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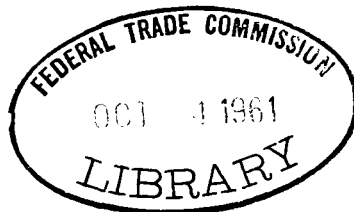
For Release on Delivery  
at 6:00 P.M. Eastern  
Daylight Time October 2, 1961

REMARKS OF  
WILLIAM C. KERN, COMMISSIONER  
FEDERAL TRADE COMMISSION

Before the  
TRI-CITY AREA ADVERTISING CLUB

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October 2, 1961  
Latham, New York



Mr. Chairman, Members of the Tri-City Area Advertising Club.

I was both pleased and honored to receive the kind invitation to speak to your Club for a variety of reasons. To begin with, though I hail from the Middle West, the fortunes of my family have been closely interwoven with your great State of New York. Way back in 1908 my father ran on the Democratic ticket for vice president against one of your former

late distinguished representatives in the Congress, known as Sunny Jim Sherman. The sting of my father's defeat was somewhat alleviated by the fact that some forty-seven years later I displaced your Senator Mead as a Democratic member of the Federal Trade Commission, an incident I was happy to report in my prayers to my ancestors. But I want to declare peace with New York State; therefore, it is indeed a pleasure to be here tonight.

Moreover, I am mindful that this audience is a significant cross section of those who buy sell and

create advertising in the important Capitol District area. In considering what I could say to you that might be of some value, I was struck by the high-minded objectives of your Club as stated in its Constitution:

To promote greater effectiveness in the use

Advertising has done much, both for good and for evil, to fashion the fabric of our modern society.

creating enlightened discontent -- it is a constant spur to economic progress. Indeed it is an important factor in making the competitive system work, for, by constantly bidding for customer approval, advertising directs the country's purchasing power to the great national pool of competing products. Likewise advertising is a vital factor in fostering that freedom of choice which lies so close to the heart of our free enterprise economy. Advertising submits competing products to the approval or veto of millions of potential customers; it informs the public what is available so that it can decide what it wants to buy.

in the service of the selfish, the insensitive, or the

Always a picture in the first sentence under words



cannot escape it." 1/

Without wholly adopting either the angelic or the diabolic view of advertising, we can recognize that its possibilities bode much for good and yet much for evil too. The stated objectives of your Club and those of the Federal Trade Commission, insofar as they relate

It was gross exaggerations resulting from pressure for even larger promises that eventually made it

complaint, that some form of Government regulation was necessary to protect the public interest from the misdeeds of some advertisers.

The Federal Trade Commission was this country's answer to the felt need. This agency originated in 1914 during Woodrow Wilson's administration. Its organic statute assigned it the "conveniently vague" task of preventing "unfair methods of competition in commerce." Congress left the exact definition of unfair methods to the Commission with the idea that its meaning would evolve through the case-to-case process of inclusion and exclusion. At the same time, Congress also passed the Clayton Act, which gave the new agency authority to declare certain types of price discrimination exclusive

dealing contracts, mergers and interlocking corporate

written the Commission lacked power to forbid false advertising unless such false advertising adversely

This ruling was a major blow. The Supreme Court's narrow interpretation of the Commission's powers, however, added impetus to the strong consumer movement during the 20's and 30's aimed at strengthening the Federal Trade Commission Act. The result was the Wheeler-Lea Amendments of 1938. 5/ These had a two-fold effect. First, they broadened the Commission's

authority by additionally empowering it to prohibit unfair and deceptive acts and practices whether or not they had an effect on competition; secondly, in cases involving food, drugs, cosmetics and devices, the amended statute granted even stronger powers, including the right to obtain injunctions in proper cases prior

There is now pending in the Congress another bill sponsored by Congressmen Steed and Patman which would further amend the Federal Trade Commission Act to permit

effective during litigation of other types of cases. Under this bill the burden would be upon the Commission to demonstrate the public necessity for such temporary orders.

