

ANNUAL REPORT  
OF THE  
FEDERAL  
TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30  
1947

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1947

## FEDERAL TRADE COMMISSION

GARLAND S. FERGUSON, *Chairman* 1  
EWIN B. DAVIS  
WILLIAM A. AYRES  
ROBERT E. FREER  
LOWELL B. MASON  
OTIS B. JOHNSON, *Secretary*

### FEDERAL TRADE COMMISSIONERS 1915-47

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar. 16, 1915-Mar. 18, 1918.
Edward N. Hurley	Illinois	Mar. 16, 1915-Jan. 31, 1917.
William J. Harris	Georgia	Mar. 16, 1915-May 31, 1918.
Will H. Parry	Washington	Mar. 16, 1915-Apr. 21, 1917.
George Rublee	New Hampshire	Mar. 16, 1915-May 14, 1916.
William B. Colver	Minnesota	Mar. 16, 1917-Sept. 25, 1920.
John Franklin Fort	New Jersey	Mar. 16, 1917-Nov. 30, 1919.
Victor Murdock	Kansas	Sept. 4, 1917-Jan. 31, 1924.
Huston Thompson	Colorado	Jan. 17, 1919-Sept. 25, 1926.
Nelson B. Gaskill	New Jersey	Feb. 1, 1920-Feb. 24, 1925.
John Garland Pollard	Virginia	Mar. 6, 1920-Sept. 25, 1921.
John F. Nugent	Idaho	Jan. 15, 1921-Sept. 25, 1927.
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926.
Charles W. Hunt	Iowa	June 16, 1924-Sept. 25, 1912.
William E. Humphrey	Washington	Feb. 25, 1925-Oct. 7, 1933.
Abram F. Myers	Iowa	Aug. 2, 1926-Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb. 11, 1927-Jan. 23, 1933.
Garland S. Ferguson	North Carolina	Nov. 14, 1927.
Charles H. March	Minnesota	Feb. 1, 1929-Aug. 28, 1945.
Ewin L. Davis	Tennessee	May 26, 1933.
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25, 1933.
James M. Landis	Massachusetts	Oct. 10, 1933-June 30, 1934.
George C. Mathews	Wisconsin	Oct. 27, 1933-June 30, 1934.
William A. Ayres	Kansas	Aug. 23, 1934.
Robert E. Freer	Ohio	Aug. 27, 1915.
Lowell B. Mason	Illinois	Oct. 15, 1945.

### EXECUTIVE OFFICES OF THE COMMISSION

Pennsylvania Avenue at Sixth Street, Washington 25, D. C.

### BRANCH OFFICES

Room 501, 45 Broadway, New York 6.	133 Federal Office Building, Civic Center, San Francisco 2.
1118 New Post office Building 433 West Van Buren Street, Chicago 7.	447 Federal Office Building, Seattle 4.
1031 Federal Office Building, 600 South Street, New Orleans 12.	

' The Chairmanship rotates annually. Commissioner Freer will become Chairman in January 1948.

II

## LETTER OF SUBMITTAL

*To the Congress of the United States:*

I have the honor to submit herewith the Thirty-third Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1947. A limited number of copies of the report is being printed by the Federal Trade Commission.

By direction of the Commission :

GARLAND S. FERGUSON, *Chairman.*

III

# CONTENTS

## INTRODUCTION

	Page
Acts administered by Commission	1
Industry-wide elimination of unlawful practices	2
Organizational designations revised	5
Lunham Trade-Mark Act	6
Office of Compliance established	7
Summary of legal activities	7
General investigations	8
The Commissioners and their duties	9
Publications of the Commission	10
Recommendations to Congress	12
Minority recommendations to Congress	13

## PART I. GENERAL INVESTIGATIONS

The present trend of corporate mergers and acquisitions	14
The copper industry, parts I and II	18
The sulphur industry and international cartels	21
The wholesale baking industry, part II	25
Economic effects of grain exchange actions	26
Growth and concentration in flour-milling industry	27
Reports on industrial operations	29

## PART II. GENERAL LEGAL WORK

Description of procedure	35
Procedure upon applications for complaint	35
Procedure upon formal complaints	36
Provisions of Wheeler-Lea amendment	37
Legal investigations	38
Survey of radio and periodical advertising	44
Disposition of cases by stipulation	47
Formal complaints	47
Orders to cease and desist	48
Types of unfair methods and practices	52
Cases in Federal courts	59
Tabular summary of legal and court work	62

## PART III. SETTLEMENT OF CASES BY STIPULATION

Agreements on corrective action result from informal conferences with businessmen	65
-----------------------------------------------------------------------------------	----

## PART IV. TRADE PRACTICE CONFERENCES

Establishment and administration of trade practice rules for industries	67
Group I and Group II rules explained	67
Conference and rule-making activities during year	68
Pending trade practice proceedings	70
Administration of rules	71
Types of practices covered in promulgated rules	72
Informative labeling	74

## PART V. WOOL PRODUCTS LABELING ACT

Page

Informative labeling for protection of industry and the public	76
----------------------------------------------------------------	----

## PART VI. MEDICAL AND SCIENTIFIC OPINIONS

Data utilized by Commission in cases relating to food, drugs, devices, and cosmetics	79
--------------------------------------------------------------------------------------	----

## PART VII. FOREIGN TRADE WORK

Export Trade Act	80
Associations operating under the act	80
New associations	82
Exports in 1946	82
Inquiries and recommendations	82
Trust laws and trade regulation abroad	84

## PART VIII. FISCAL APPAIRS

Appropriation acts providing funds for Commission work	87
Appropriations and expenditures for fiscal year	87
Detailed statement of costs for fiscal year	88
Appropriations and expenditures, 1915-47	89

## APPENDIXES

Federal Trade Commission Act	91
Titles of other acts administered by the Commission	99
Rules of practice	101
Statement of policy	119
Investigations, 1915-47	123
Index	141

**ANNUAL REPORT  
OF THE  
FEDERAL TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30, 1947**

**INTRODUCTION**

**ACTS ADMINISTERED BY THE COMMISSION**

The Federal Trade Commission herewith submits its report for the fiscal year July 1, 1940, to June 30, 1947.

The Commission, an administrative agency, was organized March 16, 1915, under the Federal Trade Commission Act which was approved September 26, 1914. It was the intent of the Congress in the passage of the Federal Trade Commission Act to create an independent agency which would assist in the successful operation and perpetuation of free enterprise and the competitive system of economy.

The duties of the Commission fall into two categories : (1) Legal activities in the enforcement of the laws it administers and (2) general investigations of economic conditions in interstate and foreign commerce.

The legal activities of the Commission have largely to do with the prevention and correction of "unfair methods of competition" in accordance with section 5 of the Commission's organic act, and' with the prevention of "unfair and deceptive acts and practices" in accordance with the Wheeler-Lea amendment of March 21, 1938, to the organic act. The phrase "unfair methods of competition" is not defined in the act. In the first case in which the Supreme Court had occasion to consider this language, namely, *F. T. C. v. Gratz*, 253 U. S. 421, the Court associated with the phrase those practices "opposed to good morals because characterized by deception, bad faith fraud, or oppression, or as against public policy because of their dangerous tendency unduly to hinder competition or create monopoly."

The Wheeler-Lea amendment broadens the organic act by charging the Commission with the duty of preventing unfair and deceptive acts' so as to extend the same protection to the consuming public that the original act extended to competitors. The Commission does not concern itself with purely private competitive controversies. Under the organic act it is empowered to proceed only as it appears to the Commission that the particular proceeding would be "to the interest of the public."

