to disclose to credit applicants the reasons they were rejected, to comply with the Equal Credit Opportunity Act, and to notify applicants of their rights under the Act. The company also would educate both its employees and parent Ordered Westinghouse's retail dealers to guard against future violations of the Act.

2. Competition Mission

- 781 0009 Forbes Health System Medical Staff, et al.
The agreement would prohibit Forbes Medical Staff from excluding any applicant from appointment to the medical staff because the applicant is associated with a Health Maintenance Organization or practices medicine on other than a fee-for-service basis.
- 761 0081 Eli Lilly and Co., et al.
The agreement would ~~require~~ ^{Order} that Eli Lilly license other companies to use its U.S. patents and know-how in producing insulin.

B. PART II (Investigative Stage) CONSENT AGREEMENTS ISSUED IN FINAL FORM

1. Consumer Protection Mission

- C-2938 Owens-Illinois, Inc., et al.
Ordered to refund an estimated \$30,000 to 7,000 end-use purchasers of disposable glass culture tubes as compensation for short count packages purchased in the past.

C-2976

International Inventors, Inc.

This service company for inventors was ordered to disclose its

"success" ratio to prospective customers and provide a ten-day cooling-off period.

C-2932 National Indemnity Co., et al.
 Ordered to cease violating the Fair Credit Reporting Act's
 prenotification requirement when seeking an investigative consumer
 report on insurance applicants.

C-2931 Marathon Oil Company
 Prohibited from retail credit collec

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- C-2939 Womack Nursery Co.
This mail-order nursery in Tennessee was ordered to disclose in its advertising a warning of the risk of receiving dead trees and nursery stock when ordering by mail and to stop allegedly deceptive practices. The agreement provides up to \$200,000 in redress to consumers.
- C-2945 The Hertz Corporation
Required to notify and to refund over \$1.25 million to customers with credit balances, and to refund automatically unclaimed money after seven months.
- C-2946 Norris Industries, Inc.
Required to have a reasonable basis for making performance claims for ane in Tenne

- C-2965 General Mills Fun Group, Inc.
 Ordered not to use any film or camera technique that misrepresents to children a toy's size, appearance or performance.
- C-2966 General Motors Corporation
 Ordered to stop selling cars with engines and other auto parts manufactured by GM divisions other than the one whose make appears on the car unless it discloses that to purchasers.
- C-2971 Fedders Corporation
 Ordered to repair more than 40,000 allegedly defective heat pumps and to reimburse owners for the cost of past repairs (thus saving consumers an average \$250-\$400).
- C-2972 Arnaudville Industries, Inc.
 This manufacturer of mobile homes was ordered to extend warranty coverage

This manufacturer of heavy-duty trucks was ordered to assign model years to trucks, where previously the model years were not assigned, which allegedly facilitated representing them as new if

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they were left over from a previous year.

- C-2981 Paccar, Inc.
This manufacturer of heavy-duty trucks was ordered to assign model years to trucks, where previously the model years were not assigned, which allegedly facilitated representing them as new if they were left over from a previous year.
- C-2983 International Harvester, Inc.
This manufacturer of heavy-duty trucks was ordered to assign model years to trucks, where previously the model years were not assigned, which allegedly facilitated representing them as new if they were left over from a previous year.
- C-2980 Ford Motor Co.
This manufacturer of heavy-duty trucks was ordered to assign model years to trucks, where previously the model years were not assigned, which allegedly facilitated representing them as new if they were left over from a previous year.
- C-2984 Woodland Mobile Homes, Inc., et al.
California's largest mobile home dealer was ordered to comply with the Magnuson-Moss Warranty Act and openly display written warranties on mobile homes and appliances.
- C-2884 Diners Club, Inc., et al.
The order modifies a 1977 consent order by removing Diners Club's responsibility for assuring compliance by another company, which was recently sold by Diners Club.
- C-2987 Korvette's, Inc.
Ordered to comply with the Magnuson-Moss Warranty Act and an FTC trade regulation rule requiring stores to have on hand pre-sale warranty information for consumers on products costing more than \$15 and to disclose to consumers that it is available.
- C-2989 ITT Continental Baking Co., Inc.
The manufacturer of "Fresh Horizons" and "Wonder Bread" was ordered to disclose the presence of wood pulp and other "uncommonly used" ingredients in its bread products.
- C-2523 GAC Corporation
The Commission modified a 1974 consent order against GAC to

preserve customers' rights to refunds for their land sales purchases during the company's reorganization. A \$10 million fund was established to improve land sites, and a federal court in Florida ruled that customers would be given first priority over

other creditors if the company is forced to liquidate.

