

Annual  
Report  
of the

FEDERAL  
TRADE  
COMMISSION

For the Fiscal Year Ended

September 30, 1983

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FEDERAL TRADE COMMISSION

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LETTER OF TRANSMITTAL

May 10, 1984

FEDERAL TRADE COMMISSION  
Washington, D.C.

To the Congress of the United States:

It is a pleasure to transmit the sixty-ninth Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended September 30, 1983.

By direction of the Commission.

JAMES C. MILLER III  
Chairman

THE PRESIDENT OF THE SENATE

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

FEDERAL TRADE COMMISSION  
1983 ANNUAL REPORT

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### III. IMPROVED MANAGEMENT

The Commission's efforts to improve the management of the agency - to make its work more effective and reduce waste - have progressed significantly during fiscal 1983. The Commission has reduced the number of independent entities within the bureaus and clarified lines of authority. The Commission has made sure that the agency's lawyers and economists work closely at each stage of litigation.

The Commission also unanimously voted changes in its procedures to speed decision-making at the highest levels of the Commission and thus make the agency more effective.

### IV. UNDERSTANDABLE POLICIES AND CRITERIA

During fiscal 1983, the Commission has attempted to provide those subject to and protected by its rules a greater measure of predictability about the Commission's enforcement criteria and policies.

Accordingly, the Commission has issued its statement on deception, articulating its interpretation of the law and explaining its enforcement policy.

The organization of the Commission is divided into three bureaus which carry out the Congress' two mandates: maintaining competition in the marketplace and protecting the consumer. The following is a summary of the Federal Trade Commission's accomplishments in fiscal 1983.

#### MAINTAINING COMPETITION MISSION

The mission of the Commission's Bureau of Competition is to enhance the welfare of consumers by maintaining the competitive operation of our economic system of private enterprise. The Bureau carries out its mission by enforcing the antitrust provisions of the Clayton Act and the Federal Trade Commission Act, as well as by serving as a vigorous advocate of competition before Congress and other governmental bodies.

#### SUMMARY OF ENFORCEMENT ACTIVITIES

During fiscal 1983, the Commission initiated 171 initial phase and 34 full phase investigations of possible violations of the antitrust laws. The Commission issued 1 administrative complaint, accepted 13 consent agreements, and issued 9 advisory opinions relating to competition matters. The United States Court of Appeals for the Eighth Circuit issued a decision in an appeal of a Commission decision, and the Supreme Court declined to hear one challenge to a Commission order, and remanded another to the Commission for entry of an agreed-to order.



HEALTH CARE

During fiscal 1983, Congress rebuffed efforts by some health care providers to strip the Commission of its jurisdiction over the health care professions. Following policies established in prior administrations, the Commission continued to devote major resources to an effort to detect and prosecute antitrust violations in this industry, which accounts for nearly 10 percent of the gross national product.

Of particular importance were efforts in the area of advertising by health professionals. The Commission published a proposed consent order against the Washington, D.C. Dermatological Society, and issued final consent orders against the Association of Independent Dentists and the Michigan Association of Osteopathic Physicians and Surgeons which prohibit them from interfering with truthful advertising by their members. These important cases follow the Commission's decision in the American Medical Association case, upheld by the Supreme Court in fiscal year 1982, which ruled that the AMA's restrictions on truthful advertising by physicians violated the antitrust laws.

The Commission reviewed a variety of activities by health care professionals relating to cost-containment and other policies of medical insurers. The Commission upheld a decision by an Administrative Law Judge that the Michigan State Medical Society had conspired to boycott cost-containment and reimbursement policies of insurers. The Commission's order bans the Michigan State Medical Society from participating in boycotts of insurers or entering into agreements with its members to regulate the amount or terms of reimbursement for physician services. The Commission also ruled that Indiana Federation of Dentists violated the antitrust laws when it agreed with its members and others to obstruct cost-control efforts of insurers by collectively refusing to submit reimbursement forms.

in a Commission advisory opinion to Health Care Management Associates. Finally, the Commission advised Burnham Hospital that an exclusive contract under which a group of radiologists operated the hospital's radiology laboratory would be lawful if the contract was made in the interest of the hospital, and was not the result of efforts by the medical staff to restrict competition among physicians.

#### HORIZONTAL RESTRAINTS

Antitrust enforcement activity during fiscal 1983 reflected an increasing emphasis on prohibiting agreements between competitors which injure competition. Although such agreements have been the subject of numerous investigations in the health care area, they are also an increasingly important focus in non-health care cases.

During 1983, the Commission upheld an Administrative Law Judge's ruling that the Massachusetts Furniture and Piano Movers Association had unlawfully conspired to set rates and restrain competition in Massachusetts' moving industry. The Order prohibits the Association from engaging in any collective rate making activities. In the Ethyl case, the Commission upheld in part a 1981 Administrative Law Judge's decision that Ethyl Corporation's and E. I. duPont de Nemours & Co.'s use of certain "facilitating practices", such as advance price announcements, uniform pricing and "most favored nation" clauses restrained price competition. The Commission also upheld a finding that it was unlawful for two individuals to serve as directors of Borg-Warner Corporation, Robert Bosch GmbH, and its American subsidiary, Robert Bosch Corporation. All three companies were competitors in the sale of ignition parts, wire and cable products and carburetor tune-up kits for foreign cars.

Consent agreements were obtained from Great Dane Distributors Council and Dillon Companies, Inc. Great Dane Distributors Council, an association composed of dealers of Great Dane Trailers, Inc., agreed not to impose territorial or customer restrictions among its members. Under a separate agreement, Great Dane Trailers Inc., a truck manufacturer, is prohibited from assisting the dealer organization in restraining competition among its members. Dillon Companies, a Kansas grocery retailer, was prohibited from interfering with an independent firm's collection and publication of comparative price surveys based on items checked in Dillon's stores. Dillon was prohibited from interfering with the collection of comparative grocery price data.

Civil penalties were also a part of the Commission's horizontal restraints program. The Joseph Dixon Crucible Company agreed to pay \$600,000 to settle charges that it violated a Commission cease and desist order by participating in a price fixing conspiracy. Binney & Smith, Inc., Milton Bradley Co., and American Art Clay Co. agreed to pay \$1.25 million to



## ORDER MODIFICATIONS

Responding to the FTC Improvements Act of 1980, which emphasized the importance of modifying Commission orders when required by circumstances or the public interest, the agency modified 17 of its prior orders during 1983. The modifications fell into three major categories:

Nine orders involving non-price vertical restraints were modified to reflect changes in the caselaw which have followed from the Supreme Court's 1977 holding in *GTE Sylvania* that *per se* analysis was inappropriate for such restraints.

Four orders imposing bans on mergers and acquisitions without Commission approval were modified to recognize changes in industry structure over time.

Two orders imposing notification requirements were modified to permit less burdensome alternatives.

In addition, the duration of an order resulting from charges of reciprocal dealing was limited to 10 years, and an order in a monopolization case was modified to ease restrictions on advertising and promotion.