Other legal activities of the Commission embrace administration of (1) section 2 of the Clayton Act, as amended by the Robinson-Patman Act, prohibiting price and other discriminations, and sections 3, 7, and 8 of the Clayton Act dealing with tying and exclusive-dealing contracts, acquisitions of capital stock, and interlocking directorates, respectively; (2) the Export Trade Act also known as the Webb-Pomerene Law, which permits the organization of associations to engage exclusively in export under stated restrictions; (3) the Wool Products Labeling Act of 1939, designed to protect industry, trade, and the consumer against the evils resulting from the unrevealed presence of substitutes and mixtures in wool products; and (4) those sections of the Lanham Trade-Mark Act which delegate to the Commission certain duties with respect to the cancellation of trade-marks registered with the Patent Office. (This act became effective July 5, 1947.)

The general investigations arise chiefly under section 6 (a), (b), (d), and (h) of the Federal Trade Commission Act, giving the Commission power :

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers \* \* \*, and its relation to other corporations and to Individuals, associations, and partnerships.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers \* \* \* to file with the Commission in such form as the Commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the Commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. \* \* \*

(d) Upon the direction of the President or either House of Congress <sup>1</sup> to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.

(h) To investigate from time to time trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, and with such recommendations as it deems advisable.

### INDUSTRY-WIDE ELIMINATION OF UNLAWFUL PRACTICES

On August 12, 1946, the Commission put into effect a reorganization plan designed to expedite observance of the laws under its jurisdiction by emphasis upon industry-wide simultaneous action and by expanding the cooperative phases of its work.

Under the program greater emphasis will be placed on the elimination of unfair trade practices through cooperative means. In those instances where circumstances permit, industry members will be given an opportunity to eliminate unfair methods of competition or unfair or deceptive practices through stipulation agreements to cease and desist or through the establishment of trade practice rules. Heretofore trade practice conferences have been held only when the Commis-

<sup>1</sup> The Independent Offices Appropriation Act of 1934 provided that future investigations by the Commission for Congress must be authorized by concurrent resolution of the two Houses. Under the Appropriation Act of 1948, funds appropriated for the Commission are not to be spent upon any investigation thereafter called for by congressional concurrent resolution "until funds are appropriated



subsequently to the enactment of of such resolution to finance the cost of such investigation.”

sion received a request for rules from an industry. The Commission now plans to initiate these conferences on its own motion where this means of eliminating unfair trade practices appears appropriate. This action by the Commission should permit more prompt, equitable, and economical settlement of the issues involved than is otherwise possible.

However, no matter is disposed of by voluntary agreement through trade practice conference or stipulation which involves violation of the Clayton Act, combination or collective action in restraint of trade, or practices which are fraudulent or inherently dangerous to health.

In accordance with this program the Commission directed its Office of Legal Investigations to conduct industry-wide investigations in the following industries : masonry waterproofing materials, household fabric dye, cosmetic and toilet preparations, mothproofing products, simulated and Cultured pearls, manufacturers of machine knives for paper-cutting machines, textile looms, automobile dealers (District of Columbia), automobile dealers (New York City), manufacturers of cotton textiles, and liquid emulsion floor wax products.

The investigations covering the masonry waterproofing products, household fabric dye, cosmetic and toilet preparations, and moth-proofing products industries were completed. They involved surveys of the business practices of 182 companies. The other industry-wide investigations were in progress at the close of the fiscal year.

Trade practice rules were promulgated by the Commission for the masonry waterproofing products industry and the household fabric dye industry. A trade practice conference was held for the cosmetic and toilet preparations industry with a view to establishing trade practice rules. Trade practice rules also were promulgated during the year for seven other industries (see p. 68) in which the conference proceedings had been initiated before the Commission's reorganization plan was operating.

Under the program emphasis also is placed on the settlement of cases through the Commission's stipulation procedure which permits the elimination of certain unfair trade practices through cooperative means. Since the Commission established the Division of Stipulations in August 1946, it has approved during the fiscal year 120 voluntary agreements to cease and desist from unlawful practices. (See p.65.)

The Commission's organization at the close of the fiscal year consisted of the following offices and divisions :

*Office of the General Counsel.*--The function of handling the Commission's cases which are previewed by the courts after decision by the Commission is performed by the General Counsel, an Associate General Counsel and an Assistant General Counsel, with the necessary assisting attorneys.

Coordination and handling of all matters relating to compliance with and enforcement of orders to cease and desist are handled in the Office of the General Counsel under the Supervision of an Assistant General Counsel, with the necessary assisting attorneys.

The function of handling cases arising under the Lanham TradeMark Act (see p.6) is performed by the General Counsel and an Assistant General Counsel, with the necessary assisting attorneys.

The General Counsel also acts as the principal legal adviser to the Commission on the applicable law, precedent, or policy in a wide variety of matters.



Effective July 1, 1947, the Commission separated the Office of the Chief Trial Counsel from the Office of the General Counsel. This action was a continuance of the policy of separating the Commission's advisory and prosecution functions.

*Office of the Chief Trial Counsel.*--The function of preparing, trying, briefing and arguing complaints in litigated cases is a prosecuting function which is performed by a staff of attorneys who work under the supervision of the Chief Trial Counsel and two Assistant Chief Trial Counsel. Neither they nor any of the attorneys performing such function in a particular case or in a factually related one participate or advise in the decision of such case except under the same conditions that are applicable to attorneys representing the respondent therein and which conditions are set forth in the Commission's published Rules of Practice. (See p.101.) Administration of the Export Trade Act is conducted by the Export Trade Office under a third Assistant Chief Trial Counsel.

*Office of Legal Investigations.*--The legal investigational activities of the Commission are conducted through its Office of Legal Investigations, the active operating units being the Legal Investigations Division and the Radio and Periodical Division. The Director of the Office of Legal Investigations is responsible for the coordination of the legal investigational activities so there will be no conflict of jurisdiction or duplication of work between the divisions attached to his office. He also is responsible for the initiation, through the Commission, of industry-wide investigations whenever it appears that simultaneous action against all members of an industry is warranted in the public interest and this type of treatment appears practicable.

*Division of Stipulations.*--All matters considered appropriate for settlement by the Commission's stipulation procedure are referred to the Division of Stipulations for the negotiation of agreements to cease and desist from unlawful practices. The division takes no part in the investigation or prosecution of any matter. It consists of a Director, an Assistant Director and a staff of attorney-conferrees. (See p. 119 for the Commission's policy on disposing of cases by stipulation.)

*Office of Trade Practice Conferences and Wool Act Administration.*--Rules for the elimination and prevention of unfair trade practices on an industry-wide basis are established by the Commission under its trade practice conference procedure, the requirements for which are set forth in the Commission's published Rules of Practice and Statement of Policy. (See pp.114 and 119.) This work is conducted by the Commission through the staff of the Office of Trade Practice Conferences and Wool Act Administration, which also administers the Wool Products Labeling Act of 1939 and the rules and regulations issued thereunder. These activities are under the supervision of a Director who is principal adviser to the Commission in such matters; an Associate Director; and three Assistant Directors in charge, respectively, of the Rule Making Division, the Rule Administration Division, and the Wool Administration and Inspection Division.

Duties of the office include the holding of trade practice conferences for industries and hearings on proposed trade practice rules, administration and enforcement of approved rules, and other work incident to the trade practice conference procedure.

