

FEDERAL TRADE COMMISSION - 1994

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DEBORAH K. OWEN, *Commissioner*

ROSCOE B. STAREK, III, *Commissioner*

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FEDERAL TRADE COMMISSION
1994 ANNUAL REPORT

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Federal Trade Commission

litigation attorney in the Office of the General Counsel. In 1982, she received the Federal Trade Commission Chairman's Award, the highest recognition accorded a Commission employee.

Commissioner Azcuenaga is a graduate of Stanford University and the University of Chicago School of Law. She is a member of the Administrative Conference of the United States and a member of the Board of Trustees of the Food and Drug Law Institute. She is a member of the Board of Directors of the Girl Scout Council of the Nation's Capital and a member of the Board of Trustees of St. John's Community Services.

Commissioner Azcuenaga is a member of the bars of the District of Columbia and the State of California. She lives in Washington, D.C.

DEBORAH K. OWEN
(10/89 - 8/94)

Deborah K. Owen was sworn in as a Commissioner of the Federal Trade Commission on October 25, 1989. The oath of office was administered by Senator Strom Thurmond.

From 1980 to 1982, Commissioner Owen served as the

Commissioners

Prior to her government service, Commissioner Owen practiced with the Baltimore, Maryland law firm of Piper & Marbury, concentrating on pension matters and general business law.

ROSCOE B. STAREK, III
(11/90 -)

Roscoe B. Starek, III was sworn in as a member of the Federal Trade Commission on November 19, 1990. Prior to that time, Commissioner Starek held a number of positions in both the Legislative and Executive branches of the Federal Government. From January, 1989, unt

Federal Trade Commission

Beginning in 1983, Commissioner Yao was a lecturer and later an associate professor of public

OVERVIEW

The Federal Trade Commission enforces a variety of federal antitrust and consumer protection laws. By eliminating acts or practices that are unfair or deceptive, it seeks to ensure that the nation's markets function competitively and are vigorous, efficient, and free of undue restrictions. The Commission's efforts are generally directed toward stopping actions that restrict competition or threaten consumers' ability to exercise informed choice and local government bodies. The Commission undertakes economic analysis to support its law enforcement efforts and to contribute to the policy deliberations of various federal, state, and local government bodies.

In addition to its statutory enforcement activities, the Commission supports Congressional mandates through cost-effective nonenforcement activities, such as (lawduc) Tj TD -049ssionr 6.4() Tj-0.3

Federal Trade Commission

Challenges for the Competition Mission

Dynamic changes in the U.S. economy have increased the need for constant vigilance to ensure that the marketplace remains competitive. These changes include a significant increase in mergers and acquisitions that result in higher market concentration; new forms of business affiliations, particularly in health care and related fields, that may restrict competition; and marketplace pressures that sometimes lead adversaries to collaborate or restrict entry rather than compete. At the same time, factors such as the fast paced nature of technological change and the international nature of competition, require ongoing review of enforcement policy to ensure that the Competition Mission continues to achieve net benefits for the

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- taking steps to ensure that enforcement policy and practices are cost-effective and do not impose unnecessary burdens on the public or the business community.

Overview of Activities

Enforcement initiatives comprised the bulk of mission activities. The Commission maintained a highly visible enforcement presence by bringing significant cases, including both traditional antitrust enforcement actions of regional or national significance and cases of first impression. In particular, the Commission pursued mergers and acquisitions that may have substantially lessened competition or tended to create a monopoly across the spectrum of American industry. The Commission also pursued unfair methods of competition that presented a risk of significant economic harm to consumers. The major part of this work is directed to horizontal collusion (efforts by two or more competitors to conspire to restrain trade). The Commission also challenged efforts by a single entity to attempt to, or actually, monopolize a particular market and challenged vertical agreements between suppliers and resellers of goods that threatened to raise prices or decrease quality and output.

The Commission also engaged in cooperative enforcement efforts with state governments and with the Department of Justice and other federal agencies. This collaboration enabled all agencies involved to put their comparative advantages to best use, resulting in more effective and efficient enforcement. The Commission thus leveraged its resources and expertise to achieve greater benefits for consumers. To this end, the Commission continually sought to further strengthen the already strong working relationships it had developed in recent years with state governments. In addition, the Commission sought to cooperate in antitrust enforcement efforts with other countries and to provide advice and counsel, upon request, to countries in the process of implementing or revising competition policies.

Another important part of the Commission's enforcement efforts was providing guidance to the business community to facilitate compliance with antitrust laws. This guidance resulted in more effective and efficient enforcement by minimizing the need for resource-intensive investigation and litigation after a competitive problem arose. In addition, it reduced antitrust uncertainty for the business community and assisted in more efficient business planning. In fiscal year 1994, the Commission, together with the Antitrust

Federal Trade Commission

Division of the Department of Justice, issued updated and expanded statements of enforcement policy in the health care industry. These statements provided substantial guidance by outlining areas where the Commission and the Antitrust Division were unlikely to take enforcement action, as well as areas that could raise antitrust concerns. Commission staff also provided guidance in the form of staff advisory opinions, which analyzed proposed conduct on a §D 0.0075 Tc (Divisi

efficient ways of conducting business. Consequently, the Mergers and Joint Ventures Program seeks to identify and block those mergers that are likely to harm consumers by giving firms a dominant position in the market, by significantly increasing the likelihood of collusion, or by raising barriers to entry or expansion by other firms. Such mergers may violate Section 7 of the Clayton Act and Section 5 of the FTC Act.

Consistent with the importance of mergers as a prominent and dynamic aspect of United States economic activity, the Mergers and Joint Ventures Program is the largest of the Commission's five antitrust enforcement programs.

Enforcement Policies and Strategies

The Mergers and Joint Ventures Program, working in conjunction with the Premerger Notification Program, has the underlying goal of stopping potentially anticompetitive mergers before they occur. The Commission has adopted this preemptive enforcement strategy, because it is more effective and cost-efficient than detecting and challenging anticompetitive problems after a merger has been consummated.

In implementing this strategy, the Mergers and Joint Ventures

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For the relatively few transactions that raise competitive concerns, the Commission conducts further investigation. Such investigations generally include the issuance of requests for additional information to the merging parties, as authorized by the HSR Act. If the Commission has reason to believe that a merger may substantially lessen competition, the Commission seeks to protect consumers by stopping the merger before it takes place. To do so, it generally seeks injunctive relief under Section 13(b) of the Federal Trade Commission Act. In many cases, instead of litigating such a lawsuit, the merging parties agree to a consent order that provides for divestiture or other relief with respect to the anticompetitive parts of the transaction and the remainder of the transaction is allowed to proceed. For mergers that have already been consummated or where injunctive relief is not appropriate, the Commission seeks

parts of

Premerger Notification Program

Critical Role in Merger Enforcement

The Premerger Notification Program works in conjunction with the Mergers and Joint Ventures Program to review proposed acquisitions and mergers so that potential anticompetitive acquisitions can be challenged before they are consummated. The HSR Act requires entities, who meet certain size requirements and are planning significant acquisitions, to file notification with the Commission and the Antitrust Division of the Department of Justice and to delay consummation for a prescribed period of time. The Commission and the Department of Justice administer the HSR Act and take steps to ensure compliance with the requirements of the Act and its implementing rules.

The Premerger Notification Program gives the Commission a highly effective means of identifying and reviewing potentially anticompetitive mergers and acquisitions. Indeed, the vast majority of the Commission's merger enforcement actions are initiated through this process.

Violators Pay for Not Complying With HSR Reporting Requirements

Because of the importance of HSR filings to effective merger enforcement, apparent violations of the filing requirements are treated seriously. When it appears that the reporting requirements have been

Violators of mergerthe

Federal Trade Commission

a filing entity's request for early termination of the waiting period when no legitimate antitrust issue can be found. As a result of these recommendations, the Bureau granted 1,492 requests for early termination in fiscal year 1994.

The Premerger Notification Office is also responsible for developing ways to reduce the burden and cost to the public of filing the Notification and Report Form. In fiscal year 1994, the Premerger Notification Office issued another guide designed to aid the public in the submission of documents and materials usually requested when the Commission issues a request for additional information. *Guide V, A Model Request for Additional Information and Documentary Materials*, is the third of five guides that the Commission plans to publish regarding filing requirements and reporting procedures under the HSR Act. Staff also invited the public to comment on the notice of proposed rulemaking concerning changes to the Premerger Notification and Report Form. If adopted, these rules would eliminate the submission of information that is not essential to the antitrust review of a reportable transaction.

The Commission's Premerger Notification staff provided informal advice, opinions and general information regarding the application and interpretation of the HSR Act and the Premerger Rules, formal interpretations, the *Premerger Notification Source Book*, and the three Premerger Introductory Guides in approximately 14,000 instances. The Commission also worked with the Antitrust Division of the Department of Justice to ensure that the Premerger Notification Program was applied consistently and uniformly by the two agencies.

Finally, the Premerger Notification Office is responsible for collecting a filing fee from each acquiring entity required to report a transaction on the Notification and Report Form in compliance with the HSR Act. The waiting period required under the HSR Act does not begin until payment of the filing fee. Legislation, signed into law in August 1994, set the filing fee at \$45,000. During fiscal year 1994, the Commission collected \$58.2 million in filing fees. This amount is divided equally between the Commission and the Antitrust Division of the Department of Justice to help to support their antitrust missions.

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The Commission devoted more attention to the identification and prosecution of horizontal restraints in non-health care related service industries. This increasing concern has followed a general rise in the proportion of the nation's industries devoted to services rather than products.

The Commission paid close attention to newly deregulated industries. In many of these industries, governmental authorities are permitting and encouraging competition, but firms enter into horizontal agreements to restrict competition because they are reluctant to leave the shelter of a noncompetitive environment.

The Commission also examined firms claiming to be exempt from federal antitrust laws because the agreement was sanctioned and supervised by a state.

Helping Businesses Understand the Antitrust Laws

In another aspect of its Horizontal Restraints Program, the Commission sought to further its law enforcement mission by issuing guidelines that will help deter and prevent law violations, as well as enable businesses to plan their operations with greater certainty in their antitrust standing. In fiscal year 1994, the Commission and the Antitrust Division of the Department of Justice jointly issued revised and

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consumers. Agreements on resale prices between firms in a vertical relationship can have immediate effects on prices to consumers and are considered *per se* illegal. Other, nonprice vertical agreements are evaluated under a rule of reason and may or may not be illegal. The Commission investigates distributional restraints carefully to avoid challenging vertical agreements that may benefit consumers.

During fiscal year 1994, the Distributional Restraints Program focused on investigations in the following areas:

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recommended action on petitions to modify Commission orders and participated in reviews of Commission policies regarding competition orders.

New Policy Regarding Commission Orders

In July 1994, the Commission announced a major change in the duration of Commission orders in antitrust cases. The Commission issued a policy statement announcing that, in the future, the cease-and-desist provisions of Commission orders in competition cases would presumptively expire automatically after 20 years. Previously, such order provisions generally did not have an expiration date. *Fencing-in* provisions (broader prophylactic remedial provisions of Commission orders prohibiting conduct not affirmatively illegal) will normally expire automatically in 10 years. This action was taken to reduce the burden on respondents by removing order provisions when they likely will have outlived their need and their benefit to the public.

Other Compliance Actions

Companies that are subject to divestiture requirements in merger cases are required to obtain the Commission's approval before making any divestitures under the order. Such approval is required in order to ensure that the divestiture meets the remedial purpose of the order, to preserve or restore a competitive market structure. In fiscal year 1994, the Commission reviewed and approved divestiture applications in six cases.

CONSUMER PROTECTION MISSION

The Consumer Protection Mission aims to protect consumers against unfair, deceptive, or fraudulent practices. The work of the Consumer Protection Mission is carried out primarily through enforcement of Section 5 of the Federal Trade Commission Act and other consumer protection laws enacted by Congress, as well as trade regulation rules issued by the Commission. The Commission's actions include individual company and industry-wide investigations, administrative and federal court litigation, rulemaking proceedings, and consumer and business education. In addition, the Mission contributes to the Commission's ongoing efforts to inform Congress and other government entities of the impact that proposed actions could have on consumers.