## COMPETITION ADVOCACY

Working with the Bureaus of Consumer Protection and Economics, the Bureau of Competition engaged in advocacy or prepared Commission presentations before Congress and government agencies in selected circumstances. These activities were calculated to achieve the same goals as the Bureau's enforcement actions - ensuring that consumers enjoy the benefits of a competitive marketplace. Indeed, most of these "interventions" were done either at Congressional request, or as an outgrowth of an investigation to see whether particular practices violated Section 5 of the FTC Act.

The Commission and its staff intervened in several proceedings before the Interstate Commerce Commission to urge reliance on competitive markets rather than regulation. In ICC Ex Parte No. 346, Bureau of Competition staff argued in favor of deregulation of boxcar traffic, and in Ex Parte MC-165, the Commission staff urged easing of administrative entry barriers for contract trucking.

The agency was also active in competition advocacy concerning other transportation markets. In testimony before the Subcommittee on Monopolies and Commercial Law of the House Judiciary Committee, Chairman Miller addressed anticompetitive conduct by shipping conferences permitted by the Shipping Act of 1982. Chairman Miller also testified before the Aviation Subcommittee of the House Committee on Public Works and Transportation, on behalf of the Commission, oppos-



and collectors, to warn customers about potential fire hazards, and not to misrepresent the furnace's performance capabilities. Amana Refrigeration, Inc. will not claim that only its microwave ovens passed independent laboratory tests conducted in 1980, and that its ovens were rated "best quality" in a 1980 consumer survey.

The Commission issued two parallel final decisions prohibiting the Bristol-Myers Company and Sterling Drug, Inc. from making advertising claims that their non-prescription pain relievers have been proved safer or more effective than similar products without well-controlled clinical tests to back up their claims. The decisions also cover Ted Bates & Co. and Young & Rubicam, Inc., the advertising agencies involved.

Two Administrative Law Judge initial decisions were released. Cliffdale Associates was prohibited from falsely advertising that its "Ball-Matic Valve" could cut gasoline consumption by 20 % or more. The Thompson Medical Company was prohibited from employing the brand name "Aspercreme" unless it clearly discloses that the product does not contain aspirin.

The Commission issued an administrative complaint and filed for a preliminary injunction against PharmTech Research, Inc. challenging advertisements claiming the diet supplement "Daily Greens" reduces the chances of cancer. The Commission also issued an administrative complaint against Rush-Hampton Industries, Inc., charging the manufacturer of the "Ecologizer CA/90" with falsely advertising the performance capabilities of its air cleaning device.

Braswell, Inc. agreed to pay \$610,000 in civil penalties for allegedly misrepresenting that its products or services would cure or prevent hereditary baldness. Under the consent judgment, Braswell is enjoined permanently from such misrepresentations.

The Food Advertising Rulemaking proceeding was terminated during fiscal year 1983. The Commission found the evidence in the record did not show widespread deception, or prove that the benefits of the proposed rule would exceed the costs. Related issues will be handled on a case-by-case basis.

The Commission released a staff report on its proposed rule for over-the-counter antacid advertisements. The FTC is asking for public comment on the staff report and the previously released Presiding Officers's report.

The annual report on Cigarette Labeling and Advertising and the test results for the tar, nicotine and carbon monoxide content of 208 varieties of domestic cigarettes were published. In another cigarette-related action, a complaint against Brown & Williamson Tobacco Corp. was filed seeking to permanently enjoin the company from claiming that "Barclay" cigarettes deliver only 1 mg. tar.

Several previously existing orders in the advertising area have been modified during fiscal year 1983. The Commission modified a consent



ing a debt collection agency owned and operated by an attorney, signalling that others with similar operations may not qualify for the attorney exemption in the FDCPA. In another FDCPA enforcement action, the Commission was granted a permanent injunction to stop the Bureau of Collections from using illegal practices in collecting debts for creditors.

Three matters under the Truth-in-Lending Act (TILA) were completed. Hofmann Construction Company, a home builder, agreed to pay \$62,500 in civil penalties to settle charges that it violated a 1973 consent decree. The Chicago Metropolitan Pontiac Dealers Association, and its advertising agency, the Competitive Edge, have agreed to display creditviree.



The Commission sought to permanently enjoin Kitco of Nevada, Inc. from unfair or deceptive practices in the marketing and sale of the "Kitco business opportunity". A U.S. District Court issued a preliminary injunction in June, 1983. The Commission alleged that Kitco, when selling machines for making plastic items, misrepresented potential earnings.

Jim Clark's Beef, Inc., agreed to pay \$10,000 in civil penalties to settle charges that the company used "bait and switch" tactics to sell their beef products.

A federal judge found James R. Quincy, a top official of the Paradise Palms Vacation Club, in contempt of court and ordered him to stay out of the time-~~It is a business. (Q) (10/9/83 as assessed 18,640.0282112.52 (G) ES-~~





Reader's Digest Assn. may now use "simulated checks" and is no longer prohibited from claiming contestants are "lucky" or have been "especially selected" to win a prize. A negotiated settlement between the Commission and The Kroger Company resulted in a 1981 Commission order being modified to allow the company to conditionally use survey-based, comparison price advertisements.

#### POLICY AND EVALUATION

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FEDERAL TRADE COMMISSION  
EXECUTIVE DIRECTION,



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

COMPETITION MISSION

Great Dane Distributors Council

Great Dane Distributors Council, an association composed of dealers of Great Dane Trailers Inc., agreed not to impose territorial or customer restrictions among its members. Under a separate agreement, Great Dane Trailers Inc., a major truck manufacturer, is prohibited from supporting the dealers charged with restraining competition among themselves. The consent agreement forbids the dealers' association from discouraging member dealers from selling outside a specified area or to prescribed customers, and Great Dane Trailers is prohibited from supporting efforts of the dealers' association to limit competition through agreements that restrict sales to preassigned territories or customers.

The Washington, D.C. Dermatological Society

The Washington, D.C. Dermatological Society agreed not to interfere with dermatologists' truthful advertising. The complaint alleged that the Society's restrictions deprived consumers of information and constituted a conspiracy to restrain competition. The complaint also alleged that the group threatened to deny membership to any physician associated with a health care delivery organization that advertised the identity, fees or services of an affiliated doctor. Under the agreement, the Society is prohibited from restricting truthful advertising of prices, services or facilities, but is permitted to adopt and enforce reasonable ethical guidelines governing false and deceptive advertising.

Dillon Companies, Inc.

A Kansas based grocery retailer, Dillon Companies Inc., was prohibited from interfering with any independent firm's collection and publication of comparative price surveys based on items checked in Dillon grocery stores. The complaint alleged that Dillon agreed with other area

grocers to bar a survey firm's price checkers from their stores. It is also alleged that Dillon also tried to force the survey firm to buy the items it checked. The complaint charged that the alleged group boycott suppressed price competition among grocers in the Springfield, Missouri area, and deprived consumers of the advantages of price information. Under the order, Dillon is prohibited from impeding the gathering of price data and must take steps to restore competition by using price surveys in the Springfield area.

#### CONSUMER PROTECTION MISSION

##### Avco Financial Services, Inc.

Avco Financial Services, a debt collection agency, agreed not to use profanity, harassment, physical harm threats, legal process threats, embarrassment, and defamation to obtain payments. Avco also will not contact employers, friends, and relatives of debtors unless the debtor permits. It will inform debtors of their rights to prevent harassment and establish a toll free phone line to receive and record consumer complaints.