In the work of carrying out the provisions of the Wool Products Labeling Act, the office closely integrates the administration of such statute with related trade practice rules in order that unified action and more adequate coverage of the textile field may be accomplished.

*Trial Examiners Division.*--The Trial Examiners Division consists of a Chief Trial Examiner, an Assistant Chief Trial Examiner and a staff of attorneys designated trial examiners who are charged with the trial of issues under the various acts administered by the Commission.

The Administrative Procedure Act, as provided by the President June 11, 1946, in some particulars involves a departure from the former trial procedure. It segregates authority and vests in the trial examiner certain powers heretofore administered by the Commission and provides for a recommended decision by the trial examiner that becomes a part of the record. The powers and duties of trial examiners are set forth in the Commission's Rules of Practice. (See p.106.)

*Office of Industrial Economics, formerly called Office of Accounts, Statistics and Economic Reports.*--This Office conducts the general economic investigations of the Commission as distinguished from those primarily legal in nature. The work of the Office and its three divisions is in charge of a Director, who also is Chief Economist; a Chief Accountant, a Chief Statistician and an Assistant Chief Economist, who are Assistant Directors of the Division.

The purposes of the general surveys conducted by this Office are to ascertain and report the facts to the President or to the Congress concerning general economic conditions, the state of competition and the degree of concentration in a given industry, together with suggestions for remedial legislation. The surveys are made in response to the request of the President, at the direction of the Congress, or upon the initiative of the Commission, as provided in section 6 of the Federal Trade Commission Act. (See p.2.)

As a regular part of its work the Office is called upon to advise and consult with the Commission's attorneys and to prepare accounting, economic and statistical analyses in connection with legal cases.

*Medical Advisory Division.*--The Medical Advisory Division furnishes the Commission or any of its offices or divisions with professional opinions in matters involving medical, chemical or scientific questions relating to food, drugs, cosmetics and devices arising in connection with investigations or the trial of cases instituted under the provisions of the Federal Trade Commission Act. Through the Director of the Division the Commission maintains contact with the Government agencies concerned with such products.

*Administrative Services.*--The Administrative services of the Commission are rendered by the following divisions : Planning and Budget; Personnel; Research, Compiling and Publication; Legal Records; Economic and Administrative Records; Library; and Services and Supplies.

## ORGANIZATIONAL DESIGNATIONS REVISED

On October 24, 1947, the Commission revised its organizational designations in accordance with recommendations of the United States Senate Committee on Expenditures in the Executive Departments and



to conform to the Committee's proposals made in Senate Report No.243 with respect to the standardization of organizational nomenclature for Government departments. The new organizational designations are listed below, but elsewhere throughout this Annual Report the designations employed are those which were in use during the 1947 fiscal year and up to October 24, 1947:

*General Counsel* (formerly Office of General Counsel).

Division of Appellate Proceedings.

Division of Compliance.

Division of Trade-Marks

*Bureau of Litigation* (formerly Office of Chief Trial Counsel).

Division of Anti-Monopoly Trials.

Division of Deceptive Practices Trials.

Division of Export Trade.

*Bureau of Legal Investigation* (formerly Office of Legal Investigations).

Division of Field Investigation.

Division of Radio and Periodical Advertising.

*Bureau of Trial Examiners* (formerly Trial Examiners Division).

*Bureau of Stipulations* (formerly Division of Stipulations).

*Bureau of Medical Opinions* (formerly Medical Advisory Division).

*Bureau of Trade Practice Conferences and Wool Act Administration* (formerly

Office of Trade Practice Conferences and Wool Act Administration).

Division of Rule Making.

Division of Rule Administration.

Division of Wool Administration and Inspection.

*Bureau of Industrial Economics* (formerly Office of Industrial Economics).

Division of Economics.

Division of Accounting.

Division of Statistics and Financial Reports.

*Bureau of Administration* (formerly Administrative Services).

Division of Budget and Planning.

Division of Personnel.

Division of Research, Compiling and Publications.

Division of Legal Records.

Division of Economic and Administrative Records.

Library.

Division of Services and Supplies.

The Commission assigned the title of "Director" to the heads of Bureaus and the title of "Chief" to the heads of Divisions.

### **LANHAM TRADE-MARK ACT**

The Lanham Trade-Mark Act of 1946, which became effective July 5, 1947, authorizes the Federal Trade Commission to apply to the Commissioner of Patents for cancellation of the registration of trade-marks on the principal register which are deceptive, immoral or scandalous, or which have been obtained fraudulently or are in violation of the other stated provisions of the act.

On July 1, 1947, a Trade-Mark Division was established in the Office of the General Counsel to perform the duties assigned to the Commission by the new legislation. The division is under the supervision of an Assistant General Counsel.

### **OFFICE OF COMPLIANCE ESTABLISHED**

On March 18, 1947, the Commission established the Office of Compliance to advise it with respect to the manner and form of compliance with orders to cease and desist and to coordinate, supervise and report to the Commission on all matters involving compliance and enforcement of such orders. This office has the responsibility for securing initial reports of compliance with orders and of such supplemental reports of compliance as may be required; planning and requesting investigations of the manner and form in which respondents are complying with orders, and supervising and preparing civil penalty proceedings certified to the Attorney General.

The Office of Compliance is under the supervision of an Assistant General Counsel in the Office of the General Counsel.

### **SUMMARY OF LEGAL ACTIVITIES DURING FISCAL YEAR**

The Commission issued 53 formal complaints alleging violations of the laws it administers; entered 56 orders directing respondents to cease and desist from such violations; and accepted 145 stipulations to discontinue unlawful practices.

There were 28 cases in the United States Supreme Court and Circuit Courts of Appeals in which the Commission was a party. Rulings favorable to the Commission were obtained in 16 cases, 5 in the Supreme Court and 11 in United States Circuit Courts of Appeals. Decisions of circuit courts of appeals affirmed 6 Commission cease and desist orders (1 with modification and 1 with a dismissal as to 1 respondent); dismissed 3 petitions to review, leaving the Commission's orders to cease and desist in effect; denied a petition to enjoin a Commission proceeding; and remanded 1 proceeding at the request of the Commission to enable it to reinstate an order to cease and desist. The Supreme Court denied respondents' petitions for certiorari in 4 cases and granted the Commission's petition for certiorari in 1 case. Three Commission orders to cease and desist were set aside by circuit courts of appeals. Of these, 1 was appealed to the Supreme Court and petition for rehearing is pending as to another. One civil penalty action brought in a district court by the Attorney General for violation of a Commission order to cease and desist resulted in a judgment of \$38,000 against the respondents. (A detailed report of Commission cases in the Federal courts begins at p.59.)

Trade practice rules were promulgated for the following nine industries : household fabric dye, masonry waterproofing, vertical turbine pump, saw and blade service, doll and stuffed toy, piston ring, construction equipment distributing, wholesale confectionery (Philadelphia trade area), and watch (respecting the terms "waterproof," "shockproof," "nonmagnet" and related designations, as applied to watches, watch cases, and watch movements).

In the administration of the Wool Products Labeling Act, field inspections were made of several million articles subject to the labeling



provisions of the act, covering the labeling practices of over 7,500 manufacturers, distributors, and other marketers.

The Commission conducted several investigations into the operation of export associations organized under the Export Trade Act. Investigations of the Sulphur Export Corporation and the Export Screw Association of the United States were completed, and recommendations for the readjustment of the business of the associations were issued. At the close of the fiscal year, 49 export associations were registered with the Commission.