2. Competition Mission

- C-2935 National Fire Hose Corp., et al.
Ordered to stop imposing territorial and customer restrictions on distributors of fire hose.
- C-2943 The Boeing Corp.
Prohibited from giving preferential payments to foreign parties to secure aircraft sales.
- C-2944 Lockheed Aircraft Corp.
Prohibited from giving preferential payments to foreign parties to secure aircraft sales.
- C-2942 McDonnell-Douglas
Prohibited from giving preferential payments to foreign parties to secure aircraft sales.
- C-2947 Advertising Checking Bureau, Inc.
The order prohibits Advertising Checking Bureau, Inc. from developing or administering cooperative advertising programs which limit the rights of dealers to receive cooperative advertising credits when they sell merchandise at reduced prices.
- C-2951 Zayre Corp.
Prohibited from requiring suppliers to participate in trade shows and from soliciting preferential advertising and promotional allowances.
- C-2952 American Society of Anesthesiologists
Ordered to stop prohibiting its members from accepting salaried, rather than fee-for-service, employment.
- C-2953 Federal Signal Corp.
The order bars the nation's largest manufacturer of civil defense warning equipment from engaging in specified collusive and anti-competitive activities and in competitive restraints in the sale to state and local governments of public safety equipment, such as radios, sirens, and signaling devices.
- C-2955 CPC International, et al.
The order requires the divestiture of an aerosol packaging facility by

CPC International, Inc., and its wholly-owned subsidiary
Peterson/Puritan Inc.

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- C-2956 Louisiana Pacific Corporation
Required to divest an acquired plant that manufactures medium density fiberboard, acquired in a merger with Fiberboard Corp.
- C-2958 Federated Department Stores
Prohibited from entering into any agreement between a Federated-operated department store and a shopping center developer that would enable the department store to influence the makeup of shopping centers.
- C-2959 Crane Co., et al.
Required to divest an Illinois cement plant owned by Medusa Corporation.
- C-2957 Indiana Dental Association, et al.
Prohibited from restricting the efforts of health insurers to hold down the cost of dental care for their policyholders.
- C-2967 California Medical, Association
Prohibited from publishing relative value scales for use in setting fees for professional services. (Relative value scales set fixed ratios among fees for various services.)
- C-2962 Huk-,A-Poo Sportswear, Inc., et al.
Two affiliated national clothing concerns are prohibited from setting retail prices of their products, leaving retailers free to make their own pricing decisions.
- C-2963 International Brotherhood of Teamsters, Local 959
Ordered not to engage in agreements that require general contractors to boycott non-union subcontractors.
- C-2968 Inland Empire Roofing Contractors Assoc.
Prohibited from interfering with the prices charged or the guarantees offered by its members in Idaho and Washington.
- C-2969 Appliance Dealers Cooperative
Prohibits a New Jersey retailers cooperative from interfering with some members' pricing and marketing decisions.
- C-2970 Cooper Industries, Inc.
This major manufacturer of gas compressors and hand-held industrial air tools was ordered to divest certain assets after its acquisition of

Gardner-Denver Co.

C-2974

Motherhood Maternity Shops, Inc., et al.

Prohibits a manufacturer and retailer of maternity clothes from

fixing or suggesting the prices at which independent retailers sell its products.

- C-2977 Jonathan Logan, Inc.
The consent order bars one of the nation's largest suppliers of women's apparel from fixing the resale prices of its apparel products, leaving retailers free to make independent pricing decisions.
- C-2985 Pendleton Woolen Mills, Inc.
Prohibited from fixing the retail prices of its clothing, blankets, and fabric.
- C-2986 Schering Plough Corp.
Required to divest Scholl, Inc.'s athlete's foot product business.
- C-2988 Howard Johnson Co.
Prohibited from requiring its restaurant franchisees to purchase certain food products from the respondent.
- C-2990 Liquid Air Corp. of North America, et al.
Required to divest certain air-separation plants and certain retail stores. Chemetron Corp., and its parent, Allegheny Ludium Industries, Inc., also signed the consent agreement.
- C-2950 New Jersey Pest Control Assoc.
Required to cease and desist from fixing prices, discouraging discounters, and restricti

Dkt. 9124 George I

between the two companies, eliminate Keystone as a competitor in the industry, and increase the probability of industry concentration.