I am convinced that this proposed law is important

Perhaps it might be well in order to consider the

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to mention some of our more significant recent cases involving



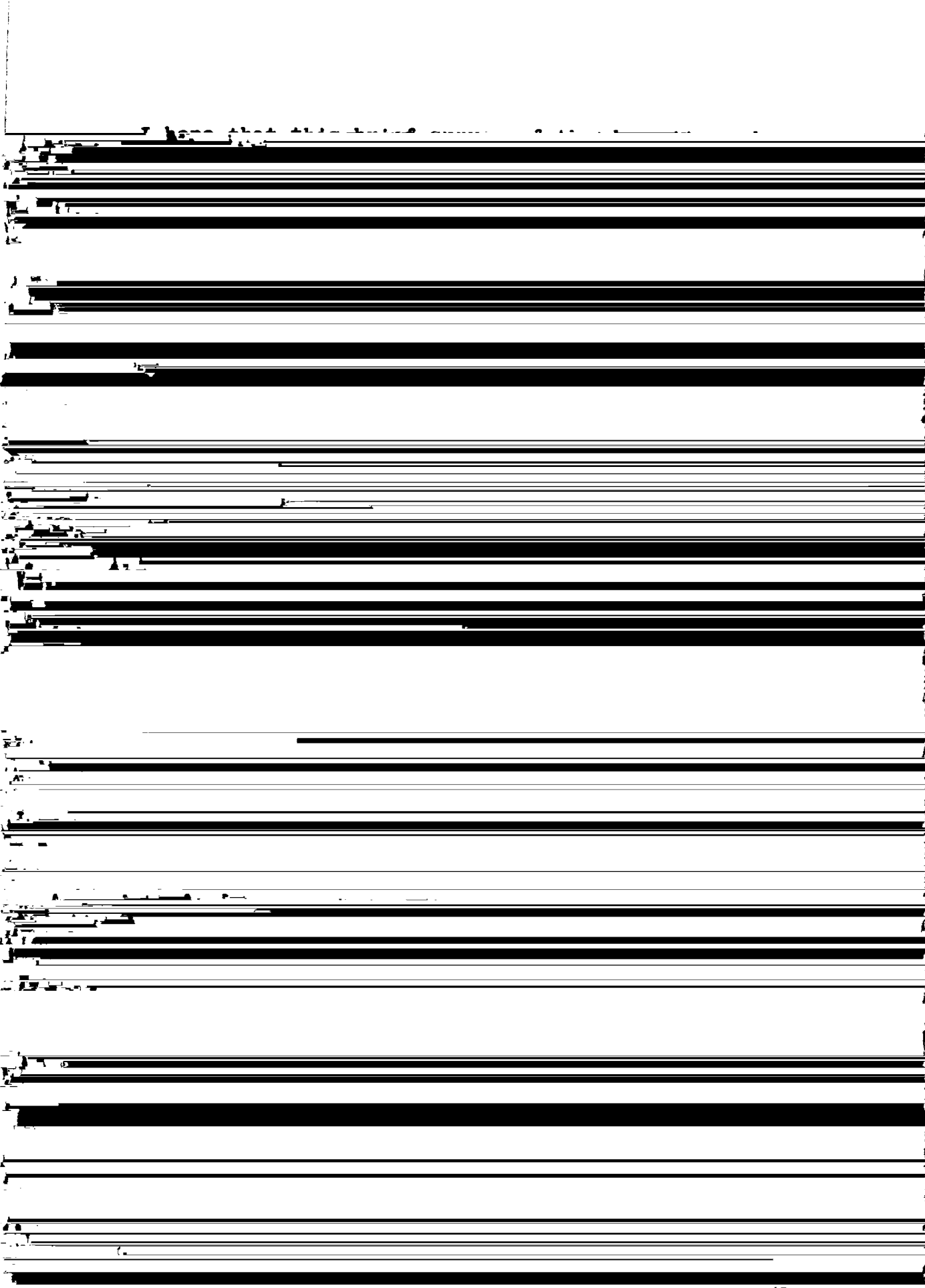
In the home products category, the advertising of a wide variety of goods, including refrigerators, house paint, sewing machines, vacuum cleaners, lawn mowers, kitchen

and carpets came to the Commission's attention.

In a somewhat novel approach in the area of television misrepresentations, orders were issued to stop allegedly deceptive television demonstrations used in advertising a well known dental cream, a safety razor, and a shaving cream.

A large encyclopedia publisher was ordered, after lengthy litigation, to stop selling its encyclopedia or other books,

and limited-time-only claims.





specifically spell out the practices which should be avoided.  
In this respect the rules are prophylactic and in 1957

In conclusion may I voice the view that careful planning

of the Commission's enforcement activities and utilization of common sense enforcement techniques are essential if we are to merit the confidence of the public, of the Congress, and of the Executive Branch.

Again, I wish to thank you for the pleasure of being here with you on this occasion.