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FTC PROMOTES CONFIDENCE IN ADVERTISING

An Address by

EVERETTE MACINTYRE

Member of the Federal Trade Commission

Before the

BETTER BUSINESS DIVISION

MIAMI DADE COUNTY CHAMBER OF COMMERCE

Miami, Florida

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Introduction

Mr. Chairman, distinguished guests, officials and members of the Better Business Division, Miami-Dade County Chamber of Commerce:

It is a pleasure to be here today, at this annual installation ceremony of the Better Business Division of the Miami-Dade County Chamber of Commerce. We at the Federal Trade Commission feel particularly fortunate when we have an opportunity to meet with representatives of an organization such as yours because we share with you a

and preventing unfair practices. We believe, as I am sure

you will find that such cooperation is good for business and

advertising. We believe this can be done by keeping
the channels of trade free from unfair acts and practices.

achieve a high level of confidence in advertising.

Scores of statements were filed with the Commission during the course of the proceedings. Many of these

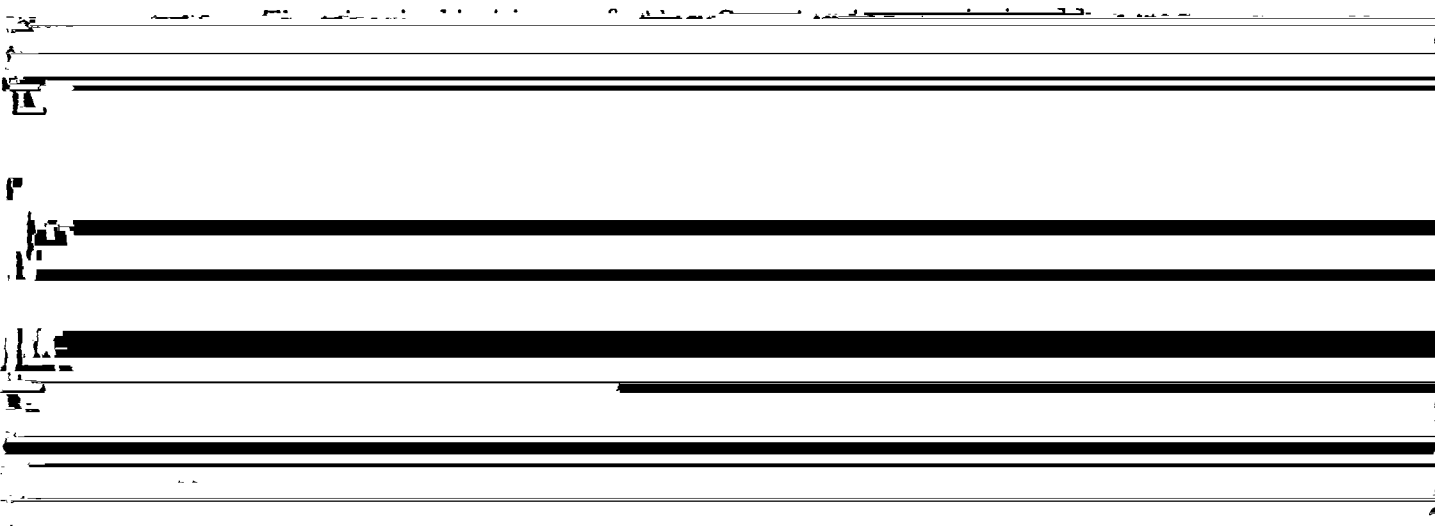
statements were from representatives of large associations

of business firms. One was filed by representatives of your national organization, the United States Chamber of Commerce, which expressed approval of the Commission's efforts to guide and advise business toward truthful advertising and honest and fair trade practices.