Challenges for the Consumer Protection Mission

The goal of

operations. In addition, consumer education materials are being produced in other languages to reach non-English speaking audiences.

The Mission activities are also supplemented by close federal-state coordination. Formal joint actions most typically are undertaken together with the National Association of Attorneys General (NAAG) or the National Association of Consumer Agency Administrators (NACAA). Working with these organizations, joint resources are targeted to issues having a direct impact on consumers.

In addition to formal projects, staff attorneys working on individual cases typically consult with their colleagues in state and local consumer protection offices to coordinate law enforcement efforts. The momentum for joint action among federal, state, and local law enforcers has never been greater.

The Consumer Protection Mission is carried out through five law enforcement programs: Advertising Practices, Credit Practices, Enforcement, Marketing Practices, and Service Industry Practices. The Commission's 10 regional offices are an integral component of the Mission. The regional staff are responsible for a wide variety of significant consumer protection cases and serve as important contact points for state Attorneys General and other state and local consumer protection officials.

Advertising Practices Program

The Advertising Practices Program is designed to protect consumers from deceptive, unsubstantiated, or unfair advertising

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Federal Trade Commission

in 1994. In 1994, the Commission issued its *Enforcement Policy Statement on Food Advertising*. The policy statement is designed to promote consistent results between the Commission's advertising enforcement program and NLEA labeling regulations, while accommodating the practical and legal differences between ads and labels.

Like food advertising, advertising and promotion of dietary supplements continue to increase as new scientific evidence becomes available regarding the potential health benefits of various nutrients. Because of increasing consumer interest in dietary supplements and concerns about deceptive claims, this product category is being closely monitored. The focus has been on unsubstantiated health and efficacy claims for supplements purporting, for example, to aid in weight loss and muscle building, to lower serum cholesterol, and to provide other nutritional benefits.

A growing number of drugs that have traditionally been available only by prescription are now allowed by FDA to be sold directly to consumers over-the-counter. Advertising issues involving these drugs continue to be an area of particular interest. An active Commission program of monitoring advertising claims for these "switched" products is an important consideration to FDA in its review of proposals to sell a drug over-the-counter. Because most claims regarding a drug's efficacy, safety, and freedom from side effects cannot be judged by consumers for themselves, they are closely monitored.

Another area of emphasis during the past year was "green" claims. During the late 1980's and early 1990's, the environment was one of the fastest-growing consumer concerns. New product introductions have kept pace with this concern. The Commission's cases involving deceptive environmental advertising are consistent with the principles enunciated by its guidelines.

New information technologies have had a significant impact on advertising. Advances in telecommunications and marketing are shifting a growing portion of consumer spending from the marketplace to the living room. Infomercials, home shopping channels, catalogs, on-line shopping services, and other forms of nonretail, direct sales continue to be a growing and dynamic segment of the advertising market. Similarly, the growth in home shopping and interactive television points to the need to continue to adapt traditional consumer protection principles to this rapidly developing area.

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Before entering into credit and lease transactions, consumers must know the applicable terms and conditions. In the Truth in Lending and Consumer Leasing Acts, Congress mandated that certain information must be placed in advertisements and must be given to consumers before transactions are consummated. A uniform term, annual percentage rate (APR), was created to allow for credit comparison shopping and fair competition among creditors. The credit market breaks down when creditors fail to provide information, or worse, provide incorrect information. In its jurisdiction over millions of creditors, the Commission's role is not to control the terms of transactions but to ensure that the marketplace operates properly.

An inevitable consequence of granting credit is default by a certain percentage of consumers. In addition to creditor collection activities, many of these debts are assigned to debt collectors for collection activity. While there is no reason legitimate debts should not be collected, certain activities by debt collectors violate the Fair Debt Collection Practices Act. The Commission played a critical role in clarifying the line of proper collection tactics and prosecuting those who cross that line under the Fair Debt Collection Practices Act. The Program also made it clear that creditors bear some responsibility for collectors' actions of which they are aware. With a significant increase in consumer complaints about collection agency tactics, the Commission reinvigorated its debt collection enforcement program.

Finally, credit and other markets breakdown when merchants engage in unfair or deceptive trade practices. Given the importance of credit in individuals' lives, many of these illegal practices focus on credit issues. They include advance fee loan fraud, phony gold cards, misuse of bank drafts, false advertising about secured credit cards, vacation scams, and credit repair. The Commission also made clear that those who support fraud artists may themselves become liable and addressed deceptive advertising on the information superhighway.

Enforcement Program

The Enforcement Program has two main responsibilities: enforcing orders across a variety of consumer protection issues and enforcing and administering more than a dozen statutes and rules on a regular basis and numerous other rules and guides on a less frequent basis. The Program rigorously enforced Commission orders to

demonstrate that compliance is required and that violations will be costly. The Program also focused on implementing the directives of the 1992 Energy Policy Act (EPA 92), on executing a Commission initiative to review all of its regulations periodically, and on enforcing rules where violations seem most egregious.

As part of its enforcement efforts, the Program conducted sweeps of particular industries' compliance with Commission orders. In addition, numerous other order violations involving nutrition issues and performance claims were investigated.

The rule and statute enforcement program engaged in numerous rulemaking proceedings to respond to changing market conditions and Congressional directives. Pursuant to EPA 92 directives, the program engaged in rulemakings that promote the use of cleaner rulemaking (EPA 92),

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Federal Trade Commission

Marketing Practices Program

The Marketing Practices Program investigates and attempts to halt fraud that consumers cannot readily detect and economic harm caused by merchants who fail to provide consumers with needed information. The Program reflects the variety, prevalence, and severity of consumer problems in the areas of telemarketing, business opportunity, franchise, and investment fraud.

One of the most prevalent consumer protection problems was economic fraud directed at consumers and small businesses. Through federal court cases and rule enforcement, the Commission targeted fraud that could not be readily detected by reasonably diligent consumers or that was aimed at vulnerable populations of consumers, such as elderly people. Often, perpetrators of this type of fraud used

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During fiscal year 1994, the Commission organized and hosted nine regional law enforcement conferences to address the problem of telemarketing fraud at the regional and local level. The approximately 1,000 federal, state, and local law enforcers who attended these conferences will use the information from the conferences to work with the Commission on joint investigations, enforcement actions, and consumer education projects.

The Program also combated consumer injury that occurred when sellers failed to provide important information to consumers. By enforcing the Funeral Rule, the Commission imposed sanctions on funeral providers who failed to give consumers information about choices and prices for all goods and services sold. The Commission enforced the Franchise Rule, imposing sanctions on franchisees who failed to provide presale disclosure documents to prospective investors, and the Pay-Per-Call Rule, imposing sanctions on information providers who sold information by telephone without providing cost and other material information to consumers.

Service Industry Practices Program

The Service Industry Practices Program focused on fraud in the sale of goods or services as investments, principally by telemarketers. Investment fraud cases challenge the deceptive sale of phony art, services related to government lotteries for FCC licenses or oil and gas rights to federal lands, jewelry-grade gemstones sold as investment-grade stones, overgraded numismatic coins, precious or strategic metals, and stamps. Consumer losses from this type of fraud are estimated to be in the billions.

As part of its effort to combat investment fraud, as well as other types of telemarketing fraud, the Commission maintains the NAAG-FTC Telemarketing Database. This electronic database supplies over 70 law enforcement agencies (including the FBI, DOJ, Postal Service, and 40 state AGs) with access to recent complaints from telemarketing fraud victims, including those who have called the 800-number hotline operated by the National Consumers League.

The Program also focused on health care fraud, seeking to prevent health care providers from misinforming prospective purchasers about the efficacy and risks associated with various health care services.

Recognizing that product standards and certifications are procompetitive only if the information they convey is accurate, the

Federal Trade Commission

Commission also focused law enforcement initiatives on targets using standards and certifications to deceive prospective purchasers.

ECONOMIC ANALYSIS

The Bureau of Economics provided economic support to the Commission's antitrust and consumer protection activities, advised the Commission and other government entities about the impact of regulation on competition and consumer welfare, and analyzed economic phenomena in the American industrial economy, as they related to antitrust and consumer protection.

In fiscal year 1994, the Bureau of Economics provided guidance and support to the Competition and Consumer Protection Missions. Economists offered advice on the economic merits of potential antitrust actions, distinguishing between situations where the marketplace performed reasonably well and situations where the market might be improved by Commission action. When enforcement actions were initiated, economists integrated economic

The Bureau also maintained a small research program in support of the Commission's antitrust activities. During the year, two studies were released. One was a case study of resale price maintenance, and the other was an examination of the effects of unfair imports on U.S. industries. Ongoing studies included the measurement of market power in long distance telecommunications and the output and price effects of vertical integration in the brokerage/specialist business.

Consumer Protection

In support of the Consumer Protection Mission, economists evaluated proposals for full-phase investigations, consent negotiations, consent settlements, and complaints. In addition, economists routinely provided day-to-day guidance on individual matters, provided litigation support services, and made policy recommendations directly to the Commission.

In addition to the Bureau's direct support for individual consumer protection cases, economists conducted a limited amount of research on consumer protection topics of interest to the Commission. Such ongoing work included a study of the factors that affected the content of health claims in food advertising over the past 40 years, and an examination of the effects of food advertising policy on the consumption of fats and cholesterol in the American diet.

Consumer and Competition Advocacy

The interests of consumers may not always be presented during consideration of legislative or regulatory initiatives. Consequently, laws may be enacted or regulations issued that unintentionally may harm consumers by restricting entry, limiting competition, chilling innovation, raising prices, or reducing the quality of goods and services. The goal of the Commission's advocacy activities is to reduce such harm to consumers by informing appropriate governmental and self-regulatory bodies about the potential effects on consumers, both positive and negative, of proposed legislation, rules, or industry guides or codes. The Bureau of Economics is the central source of planning, coordination, review, and information for work in this area. During fiscal year 1994, the Commission staff submitted 16 comments to federal and state agencies. Comment submissions covered such subject areas as advertising, antitrust, auto brokering,

Federal Trade Commission

communications, occupational licensing, labeling, leasing, transportation, and utilities.

**MANAGEMENT AND
ADMINISTRATION
ACTIVITIES** *Budget and Finance*

In fiscal year 1994, the

supervisors and eliminate unnecessary levels of review. The Division was also active in providing traditional recruitment, training, and employee and labor relations services to Commission employees and managers.

Planning and Information

The Commission's information management program continued to be coordinated by the three divisions of the Office of the Deputy Executive Director for Planning and Information. The efforts of that office were split between maintaining the essential services provided in previous years and expanding or improving service in key areas. The program focused on seven key initiatives designed to make improvements in the Commission's information systems environment and its component parts. Those initiatives were:

Upgrade workstations and printers

Continued emphasis was placed upon upgrades of computer workstations and printers. By the end of the fiscal year, all individual workstations had 386-level microprocessing systems or better, and a two-year project was begun to further upgrade workstations to a configuration capable of better meeting the Commission's evolving network requirements. Upgrades of central processing units, memory, disk capacity, and core workstation software (including WordPerfect, WordPerfect Office, DOS, and Windows) were started. All obsolete printers were removed from service as primary printers. A limited number of additional laptop computers were purchased for Commission staff to use when working away from their regular offices.

Expand local area network and communications systems

All Commission offices were linked to the local area network. Additional functionality that was added to the local and wide area networks included outbound faxing; a central server for accessing CD-ROM-based libraries of information; improved external remote access to our systems; and outbound, network-based modem access for regional offices.