##### Lomas & Nettleton Co. of Virginia Beach, et al.

Lomas & Nettleton agreed to maintain procedures to ensure prompt payment of obligations due from homeowners' escrow accounts. The agreement settles charges that the company in numerous instances failed to pay hazard insurance premiums on time from homeowners' escrow accounts.

##### Emergency Devices, Inc., et al.

Emergency Devices agreed not to make false performance and endorsement claims in the marketing of "Extra Margin" emergency escape masks. The company agreed not to claim that the product provides protection from carbon monoxide, allows "filtered breathing" for 20 minutes or more, and has government approval.

##### Monte Proulx

The principal of Emergency Devices, Inc. agreed to abide by the provisions of the consent agreement described above.

Estee Corporation

Estee Corporation, a leading manufacturer of health-related specialty foods, agreed not to advertise that its foods are healthful or appropriate for diabetics' diets without adequate substantiation. The company will also pay \$25,000 in consumer redress in the form of research grants to the American Diabetes Association or the juvenile Diabetes Foundation.

Lloyd's Furs, Inc.

Lloyd's Furs, Inc. agreed not to represent a garment as the product of a particular designer or manufacturer, unless the representation is factual. The agreement settles charges that the company attached designer or manufacturer labels to some garments it sold without regard to who the actual designer or manufacturer was.

Macy's New York, Inc.

Macy's agreed to change its credit billing practices and to set up a program to educate its employees who either establish credit billing procedures or handle notification of billing errors. The company allegedly began collection procedures before disputes were settled. It also agreed to distribute \$225,000 in consumer redress among credit card customers who disputed their bills during 1977 and 1978.

misrepresentations and mandates a disclosure of material facts at least five days before a contract may be signed with a prospective member.

Spinal Health Services, Inc., et al.

Spinal Health Services uses a "cold laser" to perform non-surgical face lifts. It agreed not to claim that the "cold laser" treatments are effective for improving appearance by removing lines, depressions, and wrinkles unless it has scientific proof.

Laser Toning Center, Inc., et al.

Laser Toning Center was charged with the same deceptive acts in advertisements of "cold laser" face lifts as Spinal Health Services, Inc. It also signed a consent order agreeing not to make unsubstantiated claims.

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

COMPETITION MISSION

Association of Independent Dentists

The Association of Independent Dentists (AID), a group of dentists practicing in Pueblo County, Colorado, agreed not to interfere with its members' efforts to compete for business through advertising. Under the terms of the consent agreement, the Association is prohibited from attempting to influence insurance company reimbursement rates to Association members. In addition, the Association is required to provide each member with a copy of the Order and a letter specifying the changes to the bylaws; new members must be supplied with a copy of the order.

Germaine Monteil Cosmetiques Corporation

Germaine Monteil agreed not to fix the, resale prices of its products. The Commission charged that Germaine Monteil, a leading manufacturer of prestige cosmetics and fragrances, established and maintained the resale prices at which retailers advertised and sold its products. The order prohibits the suggestion or recommendation of resale prices for two years and prohibits Germaine Monteil from retaliating against retailers because of their pricing decision.

Batus, Inc.

Batus, Inc. agreed to divest one of its retail department stores in the Milwaukee, Wisconsin area to an acquiror approved by the FTC. The complaint accompanying the consent agreement alleged that the acquisition of a Marshall Field & Co. department store violated the antitrust laws because it eliminated competition between the two retailers, discouraged possible market entrants, and reduced competition in the already highly concentrated area of Milwaukee, Wisconsin. To comply with the order, within two years after the divestiture, Batus must open or begin construction, in the Milwaukee area, of another Marshall Field department store to preserve a wider variety of consumer choices by ensuring Marshall Field's continued presence in the market. In addition, the agreement restricts Batus' future acquisitions of department stores.



advertised or solicited patients, and tried to prohibit certain advertising media from accepting ads. The consent agreement did not affect the Association's enforcement of its ethical guidelines governing deceptive advertising or members' conduct, but required the Association to inform all current and future members that truthful advertising is permitted.

#### The Coca-Cola Company

The Coca-Cola Company agreed to divest its Doric Foods Corporation subsidiary to settle antitrust charges. Doric Foods was acquired in 1982 when Coca-Cola acquired its parent, Associated Coca-Cola Bottling Co., Inc. Prior to the acquisition, the Coca-Cola Company and Doric were the two leading competitors in the chilled fruit drink business. The complaint charged that the acquisition would lessen competition. Under the agreement, Coca-Cola was required to divest Doric within one year to a purchaser approved by the Commission, and for ten years to obtain Commission approval before acquiring a chilled fruit drink manufacturer.

#### State Volunteer Mutual Insurance Co., Inc.

State Volunteer Mutual Insurance Co., Inc., a physician-owned medical malpractice insurance company, agreed not to discriminate against physicians who supervise self-employed nurse-midwives. The complaint accompanying the consent agreement alleged that State Volunteer's cancellation of the malpractice insurance of physicians who provided medical supervision to independent nurse-midwives constituted a boycott under the antitrust laws. Under the agreement, State Volunteer was prohibited from using discriminatory underwriting criteria against physicians affiliated with nurse Tj 19.68 0 sc ( ) Tj uIsS Tj45.92 ithi

the training and quality of its member real estate agents, the existence and exclusivity of certain services, and the degree of screening each prospective agent must undergo. In addition, such claims must be supported by competent and reliable evidence.

#### Southern Maryland Credit Bureau, Inc.

The Southern Maryland Credit Bureau, Inc. agreed to obtain the substantiation required by the Fair Credit Reporting Act from subscribers and inform them of federal penalties for obtaining credit information under false pretenses. Under the terms of the agreement, it will take reasonable efforts to verify the identity of and the uses certified by each new subscriber prior to furnishing consumer reports to the subscriber.

#### Heatcool Corporation

The Heatcool Corporation agreed not to make misrepresentations and not to perform specific deceptive and false comparative demonstrations in advertisements concerning the insulating ability and R-Value of its storm windows.

#### Plaskolite, Inc.

Plaskolite, Inc. agreed to an order prohibiting it from making false and misleading advertising claims in the marketing of its storm windows. The alleged misrepresentations indicated substantial reductions in heat loss and substantial savings from the use of its products. The company agreed to have reliable test results or other reliable objective materials to substantiate its claims.

#### Medical Information Bureau, Inc.

The Medical Information Bureau agreed to an order prohibiting practices in violation of the Fair Credit Reporting Act. The alleged violations included reporting to members the prior deletion of material from a consumer's file, requiring consumers to sign exculpatory waivers for the corporation and its members before releasing information from the consumer's own files to them, and inadequate reinvestigation of disputed information.

#### Competitive Edge, Inc.

The Competitive Edge, Inc. agreed to comply with the Truth in Lending Act and not to create, produce and cause the dissemination of





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## PRELIMINARY AND PERMANENT INJUNCTIONS

## CONSUMER PROTECTION MISSION

## National Transportation Consultants, Inc., et al.

The Commission's complaint charged this company, and five individuals, with false and deceptive representations of their services in the trucker training business. The parties have been permanently enjoined from misrepresenting the earning potential of owner-operators, the quality of the management and business assistance that they could provide, and their ability to help students find financing for buying tractor-trailers. They agreed not to misrepresent the nature and extent of services provided in a training course; the extent or nature of any affiliation with any other entity; and that the training course will qualify consumers for employment as professional truck drivers. The injunction prohibits the parties from accepting payment from consumers who do not meet federal, state, or local certification requirements relating to age, employment, personal history, or physical condition.