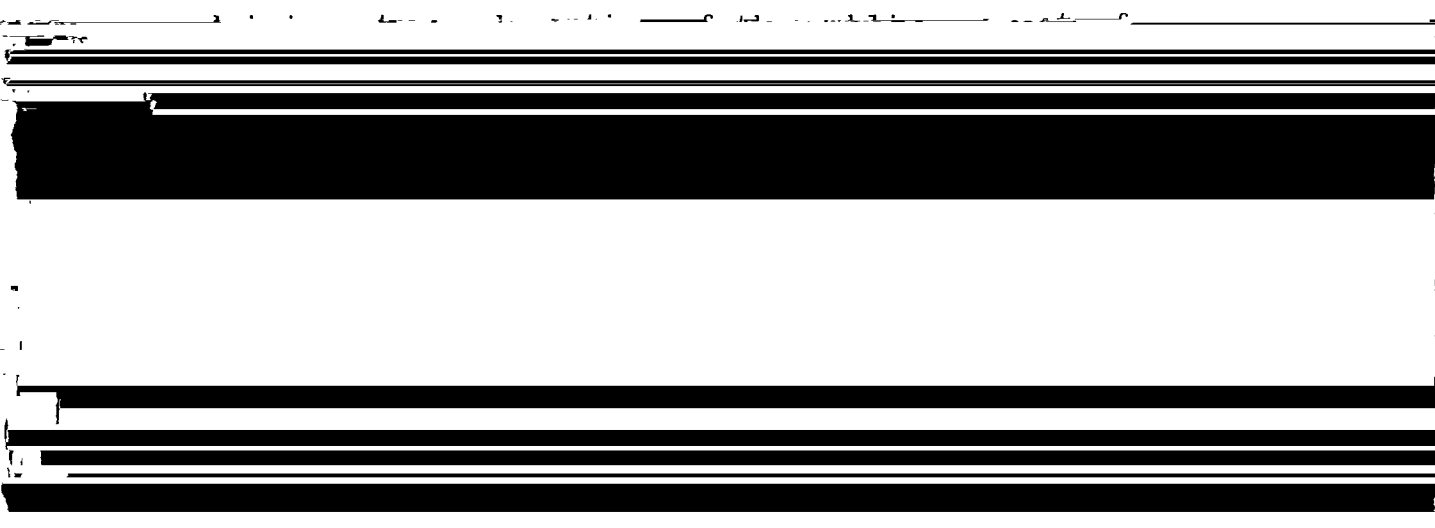
The Commission's efforts in this regard are becoming widely recognized and accepted. A few days ago Mr. J.W. Davis, the Associated Press news-feature writer, acknowledged this fact. His featured article, under the headline of "Government and Business Protect Consumer Against Fraud in Ads", was widely published in daily newspapers July 7,

of January 15, 1962 featured an article by the Reverend

of only 19 words. Those words are: "Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful."




based upon injury to competition, actual or potential,



itself sufficient to constitute an offense under the statute. The defect became apparent in the 1930's when

underlying our free and competitive enterprise system calls for free and fair competition.

When deceptive practices were outlawed by the 1938 amendment, caveat emptor, or purchaser beware, ceased to be the economic and commercial policy of the United States. From then on, consumers and businessmen could deal with each other on a basis of equality, in the knowledge that use of deceptive practices was against public policy. Consumers



likely to engage in deception. By the same token, the businessman has been elevated to a new plane of public responsibility and respect. The new law proclaimed to the world an assurance that the American businessman, like every other American, is assumed to act in a manner which will be honest, non-deceptive, and in the best long-run interests not only of himself but his fellow man.

The first cease and desist order to be reviewed by the
courts was affirmed to prohibit misrepresentation of food

largest retailers.

Realizing the tremendous impact of advertising on a

food, drugs, therapeutic devices, and cosmetics. Not only could such advertising be attacked through a conventional cease and desist proceeding, but issuance of injunction by a U.S. District Court could be sought, to

be labeled to disclose clearly their country of origin, was affirmed. The court stated that the Commission may require affirmative disclosures where necessary to prevent deception, because failure to disclose by mark or label material facts concerning merchandise which if known

to prospective purchasers, would influence their decisions of whether or not to purchase, constitutes unfair practice.

The Commission has similarly required affirmative disclosures with regard to hidden dangers in use of products, used or second-hand character of merchandise which appeared to be new, abridgment of books, reprinting of books or stories under new titles, and composition of aluminum watch

what goods or services the consumer shall or shall not purchase. Rather, the purpose is to aid him by making sure that he gets what he thinks he is getting.

The Commission's orders requiring affirmative disclosures in the advertising of food, drugs, therapeutic devices and cosmetics similarly have been upheld by the courts. For example, a 1959 order was affirmed to

prohibit advertising of a product as a hair grower or baldness preventive unless the advertisement revealed

preparation may mask the signs and symptoms and thereby permit the progression of such disease or disorder.

The Commission's jurisdiction to prevent unfair and deceptive acts and practices extends to all types of products and practices excepting those which by specific legislation are the responsibility of some other agency. And with those other agencies, such as the Food and Drug Administration, which has jurisdiction over the labeling of food, drugs, therapeutic devices, cosmetics, and hazardous substances, and the Post Office Department which prevents fraudulent

use of the mails, the Commission cooperates closely to avoid any duplication or conflict of effort and to give fullest protection to the public.