### GENERAL INVESTIGATIONS

The Commission completed six general investigations during the fiscal year and transmitted reports thereon to Congress under the following titles:

- (1) *The Present Trend of Corporate mergers and Acquisitions.*
- (2) *The Copper Industry, Part I--The Copper Industry of the United States and International Copper Cartels; and Part II--Degree of Concentration in Domestic Copper Industry at End of 1945.*
- (3) *The Sulphur Industry and International Cartels.*
- (4) *The Wholesale Baking Industry, Part II--Costs, Prices and Profits.*
- (5) *Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946.*
- (6) *Growth and Concentration in the Flour-Milling Industry.*

Investigations nearing completion at the close of the fiscal year dealt with such subjects as the recent trend of manufacturer-controlled retail prices; costs and profits in the fertilizer industry; mergers in the dairy industry; and the effect of production and distribution policies of large concerns on small business in the farm implement and steel industries.

The Commission also resumed its peacetime function of collecting summarizing and analyzing the financial operating statements of American manufacturing corporations. Information to be made public on the basis of the financial operating data collected will be combined in the form of industry totals and averages and will not disclose the identity of any individual corporations. The first of these industrial financial reports, covering the first three months of 1947, was near completion at the close of the fiscal year. The Securities and Exchange Commission collaborated with the Federal Trade Commission in assembling and publishing the industry summaries.

During its existence the Commission has conducted more than 140 general investigations and 370 cost studies.<sup>2</sup> A majority of these general investigations were authorized by congressional resolutions, some were conducted pursuant to Presidential orders, a number were made at the request of other branches of the Government and others on the initiative of the Commission. Many of these inquiries have supplied valuable information bearing on competitive conditions and trends in interstate trade and industrial development and have shown the need for, and wisdom of, legislative or other corrective action.

Investigations conducted by the Commission have led, directly or indirectly, to the enactment of important laws, including the Export

2 An alphabetical list and brief of description of the investigations conducted by the Commission appear in the appendix, beginning at p. 123.

Trade Act the Packers and Stockyards Act, the Securities Act of 1933, the Stock Exchange Act of 1934, the revised Federal Power Commission Act of 1934, the Public Utilities Holding Company Act of 1935, the Natural Gas Act of 1938, and the Robinson-Patman Antidiscrimination Act of 1936, which amended section 2 of the Clayton Act.

### THE COMMISSIONERS AND THEIR DUTIES

The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate. Not more than three may belong to the same political party.

As provided in the Federal Trade Commission Act, the term of office of a Commissioner is 7 years, dating from the 26th of September 8 last preceding his appointment, except when he succeeds a Commissioner who relinquishes office prior to the expiration of his term, in which case the act provides that the new member "shall be appointed only for the unexpired term of the Commissioner whom he shall succeed." Upon the expiration of his stated term of office, a Commissioner continues to serve until his successor shall have been appointed and shall have qualified.

As of June 30, 1947, the Commission was composed of the following members : Garland S Fergus on, Democrat, of North Carolina, Chairman; Ewin L. Davis, Democrat, of Tennessee; William A. Ayres, Democrat, of Kansas; Robert E. Freer, Republican, of Ohio; and Lowell B. Mason, Republican, of Illinois.

The Chairmanship of the Commission rotates annually among its members. Commissioner Fergus on is serving as Chairman during the calendar year 1947, having succeeded Commissioner Ayres. Commissioner Freer will become Chairman in January 1948. Through this method of rotation, each Commissioner serves as Chairman at least once during his 7-year term of office. The Chairman presides at meetings and signs the more important official papers and reports at the direction of the Commission.

In addition to the general duties of administering the statutes committed to the Commission for enforcement, each Commissioner is assigned to supervisory charge of the work of one or more of the several offices, divisions and internal organizations into which the Commission is divided. Supervision over the individual groups is rotated annually. The following assignments of Commissioners were effective during part of the fiscal year and continued through December 31, 1947:

Chairman Fergus on: Executive Office of the Commission (Office of the Secretary and Administrative Divisions), and Special Legal Assistants to the Commission.

Commissioner Davis: Office of Legal Investigations and Medical Advisory Division.

Commissioner Ayres: Office of Trade Practice Conferences and Wool Act Administration and Division of Stipulations.

Commissioner Freer: Office of General Counsel and Office of Chief Trial Counsel.

Commissioner Mason : Office of Industrial Economics and Trial Examiners Division.

The Secretary is the Executive Officer of the Commission and is responsible for its administrative management.

Each case coming before the Commission for consideration is assigned to a Commissioner for examination and report before it is acted upon by the Commission. The Commissioners meet each work day for the transaction of business, including all hearings of oral arguments in cases before the Commission. They usually preside individually at the trade practice conferences held for industries, perform numerous administrative duties incident to their position, and direct the work of a staff which, as of June 30, 1947 numbered 603 officials and employees, including attorneys, economists, accountants, and administrative personnel stationed in Washington and in 5 branch offices.

### PUBLICATIONS OF THE COMMISSION

The Federal Trade Commission Act, section 6 (f), provides that the Commission shall have power--

to make public from time to time such portions of the information obtained by It hereunder, except trade secrets and names of customers, as it shall deem expedient to the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

Publications issued during the fiscal year were :

*Annual Report of the Federal Trade Commission for the Fiscal Year Ended June 30, 1946.* House Document No.8, Eightieth Congress first session, January 3, 1947; 125 pages. Available from the superintendent of Documents, Government Printing Office, at 25 cents a copy while the supply lasts.

*Trade Practice Rules* for the following industries : *Piston Ring Industry, July 12, 1946, 10 pages; Construction Equipment Distributing Industry, July 20, 1946, 7 pages; Wholesale Confectionery Industry (Philadelphia Trade Area), July 30, 1946, 9 pages; Masonry Waterproofing Industry, August 31, 1946, 15 pages; Saw and Blade Service Industry, December 27, 1946, 9 pages; Respecting the Terms "Water-proof," "Shockproof," "Nonmagnetic," and Related Designations, as Applied to Watches, Watch Cases, and Watch Movements, April 24, 1947, 7 pages; Household Fabric Dye Industry, May 29, 1947, 12 pages; Vertical Turbine Pump Industry, June 17, 1947 9 pages; and Doll and Stuffed Toy Industry, June 28, 1947, 8 pages.* All rules available from Federal Trade Commission without charge while the supply lasts.

*Trade Practice Rules, September 1, 1935, to June 30, 1945;* a 488 compilation. Available from the Superintendent of Documents, government Printing Office, at 75 cents a copy while the supply lasts.

*Wholesale Baking Industry, Part II, Costs, Prices and Profits, August 7, 1946;* 137 pages. Available from the Superintendent of Documents, Government Printing Office, at 35 cents a copy while the supply lasts. A processed summary is available from Federal Trade Commission without charge while the supply lasts.

*Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946, February 4, 1947,* 85 pages. Available from Federal Trade Commission without charge while the supply lasts.



*The Present Trend of Corporate Mergers and Acquisitions, March 7, 1947*; 23 pages. Available from the Superintendent of Documents, Government Printing Office, at 10 cents a copy while the supply lasts.

*The Copper Industry, Part I, The Copper Industry of the United States and International Copper Cartels, and Part II, Degree of Concentration in Domestic Copper Industry at End of 1945, March 11, 1947*; 420 pages Available from the Superintendent of Documents, Government Printing Office, at \$1.25 a copy while the supply lasts. A processed summary is available from Federal Trade Commission without charge while the supply lasts.

*Growth and Concentration in the Flour-Milling Industry, June 2, 1947*; 36 pages. Available from the Superintendent of Documents, Government Printing Office, at 25 a copy while the supply lasts. A processed summary is available from Federal Trade Commission without charge while the supply lasts.