- Dkt. 9125 BASF Wyandotte Corporation
The complaint challenges the acquisition of a U.S. producer (Chemetron Pigments Division) of organic pigments by the domestic subsidiary of a leading worldwide pigments producer (BASF A.G.). The complaint alleges that the acquisition will substantially lessen competition or tend to create a monopoly in the manufacture and sale of organic pigments. These products are a family of chemicals used in a wide variety of applications ranging from printing inks to automotive coatings.
- Dkt. 9127 The Southland Corporation/Knowlton's, Inc.
The complaint challenges the proposed acquisition of Knowlton's, Inc. by the Southland Corporation. Southland is a major operator and franchiser of convenience food stores as well as one of the nation's largest dairy processors. Knowlton's is one of the largest, independent dairy processors in the San Antonio market area. The complaint alleges that the acquisition will eliminate Knowlton's as a competitor, lessen competition, and increase already high levels of industry concentration.
- Dkt. 9128 Ethyl Corporation, et al.
The complaint charges "antiknock" additive makers for gasoline have engaged in practices that unlawfully reduced or eliminated competition. The complaint alleges that Ethyl Corp., E.I. DuPont de Nemours

The complaint challenges Exxon's acquisition of Reliance Elec-

tric Company, a leading producer of electronic variable speed industrial drives (ESVD). The complaint alleges that the acquisition will increase the level of concentration in the market or eliminate competition in the development of ESVD technology and products.

D. PART III (Litigation Stage) CONSENT AGREEMENTS

1. Consumer Protection Mission

Dkt. 9082 Vital-E, et al.

Required to stop making allegedly false claims about vitamin products and weight-loss devices, to disclose any health or cosmetic risks these products pose, and to offer full refunds to purchasers of such products.

Dkt. 9090 Royal Furniture Company, Inc.

Required to provide appropriate Truth-in-Lending disclosures in consumer credit transactions, to stop using allegedly harassing debt collection practices, and to establish a procedure for handling consumer complaints regarding defective or damaged merchandise.

Dkt. 9055 Cavanagh Communities Corporation

Ordered to disclose that certain land it sold as homesites was roadless or susceptible to flooding, to disclose that the land might not be as valuable as it was marketed to be, and to allow purchasers to stop making payments on the land at a lesser penalty that the purchaser had agreed to in the original contract.

Dkt. 9106 Universal Training Service, Inc.

Ordered to pay up to \$750,000 in tuition refunds to students and to disclose to prospective students job placement rates for previous students along with their starting salaries.

Dkt. 9042 Coventry Builders, Inc.

This home improvement company was prohibited from failing to provide credit cost disclosures required by the Truth-in-Lending Act.

Dkt. 9078 National Systems Corp., et al.

North America's ten correspondence schools (in drafting, hotel management, advertising, and conservation, among others) ordered to refund up to \$200 per course to former students and to refrain from misleading prospective students about their

ability to get jobs after having completed a course.

- Dkt. 9001 Ford Motor Company
Ordered not to misrepresent the fuel economy, structural strength, or quietness of its Lincoln and Mercury Cars and placed all Ford cars under a general requirement that any performance claim be substantiated.
- Dkt. 9075 Bankers Life and Casualty Company, et al.
Ordered to refund up to 70% of the purchase price of land sites to as many as 7,600 customers, to cancel current customer's contracts without penalty because the company allegedly misleadingly marketed the land, and to stop claiming the land is a good investment unless it can substantiate the claims. Up to 88 million in refunds and \$6 million in contract cancellations should result. Irving Miller, a principal of Bankers Life, agreed in a separate order not to be a party to any future false or deceptive advertising or marketing of land.
- Dkt. 8922 Beneficial Corporation
Ordered to stop using the term "instant Tax Refund" unless it also disclosed that the company was merely offering a regular consumer loan that is irrelevant to the tax return.
- Dkt. 9073 Ford Motor Company and Ford Motor Credit Co., Inc.
Ordered to establish an accounting system for its dealers to refund promptly any excess credit balance funds realized from the sale of repossessed cars.
- Dkt. 9104 / . Walter Thompson
The nation's largest advertising agency was ordered to have on hand a "reasonable basis" for ads for dishwashers.
- Dkt. 9109 Karr Preventative Medical Products
The order would require the manufacturer of Acne-Staton skin cream and its advertising agency, National Media Group, Inc., not to claim that the product cured acne without a reasonable basis for the claim, to notify past purchasers of its allegedly misleading advertising, and to refund up to \$235,000 to past purchasers.
- Dkt. 9099 Bell & Howell Company
In one of the largest monetary settlements in the history of the FTC, the company would be ordered to refund up to \$1.4 million to certain of its vocational school students. The FTC, for the first time, would