Title	Number	Action Date	Type of Matter	Product or Service
Sulzer, Ltd.	9410073	09/27/94	Merger	Aluminum Polyester Powder
Tele-Communications, Inc.	9410008	11/15/93	Merger	Cable TV Programming
Trauma Associates of North Broward, Inc.	9210101	07/25/94	Merger	Health Care

COMPETITION MISSION (DETAIL) *Adobe Systems, Inc.; Aldus Corporation*

Adobe and Aldus agreed to modify their merger plan to settle Commission allegations that the proposed merger would have anticompetitive effects in the \$60 billion worldwide market of professional-illustration software products that enable graphic artists to create visual images using a desktop computer. The Commission alleged that the merger, valued at approximately \$0.5 billion, would result in a monopoly since Adobe and Aldus produce and sell the only two illustration software programs (Illustrator and Freehand). The complaint alleges that the professional-illustration software market is characterized by high developmental and reputational barriers that make production of a technically comparable illustration program difficult and time-consuming for other firms. Under terms of the proposed consent agreement, Aldus must divest its Freehand business and name to Altsys Corporation within six months.

Boulder Ridge Cable TV; Weststar Communications, Inc.

Boulder and Weststar, two California cable television operators, agreed to settle allegations that they entered into a mutual covenant

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Federal Trade Commission

existing contract and from entering into similar agreements in the future.

Columbia/HCA Healthcare Corporation

The Commission will permit Columbia/HCA to acquire Medical Care America, Inc. under terms of a proposed consent agreement. The complaint issued with the proposed consent agreement alleged that the acquisition, combining two competing health care facilities in Anchorage, Alaska, could result in higher costs or reduced quality for outpatient surgery services in the area. The complaint further alleged that the market for these services is highly concentrated and that the acquisition could, therefore, deny patients the benefits of competition for outpatient medical care facilities based on price, quality, and service. The proposed consent agreement requires Columbia/HCA to divest Medical Care's Alaska Surgery Center, within one year, to a Commission approved acquirer that will operate the hospital in competition with Columbia/HCA. In an attempt to ensure that future acquisitions in the market do not raise the same antitrust concerns, the Commission included several prior approval provisions, including one prohibiting Columbia/HCA from acquiring

a \$100,000,000

\$100,000,000 (100%) of the total assets of the company.

but must divest either its own MoneyGram consumer money wire transfer business or that of Western Union's, within 15 months, to a Commission-approved acquirer. In addition, the proposed order prohibits First Data from acquiring any interest in an entity that provides money wire transfer services in the United States for a period of 10 years. The Commission withdrew its acceptance of the proposed consent agreement in November, 1994, after First Data abandoned its acquisition plans.

HealthTrust, Inc., The Hospital Company

Under terms of a proposed consent agreement, the Commission will permit

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or collude with the few remaining retail pharmacy firms in the area. To restore competition that allegedly would be reduced by the acquisition, the proposed consent agreement requires Rite Aid to divest within 12 months either its own pharmacy stores or those of LaVerdiere's to an entity

Federal Trade Commission

elimination of a leading worldwide supplier could increase the likelihood that the remaining competitors in the market could raise prices and restrict output to purchasers of aluminum polyester powder. The proposed consent agreement also requires Sulzer to obtain prior Commission approval for 10 years before making any acquisition in the market defined by the complaint.

Tele-Communications, Inc.

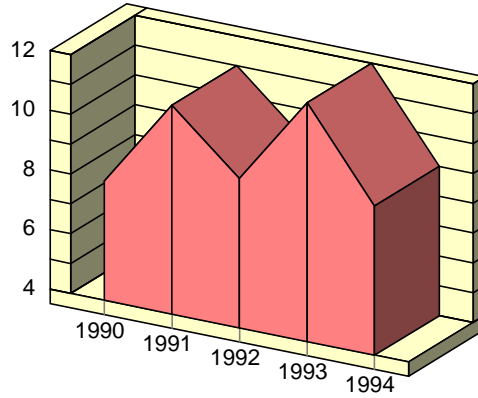
QVC Network, Inc. proposed to acquire Paramount Communications, Inc. for \$10 billion. The Commission alleged that QVC's acquisition of Paramount would violate antitrust laws by substantially lessening competition for the distribution of cable television programming to consumers in certain areas of the country and for cable premium-movie channels in the national market. According to the complaint accompanying the proposed consent agreement, Tele-Communications, Inc. is the nation's largest cable-television system owner and, with its Liberty Media Corporation affiliate, has ownership rights in many popular cable television programming networks. When QVC terminated its attempted acquisition of Paramount, the Commission withdrew its proposed consent agreement requiring TCI and Liberty to divest their stockholdings in QVC within 18 months.

Trauma Associates of North Broward, Inc.

Trauma Associates of North Broward, Inc. and 10 surgeons in Broward C.96 T8itrust la0 TD -0.0285 Tc (Browa.Tc (syr nationdD-0 Tc (comp

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**PART II CONSENTS PUBLISHED FOR COMMENT
CONSUMER PROTECTION MISSION**



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
American Institute of Smoking Cessation, Inc.	9323253	07/22/94	Diet and Smoking Programs and Advertising Claims	

Title	Number	Action Date	Type of Matter	Product or Service
Notations, Inc.	9323163	09/13/94	Textile Fibers Identification Act	Women's Blouses
RN Nutrition	9123145	09/02/94	Nutritional Supplement Advertising	Calcium Supplement Products

CONSUMER PROTECTION MISSION (DETAIL) *American Institute of Smoking Cessation, Inc.;*
Kenneth C. Grossman; Jane A. Grossman

The American Institute of Smoking Cessation and two of its officers, Kenneth and Jane Grossman, agreed to settle allegations that they made unsubstantiated claims in their advertisements about the success of their smoking cessation and weight loss seminars. The proposed consent agreement prohibits the respondents from making any representation about the performance or efficacy of any smoking cessation or weight loss program, unless they possess and rely upon competent and reliable scientific evidence to substantiate the representation.

American Tobacco Company

American Tobacco Company agreed to settle allegations concerning tar and nicotine advertising for the company's Carlton brand cigarettes. The proposed consent agreement prohibits the company from disseminating ads for Carlton or any other cigarettes that make certain misrepresentations about the relative amount of tar and nicotine consumers will get by smoking the cigarettes.

Chemopharm Laboratory, Inc. d/b/a CP Industries

Chemopharm Laboratory agreed to settle allegations that it made false and unsubstantiated



Part II Consent Orders Issued

Appendix

Title	Number	Date Accepted by Comm.	Action Date	Type of Matter	Product or Service
Dominican Santa Cruz Hospital	C3521	02/24/93	08/18/94	Merger	Inpatient Acute-care Hospital Services
Homecare Oxygen and Medical Equipment Company	C3532	10/28/93	09/14/94	Monopolization	Pulmonology Equipment
Home Oxygen and Medical Equipment Company	C3530				
Certain Home Oxygen Pulmonologists	C3531				
Imperial Chemical Industries, PLC	C3473	06/03/93	11/29/93	Merger	Acrylic Plastics
The Keds Corporation	C3490	09/24/93	04/01/94	Distributional Arrangements	Athletic and Casual Shoes
Marion Merrell Dow, Inc.	C3533	06/20/94	09/23/94	Merger	Dicyclomine
Martin Marietta Corporation	C3500	03/23/94	06/22/94	Merger	Satellites
McCormick & Company, Inc.	C3468	08/02/93	10/25/93	Merger	Dehydrated Onion
McLean County Chiropractic Association	C3491	01/03/94	04/07/94	Horizontal Restraints	Chiropractors
Personal Protective Armor Association	C3481	12/16/93	03/17/94	Horizontal Restraints	Soft Body Armor
Sara Lee Corporation	C3523	06/29/94	08/24/94	Merger	Chemical Shoe Care Products
TCH Corporation	C3519	02/23/94	08/16/94	Merger	Drug Stores
The Valspar Corporation	C3478	10/21/93	01/25/94	Merger	Coating Resins

COMPETITION MISSION *Alvey Holdings, Inc.*
(DETAIL)

Alvey settled concerns that its acquisition of White Storage &

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Retrieval Systems, Inc. could create a monopoly in the market for horizontal carousels, computer driven storage and retrieval devices often used in warehouses. The consent order permits Alvey to acquire White but requires the preapproved

statements in its *Standards for Advertising Motor Vehicles* which prohibited AADA members from advertising prices equal or lower than a competitor's and from making comparisons about another dealer's services, quality, prices, or business methods. In addition to the other provisions of the consent order, AADA is required to remove any provision in its standards that is inconsistent with the terms of the consent order and to notify and distribute a copy of the revisions to all members.

Columbia Healthcare Corporation

A consent order settled antitrust concerns stemming from the largest merger in the United

Federal Trade Commission

Community Associations Institute

The Community Associations Institute (CAI) of Alexandria, Virginia agreed not to interfere with members' use of truthful advertising and with their solicitation of business from potential clients. CAI is a national association that includes condominium managers

capsules. The consent order requires Marion to license its dicyclomine formulations and production technology to a Commission approved third party and to contract to manufacture dicyclomine to the licensee at a maximum price until the licensee receives FDA approval to independently produce and market its own. Marion also must obtain prior Commission approval for 10 years before acquiring any producer or distributor of dicyclomine.

Martin Marietta Corporation

Martin Marietta settled allegations regarding its \$208.5 million acquisition of General Dynamics Corporation's Space Systems Division. According to the complaint accompanying the consent order, Martin Marietta would gain a new expandable launch-vehicle (ELV) division that could share a close working relationship with its existing satellite development and manufacturing division. The complaint further alleges that because the ELV division receives detailed classified information from other satellite manufacturers, Martin Marietta could gain access to competing satellite manufacturers' proprietary information, increasing the likelihood that competition between satellite suppliers could decrease and that advancements in satellite research, innovation, and quality could be reduced. The consent order prohibits Martin Marietta's satellite manufacturing division from gaining access to competing satellite manufacturers' sensitive, nonpublic information obtained by Martin Marietta's ELV division. The order does not prevent Martin Marietta's satellite manufacturing division from exchanging information with its ELV division if it relates to Martin Marietta's own satellites.

McCormick & Company, Inc.

McCormick settled allegations regarding its 1993 acquisition of Haas Foods, Inc., a subsidiary of John I. Haas, Inc. According to the complaint issued with the consent order, the acquisition could enhance the likelihood that the remaining competitors in the market could engage in anticompetitive coordinated interaction to increase prices and restrict production. The consent order requires McCormick to divest several varieties of onion seeds necessary to produce crops of onions suitable for dehydration to an acquirer approved by the Commission.

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McLean County Chiropractic Association

McLean County Chiropractic Association (McLean) agreed not to enter into any agreement to fix the maximum fees its member chiropractors could charge for services or to collectively attempt to negotiate fees with third party payers in an effort to fix the fees they would charge those payers. According to the complaint accompanying the consent order, the association engaged in a price fixing conspiracy, in an attempt to control chiropractic fees in the Bloomington/Normal area of Illinois. The consent order prohibits McLean from participating in any price fixing activities in the future and requires McLean to give its members copies of the settlement.

Personal Protective Armor Association

The Personal Protective Armor Association (PPAA) agreed to settle allegations that it conspired to restrain competition by declaring it unethical for its members to engage in truthful advertising, depriving purchasers of the benefits of truthful information about product performance, price disclosure, and availability. PPAA is a trade association of North American manufacturers of body armor and vests that protect wearers from certain bullet injuries. A consent order prohibits PPAA from adopting any policy that restricts its members from engaging in comparable advertising related to the price, quality, and service characteristics of soft body armor purchased by federal, state, and local law enforcement agencies. The order does not restrict PPAA from prohibiting representations that it reasonably believes to be false or deceptive.

Sara Lee Corporation

A consent order settled antitrust concerns stemming from Sara Lee's 1987 acquisition of the Esquire brand of shoe care products from Knomark, Inc. and its 1991 acquisition of the Griffin brand of self-service chemical shoe care products from Reckitt & Colman plc. The complaint accompanying the order alleges that the acquisitions substantially reduced competition in the United States market for self-service chemical shoe care products sold through grocery stores, drug stores and mass merchandisers. The complaint further alleges that Sara Lee, which sells such products through its Kiwi Brands Inc. subsidiary, made the acquisitions with the intent of maintaining a

dominant position in the market and did not report either transaction to the Commission or the Department of Justice as required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. The order requires Sara Lee to divest its Esquire and Griffin brands, along with related assets, to Hickory Industries, Inc. Sara Lee completed the divestiture in September, 1994.