*The Sulphur Industry and International Cartels, June 16, 1947*; 105 pages. Available from the Superintendent of Documents, Government Printing Office, at 25 a copy while the supply lasts. A processed summary is available from the Federal Trade Commission without charge while the supply lasts.

The publications of the Commission reflect the character and scope of its work and vary in content and treatment from year to year. Important among them are those presenting fact-finding studies, reports and recommendations relating to general business and industrial inquiries. Illustrated by appropriate charts and tables, these books and pamphlets deal with current developments, possible abuses, and trends in an industry, and contain scientific and historical back-ground of the subjects discussed. They have supplied the Congress, the Executive agencies of the Government, and the public with information not only of specific and general value but of especial value as respects the need or wisdom of new and important legislation, to which they have frequently led, as well as to corrective action by the Department of Justice and private interests affected. The Supreme Court has at times had recourse to them, and many have been designated for reading in connection with university and college courses in business administration, economics, and law.

The 39 volumes of *Federal Trade Commission Decisions* contain (1) the findings of fact and orders to cease and desist issued by the Commission throughout the years; (2) the stipulations accepted by the Commission wherein respondents agree to cease and desist from unlawful practices; and (3) the decisions of the courts in Commission cases for the different periods covered by the different volumes. They constitute a permanent and authoritative record of the remedial measures taken by the Commission to stop violations of the laws it administers. The decisions establish for industry, business, and the individual the guideposts of fair competitive dealing. They also tell, case by case, the story of the multiplicity of unlawful practices which have been found to be detrimental to the public interest and of the accomplishments of the Commission in the prevention of such practices.

Decisions of the Federal courts reviewing Commission cases also are published from time to time in separate volumes and may be purchased from the Superintendent of Documents, Government Printing Office.

The trade practice rules, the Wool Products Labeling Act and the regulations thereunder, and the Rules of Practice before the Commission are published in pamphlet form and may be obtained from the Commission without charge.

### RECOMMENDATIONS TO CONGRESS

On March 4, 1947, the Commission addressed to the Congress a special report pursuant to the statutory direction contained in section 6 (f) of the Federal Trade Commission Act that it recommend to Congress additional legislation. This report pointed out the recent increase in the trend toward corporate acquisitions and mergers and recommended to the Congress that section 7 of the Clayton Act be amended to prevent acquisition of physical assets as well as corporate stock where the effect may be substantially to lessen competition in interstate commerce. Similar recommendations have been made to the Congress in the Commission's Annual Reports for many years.

A Bill embodying the substance of the Commission's recommendations for amendment of section 7 of the Clayton Act was introduced in the present Congress (H. R. 3736, 80th Congress) and favorably reported to the House of Representatives by the Committee on the Judiciary (House Report No. 596). The Commission renews its recommendation that legislation be enacted which will enable the Commission to deal effectively with this problem of curbing corporate mergers and acquisitions which restrict commerce.

The following chart demonstrates the sharp increase in the corporate merger movement over the period from 1919 to date :

[GRAPHIC]

The Commission also submits for consideration of the Congress the recommendation that the Clayton Act be amended to provide that orders to cease and desist entered thereunder shall become final in the same manner as do similar orders to cease and desist under the Federal Trade Commission Act.

As enacted in 1914, the Federal Trade Commission Act provided that orders to cease and desist should become final only after affirmance in one of the Circuit Courts of Appeals and following a decree of the court embodying the Commission's order. There were no penalties provided for violation of orders to cease and desist and they could only be enforced finally by way of criminal contempt proceedings in the circuit courts for violation of court orders.

In the Wheeler-Lea Act of 1938, section 5 of the Federal Trade Commission Act was amended to provide that orders to cease and desist under that act should become final at the expiration of 60 days from service of the order unless appeal is taken to the courts. Thereafter violations of final orders to cease and desist are subject to civil penalty proceeding brought by the Attorney General in the United States District Courts.

There appears to be no substantial reason why orders under the Clayton Act should not have the same status as to finality and as to penalties for violation as similar orders under the Federal Trade Commission Act.

### **MINORITY RECOMMENDATIONS**

Commissioner Mason submits individually two minority proposals as follows :

“1. That the Commission recommend to Congress legislation which will promote the cooperative elimination upon an industry-wide basis of acts and practices prohibited by the statutes administered by the Commission by giving trade practice conference procedure and rules a clear statutory basis, by facilitating the acquisition of the information necessary to the initiation and conduct of such conferences, by affording an opportunity for cooperation by the Department of Justice and the Department of Commerce in the initiation of trade practice conferences and in the formulation of the rules to be promulgated, by providing means whereby the Attorney General may stay the initiation of a conference for a particular industry when he is of the opinion that the public interest does not at that time warrant the holding of such conference and whereby he may test the legality of things done in actual compliance with any rule as finally promulgated if the Commission denies his request to modify or repeal such rule, and by encouraging compliance with rules as finally promulgated by protecting signatories thereto from suits under the antitrust laws for actual compliance with the rules during the time they are in effect, except as to a proceeding in equity by the Attorney General for things done in compliance with a rule after due notice.

“2. That the Federal Trade Commission Act be amended so that the Act provides for an executive director or administrator responsible to Commission for administrative leadership, that the Chairman be designated by the President, and that the Commissioners' compensation be increased.”



## **PART I. GENERAL INVESTIGATIONS**

During the fiscal year 1947 the Commission completed and transmitted to Congress the following reports <sup>1</sup> which presented the results of general investigations :

*The Present Trend of Corporate Mergers and Acquisitions.*

*The Copper Industry, Parts I and II.*

*The Sulphur Industry and International Cartels.*

*The Wholesale Baking Industry, Part II.*

*Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946.*

*Growth and Concentration in the Flour-Milling Industry.*

In addition, the Commission, with the cooperation of the Securities and Exchange Commission, completed a combined compilation, by industry groups, of the financial operating statements of approximately 5,500 manufacturing corporations for the first three months of 1947. The reports, which were not ready for publication until after the close of the fiscal year, disclose the relationship between investments, sales, costs and profits for the period covered.

Other reports in course of preparation at the close of the fiscal year dealt with studies of the trend of manufacturer-controlled retail prices; costs, profits and practices in the fertilizer industry; the effect of production and distribution policies of large concerns on small business in the farm implement industry and the steel industry; and mergers in the dairy industry.

The Commission also presented extensive data on mergers and acquisitions before subcommittees of the Senate and House Judiciary Committees which were considering proposed amendments of section 7 of the Clayton Act, to give the Commission power to prevent acquisitions of assets generally similar to its present power over acquisitions of stock. Detailed information was submitted on the extent of mergers in steel drums, in liquor, and in manufacturing generally. The Commission also presented evidence to the Senate Small Business Committee on the effect of integration by the large steel producers upon the supply of steel available for small business.

### **THE PRESENT TREND OF CORPORATE MERGERS AND ACQUISITIONS**

The Commission's major interest in its general investigation work during the year centered around the problem of the increase in the concentration of economic power. Most of the individual industry studies, as listed above, have been focused on this central problem of monopoly. The Commission's attitude was summarized in a special report submitted on July 1, 1946, to the Monopoly Subcommittee of the House Select Committee on Small Business, in which it stated :

<sup>1</sup> Summaries of the complete reports listed may be obtained from the Commission while the supply lasts.