## Kitco of Nevada, Inc., et al.

The Commission has filed a complaint seeking a permanent injunction, attachment, and consumer redress against this corporation. A U.S. District Court issued a preliminary injunction in June, 1983. The charges allege solicitation of investments from consumers of approximately \$24,000 each in exchange for \$6,000 worth of manufacturing equipment and allegedly empty promises of "work at home" business opportunity. The consumer is required to use the Kitco machines to assemble plastic articles which Kitco agrees to market. According to the complaint, misrepresentations were made concerning earning power, payment for goods by Kitco, receipt of continuous orders, contracts with large companies, and the production capacity and waste rate of the machines.

## J&amp;R Marketing Corporation

The Commission is seeking a permanent injunction and consumer redress for alleged unfair and deceptive practices in the business of advising, evaluating, or facilitating real estate investments. A preliminary injunction was obtained in June, 1983. According to the complaint, consumers participate in a lottery conducted by the Bureau of Land Management to win oil and gas leases. Usually the likelihood of receiving a lease is small. The company represents to consumers that they can

increase their chance of winning a valuable lease. They claim to know of parcels both lightly bid and highly valued. Consumers are told the risk is low and their investment is guaranteed. The Commission contends these representations are false and have caused substantial consumer injury.

#### First Petroleum Corp. of America

Under this order, the company agreed to pay \$125,000 into a redress fund and accept a permanent injunction. The action settled charges that the company falsely represented to consumers that it could virtually assure them of obtaining oil and gas leases. The company may not misrepresent its success rate, must make specified disclosures in contracts or service agreements, and must not misrepresent the service it offers. Eligible consumers will receive pro-rated shares of the redress fund.

#### Ferrara Foods, Inc.

The Commission filed a complaint seeking a permanent injunction and civil penalties for alleged violations of the Franchise Rule. A preliminary injunction was obtained in April, 1983. The company allegedly failed to disclose financial substantiation for earnings claims, and failed to give prospective customers copies of the contract form five days in advance of execution. It also allegedly misrepresented that the franchises included exclusive distributorships for string cheese, when in fact, anyone could order the product from the manufacturer.

#### Bureau of Collections, et al.

Don H. Sly, his non-profit company, The Universal Church of Jesus Christ, and its department, the Bureau of Collections, were charged with using illegal practices in collecting debts for creditors. The Commission was granted a permanent injunction to end respondent's violations of the Fair Debt Collection Practices Act. The illegal acts included threats of legal action which cannot be taken or were not intended to be taken; using forms designed to resemble judicial notices; intentional overcharges; using false names for the association; and failing to send debtors a statutory notice of rights under the Fair Debt Collection Act within five days of the initial contact.

#### Kimberly International Gem, Inc., et al.

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tation of the value of the colored gemstones it sells for investment, and the risks involved in investing in those stones. A preliminary injunction was obtained in September, 1983. Alleged misrepresentations include: offering "wholesale" prices which are many times greater than prices retailers pay; delivering gemstones inferior in quality to those ordered; engaging in a "gem-switching" scheme to deprive consumers of valuable gemstones they owned previously; and giving customers "certificates of evaluation" stating excessive replacement values.

Paradise Palms Vacation Club, Inc., et al.

The Commission obtained a settlement as to defendants Ben and Mary Anne Kirk which permanently enjoins Ben Kirk from engaging in deceptive practices in the sale of vacation timeshares, and provides for the payment by each defendant of \$50,000 in consumer redress.

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**Consumer Finance Corporation**

The Consumer Finance Corporation agreed to a \$15,000 civil penalty consent decree to settle charges that it violated the Fair Debt Collection Practices Act. The alleged violations included: use of profanity; overbilling; false representation of attorney status; threat of imminent arrest; threat of (illegal) legal action; and failure to answer consumer requests for information.

**Pacific Coast Manufacturing Co., Inc.**

The Pacific Coast Manufacturing Co. agreed to a \$15,000 civil penalty consent decree for allegedly violating the Commission's Labeling and Advertising of Home Insulation (R-Value) Rule. The consent decree enjoins misrepresentations of the fire safety characteristics of insulation, false claims of safety and quality certification, and misrepresentations of the R-value of the product. This is the Commission's first R-Value Rule case.

**Super Market Media, Inc.**

The Commission executed a consent decree with the company which contained a \$10,000 civil penalty, an order to ship approximately 65,000 packages of consumer merchandise, and a permanent injunction against future violations of the Commission's Mail Order Rule. The alleged violations involved misrepresentations of money-back guarantees. This settlement provided consumers with the merchandise they ordered instead of the approximately 1% of value they might have received from bankruptcy proceedings.

**Hofmann Construction Co.**

The Hoffman Construction Co. agreed to a \$65,200 civil penalty consent decree for allegedly violating a 1973 Commission order and the Truth In Lending Act. The company, a seller of mobile homes, allegedly failed to disclose, or improperly disclosed, the annual percentage rate in its real estate credit advertisements.

**Aristar, Inc.**

Aristar, Inc. agreed to a \$90,000 civil penalty consent decree in the first case involving alleged illegal age discrimination under the Equal Credit Opportunity Act. Economic statistical data revealed a higher denial rate for the elderly than for other age groups. The company failed to present adequate explanations for the pattern. Investigations also



revealed alleged violations of the Fair Credit Reporting Act. The settlement includes a permanent injunction against future violations. This was the first time economic statistical models (econometrics) were constructed for an FTC investigation to detect discrimination patterns.

Li'l Peach Convenience Stores, et al.

Li'l Peach agreed to a \$10,000 civil penalty consent decree for allegedly violating the Commission's Franchise Rule. The company allegedly failed to disclose required financial information to prospective franchisees prior to the sale of franchises.

The Video Station, Inc., et al.

The consent decree agreed to by the company provided for a \$55,000 civil penalty and an injunction against future violations of the Franchise Rule. The company allegedly did not disclose required financial information prior to executing franchise contracts with consumers.

Jim Clark's Beef, Inc., et al.

A consent decree providing for a civil penalty of \$10,000 was agreed to by this company to settle charges it injured consumers with false and deceptive advertisements. The alleged violations involved displays of beef of one quality to induce consumer interest, followed by a switch to beef of considerably lower quality for the actual sale. In addition to the penalty, the company agreed to disclose the grade of beef sold, disclose the need for trimming which would reduce significantly the edible yield, and cease representing the standard price as a discount.

Iowa Credit Syndicate Of Fort Dodge, Inc.

The Commission alleged this company violated the Fair Debt Collection Practices Act. The Act prohibits threats of legal actions which may not be taken, and

records unless it has the capacity and intention to take the actions, and also to disclose to debtors their rights under the Fair Debt Collection Practices Act.