have control over how the redress is distributed to

2. Competition Mission

- Dkt. 9003 Nestle Alimentana, S.A., et al.
Nestle is a Swiss corporation marketing a variety of food products worldwide. Under the terms of the consent order, Nestle agreed to divest a Wisconsin frozen-food plant within one year in settlement of a Commission complaint challenging the company's 1973 acquisition of Stouffer Foods. The complaint alleged that the acquisition would substantially reduce competition in the frozen entree market.
- Dkt. 9068 MacLeod Mobile Homes, Inc.
Prohibited from conditioning the rental of space in mobile home parks on the purchase of homes from the park's operator.
- Dkt. 9069 Mobile Homes Multiplex Corporation
Prohibited from conditioning the rental of space in mobile home parks on the purchase of homes from the park's operator.
- Dkt. 9070 Harper Sales, Inc.
Prohibited from conditioning the rental of space in mobile home parks on the purchase of a home from the park's operator.
- Dkt. 9093 American Dental Association
The American Dental Association agreed not to restrict truthful advertising by dentists under an interim settlement reached with the Commission. Final settlement of this case depends upon the outcome of a similar suit brought against the American Medical Association. The ADA and other respondents agreed to be bound by the final outcome of the AMA suit.
- Dkt. 9107 Harnischfeger Corporation
Harnischfeger terminated a merger agreement that would have combined manufacturers of lattice boom cranes.
- Dkt. 9098 Harnischfeger, Inc.
Airco, one of the nation's largest producers of industrial gases, also sells welding products and industrial gases to welders and other industrial users for resale. The Commission consent order settles allegations that Airco required its distributors to purchase their total requirements of each gas from Airco in order to purchase any gas or welding product from the company. Under terms of the consent order, distributors for Airco can demand private arbitration to determine whether Airco's refusal to sell them any gas or welding product was

in reprisal for the distributor's election to purchase from another supplier.

- Dkt. 9122 Lone Star Industries
The Commission accepted a consent order which settles a complaint challenging a proposed merger of Lone Star Industries, Inc. and Keystone Portland Cement Co. The two companies agreed to terminate their agreement to merge.
- Dkt. 9089 Atlantic Richfield Co.
Under the consent order designed to increase competition in the domestic copper industry, the Atlantic Richfield Co. is required to divest itself of, among other properties, its 50 percent interest in a joint copper mining venture in Arizona, three undeveloped copper hearing land properties and ARCO's 20 percent interest in a copper mining company.

E. INITIAL DECISIONS

1. Consumer Protection Mission

- Dkt. 9111 Household Finance Corporation
Ordered by an FTC administrative law judge to comply with the Truth-in-Lending Act by properly computing the annual percentage rate of the total charge for credit and by undertaking other remedial measures.
- Dkt. 9067 Market Development/Columbia Research Corporation
These mail-order marketers of vacations and household products were ordered by an FTC administrative law judge to stop using deceptive means of selling their products, such as offering "free" vacations in connection with land-sales schemes and offering other "free" products whose value is substantially less than advertised.
- Dkt. 9102 The Kroger Company
Ordered by an FTC administrative law judge to stop using price - comparison surveys in its grocery stores unless it employs an independent firm and discloses to consumers the limitations of using such a survey.
- Dkt. 9115 Georges Radio and Television Company
Ordered by an administrative law judge to comply with the Magnuson-Moss Warranty Act and an FTC trade regulation rule by offering pre-sale warranties to consumers on appliances costing more than \$15 and by not mischaracterizing its own warranties as "full limited," in violation of the Act.