In the opinion of the Commission, the present, and still growing, concentration of economic power in the United States constitutes today's greatest domestic challenge to the American theory of competitive enterprise, and, along with it, all that is embodied in the meaning of the somewhat intangible, but nonetheless real, meaning of the "American way of life" and "freedom of economic enterprise."

Concentration has made its most notable advances in the United States through mergers and acquisitions. Unless the resulting consolidations possess nearly complete control of an industry and, in addition, follow unlawful practices, they have been held by the courts to be legal. This immunity from the antitrust laws stems partly from the loophole which exists in section 7 of the Clayton Act. In passing that law in 1914, Congress intended "to arrest the creation of trusts, conspiracies, and monopolies in their incipiency."<sup>2</sup>

As passed by Congress, the law granted the Commission power to prevent acquisitions of competing companies which would substantially lessen competition or tend to create a monopoly, if the acquisitions took the form of the purchase of stock. However, the act was silent on the acquisition of assets. Consequently, the intent of the law has easily been evaded for over three decades by the simple process of purchasing assets rather than stock. Moreover, the Commission's powers to prevent acquisitions of stock have been rendered practically null and void by decisions of the Supreme Court, which permitted such acquisitions of stock to take place if they are followed by acquisitions of assets before the Commission is able to enter an order of divestiture. As a result, when the Commission tries to prevent acquisitions which take the form of purchases of stock, it usually finds that the acquiring company purchases the assets, thereby removing the case from the field of possible action by the Commission.

In order to determine the impact of mergers and acquisitions which took place during and after World War II, the Commission made a study of the merger movement covering the period January 1940 through December 1946. The report, entitled *The Present Trend of Corporate Mergers and Acquisitions*, was transmitted to Congress, March 7, 1947.

In this study it was found that between 1940 and 1946 over 1,800 formerly independent competitive firms in the manufacturing and mining industries alone disappeared as a result of mergers and acquisitions. That these recent acquisitions have already had a significant effect upon the structure of the economy is indicated by the fact that the asset value of the concerns acquired amounted to \$4.1 billion, or nearly 5 percent of the total asset value of all manufacturing corporations in 1943--the latest year for which such data are available. The merger movement was particularly pronounced following VJ-day. In the fourth quarter of 1945 it reached the highest level in the last 15 years.

The increase in the merger movement following VP-day parallels very closely the sharp upward movement that took place at the end of World War I. The wave of mergers and acquisitions at the end of the First World War extended through 1919, 1920 and the early part of 1921, until it was interrupted by the postwar depression. The movement was greatly accelerated in the middle 1920's and carried to all-time heights in 1928 and 1929.

2 Report of the senate committee on the Judiciary, January 22, 1914.

During wartime there is little incentive for large corporations to acquire small businesses. New facilities which are needed to produce war products are supplied in large part by the Government. However, as victory looms in sight, and the elements of competition and control over markets again become important, there occurs a revival of interest in mergers and acquisitions. Furthermore, big corporations generally emerge from war periods with large amounts of liquid funds which can be used to support intensive merger activity. At the end of 1945, the 62 largest listed manufacturing corporations held \$8.4 billion of net working capital, which was largely in highly liquid form. This amount was sufficient to purchase the assets of nearly 90 percent of the total number of all other manufacturing corporations in the United States. Thus the large corporations have sufficient funds to support a high level of merger activity for years to come, particularly in those industries in which small business still continues to occupy an important position.

The greatest number of acquisitions took place in the food, textile and apparel, chemicals, nonelectrical machinery, and transportation equipment industries. The acquisitions in the last field represented largely the absorption of firms in the war-expanded aircraft industry. A considerable number of acquisitions also took place in petroleum and coal products, primary metals, and beverage industries.

A particularly striking feature of the current merger movement is the importance of acquisitions in several of the traditionally "small business" industries. More than one-third of the total number of acquisitions were accounted for by only three industries, namely, food nonelectrical machinery, and textiles and apparel—all predominant; "small business" fields.

This importance of the merger movement in "small business" industries is strikingly illustrated by recent developments in the steel drum, tight cooperage, and wine industries, each of which customarily has been regarded as a stronghold of small business. By means of acquisitions, the giant steel corporations have increased their ownership of steel drum fabricating capacity from less than 10 percent before the war to 87 percent at the time the study was made. Similarly, the big distillers moved into the "small business" fields of tight cooperage and wines. Ten independent tight cooperage firms, representing virtually the country's entire capacity, were absorbed by large distillers during 1945-46. Likewise, as a result of the purchase of many leading California wineries and several wine distributing houses, the distillers gained possession of nearly one-fourth of the country's wine storage capacity and about 50 percent of all the aging wines.

The logical counterpart of this characteristic of the current merger movement is the relatively small number of acquisitions which have taken place in the more highly concentrated industries, such as automobiles, tobacco, and rubber products. This, of course, reflects the small number of small businesses still available for purchase in such industries.

One of the outstanding characteristics of the current merger movement lies in the fact that most of the actions have consisted of the acquisition of small companies by large corporations.

Nearly one-third (32 percent) of the companies merged since 1940 were absorbed by the very largest corporation those with assets

exceeding \$50 million. Another 41 percent of the total were taken over by corporations with assets ranging from \$5 million to \$49 million. Hence, nearly three-fourths of the total number of firms acquired during this period were absorbed by larger corporations with assets of over \$5 million. At the other end of the scale, the distinctly small firms, those with less than \$1 million of assets, have made only 11 percent of the acquisitions.

The largest firms, those with assets of \$50 million and over, acquired an average of some four firms each, while the smallest acquiring firms, those with assets of under \$1 million, acquired an average of less than one and a half firms each.

The predominant role of the giant corporations in this current merger movement is strikingly illustrated by the fact that since 1940, 71 out of the 100 largest manufacturing corporations bought up 278 concerns, or 17 percent of all companies acquired; and in addition 49 of the second 100 purchased 175 firms, or 10 percent of all the companies acquired. In other words, 120 out of the top 200 corporations bought up 453 companies, or 27 percent of the total.

Only 4 of the 18 most active acquiring concerns were too small to rank among the nation's 200 largest manufacturing corporations. These 18 corporations acquired an average of more than 13 firms each, most of which were purchased during 1944-46.

The impact of the merger movement on small business is clearly shown by the fact that fully 90 percent of all the firms bought out since 1940 held assets of less than \$5 million, and 70 percent had less than \$1 million of assets. On the other hand, only 4 percent of the total number of acquired firms had assets of over \$10 million.

In short, the figures indicate conclusively that the major impetus behind the current merger movement has been the desire of giant corporations to consolidate their wartime gains and to expand the scope of their domination through acquisitions of smaller, independent enterprise.

How has the recent merger movement affected the competitive structure of the American economy? The majority of the actions (60 percent) were horizontal acquisitions; that is, the purchase of firms engaged in roughly similar lines of production. Vertical acquisitions, which involve either the "backward" purchase of suppliers or the "forward" purchase of further fabricating facilities, have accounted for 17 percent of the total number. And conglomerate acquisitions, in which there is no discernible relationship in the nature of business between the purchasing and the acquired firms, represented 22 percent of the total number.

Each of these three types of acquisitions contributes to the increase of economic concentration and to the decline of competition. A major result of horizontal acquisitions is to bring together firms producing (1) identical products for similar markets or (2) products which might be substituted for one another.

Vertical integrations have a particularly severe effect upon small business during periods such as the present which are plagued by shortages of raw materials components, etc. During such periods, large firms frequently reached backward to acquire important suppliers, and in so doing reduce the amount of supplies available for small independent business.