The Commission also cooperates closely with state

authorities in reference to those matters which are found

Other types of unfair acts and practices recently prohibited by the Commission include the use of deceptive demonstrations in television advertising, misrepresentation of correspondence courses, false claims with respect to usual price of household appliances, deceptive guarantees of numerous types, and bait and switch tactics in the sale of home improvement products.

Utilization of schemes involving false and deceptive representations about business opportunities have occupied some of the Commission's time. Indeed, it has been quite active in curbing unfair acts and practices relating to these schemes. As you know, the advertising of many of these schemes is directed to the aged, the crippled, the

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involving alleged business opportunities that are advertised and offered read and sound most alluring and before the "customer" is aware of the true nature of the business

administers statutes dealing specifically with the

These statutes are the Wool Products Labeling Act of 1939, the Fur Products Labeling Act of 1951, the Flammable Fabrics Act of 1953. and the Textile Fiber Products Identification

Act of 1958. These statutes are of particular importance to this part of the country, since Miami has become a considerable center for manufacture of ladies' sportswear, and this area accounts for an appreciable volume of retail sales of all types of apparel products. The Commission accordingly has since May of 1962 maintained at Miami a representative of its Bureau of Textiles and Furs, engaged in inspection and industry counselling work.

This representative of the Commission is Mr. M.C. Frost,

the advertising of products subject to their terms.

~~The Elementary Fabric Act prohibits the marketing of~~

intended for use in such apparel.

The Miami area is more generally served by our field office in Atlanta. That office, staffed by attorneys of the Commission's Bureau of Field Operations, is located at 86 Forsyth Street. The Attorney in Charge is Edward S.

~~Rogsdale, who has had nearly twenty five years of~~

advice only. They carry no sanctions. Therefore,
willful violators were not deterred from continuing

competitors who wished to abide by the law.

The Federal Trade Commission announced that it

decision was long overdue, for if the Commission is to fulfill its purpose of providing guidance to businessmen, what better time is there to provide the guidance than before the law is violated? Previously, advice in the form of opinions was offered only by the Commission's staff and such advice was not binding on the Commission. This made the advice of such limited value to businessmen

advice... behind the Commission. And in the

This major step involved a substantial overhaul of the Commission's Rules of Practice in the Commission's effort to ~~attack on the delays in the handling of its case work~~

~~These changes in the Rules of Practice have taken several~~

forms and the results have been gratifying.

In taking these forward steps the Federal Trade Commission has moved to fulfill one of the most important roles for which it was created. President Wilson, who had asked the Congress to create the Commission, made it clear that he wanted the agency to assist businessmen in securing a better understanding of their responsibility under the law.

You are assured that we at the Federal Trade Commission shall continue our endeavor to improve our

along this line have been made from time to time over the years. Many of the proposals as made in the past were severely criticized in Congress and elsewhere because they smacked of suggestions that cases which had been developed against law violators be dropped on the promise that the violators would "go and sin no more." Some of the more recent proposals advanced by representatives of

leading manufacturing firms have avoided much of the

1. When the Commission has information before it indicating that possible violations are occurring on the part of various firms in a given industry, and that the only effective relief for the public would be prompt simultaneous discontinuance of the practices in question, the Commission, after notice to the accused and in the event the accused should request it, would authorize a conference providing the opportunity to officials of the firms in question to appear for a discussion concerning the illegality of the practices in question.

2. At this point the Commission would not have sufficient evidence upon which to litigate a case against any of the firms. However, if during the course of this discussion with the officials it should appear that the practices in question involve possible violations of law, the officials of the firms would be advised to that effect. Moreover, they would be informed that the Commission would proceed to docket the matter for investigation and if, upon inquiry, it should be determined that the practices in

3. It was further proposed that at the time of the mentioned conference with the businessmen, they

be investigated by the Commission and it should be found that the practices in question had been discontinued or

(1) I believe that before investigation the businessman who has been accused of engaging in unlawful business practices should be given notice that the Commission has received complaints about his practices and that he would be afforded an opportunity to visit an appropriate office of the Commission to discuss the matter. If that should be done, it is likely that a majority of all cases would be closed without investigation

on the basis of the "Pre-Investigation Conference."

businessmen engaged in practices without any idea that they could or would be questioned as being illegal. In any event, the businessmen would be provided with an opportunity to re-evaluate their practices and determine before investigation was commenced whether they should be

(2) Moreover, by following the very definite procedure applicable to the proposed "Pre-Investigation Conference" procedure, we would be enabled to move forward and make considerable progress in our efforts