Milton Shaffner

Mr. Shaffner, an attorney who owns and operates a debt collection agency, signed a consent decree

**Braswell, Inc., et al.**

Braswell, Inc. agreed to a \$610,000 civil penalty consent judgment for allegedly misrepresenting that its products or services would cure or prevent hereditary baldness. The company is enjoined permanently from making these representations unless the product or service has been approved by the Food and Drug Administration, or efficacy claims are substantiated by reliable scientific evidence.

**Union Circulation Company**

The Commission obtained a permanent injunction and a civil penalty of \$15,000 against this company for alleged violations of the Commission's Cooling Off Rule. Union Circulation, a door-to-door seller of magazines, allegedly failed to provide required cancellation forms, misrepresented buyers' right to cancel, and failed to provide refunds within the required time period after cancellation.

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## ADMINISTRATIVE COMPLAINTS

## COMPETITION MISSION

## Schlumberger Limited

The Commission's complaint alleged that Fairchild Camera and Instrument Corporation's acquisition of Accutest Corporation tended to create a monopoly in the market for automatic computer chip test equipment. The complaint alleged that as a result of the merger, Fairchild, already the dominant firm in the market, would be further strengthened through the elimination of Accutest as a competitor. Fairchild was a wholly owned subsidiary of Schlumberger, Ltd.

## CONSUMER PROTECTION MISSION

## Rentacolor, Inc., et al.

The Commission complaint alleges that the company violated the Consumer Leasing Act in advertisements promoting leases for color televisions and other video equipment. The advertisements allegedly failed to disclose that the transaction is a lease, the amount of the periodic payments under the lease agreements, the total amount of such payment, and whether an option to purchase the equipment existed. The complaint also alleges that some lease contracts entered into with consumers have similar violations.

## Figgie International, Inc.

This complaint alleges that the company's claim that its combination heat detector-smoke detector provides significantly greater fire protection than a simple smoke detector or heat detector is deceptive. The Commission charges that the combination devices do not provide sufficient fire warning protection, and that in nearly all residential fires, life-endangering conditions will occur before the heat detectors sound an alarm.

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## PharmTech Research, Inc.

The Commission charged that the company's advertisement claiming that its dietary supplement, "Daily Greens", is associated with a reduction in the incidence of cancer in humans is unfair and deceptive. The complaint alleged that the advertisements referred to a National Academy of Science report which concluded that the ingestion of certain vegetables is associated with a reduction in the incidence of certain cancers; "Daily Greens" is made from dehydrated vegetables; and that the advertisements claim daily use will lead to benefits cited in the report. This is an unfair and deceptive representation, the Commission alleges, because the cited report is expressly limited to consumption of fresh unprocessed vegetables. Consequently, the company would lack a reasonable basis for the claims. The Commission is also seeking a preliminary injunction in federal district court to halt the product's current nationwide print and broadcast advertising campaign.

## Amana Refrigeration, Inc.

The Commission charged that advertisements for Amana's "Radarange" microwave ovens falsely claimed Amana was the only brand that passed four safety tests

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PART III (Adjudicative Stage)  
CONSENT AGREEMENTS ACCEPTED AND  
PUBLISHED FOR PUBLIC COMMENT

## Jim Walter Corporation

Jim Walter Corporation and its subsidiary, Celotex Corporation, agreed to divest four asphalt roofing materials plants within 24 months to settle antitrust charges. Under the order, Jim Walter was required to divest roofing plants in three states to an acquiror approved by the Commission. The order further provided



PART III (Adjudicative Stage)  
CONSENT AGREEMENTS ISSUED IN FINAL FORM

COMPETITION MISSION

Texas Dental Association

The Texas Dental Association agreed not to interfere with insurance companies' efforts to minimize costs by requesting x-rays to evaluate dentists' planned treatment of policyholders. The complaint alleged that Texas Dental Association violated

Borden Inc.

The Commission modified a final order against Borden Inc. which defined the method of pricing to be used in the sale of ReaLemon, a reconstituted lemon juice product. Under the order, Borden must not price ReaLemon so that the product's net revenue for any fiscal quarter in any sales district is less than the variable cost for that quarter and district. Variable costs were defined as those that would not have been incurred if ReaLemon were not produced. The original order, affirmed in 1982 by the Sixth Circuit Court of Appeals, prohibited Borden from selling ReaLemon at "unreasonably low prices," but did not define "unreasonably low prices." A modified order was issued after Borden and the Commission agreed to a settlement incorporating some modifications of the original order.

CONSUMER PROTECTION MISSION

Stihl, Inc., et al.

The Commission charged this company with preparing and disseminating false advertising. Among the claims challenged were that the corporation's chain saw was rated best by a leading consumer magazine, its saws operate better than any others on the market, and its power tools last twice as long as other brands. Under this consent order the company agreed not to make the challenged claims and to base any future claims on the evidence of one or more competent, reliable sources.

Amana Refrigeration, Inc.

Amana Refrigeration agreed not to advertise contrary to fact that only Amana "Radarange" microwave ovens had passed tests conducted by an independent laboratory. The consent order requires the company to have a reasonable basis for all future representations about the quality and safety of microwave ovens, and for all claims

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products work automatically with little maintenance, and that the furnaces can withstand 375 degrees Fahrenheit. According to the complaint, the products allegedly suffer a high rate of failure due to multiple defects, and high temperature adversely affects them. After the complaint was filed the parties signed a consent order in

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INITIAL DECISIONS

COMPETITION MISSION

Champion Spark Plug Company

An Administrative Law judge dismissed a 1980 complaint against Champion Spark Plug Company, the world's largest manufacturer of replacement spark plugs. The complaint charged that Champion's acquisition of The Anderson Company, the nation's largest manufacturer of replacement windshield wipers, reduced competition in the replacement wiper blades and parts market. (r) Tw (wic ( ) 1Tj 1.92 0 TD 0.023 Tc 42

## CONSUMER PROTECTION MISSION

Thompson Medical Co., Inc., et al.

An Administrative Law judge upheld most of the charges of a 1981 Commission complaint against Thompson Medical Company, maker of "Aspercreme." The issues in this matter included whether the corporation directly or indirectly represented in advertisements: "Aspercreme" contains aspirin; it is more effective than orally ingested aspirin for the relief of arthritic, rheumatic conditions and their symptoms; the product acts by directly penetrating through the skin to the site of the arthritis disorder; whether the name "Aspercreme" implies the presence of aspirin; and whether such alleged representations are false, misleading or deceptive. The administrative law judge found that the claims had been made, were false or deceptive, and had caused harm to the public. The company was ordered to: stop using the name "Aspercreme" unless a product contains aspirin or prominent disclosures are made that it is aspirin-free; stop

## FINAL COMMISSION ORDERS

## COMPETITION MISSION

## Dairymen, Inc.

The Commission dismissed charges against all parties named in a 1980 complaint challenging the acquisition by Dairymen, Inc. of Munford's wholly-owned subsidiary, Farmbest Foods Inc., rejecting a proposed consent as to Dairymen.

## Indiana Federation of Dentists

The Commission ruled that the Indiana Federation of Dentists could not boycott dental insurers who requested copies of existing x-rays for use in determining whether a claim was covered or if less expensive dental treatment should be done. However, the Commission overturned a 1980 decision by an Administrative Law judge to dissolve the Federation. The order also prohibited the Federation from attempting to influence the policies of dental benefit programs in other respects, or from attempting to induce patients to avoid dentists who cooperate with the dental insurers.