The third avenue of expansion, the conglomerate acquisition, con-

tributes greatly to the concentration of economic power, since it results in the absorption of many small firms in different and often completely unrelated lines of activity. Perhaps the most important danger inherent in these conglomerate organizations is the economic power they can wield over a large number of different industries. Threatened with competition in any one of its fields of enterprise, the conglomerate corporation may sell below cost or use other unfair methods in that field, absorbing its losses through excessive profits made in its other lines of activity, all rationalized in the name of "meeting competition." The conglomerate corporation is thus in a position to strike out with great force against small business in a variety of different industries.

The majority of recent acquisitions in manufacturing as a whole and in most of the individual industries have been of the horizontal type. Horizontal acquisitions have been particularly important in mining, petroleum and coal products, drugs and medicines, paper, beverages food and chemicals (other than drugs).

As might be expected, forward vertical acquisitions were most pronounced in the basic materials industries, such as primary metals and chemicals (other than drugs), while the backward integrations were outstanding in electrical machinery, textiles and apparel, and paper and allied products. By far the greatest number of vertical acquisitions were of this latter type and were most noticeable in the textiles industry as a result of the efforts of converters, selling agents, and apparel manufacturers to secure supplies of gray goods.

Conglomerate acquisitions were made in substantial numbers by beverage, metal fabricating, machinery, transportation equipment, and drug corporations. In addition, many acquisitions of this type were made by nonmanufacturing concerns, notably reflecting the absorption of manufacturing firms by financial and banking interests.

### **THE COPPER INDUSTRY, PARTS I AND II**

The Commission's *Report on the Copper Industry*, summarized below, was transmitted to Congress March 11, 1947.

The copper industry presents an outstanding example of a primary materials field in which concentration has reached an extraordinarily high level partly as a result of acquisitions and mergers. This concentration exists not only in the United States but in the world market.

In fact, the interconnecting relationships between international interests through direct financial relations, interlocking directors, or less directly, through large commercial banks, investment houses and industrial consumers in the United States and in foreign countries, are such as to indicate that 5 groups dominate the production and price policies of more than 60 percent of the world's production of primary copper. The individuals who head these dominant groups are (1) Cornelius F. Kelley, chairman of the board of Anaconda Copper Co.; (2) E. T. Stannard, president of Kennecott Copper Corp., the world's largest single copper producing company; (3) Louis C. Cates, president of Phelps Dodge Corp.; (4) A. Chester Beatty, chairman of the board of Rhodesian Selection Trust, Roan Antelope Copper Mines, Ltd., Mufulira Copper Mines, Ltd., director of Rokana Corporation, Ltd., and the controlling figure in British-controlled Rhodesian mines; and (5) Robert C. Stanley, chairman of International Nickel Co.

Ownership of a large part of the nearly 50 percent of known world reserves controlled by American nationals is concentrated in three American mining companies as follows:

	<i>Tons</i>	<i>Percent</i>
Anaconda-United States, Mexico, and Chile	25,590,000	23.10
Kennecott-United States and Chile	13,100,000	11.83
Phelps-Dodge--United States	7,000,000	6.82
Total, 3 American companies	45,690,000	41.25
All other American companies	9,478,000	8.54
Total, all American companies	55,168,000	49.79

An adequate supply of copper is an essential element in the economy of an industrial nation. This natural resource is one of great international importance because presently developed producing capacity and known future reserves, except in the United States, are located in only slightly industrialized nations and colonies far from the principal consuming areas.

Even the United States no longer has within its borders enough new copper and scrap copper to supply all industrial needs for high level industrial activity. It, therefore, in common with Great Britain, France and other highly industrialized countries, faces growing dependence on copper imported mainly from areas such as Chile and the colonial regions of Africa. The tariff on raw copper imported into the United States, which since 1932 was 4 cents per pound, or the equivalent of over 22 percent at the open market price of 17.5 cents in November 1946, was suspended by Act of Congress in March 1947 until March 31, 1949.

The Commission's *Report on the Copper Industry* was among the sources of information used by Congress in deciding to suspend the tariff. The opening up of the world supply of copper on a duty-free basis to American users brought an end to the crisis in copper supply in this country and stopped the precipitate rise in price which had reached 24 cents per pound, New York electrolytic, and threatened to go even higher. The price dropped to 21.5 cents per pound and futures contracts on the New York Commodity Exchange indicated further price recessions,

Known commercial copper reserves of the world as of January 1, 1945, have been estimated at iii million short tons of recoverable copper of which about half is in South America and Africa, some 29 million tons in the United States, and the balance widely scattered.

Three nationalities control nearly 83 percent of the world copper reserves as follows:

	<i>Short tons</i>	<i>Percent</i>
American-United States, Mexico, Bolivia, Peru, Chile	55,168,000	49.79
British-Canada, Australia, and Africa	29,340,000	26.48
Belgian-Africa	7,400,000	6.68
Total	91,908,000	82.95
All other nationalities	18,892,000	17.05
Total world reserves	110,800,000	100.00

The above tabulation showing control of 26.48 percent of world reserves by British nationals indicates a sharper separation of interest between American and British producers than actually

exists because Americans hold substantial minority interests in both Canadian and South African companies whose reserves are here listed as British.

The production of primary copper by the four leading producing countries, for the 3 years 1943-45, averaged 2,174,000 tons annually. At this rate it would appear that the world's present total estimated commercially workable reserves of 111 million tons may become exhausted in about 51 years.

At the wartime rate of production, which may or may not be needed in peacetime, though likely to be approximated at least for a time, the United States, still the world's largest producing country, may exhaust its present workable reserves in less than 30 years. Some estimates place the period of exhaustion of the highest grade ores as low as 10 years. Canada may exhaust its reserves in a little more than 30 years; Chile in something like 50 years, and Rhodesia, the newest producing area, in about 86 years.

These estimates are all based on maintained world production of something over 2 million tons annually and also on known reserves workable at world prices of 15 cents or less per pound. Of course, new reserves may be discovered even in the older producing countries, while a price advance might result in some increase in production from the lower grade ores. Even so, the outlook is not encouraging for long continued world production of 2 million or more tons of copper annually from presently known workable reserves.

During the 16 years from 1930 through 1945, the 3 large consolidate companies that control the production of the bulk of copper mined in the United States made some profit on their total investments in most of the years, and substantial profits after payment of income taxes in some of the years. Of the 3 leaders, Kennecott showed a profit in every year except 1932, in which it lost 2.5 percent on its total investment, the range in rate of return in other years being from 0.83 percent in 1933 to 22 percent in 1937. Phelps Dodge lost 0.6 and 1.98 percent in 1931 and 1932, respectively, and realized profits in the remaining years ranging from 0.05 percent in 1933 to 8.95 percent in 1942. Anaconda showed losses of 1.91 percent and 0.23 percent respectively in 1932 and 1933, and profits ranging from only 0.21 percent in 1931 to 8.57 percent in 1941. All rates are after payment of income taxes.

The general, these larger integrated companies have been able to earn profits and strengthen their financial positions through accumulation of surpluses when raw copper sold at from 12 to 15 cents per pound, and have experienced large profits when the price was 17 or more cents per pound.

Throughout most of its history, the copper industry has been characterized by the existence of cartel arrangements of one type or another. In fact, for about 60 years prior to 1933, copper producers attempted control of domestic and export prices and of production through copper price pools or cartel agreements.