Dkt. 8988 California Milk Producers Advisory, Board
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- Dkt. 9077 General Motors Corporation
The initial decision ordered General Motors to change a substantial part of its method of distributing crash-susceptible motor-vehicle parts following a finding by the administrative law judge that the existing method was unlawful. The order requires GM to propose a distribution plan that does not discriminate against independent body shop operators and other commercial purchasers who compete with GM dealers in repairing crash damaged autos and light trucks.
- Dkt. 9080 Kaiser, Aluminum and Chemical Corp.
The initial decision orders Kaiser Aluminum to divest two industrial plants acquired from the Lavino Division of International Minerals & Chemical Corporation. At the time of the acquisition, Kaiser was the nation's second largest producer of basic refractories. Lavino was the fourth largest producer. The administrative law judge found that the acquisition eliminated substantial actual competition between the two firms and increased concentration in an already highly concentrated industry.
- Dkt. 9064 American Medical Association
In the initial decision, the administrative law judge concluded that the American Medical Association, the nation's largest association of physicians, had restricted and frustrated competition in the provision of physicians' services throughout the United States and caused substantial injury to the consumer. The judge ruled that the AMA's ban on advertising was unlawful and deprived consumers of the free flow of information about the availability of health care services. The decision further noted that the AMA's restrictions have discouraged, restricted, and, in some instances, eliminated new and innovative forms of health care such as Health Maintenance Organizations. The order requires the AMA to revoke any existing ethical principles or guidelines which restrict physicians' advertising, solicitation, or contractual relations. The order does not affect ethical standards which deal with the medical or therapeutic aspects of a physician's practice.
- Dkt. 8904 Heublein, Inc.
In the initial decision, the administrative law judge ruled that the acquisition of the nation's second largest vintner by the fifth largest alcoholic beverage producer may substantially diminish wine industry competition. The judge ordered Heublein, Inc. to divest itself of the wine producer, United Vintners, Inc. In addi-

tion, for the next 10 years, Heublein is required to obtain prior Commission approval of any acquisition of a wine company that would give Heublein control of more than 10 percent of the wine market.

Dkt. 9116 Rhinechem Corp.

In the initial decision, the administrative law judge dismissed the complaint against respondents Allegheny Ludlum Industries, Inc. and Chemetron Corporation, wholly-owned subsidiary of Allegheny Ludlum. Since the assets of Chemetron's Pigment Division were no longer under the control of Allegheny and Chemetron but were purchased by BASF in a transaction challenged by the Commission in another proceeding the ALJ determined that it was unlikely that the challenged acquisition of these assets by Rhinechem Corp. could ever take place.

Dkt. 8859 National Industries, Inc.

In the initial decision, the administrative law judge dismissed the complaint against respondents National Industries, Inc. and Cott Corporation on the grounds that neither respondent is now engaged in the soft drink business nor in the practices which were the focus of the complaint.

F. FINAL LITIGATED ORDERS

1. Consumer Protection Mission

Dkt. 9096 Howard Enterprises, Inc.

This publisher of lists of bad check passers used by retail establishments in Washington, Oregon, Idaho, Wyoming, and Ohio was ordered to comply with the privacy safeguards of the Fair Credit Reporting Act. An FTC administrative law judge had ruled the "Alert Lists" were not subject to the Act.

Dkt. 9045 The Raymond Lee Organization

This idea and invention promotion firm was ordered to disclose to prospective clients that it does not evaluate the merits of any ideas sent to it and to disclose the number of clients in recent years who actually received more money from the firm's services than they wound up paying in fees. Also, the company was ordered to offer a ten-day cooling-off period during which a customer may cancel the contract for any reason.

Dkt. 8987

National Commission on Egg Nutrition

Ordered to stop advertising that there is no scientific evidence that eating eggs increases the risk of heart disease. The U.S.

Commission found that the two firms had unlawfully allocated their combined share of the market for the

CIVIL PENALTY CASES

A. Consumer Protection Mission

FTC Docket Nos. D-7305 and D-8803

United States v. National Dynamics Corp., et al.

United States District Court for the Southern District of New York. Consent decree entered November 13, 1978, in the amount of \$41,000 for civil penalties, a requirement that defendants have all wool products they import tested for fiber quality, and an injunction. The complaint alleged violations of an FTC order to cease and desist certain practices prohibited by the Wool Products Labeling Act of 1939.