## Michigan State Medical Society

The Commission upheld an Administrative Law judge's decision which found that the Michigan State Medical Society boycotted cost-containment and reimbursement policies of medical insurers. The complaint alleged that the Medical Society, which represents 80 percent of the state's doctors, attempted to fix prices by negotiating agreements with Blue Cross/Blue Shield of Michigan and the state's Medicaid program on behalf of its members. The order bars agreements between the Medical Society and insurers which set reimbursement terms for its members, agreements which give the Medical Society the power to cancel participation in insurance programs on behalf of individual doctors, and agreements with its members to regulate reimbursement policies for physician services. The Medical Society is required to notify present and future members of the order's requirements.

## Ethyl Corporation

The Commission upheld in part a 1981 Administrative Law judge's decision that Ethyl Corporation and E. I. duPont de Nemours & Co., the nation's leading producers of lead-based antiknock gasoline additives,





Massachusetts Furniture and Piano Movers Association

The Commission upheld an Administrative Law judge's decision

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ORDER MODIFICATIONS

COMPETITION MISSION

Hercules, Inc.

The Commission modified a 1970 consent order with Hercules Inc., to eliminate a provision requiring Hercules to obtain FTC approval before acquiring any assets or stock of Columbian Rope Co. and to eliminate recordkeeping provisions. The complaint issued with the order alleged that Hercules' loan to Columbian to purchase rope-making assets in exchange for 34 percent of Columbian stock could reduce competition in the production of various types of rope. All other remedial provisions of the order have either been previously deleted or have expired.

U.S. Pioneer Electronics, Inc.

U.S. Pioneer Electronics, Inc. petitioned the Commission to delete the provision in the 1975 order that prohibited Pioneer's purchase of Columbian rope. All other remedial provisions of the order have either been previously deleted or have expired.

and journal. In addition, the Commission modified the period during which ADA would be required to maintain records and file reports with the FTC.

#### Foremost-McKesson, Inc.

The Commission modified a 1967 consent order by deleting the requirement that Foremost-McKesson obtain FTC approval before acquiring an interest in any company that manufactures pharmaceutical preparations or engages in the wholesale distribution of drugs, drug proprietaries, druggists' sundries, toiletries, housewares or related products.

#### Occidental Petroleum Corporation

The Occidental Petroleum Corporation petitioned the Commission to set aside or modify the 1974 consent order which alleged that Occidental and its subsidiary Hooker Chemical Corporation had gained unfair competitive advantage over their competitors through reciprocal dealing, a practice whereby one company sells to a second on the condition that the second sells to the first. The order was modified to allow Occidental to prepare a statistical analysis comparing its purchases with a company to its sales to that company and also ruled that the order would expire 10 years after its March 1974 issuance. The Commission denied Occidental's request to vacate the order.

#### IC Industries Inc.

At the request of IC Industries Inc., the Commission modified a 1973 consent order which charged that IC's acquisition of Midas-International Corporation lessened competition in the manufacture and sale of automotive replacement parts and prohibited IC from acquiring any U.S. manufacturer or wholesale distributor of brake parts without prior FTC approval for ten years. Under the modified order, Midas can purchase products containing brake friction materials manufactured by Abex Corporation, another IC subsidiary.

#### Dahlberg Electronics Inc.

The Commission modified a 1974 consent order against Dahlberg Electronics Inc., a hearing aid manufacturer, at the request of the company. Under the original order Dahlberg was prohibited from setting resale prices, telling its dealers which customers they could sell to, which territories they could service, and preventing its dealers from selling competing products. Dahlberg was permitted to suggest prices to its dealers, but not to coerce adherence to the suggested price.



**Xerox Corporation**

The Commission modified a 1975 order which settled a 1973 FTC complaint that Xerox monopolized office copier patents. Under the modified order Xerox could advertise and promote its copiers more easily but was required to continue for two years to announce the selling price of its copiers when it announced it would take orders for the lease of copiers.

**Sherwood Electronic Laboratories, Inc.**

The Commission reopened and modified a 1975 order against Sherwood Electronic Laboratories, Inc. to allow it to prevent transshipment of its products to dealers who did not meet reasonable, non-discriminatory standards of promotion, service and display.

**United Audio Products, Inc.**

The Commission modified a 1976 Order to allow United Audio Products, Inc. to prevent transshipment of its products to dealers who did not meet reasonable, non-discriminatory standards of promotion, service and display.

**Nikko Electric Corporation of America**

The Commission modified an Order against Nikko Electric Corporation of America allowing the firm to prevent transshipment of its products to dealers who did not meet reasonable, non-discriminatory standards of promotion, service and display.

**CONSUMER PROTECTION MISSION****GC Services Corporation, et al.**

This collection agency had been under a consent order which prohibited it from various practices including holding debtors' post-dated checks for more than 60 days. Since the order was issued, the law has changed and the company has shown good faith. The modification removes the 60 day limitation but requires the company to notify debtors at least three business days in advance of depositing their checks, and allows debtors to recall unsecured post-dated checks.

**AHC Pharmacal, Inc.**

This modification to the Commission order removes the requirement that the company disseminate corrective advertisements. It also allows

the company to claim that its acne product containing benzoyl peroxide can be effective for treating acne. However, the company may not claim its product is better than competing brands, or that it can cure acne unless it has a reasonable basis for the claims.

H & R Block, Inc.

To conform with changes in the Internal Revenue Service regulations, the Commission modified the requirement in this order that the company obtain an authorization from a customer prior to preparing a tax return in order to use any information on the return to solicit other business. The company must now obtain an authorization by the time it finishes the tax return, and it does not have to specify what information will be used. However, the company must still disclose other entities with which it intends to share the information.

Encyclopaedia Britannica, Inc., et al.

The modifications to the order governing the marketing practices of this company involve changes in the wording and presentation required in advertisements and sales material. In addition, order provisions covering restrictions on the use of key words, and required disclosures to prospective employees were modified.

Fred Meyer, Inc.

Prior to this modification the company had to give customers 10 days after the expiration of a layaway period to decide whether they wanted to complete layaway payments or obtain a refund. The company will now give customers 14 days to settle their accounts. This change was requested by the company in order to simplify their recordkeeping procedures.

Morton-Thiokol, Inc., et al.

Under this modification, the company is no longer required to put extensive warnings in advertisements for "Morton Lite Salt", as long as it discloses the product contains sodium and consumers are directed to read the label warning. The company may now also state that the medical profession has found a link between sodium intake and high blood pressure.





Reader's Digest Association, Inc.

Under the modified order, Reader's Digest may now use "simulated checks" and is no longer prohibited from claiming contestants are "lucky" or have been "especially selected" to win a prize. Certain record-keeping requirements were also changed. The modifications were based on current evidence that consumers are no longer misled by such promotional materials.

The Kroger Company

A negotiated settlement between the FTC and Kroger resulted in a 1981 Commission order being modified to allow the company to conditionally use survey-based, comparison price advertisements. Certain other provisions of the order were deleted.