TCH Corporation

TCH Corporation and Green Equity Investors, L.P. agreed to settle allegations regarding their acquisition of the PayLess Drug Stores Northwest drug store chain from Kmart Corporation for \$1.16 billion. The complaint accompanying the consent order alleged that the
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Part II Consent Orders Issued

Appendix

Title	Number	Date Accepted by Comm.	Action Date	Type of Matter	Product or Service
Jockey International, Inc.	C3494	02/03/94	05/10/94	Advertising Claims, Mail/Telephone Order Rule	Underwear, Hosiery, and Sportswear
Keyes Fibre Company	C3512	05/03/94	08/02/94	Environmental Claims Advertising	Paper Plates
LePage's, Inc.	C3506	04/05/94	07/19/94	Environmental Claims Advertising	Transparent Tape, Plastic Tape Dispenser, Paperboard Backcard
Oak Hill Industries Corp.	C3507	04/04/94			Plastic Plates, Bowls, Utensils, and Film Packaging
Lifestyle Fascination, Inc.	C3513	04/29/94	08/04/94	Health & Safety Products or Services Advertising	Electronic Products Sold in Catalogs
Lomas Mortgage U.S.A., Inc.	C3462	06/30/93	10/07/93	Cost of Loans	Consumer Loans
MACE Security International, Inc.	C3487	01/03/94	03/25/94	Health & Safety Products or Services Advertising	MACE Formula to Stop Assailants
Manzella Productions, Inc.	C3503	03/28/94	06/30/94	Wool Labeling Statute	Gloves
Mia Rose Products, Inc.	C3509	04/05/94	07/19/94	Environmental Claims Advertising	Hair Sprays
Montgomery Ward & Company, Inc.	C3528	06/21/94	09/13/94	Pre-Sale Availability Rule	Consumer Product Warranties
Macy's Northeast, Inc.	C3527				
Sears, Roebuck & Co.	C3529				
Mr. Coffee, Inc.	C3486	03/18/93	03/25/94	Environmental Claims Advertising	Coffee Filters
Nissan Motor Corporation	C3502	02/28/94	06/29/94	Miscellaneous Advertising Practices	Automobile Manufacturing
North American Plastics Corporation	C3526	03/22/93	09/07/94	Environmental Claims Advertising	Plastic Trash Bags

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Title	Number	Date Accepted by Comm.	Action Date	Type of Matter	Product or Service
Nu Skin International, Inc.	C3489	01/03/94	04/01/94	Business Opportunities Investment Fraud	Baldness Treatment, Wrinkle Cream, and Burn Cream
Numex Corporation	C3463	05/18/93	10/07/93	Infomercials	Handheld Mechanical Roller Device to Relieve Pain
Gisela E. Flick	C3464				
James L. McElhaney, M.D.	C3465				
Orkin Exterminating Company, Inc.	C3495	03/10/93	05/25/94	Environmental Claims Advertising	Pesticides Used in Residential Lawn Care Services
Osram Sylvania, Inc.	C3471	08/19/93	11/17/93	Energy Advertising	Light Bulbs
Presto Food Products, Inc.	C3480	11/23/93	02/23/94	Food Nutrition Advertising	Liquid Nondairy Creamer Products
Redmond Products, Inc.	C3479	10/21/93	02/10/94	Environmental Claims Advertising	Aerosol Hair Sprays
Samick Music Corporation	C3496	02/25/94	05/27/94	Miscellaneous Advertising Practices	Piano Soundboards
Unocal Corporation	C3493	12/23/93	04/28/94	Energy Advertising	Gasoline
Vein Clinics of America, Inc.	C3501	01/21/94	06/24/94	Health & Safety Products or Services Advertising	Nonsurgical Treatment for Varicose and Spider Veins
White Castle System, Inc.	C3477	10/12/93	01/06/94	Environmental Claims Advertising	Fast Food Containers
Wyatt Marketing Corporation, Inc.	C3510	04/26/94	07/27/94	Infomercials	Book on Availability of Government Grants and Loans
James R. Wyatt	C3511				

CONSUMER PROTECTION MISSION (DETAIL) *AJM Packaging Corporation; Abram Epstein*

AJM Packaging and its president, Abram Epstein, agreed to settle allegations that they made false and unsubstantiated claims that their Nature's Own Green Label disposable paper plates are biodegradable and recyclable. The consent order prohibits the respondents from

representing that any product or package they sell offers any environmental benefit unless they can substantiate the claim. Further, the respondents are prohibited from misrepresenting that any paper product or package is capable of being recycled or misrepresenting the extent to which recycling collection programs for such products are available.

American Institute of Habit Control, Inc.; Steven Present

The American Institute r

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Archer Daniels Midland Company

Archer Daniels Midland Company (ADM) agreed to settle allegations that it made unsubstantiated representations in network television commercials and promotional materials about the biodegradability of plastic products containing its corn starch additive. The consent order prohibits the company from making any representations about the degradability of any ADM products or plastic product additives when disposed of in landfills, or about any environmental benefit offered by such products or additives, unless they possess and rely upon competent and reliable evidence to substantiate the representation.

Beverly Hills Weight Loss Clinics International, Inc.;
Doctors Medical Weight Loss Centers, Inc.;
Quick Weight Loss Centers, Inc. (Georgia);
Quick Weight Loss Centers, Inc. (Texas)

Four marketers of commercial diet programs agreed to settle allegations that they made deceptive weight loss, weight maintenance, and pricing claims. The consent orders prohibit the companies from misrepresenting the performance or safety of any diet program they offer in the future. In addition, the consent orders prohibit the companies from making any claims about the effect of their programs on weight loss, weight loss maintenance, or rate of weight loss, unless they possess and rely upon competent and reliable scientific evidence to substantiate the claims.

Diet Center, Inc.; Nutri/System, Inc.;
Physicians Weight Loss Centers of America, Inc.

Three of the nation's largest commercial diet program companies agreed to settle allegations that they engaged in deceptive advertising by making unsubstantiated weight loss maintenance claims and by using consumer testimonials without substantiation that the testimonials represented the typical experience of dieters on the programs. The consent orders prohibit the companies from making any representations about the performance or safety of any weight loss program they offer in the future, unless they possess and rely upon competent and reliable scientific evidence to substantiate the representations.

Egglan's Best, Inc.

Egglan's Best agreed to settle allegations that its advertising and promotional materials deceptively represented that Egglan's eggs will not increase consumers' serum blood cholesterol and that they are superior to regular eggs in this respect. The consent order prohibits the company from misrepresenting the amount of nutrients or other ingredients in its eggs or foods containing egg yolks. The order requires Egglan's to have scientific substantiation to support future health benefit claims for such foods and, for one year, to label certain egg packages with a corrective notice stating that no studies show its eggs are different from other eggs in their effect on serum cholesterol.

El Portal Luggage, Inc.

El Portal agreed to settle allegations that it misrepresented that foreign made articles were made in the United States. The consent order prohibits El Portal from misrepresenting the identity of the country of origin of any product it sells. The order also prohibits the company from removing, altering, obliterating, or concealing any country-of-origin designation attached to a product it receives or offers for sale.

G.C. Thorsen, Inc. d/b/a G.C. Electronics, Inc.; Texwipe Company

Two manufacturers of computer and office equipment care and maintenance products agreed to settle allegations that they made false and misleading environmental claims in the marketing of their aerosol cleaning products. The complaint alleged that the companies marketed their products as ozone-safe or ozone-friendly, when r

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their degradability offers any environmental benefit when disposed of as trash and buried in a sanitary landfill.

LePage's, Inc.; Oak Hill Industries Corp.

Two companies agreed to settle allegations that they made false and misleading claims about the environmental benefits of their products. The consent orders prohibit the companies from representing that their products offer any environmental benefit unless they can substantiate the claims with competent and reliable scientific evidence.

Lifestyle Fascination, Inc.; Simon Pantierer; Eli Zabare

Lifestyle Fascination and two of its officials, Simon Pantierer and Eli Zabare, agreed to settle allegations that they made false and unsubstantiated claims for five products marketed through their catalog. The consent order prohibits the respondents from making the alleged false claims. It also prohibits them from making any representations about the performance, safety, or efficacy of consumer electric or electronic products they sell in the future, unless they possess and rely upon competent and reliable scientific evidence to substantiate the representation.

Lomas Mortgage U.S.A., Inc.

Lomas agreed to settle allegations that it deceptively represented the lock-ins it offered consumers on certain types of loans and that, in some instances, it failed to lock in the interest rate or the number of discount points at the level agreed to by consumers. The consent order prohibits Lomas from misrepresenting the terms or nature of lock-in agreements it offers consumers in the future and requires the company to pay \$300,000 in consumer redress.

MACE Security International, Inc.

MACE Security International and several other respondents agreed to settle allegations that they exaggerated the ability of their MACE formula to instantly stop assailants and that they failed to disclose important limitations on the product's effectiveness. The consent order requires the respondents to have competent and reliable

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evidence to support any

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Numex Corporation; Gisela E. Flick; James L. McElhaney, M.D.

Numex Corporation and two of its officers, Gisela Flick and James McElhaney, agreed to settle allegations that they made numerous false or unsubstantiated claims in an infomercial promoting Therapy Plus, a handheld mechanical roller device that they claimed would relieve various kinds of musculoskeletal pain, including the pain of arthritis. The infomercial allegedly included a deceptive expert endorsement and deceptive consumer testimonials. The consent orders prohibit similar deceptive practices in the future and require future health and pain-relief claims to be substantiated with competent and reliable scientific evidence.

Orkin Exterminating Company, Inc.

Orkin agreed to settle allegations that it made unsubstantiated advertising claims about the safety of the pesticides used in the company's residential lawn care service programs. The consent order prohibits the company from advertising that its pesticides are as safe as some common household products or that they pose no significant risk to human health or the environment, unless it possesses competent scientific evidence to substantiate the claims.

Osram Sylvania, Inc.

Osram agreed to settle allegations that packages for Sylvania's Energy Saver bulbs, while claiming cost-savings and environmental benefits, falsely represent that the bulbs provide the same amount of light as the ordinary, higher-wattage bulbs they are designed to replace. The consent order prohibits Osram from misrepresenting the relative light output or wattage of any light bulb it sells in the future, except for certain specialty light bulbs. In addition, Osram must clearly and prominently disclose this fact to consumers when claimed electricity cost-savings or environmental benefits are attributable to the fact that the bulbs produce less light.

Presto Food Products, Inc.

Presto agreed to settle allegations that it made false and misleading representations about the amount of total fat or saturated fat in liquid nondairy creamer products. The consent order prohibits

Presto from misrepresenting the amount of total fat, saturated fat, or cholesterol in any milk product or nondairy milk substitute.

Redmond Products, Inc.

Redmond Products agreed to settle allegations that it made deceptive and unsubstantiated environmental claims in the labeling and advertising of its Aussie and New Zealand Paradise aerosol hair sprays. The consent order prohibits the company from making unsubstantiated representations, through the use of such terms as “environmentally formulated,” that any product it sells containing volatile organic compounds will not harm the atmosphere or the environment. The order also prohibits Redmond from making unsubstantiated representations about the environmental benefit of cosmetic products it sells in the future.

Samick Music Corporation

Samick Music agreed to settle allegations that it misrepresented the wood content of the soundboards in pianos it sold through retailers across the country. The consent order prohibits the company from misrepresenting the composition of its piano soundboards or any other piano parts in the future. The consent order also requires the company to pay \$266,000 to the U.S. Treasury.