FTC File No. 772 3057

United States v. Federated Department Stores, Inc.

Complaint Filed: 11/16/78

Judgment Entered: 11/16/78

United States District Court for the Southern District of Ohio, Western Division. Consent decree entered November 16, 1978, in the amount of \$50,000 for civil penalties, a requirement that defendant invite rejected applicants for credit to re-apply, an explication of how rejected applications for credit are to be explained to the applicants, and an injunction. The complaint alleged violations of the Equal Credit Opportunity Act and its implementing regulation B, 12 CFR 202.

FTC Docket No. C-2037

United States v. The J.B. Williams Company, Inc., et al.

Complaint Filed: 2/16/79

Judgment Entered: 2/16/79

United States District Court for the Southern District of New York; judgment in the amount of \$75,000 was entered on February 16, 1979, against defendant J.B. Williams and its advertising agency, for violating an FTC order (79 F.T.C. 420) by failing to disclose clearly and conspicuously that any weight reduction occurring after use of P.V.M. would be the result of a diet restricting caloric intake or exercise program.

FTC Docket No. C-2491

United States v. Atlantic Hosiery, Inc., et al.

Complaint Filed: 2/28/79

This case is currently in litigation in the United States District Court for the Southern District of Florida. The firm, a marketer of ladies hosiery a aET1.00000 0.00d00 1.00000 0.00000 0.00000 cm0.00 0.00 0.00 rgBT

1979, in the amount of \$15,000 for civil penalties and

an injunction, for failure to send customers the proper delay notices as required under the Mail Order

has agreed to refund a total of \$40,000 to over 1,200 dissatisfied customers. The agreement settles charges that the company used deceptive means to sell its photographic enlargement plan and to collect accounts in violation of a 1975 order. Atlantic will pay \$10,000 in civil penalties (85 F.T.C. 903).

FTC File No. 742 3207

United States v. Tri-Texas, Inc., et al.

Complaint Filed: 9/27/79

Judgment Entered: 9/27/79

United States District Court for the Northern District of Texas; a consent judgment in the amount of \$25,000 was entered on September 27, 1979, as a result of the respondent's misrepresentations concerning profit potential, demand for its product, as an inducement to purchase a franchise; availability of an exclusive territory, training and promotional assistance and onerous franchise requirements. Additionally, injunctive provisions supplementing the Commission's Trade Regulation Rule covering franchising and business opportunity ventures were imposed.

FTC File No. 772 3010

United States v. Dixieland Construction Company, Inc., et al.

Complaint Filed: 9/28/79

Judgment Entered: 9/28/79

United States District Court.00000 0.00000 0.00000 1.00000 0.0000 0.0000 cm0.00 0.00 0.00 rgBT122.7600 695

This case is currently in litigation in the United States District Court for the Northern District of Alabama; Civ. Action No. 79X-1052 S. The respondent has been charged with violating the Commission's TRR concerning a Cooling-Off Period for Door-to-Door Sales and for engaging in unfair and deceptive practices in the offering of home improvement services through fictitious pricing and energy claims, and by falsely representing themselves to be a manufacturer.

FTC File No. 772 3010

United States v. Nationwide Construction Compan

APPELLATE COURT DECISIONS
REVIEWING COMMISSION ORDERS

American General Insurance Company v. F.T.C., 589 F.2d 462 (9th Cir. 1979) (Case remanded for further proceedings)

Trans World Accounts, Inc. v. F.T.C., 594 F.2d 212 (9th Cir. 1979) (Part of order affirmed and enforced; one provision in order remanded for further proceedings)

Reichhold Chemicals v. F.T.C., 598 F.2d 616 (4th Cir. 1979) (Order affirmed and enforced)

Jay Norris, Inc. v. F.T.C., 598 F.2d 1244 (2d Cir. 1979) (Order affirmed and enforced)

US Life Credit Corp. v. F.T.C., 599 F.2d 1387 (5th Cir. 1979) (Commission decision reversed and order vacated)

RSR, Inc. v. F.T.C., 602 F.2d 1317 (9th Cir. 1979) (Order affirmed and enforced)

Freuhauf Corporation v. F.T.C., 603 F.2d 345 (2d Cir. 1979) (Order set aside)