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## ADVISORY OPINIONS

## COMPETITION MISSION

## Burnham Hospital

An Advisory Opinion was issued to Burnham Hospital concerning Burnham's exclusive contract with Prairie Professionals, a group of radiologists, to operate the hospital's radiology laboratory. The Opinion found that the contract would probably not restrict competition among radiologists. The Opinion also said that the fact that Burnham's decision to enter the contract was made in the interest of the hospital and was not the result of efforts by the hospital's medical staff to restrict competition among physicians also suggested that it would not harm competition.

## Resource Analysis &amp; Management Group

An Advisory Opinion issued to the Resources Analysis and Management Group discussed its plan to collect price and other information from operators of high-cost natural gas wells, which had been deregulated by the Natural Gas Policy Act of 1978, for use in contract redeterminations between natural gas producers and purchasers. The Commission did not object to the proposed program, subject to certain qualifications set out in the Opinion, and said that disclosure of individual well data to persons not involved in the production or sale of natural gas who required the data solely for research or study purposes would be lawful if they agreed not to disclose the data to others.

## Santa Fe Energy Company

An Advisory Opinion issued to the Santa Fe Energy Company discussed the use of intermediaries to obtain and supply natural gas price provisions and other data for use in contract redeterminations. Subject to certain qualifications, the Commission did not object to the use of intermediaries such as the Resource Analysis & Management Group, to supply information regarding prices being paid by pipelines buying gas of similar quality and quantity from competitors in the same producing area.

#### Rhode Island Professional Standards Review Organization

The Commission issued an Advisory Opinion to the Rhode Island Professional Standards Review Organization concerning its peer review program designed to advise consumers and physicians on the necessity of proposed medical treatment. The Opinion stated that the review program did not appear to involve price fixing, an agreement to avoid competition or other conspiracy in restraint of trade. The Commission further noted that while the program may promote competition, the organization should avoid using the program in ways which discriminate against innovative competitors.

#### Health Care Management Associates

The Commission issued an Advisory Opinion to Health Care Management Associates, a New Jersey consulting firm. The Opinion stated that its proposed program, designed to monitor the organization, financing and delivery of health care services of a limited number of health care professionals, would not violate federal antitrust laws. The "Cooperating Provider Program" planned by Health Care Management Associates also would provide for the sale of health care services to insureds covered by third party payers under contract with the

on behalf of its members up to 400,000 metric tons of phosphate rock for sulfur with the Governments of Mexico and Poland. Under the plan, the Association would arrange for the distribution of the sulfur to its participating member firms based on each member's proportionate contribution of the exported phosphate rock. The Opinion stated that the Commission approved the Webb-Pomerene association's limited participation in the barter program as a legitimate "act done in the course of export trade" and that it would not constitute an unlawful restraint of trade in United States markets or have a significant potential negative effect on foreign commerce.

#### The Coca-Cola Company

The FTC issued an Advisory Opinion to the Coca-Cola Co. stating that the divestiture of Doric Foods Corporation to Doric Holdings, Inc., a newly-formed joint venture, would constitute compliance with the consent agreement provisionally accepted in 1982. The Opinion is conditioned upon the issuance of a final Commission order against Coca-Cola. The consent agreement required Coca-Cola to divest its Doric Foods subsidiary to an acquirer approved in advance by the Commission.

#### The American Podiatry Association

The Commission's staff issued an Advisory Opinion to the American Podiatry Association at the request of the Association and one of its members, the Podiatry Society of Virginia. The Opinion discussed the Association's proposed peer review program and its guidelines to be used by any of the component review committees representing 8200 doctors of podiatric medicine in the U.S. The program establishes a mechanism whereby patients, insurers or podiatrists may request peer advisory determinations by the member societies to resolve disputes regarding podiatric fees or use of services. The Opinion stated that the proposed peer review would not violate the antitrust laws but, could instead benefit consumers by giving the medical community incentives to practice in a more cost-conscious manner.

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APPELLATE COURT REVIEW  
OF COMMISSION ORDERS

## American Home Products Corp.

On December 3, 1982, the United States Court of Appeals for the Third Circuit affirmed and enforced in principal part the Commission's order against American Home Products Corp., prohibiting deceptive practices in connection with advertising of over the counter analgesics and other O-T-C drug products.

## Grolier, Inc.

On February 10, 1983, the United States Court of Appeals for the Ninth Circuit affirmed and enforced the Commission's order against Grolier, Inc., which prohibited various deceptive practices in the sale of encyclopedias.

## Montgomery Ward &amp; Co., Inc.

On November 9, 1982, the United States Court of Appeals for the Ninth Circuit affirmed the Commission's finding that Montgomery Ward had violated the Commission's Rule on Pre-Sale Availability of Written Warranties by its failure to provide at least one warranty binder per sales floor, and reversed the Commission's holding that Wards had violated the Rule through failure to maintain at violated th0 TD 0 T

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SUPREME COURT REVIEW  
OF COMMISSION ORDERS

Borden

On May 23, 1983, the Supreme Court granted Borden's petition for a writ of certiorari and remanded the case to the Sixth Circuit for entry of an order vacating the Sixth Circuit's decision and remanded the case to the Commission for entry of a consent agreement with Borden. The Commission had recommended this course of action in response to Borden's petition for certiorari.

Francis Ford, Inc.

On November 8, 1982, the Supreme Court denied, by a vote of 7-2, the Commission's petition for a writ of certiorari, thereby letting stand a holding of the United States Court of Appeals for the Ninth Circuit that the Commission had exceeded its authority when it proceeded by adjudication rather than rulemaking to challenge certain allegedly unfair practices of Francis Ford.

Herbert R. Gibson, Sr., et al.

On April 4, 1983, the Supreme Court denied authority On authority

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FCC

FTC joint Bureau reply comments submitted in FCC BC Dkt. No. 82-345, Amendment of 47 C.F.R. 73.658(j); The Syndication and Financial Interest Rule.

OMB

Commission letter to OMB on the Department of Transportation's drafts of the Truck Deregulation Act of 1983 and the Surface Freight Forwarder Deregulation Act of 1983.

ITC

Letter to ITC regarding Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108, 109. (Case involving cement dumping).

DOC



Federal Reserve Board

FTC joint Bureau comments submitted to the Federal Reserve Board commenting on the proposed modification of Regulation B which implements the Equal Credit Opportunity Act.

B. Statements Presented to Congressional Committees  
and State Legislature Committees

Delaware House Committee on Revenue and Finance

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## House Energy and Commerce Committee

Comments submitted by the Commission opposing H.R. 1234, the "Fair Practices in Automotive Products Act," which proposes certain "domestic content" levels for cars and trucks sold in the U.S. and opposing H. R. 3113, "The Domestic Automobile Industry Revitalization Act," which proposes certain protectionist features for the U.S. auto industry.

## Senate Committee on Banking, Housing and Urban Affairs

Testimony by Commissioner George W. Douglas on the future direction of the banking and financial services industries.

## California State Assembly

Testimony by Harrison Sheppard for the San Francisco Regional Office before the California State Assembly on S.B. 440, "An act to amend Section 651 of the Business and Professions Code relating to professional advertising.