*Unocal Corporation; Union Oil Company of California;
Leo Burnett Company, Inc.*

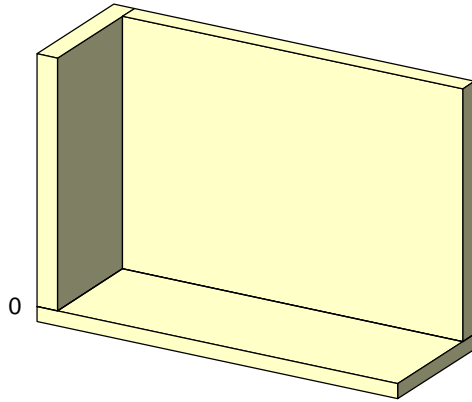
Unocal Corporation, Union Oil Company of California, and their advertising agency, Leo Burnett Company, Inc., agreed to settle allegations that they made unsubstantiated performance longevity claims in advertising for Unocal’s 89 and 92 octane gasoline grades. The consent order prohibits the respondents from making any claims about the attributes or performance of any gasoline without having competent and reliable scientific evidence to substantiate them and requires a corrective statement to be inserted into every consumer bill.

Vein Clinics of America, Inc.; D. Brian McDonagh, M.D.

Vein Clinics and a company officer, D. Brian McDonagh, agreed to settle allegations that they misrepresented the risks, recurrence rate,

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and exclusivity of Vein Clinics' compression sclerotherapy, a nonsurgical treatment for varicose and spider veins. The consent order prohibits the company and its officer from misrepresenting the likely recurrence rate for any venous disease following treatment and from misrepresenting the n



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competitors. The judge commented that, while the Commission was not able to sustain its case against Abbott, "there is little doubt in this court's view that violative conduct occurred." The court also praised the Commission for bringing the case and for obtaining the restitution that was received from Mead Johnson & Company and American Home Products. The Commission determined not to appeal the decision.

Red Apple Companies, Inc.

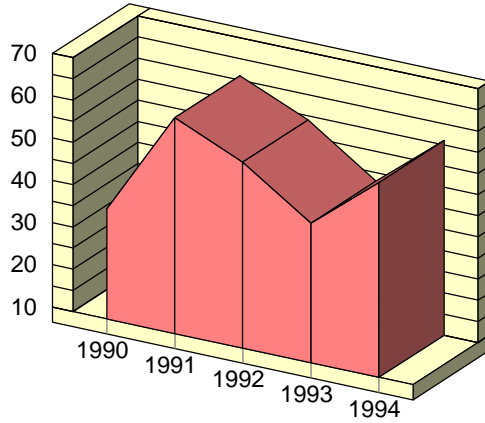
The Commission authorized staff to file a preliminary injunction in federal district court to block Rite Aid Corporation's proposed acquisition of certain Sloan's Supermarkets, Inc. and Red Apple Companies, Inc. supermarkets located in Manhattan, New York. These same stores were already involved in an ongoing Commission administrative proceeding. The Commission had earlier issued an administrative complaint challenging the acquisition of certain Sloan's supermarkets by Red Apple Companies, Inc. (D-9266). The requested relief described in the Notice of Contemplated Relief attached to the complaint identified certain Sloan's stores to be divested. After issuance of the complaint, staff learned that the respondents were planning to sell some of the supermarkets listed in the Notice of Contemplated Relief to Rite Aid Corporation, who planned to convert these supermarkets into retail drug stores. The Commission authorized staff to file a preliminary injunction in federal district court to block the sale of these stores. This is the first time the Commission authorized staff to seek injunctive relief to prevent the shut down and sale of assets that were potential candidates for divestiture under the Notice of Contemplated Relief portion of an administrative complaint.

Sisters of Charity Healthcare Systems, Inc.

The Commission authorized staff to seek a preliminary injunction in federal district court to block Sisters of Charity's proposed acquisition of Parkview Episcopal Medical Center. The Commission alleged that the acquisition would substantially reduce competition and tend to create a monopoly by combining the only two general acute-care hospitals in the region.

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**PRELIMINARY AND PERMANENT INJUNCTIONS
CONSUMER PROTECTION MISSION**



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service

Preliminary/Permanent Injunctions

Appendix

Title	Number	Action Date	Type of Matter	Product or Service
The Baylis Company, Inc.	X940022	01/10/94	Publishing, Telemarketing Fraud, and Advertising Claims	Alcohol Abuse Prevention Program
Bill Whitely (American Microtel)	X920030	12/23/93	Lottery Application Filing Svcs. Investment Fraud	Wireless Cable Television Lottery
Brian Corzine (Chase Consulting)	X940076	09/12/94	Credit Service Fraud	Credit Repair Program on an On-line Computer Service
Car Checkers of America, Inc.	X930019	11/16/93	Franchise Rule	Mobile Auto Inspection Services
Chase-Blade, Inc. and Blade Thomas (LaserVision)	X940026	03/23/94	Health & Safety Products or Services Advertising	Pinhole Eyeglasses
Christopher Puma d/b/a Southland Consultants	X940075	08/23/94	01/10/94 Publishing, Mobile Auto Inspection	01/10/94

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Preliminary/Permanent Injunctions

Appendix

Title	Number	Action Date	Type of Matter	Product or Service
Publishing Clearing House, Inc.	X940063	07/13/94	Charitable Solicitation Telemarketing	Solicit Funds by Telephone for a Charitable Organization
Renaissance Fine Arts, Ltd.	X940048	01/27/94	Art Investment Fraud	Art Auction Firm
Salsa's Franchise Development Corporation	X940053	05/09/94	Franchise Rule	Various Restaurant Franchises
Scott Wilcox	X940011	10/25/93	Awards & "Free" Prizes Telemarketing	Direct-mail Promotions
Silueta Distributors, Inc.	X940010	11/22/93	Diet Products Advertising (in Spanish)	Cellulite Treatment
SMI/USA, Inc.	X940003	10/22/93	Franchise Rule	Self-improvement Courses, Tapes, and Other Products
Southeast Necessities Co., Inc. d/b/a Dr.'s Choice	X940075	09/07/94	Franchise Rule	Display Racks Featuring Diet Products as Business Opportunity
Telefundors for the Gleaners	X940028	03/01/94	Charitable Solicitation Telemarketing	Solicit Funds for Teenage Drug and Alcohol Rehabilitation Programs and Food Banks
Thomas A. Peltier (Interactive Communications Assets)	X910024	02/25/94	Credit Card & Credit Svcs Fraud	Credit Services Marketing
Turcal, Inc. d/b/a ProMatch Advertising Network	X940027	03/03/94	Real Estate Advertising Practices	Timeshare Resale Services
United Holdings Group, Inc.	X940043	04/06/94	Charitable Solicitation Telemarketing	Prize-promotion Techniques to Induce Consumers to Donate Money
William F. Lawler (Hawthorne Communications, Inc.)	X940018	11/20/93	Infomercials	Computer-based Consulting Business
Winner's Circle of Chicago, Inc.	X910040	02/04/94	Awards & "Free" Prizes Telemarketing	Memberships in Camping, Resort and Buying Clubs
Wolf Group	X940029	03/03/94	Business Opportunities Investment Fraud	Vending Machines Sold as Business Opportunities

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Title	Number	Action Date	Type of Matter	Product or Service

Preliminary/Permanent Injunctions

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information superhighway. The Commission is seeking a permanent injunction and redress for consumers.

Car Checkers of America, Inc.

The Commission obtained a settlement with Car Checkers, a franchisor of mobile auto inspection services, to settle allegations it deceived franchisees into purchasing the franchise by making false claims, using company officials to pose as successful franchisees, and falsely representing other aspects of operating a Car Checkers franchise. The settlement prohibits Car Checkers and its officers from making any false or misleading representations as to the success, expected profit, or volume of fash Commission

Federal Trade Commission

Digital Communications, Inc.

A court froze the assets of Digital Communications and nine other defendants and temporarily halted their allegedly deceptive practices involving the telemarketing

numerous false representations in a prize promotion scheme. The Commission alleged that consumers were promised a \$10,000 cashier's check, vacations, or other prizes if they agreed to purchase a medical alert system or other merchandise at prices ranging from \$598 to \$1,000. In almost all cases, consumers received only a vacation voucher containing a number of conditions that rendered it virtually impossible to use. The Commission is seeking a permanent injunction and consumer redress.

Henry Ginsberg

The Commission obtained a settlement with Henry Ginsberg in connection with its case against Academic Guidance Services. The Commission alleged that Ginsberg made numerous misrepresentations in the marketing of licenses to sell scholarship search information. The settlement bars Ginsberg from misrepresenting material facts about any business opportunity he sells in the future.

Heritage Publishing Company

Heritage Publishing, a for-profit corporation, agreed to settle allegations that it made numerous false representations in connection with its charitable solicitations and collections. The Commission alleged that Heritage misrepresented the percentage of consumers' donations that go to nonprofit entities and falsely represented that funds would be earmarked for activities in the donors' own areas. The settlement permanently prohibits Heritage from making these and other false representations in fundraising activity in the future; requires Heritage to disclose the percentage of collected funds that it turned over to charity in the past year by soliciting certain form() Tj oc () Tj-0

Federal Trade Commission

refund franchise fees as promised, and failing to give a required disclosure statement to potential franchise buyers at least 10 days prior to their

*Main Distribution Center, Inc.; Corporate Business Products, Inc.;
Authorized Distribution Center, Inc.*

A court froze the assets and temporarily halted the allegedly deceptive office supply sales practices of Main Distribution Center, Corporate Business Products, Authorized Distribution Center, and four officers of the companies. The Commission alleged that the defendants deceived consumers into purchasing office supplies by making false and misleading statements about the prices of the supplies they sold and the companies they represented. The Commission is seeking a permanent injunction and redress for consumers.

*Marketing Twenty-One, Inc. d/b/a Genesis Enterprises;
Markos Mensoza*

A court temporarily halted the activities of Marketing Twenty-One, a group of Las Vegas telefundlers, that were soliciting donations on behalf of charities. The Commission alleged that the defendants deceptively offered highly valuable prizes to consumers in return for tax deductible donations to the designated charity. The Commission further alleged that the consumers did not receive the promised prizes and that the donations were not tax deductible. The Commission asked the court to permanently halt the allegedly fraudulent practices, to freeze the assets of the defendants to preserve funds for consumer redress, and to appoint a receiver to take control of the company.

Megatrend Telecommunications, Inc.; Alan to

*SMI/USA, Inc.; Paul J. Meyer; Charles G. Williams;
James L. Sirbasku; William Garner*

The Commission alleged that SMI/USA, a company that sells franchises for self-improvement courses, tapes, and other products, violated a 1970 Commission order by misrepresenting to potential franchisees the ease of selling SMI products and the income they could expect to earn and by failing to provide certain statistical information to prospective franchisees at the times required by the order. The Commission further alleged that the defendants violated the Franchise Rule. The Commission asked the court to order SMI/USA, Paul Meyer, Charles Williams, James Sirbasku, and William Garner to pay redress to consumers and civil penalties for each violation and to

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Federal Trade Commission

Thomas A. Peltier; Peltier Enterprises, Inc.

Thomas Peltier and Peltier Enterprises agreed to settle allegations concerningto

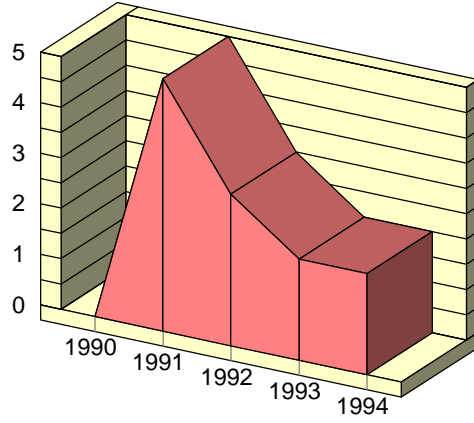
products will typically earn substantial incomes by operating businesses out of their homes. The settlement prohibits future violations of the Franchise Rule and deceptive practices similar to those challenged.

