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THE SOURCES OF NECESSARY RESTRAINTS.

no. 131

Statement by Earl W. Kintner Chairman, Federal Trade Commission Before a Meeting of the American Association of Advertising Agencies Detroit, Michigan February 8, 1961

I.

Individual freedom is meaningless if any individual

<u>is free to trample the rights of the many. Even a society</u>

attention to the erection of restraints upon the abuse of

once the industrial revolution gained momentum the absence of restraints upon predatory economic conduct became intolerable. As the weapons of economic piracy grow sharper and inflict greater injury, the healthy conscience of a free society demands the imposition of more restraints of greater efficacy. Many illustrations of the operation of this principle can be taken from our economic history, but since all of us here are deeply concerned with the role of advertising in our economy, let us turn briefly to the history of advertising.

<u>Annamy than in a complex industrial structure.</u>

However

In the second half of the 19th Century two broad developments, long in coming, intersected. Revolutionary

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an outrageous fashion. A recognition of the necessity	
of some restraints against false advertising soon followed	•
Voluntary groups of advertisers who recognized the	
responsibilities of their growing industry were organized	
and partially filled the vacuum. but responsible members	
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advertising was to become a reality. Soon after the birth	
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conditions and shifting competitive situations can produce

of which must be judged for deceptive qualities. Congress, fully realizing the difficulty of defining economic offenses but determined to perserve and extend a fair and free economy. wisely chose not to erect a universal statutory standard which might be adequate at the moment but which might become Instead, Congress hopelessly outmoded as conditions changed. created an administrative agency, the Federal Trade Commission. and charged it with the task of defining unfair or deceptive acts and practices as they occurred within the context of given competitive situations. The Commission has diligently pursued this never-ending requirement for definition. In literally thousands of cases, formal and informal, the Commission has established guides for the honest as well as proscriptions for the dishonest The definitions of

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In the wake of the sharp and sudden drop of public confidence in advertising late in 1959, enforcement activities by the Federal Trade Commission rose to a record level. In calendar 1960 the Commission instituted 359 new actions against deceptive practices, the vast majority involving advertising in some form. This unprecedented number

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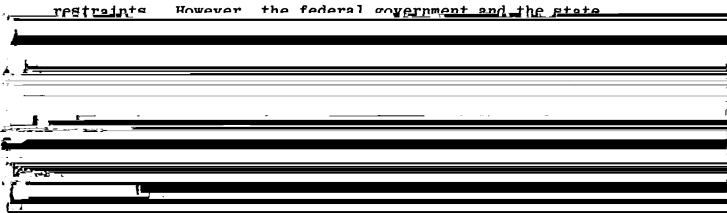
payola, an increasing concern with misleading "demonstrations" in television commercials, an awareness of the possibility of deception in the use of claims based on scientific tests, concentration upon industries in which deceptive advertising violations were particularly rife (such as contact lenses and television tubes), and a determination to mount a new attack on specific deceptive advertising practices (such as fictitious pricing and representations of profit and earning opportunities), that continued to flourish despite advertisers in intrastate commerce are free to deceive, the Commission in the past year has actively encouraged the improvement of state statutes and local ordinances against

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sanctions at the state and local levels.

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I have spoken of the need for some restraints against advertising harmful to the public interest and I have touched upon the contribution of two of the sources of those needed



11 II.

Individual integrity is at once potentially the most potent source of needed restraint and at the same time the restraining force most difficult to measure or evaluate. But one thing is certain--no system of laws, no ethical system, no civilized activity is possible without it. During the past 18 months I have suggested to numerous audiences of advertising men and women that the best way for advertising to avoid a permanent loss of public confidence is for each of them to develop a sense of professionalism, a sense of professional responsibility. A profession is distinguished by the recognition that ethical standards must govern every aspect of the individual's work and adherence to those standards even when adherence means temporary

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always be a few willfully dishonest men and enterprises who recognize no restraint except the compulsory process		
who recognize no restraint except the compulsory process		furnish all the necessary protection, for there will
		always be a few willfully dishonest men and enterprises
		who recognize no restraint except the compulsory process
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