Encyclopedia Britannica, Inc. v. F.T.C., 605 F.2d 93 (7th Cir. 1979) (Order affirmed and enforced)

SUPREME COURT DECISION
REVIEWING FINAL COMMISSION ORDER

The Great Atlantic & Pacific Tea Company v. F.T.C., 440 U.S. 69 (1979) (Reversing a decision of the Second Circuit which had upheld the Commission's Order)

OTHER IMPORTANT COURT DECISIONS

F.T.C. v. Rhinechem Corp. 459 F.Supp. 785 (N.D. Ill.) (October 20, 1978)
(The court granted the Commission's application for preliminary injunction against Rhinechem's purchase of the pigments business of Chemetron Corporation.)

In re FTC Line of Business Report Litigation and FTC Corporate Patterns Report Litigation, 439 U.S. 958 (November 11, 1978)
(The Supreme Court denied petitions for certiorari leaving standing the Court of Appeals' decision enforcing the Commission's orders.)

American Motors Corp. v. F. T. C., 601 F.2d 1329 (6th Cir., July 2, 1979)
(The court ordered dismissal of pre-enforcement challenge to Commission investigational subpoena on ground that administrative and statutory remedies had not been exhausted.)

F.T.C. v. Anderson (CCH 1979-2 Trade Cas. 162,837) (D.C. Cir., September 17, 1979)

(The court affirmed the district court's order enforcing subpoenas duces tecum issued against the oil company respondents in Exxon Corp., D 8934, and remanded on the question of whether certain documents are to be considered "agency" records.)

F.T.C. v. National Tea Co., 603 F.2d 694 (8th Cir., July 16, 1979)

(Appeals Court affirmed judgment of district court denying commission's application for preliminary injunction against acquisition pending completion of administrative E0000 609.840.00 0.DaaiehpT

POLICY PLANNING PAPERS

- (1) Housing Policy Review Session Briefing Book.
November, 1978.
- (2) Drugs and Medical Devices Policy Review Session Briefing Book.
December, 1978.
- (3) Semiannual Regulatory Agenda.
December, 1978.
- (4) Life Insurance Sold to the Poor: Industrial and Other Debit Insurance, Policy Planning Issues Paper.
January, 1979.
- (5) Trademarks, Consumer Information and Barriers to Competition, Policy Planning Issues Paper.
January, 1979.
- (6) Tax Policy and Competition, Policy Planning Issues Paper.
February, 1979.
- (7) Compliance and Enforcement Policy Session Briefing Book.
March, 1979.
- (8)

FEDERAL TRADE COMMISSION

STAFF REPORTS PUBLISHED ON PROPOSED RULES

A. Consumer Protection Mission

1. Proposed Rule for Advertising and Labeling of Protein Supplements

A staff report was released for public comment on a p

7. Proposed Rule on Standards and Certification

A staff report was released that proposed a rulemaking proceeding be
com

B. Competition Mission

1. Medical Participation in Control of Blue Shield and Certain Other Open-Panel Medical Prepayment Plans. (April, 1979)

This report presents the results of the Bureau of Competition's investigation into the extent, impact, and legality of medical participation in the control of Blue Shield and other open-panel medical prepayment plans. The principal focus of the investigation has been the degree of control over such plans possessed by physicians and physician organizations. The report found that medical participation in the control of many Blue Shield plans is sufficiently great that physicians and physician organizations are able to control or influence economically significant decisions made by the plans. The report recommends initiation of a rulemaking proceeding and includes a draft of a proposed trade regulation rule.

ECONOMIC REPORTS

Grocery Retailing Concentration in Metropolitan Areas, Economic Census Years 1954-72, September 1979 (Joint Report with Economics, Statistics, and Cooperative Service, U.S. Department of Agriculture).

An Analysis of Competitive Structure in the Uranium Supply Industry, August 1979.

Consumer Responses to Cigarette Health Information, August 1979.

Life Insurance Cost Disclosure, July 1979.

Brand Performance in the Cigarette Industry and the Advantage of Early Entry, 1913-1973, June 1979.

Statistical Report: Annual Line of Business Report, 1973, March 1979.

The Natural Gas Production Industry, February 1979.

The Brewing Industry, December 1978.

Statistical Report on Mergers and Acquisitions, 1977, December 1978.

The Structure of the Nation's Coal Industry, 1964-74, November 1978.