Winner's Circle of Chicago, Inc.; William H. Bailey

The Commission alleged that Winner's Circle and its principal, William Bailey, agreed to send video

Federal Trade Commission

CIVIL PENALTY ACTIONS COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

Title				

The order required, among other things, the divestiture of 12 supermarkets in New Mexico and Texas within nine months. According to the complaint, filed in U.S. District Court for the District of Columbia, Rubus, formerly known as Supermarket Development Corporation, and its successor, Furr's Supermarkets, Inc., failed to maintain the marketability and the physical

Federal Trade Commissi-Commissi-

Federal Trade Commission

Bally's Health & Tennis Corporation

Bally's and its two subsidiaries agreed to settle allegations regarding the health clubs' billing, cancellation, refund, and debt collection practices. The settlement requires the defendants to refund membership or other fees to customers and to pay \$120,000 in civil penalties.

CIT Group/Sales Financing, Inc.

CIT agreed to settle allegations

Federal Trade Commission

*Loizou, Inc. d/b/a A&G Auto Sales; George E. Loizou;
Andreas E. Loizou*

Loizou, Inc., a used car dealership, and two officers, George and Andreas Loizou, agreed to settle allegations that they violated the Used Car Rule by failing to display the required Buyers Guide on the side window of used cars offered for sale and that they did not provide other warranty information required by the Warranty Disclosure Rule. The settlement prohibits future violations of the Used Car Rule and requires payment of a \$20,000 civil penalty.

Lonnie R. Divine

Lonnie Divine, a door-to-door magazine marketer, agreed to settle allegations that he misrepresented cancellation rights to his customers nationwide and failed to provide them with proper cancellation documents, in violation of the Cooling Off Rule. Divine also allegedly misrepresented when consumers would begin receiving their magazine subscriptions. The settlement bars similar practices in the future and requires payment of a \$10,000 civil penalty.

Mission Plans, Inc.; Donald Earthman; Michael Earthman

Mission Plans, a company that markets and sells insurance funded, preneed funeral arrangement plans nationwide, and its owners, Donald and Michael Earthman, agreed to settle allegations that they violated the Funeral Rule by failing to provide consumers with general price lists and itemized statements of the funeral goods and services they had selected and that they violated the Cooling-Off Rule by failing to provide consumers with a written notice regarding their cancellation rights following sales presentations in consumers' homes. The settlement prohibits future violations of the Rules and requires payment of a \$20,000 civil penalty.

Moffitt Oil Company, Inc.

Moffitt Oil Company, a fuel distributor, and three of its officials agreed to settle allegations that they violated the Fuel Ratings Rule by pumping gasoline into underground storage pumps belonging to a gasoline retail chain, Rocket Gas and Car Wash, Inc. The underground pumps were connected to gasoline pumps on which the

octane rating of the gasoline was allegedly overstated. The settlement prohibits future violations of the Fuel Ratings Rule and requires payment of a \$90,000 civil penalty.

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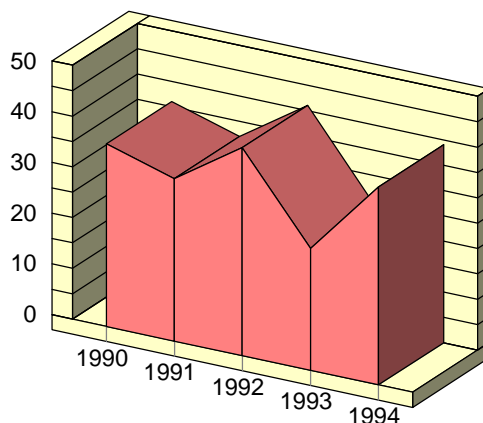
Federal Trade Commission

Rule by failing to provide prospective buyers with the required basic disclosure and earnings claims documents and by making unsubstantiated earnings claims. The settlement prohibits future violations of the Franchise Rule and misrepresentations of any material term or condition of any franchise or business and requires payment of a \$5,000 civil penalty.

West Capital Financial Services Corp.; Michael Joplin

West Capital W e s t

**CONSUMER REDRESS ACTIONS¹
CONSUMER PROTECTION MISSION**



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Academic Guidance Services, Inc.	X920073	10/13/93	Business Opportunities Investment Fraud	Licenses to Sell College Financial Information to Students
American Microtel (Danny Sterk/Codima, Inc.)	X920030	10/06/94	Lottery Application Filing Services. Investment Fraud	Wireless Cable Television Lottery
American Microtel, Inc. and James D. Greenbaum	X920030	12/23/93	Lottery Application Filing Services Investment Fraud	Wireless Cable Television Lottery
Eric Kyle and First Atlantic Equity (American Microtel)				
Charles C. Davis (American Microtel)				
Claude A. Blanc, Jr. (Factory Direct)	X920062	01/24/94	Franchise Rule; Business Opportunity Investment Fraud	Vending Machines Sold as Business Opportunities

¹The Commission makes every effort to collect the full amount of each judgement, whether ordered by a court or obtained through a settlement. Despite its best efforts, however, the Commission is not always able to collect the full amount.

Federal Trade Commission

CONSUMER PROTECTION *Academic Guidance Services, Inc.*
MISSION (DETAIL)

The Commission obtained a settlement with Academic Guidance Services, settling allegations that it deceptively marketed to prospective business operators the right to sell college financial aid information to students. The settlement permanently bans the company from selling or leasing customer lists in the future and discharges all contractual obligations of the company's licensees. In addition, the company agreed to pay \$300,000, to be used for redress,

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Denny Mason; Benedict Spano; Anthony Della Iacono

The Commission obtained a settlement with Denny Mason, a cluster of major Las Vegas, Nevada-based telemarketing companies, and their principal officers in connection with allegations that they made false representations to consumers across the nation that they had won valuable prizes. The defendants used a variety of misrepresentations to get the consumers, many of them elderly, to purchase cosmetics, vitamins, environmentally safe cleaning products, water purifiers, and other products. The defendants also allegedly aided and abetted other telemarketers engaging in similar deceptive sales practices. The settlement requires payment of \$900,000, to be used for redress to consumers, and imposes numerous restrictions and disclosure requirements on future telemarketing efforts. In addition, three defendants are permanently barred from participating in any prize promotion marketing program in the future.

Douglas Wayne Osborne; Osborne Precious Metals, Inc.

The Commission alleged that Douglas Osborne and his firms misrepresented or failed to disclose the fees and commissions associated with their investments and that they misrepresented the risk and profit potential of the investments. A court ordered Douglas Osborne to post a \$5 million bond before engaging in any kind of telemarketing activity in the future. The court also entered a \$13.3 million judgment against the defendants.

Fred Hyde

A court permanently enjoined Fred Hyde, the principal of Solomon Trading Company, Inc., from deceptively marketing artwork and ordered him to pay \$872,184 to redress the losses of retail customers who purchased from Solomon. Hyde was alleged to have misrepresented the investment value of art prints telemarketed to

prohibitions and requirements in connection with the defendants' future efforts to sell credit-related products or services and requires payment of \$50,000 for consumer redress.

*Jordan Ashley, Inc.; Thomas P. Norton; Christine M. Heller;
Kelli J. Blasi*

A court ordered Jordan Ashley and other corporate and individual defendants to pay more than \$9.1 million for consumer redress in connection with their involvement in a variety of deceptive practices to sell greeting card display rack business opportunities. In addition, Thomas Norton was permanently barred from participating in the marketing or selling of any franchise or business opportunity and is required to post a performance bond in the amount of \$5 million before engaging in any telemarketing activities. Christine Heller and Kelli Blasi were enjoined from making misrepresentations to any potential investor in a franchise or business venture and were prohibited from violating any provision of the Franchise Rule in the future.

Larkin, Hoffman, Daly & Lindgren, Ltd.

The law firm of Larkin, Hoffman, Daly & Lindgren agreed to pay \$375,000 to settle allegations that the law firm fraudulently agreed to prevent the Commission from collecting on an \$11.2 million federal court judgement against William J. Ulric and his firm, Security Rare Coin & Bullion Corporation. According to the complaint, the defendant helped the coin marketer fraudulently transfer several million dollars in rare coins into trusts for his three daughters and then convert a substantial portion of the coins back to his own use. The firm also unlawfully and wrongfully acted to conceal assets belonging to the coin marketer to put these assets beyond the reach of the Commission.

LaserVision, Inc.; Chase Revel; Neil Mikesell

LaserVision, Chase Revel, and Neil Mikesell agreed to settle allegations that they made numerous false and unsubstantiated claims about the vision improvement benefits of their pinhole eyeglasses, which are opaque plastic lenses with multiple pinholes. The settlement prohibits the defendants from making future false claims

Federal Trade Commission

or from engaging in the practices challenged

Federal Trade Commission

National Syndications is also required to deposit \$313,000 into an escrow account to guarantee the availability of redress funds.

Rapaport Corporation; Mayfair Gift Company

Rapaport and Mayfair Gift, two advertisers of home-based work opportunities, and their owners agreed to settle allegations that they misrepresented the earnings of prospective workers and misrepresented that their workers were fulfilling a significant marketplace demand for their products. The settlement permanently prohibits the defendants from engaging in similar deceptive practices and requires them to pay \$40,000 for consumer redress.

Robert M. Farmer; Douglas R. Dietel; Scott T. Lick

A court found that Robert Farmer, Douglas Dietel, and Scott Lick participated in a deceptive “900” telephone number scheme run by American Standard Credit Systems, Inc. to market secured Visa and Mastercard credit cards. The court order permanently prohibits the defendants from engaging in these deceptive practices and requires payment of \$2 million in consumer redress. Based on the defendants’ financial condition, however, it is unclear whether the redress can be collected.

Ronald F. Way

Ronald Way agreed to settle allegations in connection with his promotion of a 30-minute infomercial about a starter kit for various computer-based consulting businesses that buyers can operate from home. The settlement prohibits the defendant from engaging in the challenged practices in the future and from future violations of the Franchise Rule. Way also agreed not to object to a claim filed by the Commission in his Chapter 7 bankruptcy proceeding for \$2.465 million to be used for consumer redress.

Shawmut Mortgage Company

Shawmut Mortgage agreed to settle allegations that it denied loans to consumers on the basis of their race or national origin. The settlement includes a comprehensive fair lending compliance program that Shawmut implemented in 1992 to improve its outreach to, and

ensure fair treatment of, African American and Hispanic mortgage applicants. The settlement also requires payment of at least \$960,000 into a consumer redress fund. The funds will be used to compensate victims of Shawmut's alleged illegal discrimination, as determined under a procedure set out in the settlement.

*Sierra Pacific Marketing, Inc.; Steven Morris Rowe;
Robert Morris Rowe; Gary D. Hosman*

Steven Rowe, Robert Rowe, and Gary Hosman, the principal officers of Sierra Pacific Marketing, agreed to settle allegations that they conducted a nationwide telemarketing scheme in which they falsely told consumers they had won valuable prizes and then used a variety of misrepresentations to induce the consumers to purchase cosmetics, vitamins, water purifiers, and other products for prices ranging from \$399 to thousands of dollars. The settlement permanently bars the defendants from any future role in any type of sweepstakes or prize promotion scheme. In addition, the defendants agreed to pay \$1 million for consumer redress.

Sunbelt Construction Company

Sunbelt Construction agreed to settle allegations that it violated a 1977 Commission order requiring it to provide water, electricity, and telephone connections for lots in three west central Arizona subdivisions. The Commission alleged that Sunbelt mismanaged an account set up to provide the utilities connections, including that it made improper loans to company officers, in violation of the order. The settlement requires the defendant to transfer its liquid property and other assets to the Commission for distribution, as practicable, to debtors and to consumers who purchased lots in the subdivisions and whose lots have not yet received the required improvements.