Commission has adhered to heretofore. In other words,

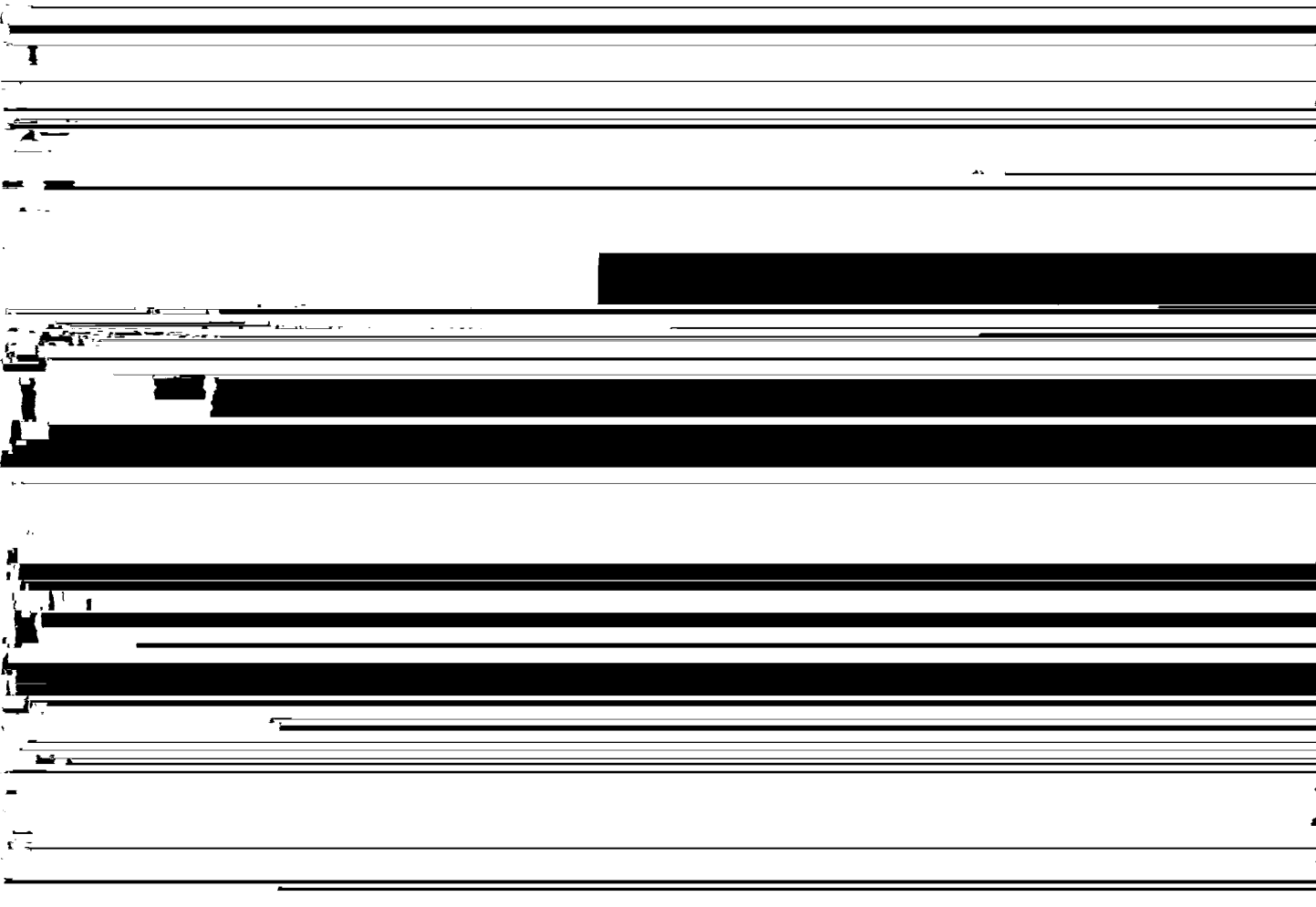
by following the same definite procedure as heretofore.

This is not to say that we have not made progress.

What I am trying to say is this: I believe we should have been more explicit in the statement of our voluntary compliance program so as to more definitely inform the businessman regarding the conditions and circumstances under which the voluntary compliance privilege would be afforded him and when it would be withheld from him.

Conclusion

The new policies which have been adopted by the Federal Trade Commission provide businessmen with opportunities



I deeply appreciate the opportunity you have provided for me to visit and discuss these problems with you today. I say that because I sincerely believe

we can work together for the good of business and the public.