## FERC

Staff statement before the Federal Energy Regulatory Commission on the purchasing practices of interstate natural gas pipelines.

## Senate Finance Committee

Commission comments on proposed revisions to the medicare and Medicaid programs contained in S.643, the "Health Care Financing Amendments of 1983." The comments relate to several sections of the bill (including accreditation) that may affect competition and consumer protection in the health care services

subcommittee

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C. Reports Released to the Public

Report on Entrepreneurial Trends in Health Care Delivery

Consultant report (by Institute for Health Policy Studies, University of California, San Francisco) analyzing the development of retail dentistry and freestanding ambulatory services.

Report on Airport Access Problems: Lessons Learned from Slot Regulation by the FAA

Bureau of Economics Staff Report to the FTC analyzing FAA regulation of the number of landings per hour (slots) at certain airports and proposing the substitution of a market approach to slot allocation.

D. Amicus Curiae Briefs

Court of International Trade

Request for permission to file briefs in carbon steel proceedings amicus curiae, before Court of International Trade.

Court of International Trade

Brief by the FTC as amicus curiae before the Court of International Trade on countervailing duties on imported carbon steel.

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## ECONOMIC WORKING PAPERS

Assessing the Competition Potential of Health-Care Markets, Judith R. Gelman, October 1982.

Measuring the Value of Life From Consumer Reactions to New Information, Pauline M. Ippolito and Richard A. Ippolito, October 1982.

Market Definition in Antitrust Analysis: Comment, Robert A. Rogowsky and William F. Shughart II, Revised October 1983.

The Impact and Relevance of the 1911 General Electric Lamp Case, Robert P. Rogers, November 1982.

Market Share and Profitability: A New Approach, Malcom B. Coate, January 1983.

The English Economy Following the Black Death, Judith R. Gelman, Revised November 1982.

Raising Rivals' Costs, Steven C. Salop and David T. Scheffman, January 1983.

Innovation and Market Structure: A Survey, Morris E. Morkre, April 1983.

Capital-Biased Subsidies, Bureaucratic Monitoring, and Bus Scrapping, Mark W. Frankena, April 1983.

Market, Firm and Economic Performance: An Empirical Analysis, Stephen Martin, June 1982.

The Application Of Tobit and Probit Estimation to Aggregate Data. Frederick I. Johnson, June 1983.

The Imprecision Of Traditional Welfare Measures In Empirical Applications, Frederick I. Johnson, June 1983.

Causality Tests For Market Extent Applied to Petroleum Products, Margaret E. Slade, June 1983.

Successful Efforts And Full Cost Accounting As Measures Of The Internal Rate Of Return For Petroleum Companies, Marvin Rosenberg, June 1983.

The Regressive Nature of Civil Penalties, Phyllis Altrogge and William F. Shughart II, June 1983.

Warranties, Tie-Ins, And Efficient Insurance Contracts: A Theory And Three Case Studies, Jeffery A. Eisenach, Richard S. Higgins and William F. Shughart II, June 1983.

Intra-Firm Subsidization and Regulation: Do Profits Cover Losses, Or Do Losses Justify Profits, And Does It Matter?, Oliver Grawe, June 1983.

Mergers and Market Share, Dennis C. Mueller, June 1983.

A Theory Of Cost And Intermittent Production: Some Antitrust Implications, Michael T. Maloney, June 1983.

The Usefulness Of Accounting Profit Data: A Comment On Fisher And McGowan, William F. Long and David Ravenscraft, June 1983.

Forms Of Competition And Contracting In The Private Marketing Of Collective Goods, Earl Thompson, August 1983.

The Measurement Of Firm Cost Curves In The Steel Industry, Robert P. Rogers, September 1983.

Tie-Ins Involving Bundles With Fixed Proportions Demand, Judith R. Gelman, 1983.

The Price and Profit Effects of Horizontal Merger: A Case Study, David M. Barton and Roger Sherman, August 1983.

Age Discrimination In Credit Markets, Samuel L. Myers, Jr., May 1983.

## MISCELLANEOUS ECONOMIC POLICY PAPERS

Competition and Collusion In Electric Equipment Markets. An Economic Assessment, David Lean, Jonathan Ogur, and Robert Rogers, July 1982.

Retrospective study of the famous electrical equipment price-fixing conspiracy of the 1950's. Concluded that the conspiracy had raised prices in some markets, and that despite the remedies handed out in the case, facilitating practices allowed some prices to be raised after the case was concluded.

The Determinants of Persistent Profits: An Empirical Study, Dennis Mueller, June 1983.

Concluded that persistent profits among large U.S. corporations stem from firm-specific factors such as patents, rather than from barriers to entry.

Airport Access Problems: Lessons From Slot Regulation By The FAA: An Economic Policy Analysis, Donald Koran and Jonathan Ogur, May 1983.

Estimated potential gains to consumers from using market system for allocating landing slots instead of the present administrative system. Current losses estimated in the range of tens of millions of dollars per year.

Review Of The Economic Basis For Broad-Based Horizontal Merger Policy, Paul Pautler, forthcoming in Antitrust Bulletin, Fall, 1983.

Part of the analysis performed in connection with merger guidelines, this article reviews much of the theoretical and empirical research produced since 1968 on the economics of horizontal mergers. Concludes that the evidence underlying the pre-1968 consensus on merger policies was not as strong, consistent, or unambiguous as had been thought.

When Would A Merger Creating A Monopoly Lead To A Lower Price?, Walter Vandaele, Alan Fisher, and Robert Lande, forthcoming in California Law Review, December, 1983.

Identifies the cost and other conditions under which a merger transforming an industry from competitive to monopoly pricing could bring a decrease in marginal costs sufficient to lead the new monopoly price to be as low or lower than the pre-merger competitive price.

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## LINE OF BUSINESS PROGRAM RESEARCH PAPERS

Sales-At-Risk: The Importance of Multi-market Contracts in American Manufacturing, Robert Feinberg, December 1982.

Market Share, Concentration and Profits: Intra-Industry And Inter-Industry Evidence, William F. Long, December 1982.

Economies of Integration, David J. Ravenscraft, December 1982.

R & D And Declining Productivity Growth, Frederick M. Scherer, May 1983.

Capital Costs and Profitability, John T. Scott and George Pascoe, September 1983.

The Usefulness Of Accounting Profit Data: A Comment On Fisher And McGowan (Franklin Fisher and John McGowan, On The Misuse Of Accounting Rates Of Return To Infer Monopoly Profits, William F. Long and David J. Ravenscraft, American Economic Review, March 1983.

An Alternative Interpretation Of Seller Concentration, Capital Intensity, and Profitability, John T. Scott and George Pascoe, August 1983.

Firm Versus Industry Variability in R & D Intensity, John T. Scott, R & D, Patents, and Productivity, NBER Conference Volume, Forthcoming September 1984.

Domestic Profit Advantages Of Multinational Firms, Anita Benviganti, August 1983.

International Transfer Pricing by U.S. Manufacturing Firms, August 1983.

Growth By Diversification: Entrepreneurial Behavior In Large-Scale United States Enterprises, Frederic M. Scherer, August 1983.

Aggregate Production Function Results Using FTC Line Of Business Results in the Federal Reserve Bank of St. Louis (States)