*Tiny Doubles International, Inc.; Morris Samuel Friedman;
American Mobile Phone Systems, Inc.*

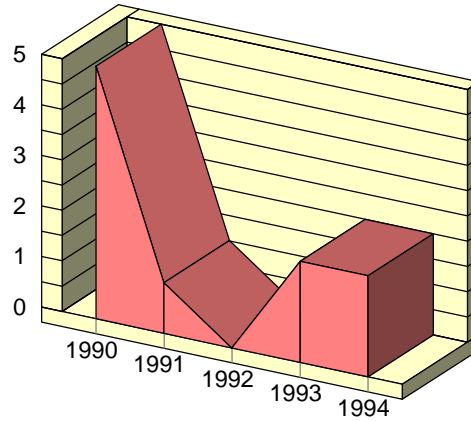
Tiny Doubles International and two other defendants agreed to settle allegations, arising from their efforts to market retail stores that sell miniature statues embodying customer photographs, that they violated the Franchise Rule by failing to provide required disclosure documents and that they violated the FTC Act by falsely claiming that

Federal Trade Commission

through infomercials and telemarketing. The settlement prohibits the firms and other corporate and individual defendants from misrepresenting the investment potential of any stamps or related items, animated art, or any other investment offering. In addition, Ronald Schaefer, past president and current chairman of the board of both firms, is required to post a \$200,000 performance bond before resuming any telemarketing activities. The settlement includes a judgment of \$10 million for distribution to creditors and consumers.

Federal Trade Commission

PART III ADMINISTRATIVE COMPLAINTS COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Hospital Board of Directors of Lee County	D09265	05/06/94	Merger	Inpatient Acute-care Hospital Services
Red Apple Companies, Inc.	D09266	05/27/94	Merger	Supermarkets

COMPETITION MISSION (DETAIL) *Hospital Board of Directors of Lee County*

An administrative complaint alleged that the proposed acquisition of Cape Coral Hospital in Lee County, Florida by the Hospital Board of Directors of Lee County would substantially reduce competition for inpatient acute-care hospital services in Lee County. A temporary restraining order entered by a federal district court in Florida was dissolved when the court held that the proposed acquisition constituted state action and was, therefore, immunized from the federal antitrust laws. The United States Court of Appeals for the Eleventh Circuit granted the Commission's motion for an injunction pending an appeal from the district court's decision.

Red Apple Companies, Inc.

The Commission challenged the 1991 and 1993 acquisitions of 32 Sloan's Supermarkets, Inc. stores by Red Apple Companies, Inc.

According to the administrative complaint, the acquisitions could substantially reduce competition and result in higher prices and lower quality and selection for groceries in supermarkets in the residential neighborhoods of Manhattan's Upper East and Upper West Sides, Chelsea, and Greenwich Village. The requested relief, following an outcome against Red Apple in the administrative proceedings, could require Red Apple to divest certain supermarkets and could prohibit future acquisitions of supermarkets in New York County.

Federal Trade Commission

that Dillard treated a payment for questioned charges as a waiver of the cardholder's claim that the charges were unauthorized and held cardholders liable for charges by their family members, even when the charges were unauthorized and applicable state law does not impose liability. In addition, the Commission alleged that Dillard illegally reported negative information about these cardholders to credit bureaus and instituted unwarranted collection procedures against them.

Hawthorne Communications, Inc.

The Commission issued an administrative complaint alleging that Hawthorne Communications, an Iowa advertising agency, and Ronald F. Way and William F. Lawler, two officers of Tronsoft, Inc., made misleading claims to market products sold by Tronsoft. The complaint alleged that the respondents used deceptive testimonials and other means to represent that consumers who buy Tronsoft's products or services, including the Tronsoft Home Business Starter Kit, typically readily succeed in operating businesses out of their homes and earn substantial incomes.

Metagenics, Inc. d/b/a Ethical Nutrients; Jeffrey Katke

The Commission issued an administrative complaint alleging that Metagenics and its president, Jeffrey Katke, used a host of unsubstantiated and misleading claims to market calcium supplement products sold under the name Bone Builder. The Commission alleged that Metagenics made unsupported representations that their Comm (the T

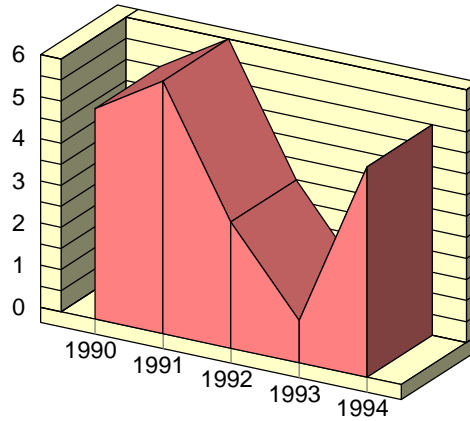
Federal Trade Commission

New Balance Athletic Shoe, Inc.

The Commission issued an administrative complaint alleging that New Balance Athletic Shoe made false and misleading advertising and labeling claims that its athletic shoes are made in the USA. In 1995, the Commission, after a show-cause proceeding, issued an order amending the administrative complaint to delete a charge related to New Balance Shoes assembled in the United States.

Federal Trade Commission

PART III CONSENT ORDERS ISSUED COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Abbott Laboratories	D09253	02/04/94	Horizontal Restraints	Infant Formula
Baltimore Metropolitan Pharmaceuticals Association, Inc.	D09262	02/25/94	Horizontal Restraints	Pharmacy Services
Columbia Hospital Corporation	D09256	05/05/94	Merger	General Acute-care Hospital Services
Detroit Automobile Dealers Association, Inc.	D09189	04/20/94 07/20/94	Horizontal Restraints	Automobile and Truck Dealerships
Textron Inc.	D09226	05/06/94	Merger	Structural Blind Rivets

COMPETITION MISSION *Abbott Laboratories* (DETAIL)

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to consumers in the United States. The order does not prohibit Abbott from lobbying government bodies, from exchanging technical or scientific information with other competing manufacturers, or from encouraging its competitors to adopt industry-wide ethical codes to prevent false or deceptive marketing practices.

Baltimore Metropolitan Pharmaceuticals Association, Inc.

A consent order settled allegations that Baltimore Metropolitan Pharmaceuticals and the Maryland Pharmacists Associations illegally conspired with their members to boycott Baltimore, Maryland's prescription-drug benefit plan in an attempt to control the reimbursement fees paid to participating pharmacies. The 1993 administrative complaint alleged that the two associations entered into agreements with member pharmacists to refuse to participate in the prescription-drug benefit plan insured by the Prudential Insurance Company of America that compensated participating pharmacists when they filled prescriptions for city employees and retirees. The order prohibits the two associations from engaging in similar activities.

Federal Trade Commission

operation in the future. The consent orders are the result of a 1984 administrative complaint alleging that individuals, dealerships, and dealer associations conspired illegally to restrain competition in the Detroit area by closing their showrooms on Saturdays and most week nights. Under terms of the orders, the parties are required to operate their showrooms under a mandatory hours provision and must disclose their hours of business in all advertising for one year. A separate consent order with The Detroit Auto Dealers Association (DADA) and James Daniel Hayes prohibits similar agreements that limit showroom hours and requires DADA to publish specific advertisements concerning the extended hours of dealers subject to the order. Twenty-four dealerships and individuals continue to pursue the case, pending before the Commission on remand from the United States Court of Appeals for the Sixth Circuit.

Textron Inc.

A consent order settled allegations that Textron's 1989 acquisition of Advel PLC would reduce competition in the United States and world markets in the production of structural blind rivets. The order requires Textron to establish a new competitor in the United States market for monobolts, structural blind rivets that join sheets of materials to the frames of trucks, buses, and other ground transportation vehicles. The order also requires Textron to license to a Commission approved entity the technology to manufacture and sell the monobolt rivets in the United States and Canada, to provide the acquirer certain manufacturing assets and technical assistance for five years to ensure a competitive level of production, and to obtain Commission approval for 10 years before acquiring any firm engaged in the manufacture and sale of structural blind rivets.

eliminate rodent or flea infestations or that such a device can repel fleas.

*Synchronal Corporation; Thomas L. Fenton;
Richard E. Kaylor; Ana Blau*

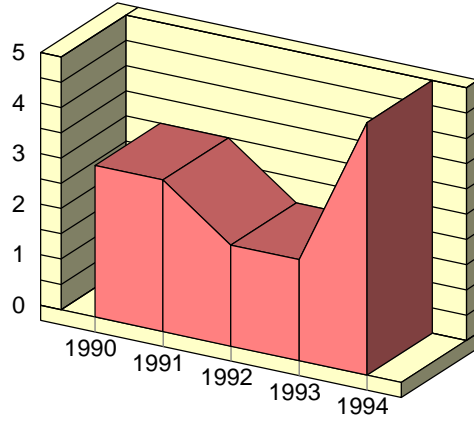
The consent order with Synchronal settled several allegations that it and several other respondents made false and unsubstantiated claims in infomercials for a purported baldness cure, the Omexin System for Hair, or for a cellulite treatment, the Anushka Bio-Response Body Contouring Program, or both. The consent order requires Synchronal to pay \$3.5 million in consumer redress and prohibits Synchronal and two of its officers, Richard Kaylor and Ana Blau, from making any unsubstantiated product claims in the future. Further, the order prohibits the respondents from disseminating the two infomercials and from misrepresenting the results of any tests or studies in connection with the marketing of any product or service in the future.

Federal Trade Commission

required to take certain steps to ensure that subscribers have permissible purposes for accessing consumer reports.

Federal Trade Commission

**FINAL ORDERS
COMPETITION MISSION**



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Adventist Health System/West	D09234	04/01/94	Merger	Inpatient Acute-care Hospital Services
Coca-Cola Bottling Company of the Southwest	D09215	08/31/94	Merger	Carbonated Soft Drinks
Coca-Cola Company	D09207			

Coca-Cola Bottling Company of the Southwest

The Commission reversed a 1991 dismissal of a complaint by an ALJ and ruled that Coca-Cola Bottling Company's (CCBCS) acquisition of the Dr Pepper franchise from San Antonio Dr Pepper Bottling could substantially reduce competition for branded carbonated soft drinks in the 10-county area around San Antonio, Texas. The ALJ's decision, appealed by Commission staff, had concluded that the relevant product market was broader and included a larger geographic market than defined by the 1988 administrative complaint. The ALJ had also found that competition in the market for soft drinks in the area was healthy, with both low prices and excess capacity. Under terms of the Commission's final order, CCBCS is required to divest, within 12 months, the Dr Pepper assets it acquired in 1984 to an acquirer approved by the Commission. In addition, the order places restrictions on future acquisitions of branded carbonated soft drink assets.

Coca-Cola Company

The Commission reversed an ALJ's decision that the proposed acquisition by Coca-Cola of one of its largest competitors, the Dr Pepper Company, would violate the federal antitrust laws. The transaction, enjoined after a federal district court granted the Commission's motion for a preliminary injunction, was litigated in administrative proceedings. The Commission reversed the ALJ's initial decision and issued a final order requiring Coca-Cola to obtain prior Commission approval for 10 years before acquiring certain brand name soft drink concentrate manufacturers.

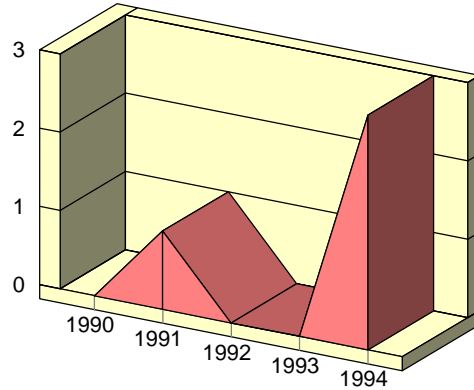
College Football Association

The Commission affirmed an initial decision when it dismissed an administrative complaint challenging agreements negotiated by the College Football Association

Federal Trade Commission

Act and its recognition as a tax-exempt entity under the Code of the Internal Revenue Service.

**FINAL ADJUDICATIVE ORDERS
CONSUMER PROTECTION MISSION**



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Griffin Systems, Inc.	D09249	04/29/94	Contractual Misrepresentations	Auto Service Contracts
Stouffer Foods Corporation	D09250	09/26/94	Deceptive Low Sodium Claims	Frozen Food
Trans Union Corporation, Inc.	D09255	09/28/94	Privacy of Credit Reports	Credit Lists

CONSUMER PROTECTION MISSION (DETAIL) *Griffin Systems, Inc.; Gennaro J. Orrico; Alfonso S. Giordano; Robert W. Boughton*

The Commission upheld an Administrative Law Judge’s initial decision that Griffin Systems and its principals deceptively and unfairly promoted Vehicle Protection Plan auto service contracts and misrepresented the terms for canceling the service contracts they sold to consumers. The final order prohibits the defendants from materially misrepresenting or unilaterally canceling any service contract they offer in the future.

Stouffer Foods Corporation

The Commission upheld an Administrative Law Judge’s initial decision that Stouffer made deceptive low sodium claims for Lean

Federal Trade Commission

Cuisine frozen entrees. The final order and opinion broadened the Administrative Law Judge's order and prohibits the company from misrepresenting the existence or amount of sodium or any other nutrient or ingredient in any frozen f4.0055 T1mc6Lawcy ft markecomfro -111.

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RULEMAKING ACTIVITIES
(Including Guides and Other Policy Statements)

CONSUMER PROTECTION *Alternative Fuel Labeling Rule*
MISSION

The Commission initiated a rulemaking proceeding to establish uniform labeling requirements for alternative fuels and alternative-fueled vehicles, disclosing cost and benefit information to enable consumers to make reasonable purchasing choices and comparisons.

Appliance Labeling Rule

The Commission made several amendments to the Appliance Labeling Rule in fiscal year 1994. The first amendment requires showerheads, kitchen and lavatory faucets, water closets (toilets), and urinals to disclose their water-usage rates. The information is required to be displayed on the products and their packaging and labeling, as well as in catalog advertising and point of sale promotional materials.

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Federal Trade Commission

enacted in 1971 to make it easier for consumers, professional launderers, and dry cleaners to determine proper clothing care.

Fair Packaging and Labeling Act

The Commission amended its implementation regulations for the Fair Packaging and Labeling Act to coincide with Congress's 1992 amendment to the Act. The Commission's amended regulations require that labels and packages printed after February 14, 1994, be expressed in both the English and the metric system.

Food Advertising

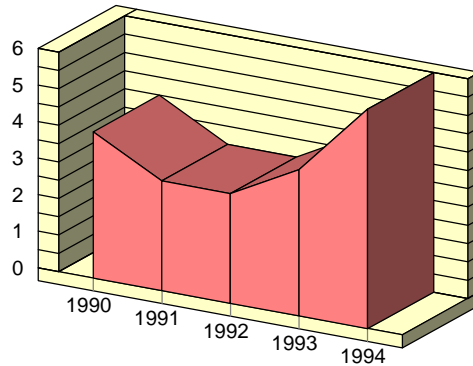
The Commission issued an enforcement policy statement advising food advertisers to closely observe federal food labeling regulations when making health related claims or claims about the nutrient content of their products. The Commission stated that it will look to standards

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terminated. Pursuant to this mandate, the Commission amended the Funeral Rule to improve its effectiveness for consumers and to eliminate unnecessary compliance burdens on funeral providers. The amended Rule prohibits funeral providers from charging a casket-handling fee in addition to any nondeclinable basic services fee and modifies the Rule

Federal Trade Commission

ORDER MODIFICATIONS COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Arkla, Inc.	C3265	03/28/94	Merger	Natural Gas Transmission
General Motors Corporation	C3132	10/29/93	Merger	Automobiles and Light Trucks
Institut Merieux S.A.	C3301	04/22/94	Merger	Rabies Vaccine
Promodes S.A.	D09228	01/28/94	Merger	Supermarkets
S.C. Johnson & Son, Inc.	C3418	11/08/93	Merger	Home Care Products
Union Switch & Signal Inc.	C0837	08/29/94	Horizontal Restraints	Railroad Signaling Equipment

COMPETITION MISSION *Arkla, Inc.* (DETAIL)

At the request of Arkla, the Commission reopened and modified a 1989 consent order to redefine the natural gas transmission assets Arkla was required to divest. Under the new order, Arkla is required to divest an undivided interest in the gas pipeline transmission portion of its pipelines that run from western Oklahoma to Arkansas and Louisiana.

Federal Trade Commission

Union Switch & Signal Inc.

The Commission terminated a 1964 consent order that prohibited General Railway Signal Co. and Westinghouse Air Brake Co. from entering into any agreement to fix prices, allocate customers or markets, or exchange any nonpublic information in the manufacture or sale of railroad signaling and control systems. In its petition, Union Switch & Signal Inc., successor to Westinghouse Air Brake Co., contended that competition in the railroad signaling/equipment market would be increased if Union Switch could be permitted to engage in certain licensing and distribution agreements with its parent company and with other subsidiaries of its parent that would coordinate their respective worldwide marketing efforts in a more efficient manner.

CONSUMER AND BUSINESS EDUCATION EFFORTS

CONSUMER PROTECTION MISSION

The Office of Consumer and Business Education produced 24 new publications and 46 revised publications. Of these 70 publications, 3 were business booklets, 11 resulted from joint efforts, 7 were in Spanish, and 7 were special enclosures for consumer complaint or redress letters. For National Consumers Week, the Office developed a special newspaper supplement, *Focus on Fraud*, and distributed 8,000 copies to Commission regional offices and requesting organizations for redistribution.

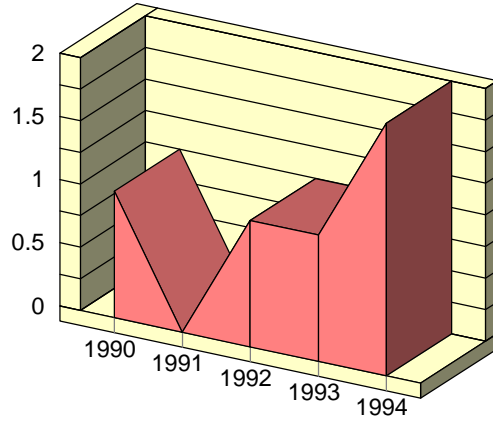
The Office distributed 19,000 copies of its business booklet, *Complying with the Funeral Rule*, to funeral directors nationally and distributed approximately 12,700 copies of its industry guide, *Complying with the "900" Number Rule*, to businesses. The Commission distributed more than three million copies of its education publications during the fiscal year.

The Office released a multimedia consumer education campaign on auto repair. It included a three-part television video series, radio public service announcements, and a booklet called *Taking the Scare Out of Auto Repair*. The campaign, a joint project with the National Association of Attorneys General (NAAG) and the American Automobile Association, won two prizes in the International Mercury Awards competition, one in video and the other in print. The booklet also won a Blue Pencil Award from the National Association of Government Communications (NAGC) and was an NAGC finalist in the video category.

The Office also did a multimedia campaign concerning telephone scams and older consumers with NAAG and the American Association of Retired Persons. This campaign won a Silver Medal in the International Mercury Awards.

Federal Trade Commission

SUPREME COURT REVIEW OF COMMISSION ACTIONS *COMPETITION MISSION*



COMPETITION MISSION (SUMMARY)

<i>Supreme Court Decisions</i>				
Title				

COMPETITION MISSION

Federal Trade Commission

Olin Chemical Company

On February 26, 1994, the Supreme Court denied Olin's petition for certiorari. The Court's ruling finalizes the Commission order requiring Olin to divest the swimming pool sanitizing chemicals business acquired in 1985 from FMC Corporation. The Commission's 1990 decision was affirmed on appeal in 1993 by the Ninth Circuit.

Ticor Title Insurance Company

On March 21, 1994, the Supreme Court denied Ticor's petition for certiorari to review the Third Circuit's decision affirming the Commission's final order. The Commission had ruled that Ticor's rate-making activities are not immune from the federal antitrust laws under either the "business of insurance" exception of the McCarran-Ferguson Act or the Noerr-Pennington doctrine.

William F. Farley

In December, the U.S. Court of Appeals for the Seventh Circuit reversed a decision by the district court, which had dismissed the Commission's complaint alleging that William F. Farley violated the Hart-Scott-Rodino reporting and filing requirements when he acquired stock in West Point Pepperell, Inc. The District Court for the Northern District of Illinois dismissed the complaint with prejudice after the Commission failed to file a response to the court's order to show cause why the complaint should not be dismissed. The court's decision was affirmed by the Seventh Circuit.

ECONOMIC REPORTS AND WORKING PAPERS

ECONOMIC REPORTS Economic Reports are major, published reports concerning antitrust, consumer protection, or regulatory issues of policy

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Vertical Contracts as Strategic Commitments, (WP#204), Cindy R. Alexander and David Reiffen, December 1993.

Disentangling Regulatory Policy: The Effects of State Regulations on Trucking Rates, (WP#205), Timothy P. Daniel & Andrew N. Kleit, July 1994.

Reversing Roles: Stackelberg Incentive Contract Equilibrium, (WP#206), Richard E. Ludwick, Jr., July 1994.

Merger Analysis in the Courts, (WP#207), Malcolm B. Coate, August 1994.

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particular objectionable provisions contained in ocean carrier rate-making agreements, rather than challenge entire agreements; that the FMC use merger and antitrust joint venture analysis in assessing competitive effects under the Shipping Act; and that the FMC interpret the Shipping Act to address agreements that prevent rate reduction or service improvements.

Federal Reserve Board: Leasing Regulations

The Bureau of Consumer Protection staff filed comments in response to a Federal Reserve Board notice of proposed rulemaking concerning proposals to revise Regulation M, which implements the Consumer Leasing Act. Staff supported the Board's proposal for a segregation requirement, stating that the segregation of lease disclosures could benefit consumers by making information readily apparent and easily accessible. The Commission also suggested the use of a toll-free number to provide some of the required disclosures in media advertising.

Food and Drug Administration: Sunscreen Products Monograph

The staff of the Bureau of Consumer Protection filed comments with the Food and Drug Administration (FDA) concerning proposed rules requiring specific labeling language on sunscreen products. The staff concluded that some aspects of the FDA's proposal include terms and phrases for labels that may, unintentionally, misinform consumers about the level or type of protection that sunscreen products provide. Because the potentially serious health consequences that can result if consumers misinterpret sunscreen labeling, the FDA should conduct consumer research into how consumers interpret the proposed language and to test whether modified language might better inform consumers.

International Trade Commission: Effects of Unfair Imports

The staff of the Bureau of Economics testified before the International Trade Commission about the effects of orders in countervailing duty and dumping cases. The testimony described a Bureau of Economics report issued earlier in the year that identified decreases in domestic industry revenues due to unfairly dumped or subsidized imports.

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volume. The comments concluded that prohibiting brokering of new vehicle transactions would likely reduce competition and deprive consumers of cost savings.

Louisiana: Embalming Requirement

The Bureau of Consumer Protection filed comments in response to a proposal by the Louisiana Board of Embalmers and Funeral

competition. As an alternative, the comments suggested that preneed sellers be allowed to post a performance bond, under which a third-party guarantor would agree to pay the contract amount if the seller did not deliver at the time of need and that the legislature consider only requiring that prices for separate items in preneed contracts be no greater than, rather than identical to, the prices on the providers' lists.

South Carolina: Utilities Regulation

The staff of the Bureau of Economics filed comments with the South Carolina Legislative Audit Council regarding the statutes and regulations pertaining to the state's Public Service Commission that govern the trucking, telecommunications, and electric power industries. The comments recommended relaxing restrictions on entry into motor carrier markets, permitting incumbent telephone utilities more flexibility to adjust prices in response to new competition, and pursuing alternatives to rate-of-return regulation for telephone utilities. The staff comments recommended that those portions of the statutes that require traditional rate-of-return regulation and construct artificial barriers to entry should be revised in order to promote competition in the electric power industry.

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