The failure in 1890 of Baring Brothers of London, which was the forerunner of the world depression of the 1890's was precipitated by the collapse of the Secretan Copper Corner in Europe. This corner, backed by international bankers, was based upon large-scale purchases of copper covering 75 percent of the world's output of copper. Prices



were increased to 18 cents per pound; then consumption decreased while a flood of new copper appeared in the form of scrap and from new mines, and the price broke to 7.6 cents per pound.

Other cartel arrangements were participated in by a series of domestic copper export associations which fixed export prices. The last such association was Copper Exporters Inc. (1926-33) whose "foreign associates" in the international sphere adhered to and cooperated in all association acts in accordance with contracts which were identical, except as to minor wording, with those of the American full members.

At one time this international cartel controlled 85.8 percent of the world copper production. With the inception of the 1929 depression, its control decreased to 77.7 percent in 1931 and thereafter continued to decrease in 1932 and 1933 as a result of withdrawal of "foreign associates." Prices were advanced from between 12 and 13 cents per pound in June 1927 to a maximum of 23.775 cents domestic and 24.375 cents export c. i. f. European base, March 15, 1929. Thereafter prices leveled off at 18.3 cents per pound for export and 18 cents Connecticut Valley delivery for domestic copper for more than 12 months to April 14, 1930, when as stocks accumulated the price broke 4 cents per pound on April 15, 1930.

For the period of 5 months in late 1930 and early 1931, export prices were stabilized at around 10.3 cents per pound. In April 1931 a new price decline set in that carried copper prices to an unprecedented low of less than 5 cents per pound in the depth of the depression. The cartel failed to stem the downward trend of prices and it was disbanded in 1933.

With the improvement in business a new international cartel was formed in 1935. American companies were not members, although foreign subsidiaries of Anaconda and Kennecott became members.

Rigid production controls were imposed on all foreign producers with the result that rapidly increasing demand outran supply and there was a sharp price increase to 17 cents per pound in 1937. As the supply situation improved, prices sagged as usual to more normal competitive levels of 9 to 12 cents per pound. The cartel ceased to function with the beginning of the war in 1939 and the domestic price was fixed at 12 cents per pound when the United States entered the war.

An important result of the varied influences which have been at work in the industry, especially during the past 25 years, has been the high degree of concentration of ownership and control referred to above. The importance of copper as a basic material in all industries renders it necessary to maintain such a free and open market in the world supply of copper that the power of concentrated control cannot be used contrary to the public interest.

## **THE SULPHUR INDUSTRY AND INTERNATIONAL CARTELS**

The sulphur industry is even more concentrated than the copper industry, and, like the latter, has been characterized by cartel agreements, rigid prices, and comparatively high profit ratios for the leading companies, according to the

Commission's *Report on the Sulphur Industry and International Cartels*,  
transmitted to Congress June 16, 1947.

Native or natural sulphur is mined in the United States, Italy and Japan, but as of 1946 the United States was by far the largest producer.

Texas Gulf Sulphur Co. ranks as the world's largest producer of native sulphur. During the 25-year period, 1919-43, this company produced 28,124,372 long tons of sulphur, an annual average of 1,124,975 tons. Its production was equivalent to approximately 56 percent of the total United States production during that time and, together with that of Freeport Sulphur Co., accounted for approximately 86 percent of the total United States production during the past 25 years.

Freeport Sulphur Co. is the world's second largest producer of native sulphur. During the 25 years ending in 1943, the company produced 15,030,374 long tons of sulphur, an average of 601,215 tons a year. The annual production of 1,027,837 tons in 1943 represented approximately 40 percent of the total United States production. For the 25-year period, the company's production was approximately 30 percent of the total United States production.

As in the case of most highly concentrated products, prices of sulphur have remained unchanged over long periods of time. The greatest variations in the price of crude sulphur occurred during and immediately after World War I, when the sales realization of marketed production, f. o. b. mines, ranged from a maximum of \$22 per long ton in 1918, to a minimum of \$15.12 per long ton in 1919. By 1926 the sales realization of marketed production f. o. b. mines became stabilized at \$18 per ton and remained at approximately that amount for the next 11 years.

The cost-price relationships in the industry have been such that the operations of domestic sulphur producers from the beginning of their operations have been highly profitable. Texas Gulf Sulphur Co. earnings during the 28-year period of its operations were equivalent to 21.97 percent of its invested capital after providing for the payment of Federal income and excess profits taxes, and 26.10 percent of the investment before providing for such taxes. Profits, after taxes, were large in all years, ranging from maximums of 62.9 percent of investment in 1926, 67.9 percent in 1927, 66.5 percent in 1928, and 58.7 percent in 1929, to a minimum of 11.7 percent in 1938.

Freeport Sulphur Co. earned an average profit on its total invested and borrowed capital during the 28-year period, 1919-1946, of 13.64 percent, after providing for the payment of Federal income and excess profits taxes, and 16.35 percent before providing for such taxes. The company earned profits in all years but three, when losses were sustained equivalent to 5.82 percent on the investment in 1921, 2.53 percent in 1922, and 2.65 percent in 1924. Substantial profits were earned in most of the other years and were largest during the years 1927-1933 when an average of 24.76 percent on the investment was earned, after providing for Federal taxes. Profits were lower thereafter, averaging 13.09 percent on the investment during the years 1934-1946. During this period the range in profits was from a minimum of 10.60 percent to a maximum of 17.30 percent.

Almost the entire history of the sulphur industry has been marked by cartel agreements among the world's leading producers--particularly among the two chief sources of supply, the American and the Italian companies. The factor limiting the ability of the cartel par-

ticipants to enhance and maintain prices in foreign markets was always the uncontrolled production of non-member companies. Since the early 1920's this competition has consisted of uncontrolled producers of natural sulphur, mainly by American, Japanese and South American producers, and producers of by-product sulphur in the smelting of pyrites for their metal contents, mainly in Scandinavia, Spain and Portugal under patents controlled by Orkla Grube Aktebolaget Industrimetoder of Stockholm, and in Italy by the Montecatini interests.

When competition arose from these three sources in the early 1930's, each became the object of cartel control to maintain cartel price structures and distribution arrangements. Orkla competition was controlled by a secondary agreement between it and Sulphur Export Corp.<sup>3</sup> dividing the foreign market, fixing foreign prices, limiting further issuance by Orkla of licenses to third parties in Europe, and providing for joint acquisition of basic patents under which other by-product competition might arise.

Montecatini (Italian) competition was disposed of by the Italian Government, compelling Montecatini to become part of the Italian national cartel, and a measure of control was set up for a time over the American independent sulphur movement in export trade by Sulphur Export Corp. finding a market for independent tonnage in its quota, in consideration of which American independents were to observe cartel prices. There were no such definite arrangements with American independents after 1935, but the latter appear to have found it advantageous to follow the price leadership of the cartel in sales they made in Europe.

When Rio Tinto Co. of Spain and Mason and Barry of Portugal, licensees under Orkla patents, competed for the Spanish market and Rio Tinto threatened to export to France, Sulphur Export Corp. exerted its influence to prevent such invasion of other markets.

In support of a cartel of French sulphur grinders who purchased their requirements from the cartel or from other sources that followed the cartel's price leadership, the main cartel participants undertook to bolster the French cartel's weak control over the grinding industry by refusing to sell to particular French grinders at destinations where new grinding capacity was being built.

The obvious international effects of activities of these types were to eliminate competition in the foreign markets, enhance and maintain prices, retard the development of low-cost recovery of by-product sulphur through Norwegian processes, accelerate the exhaustion of the world's richest natural sulphur, and compel foreign market consumers to pay high prices in order to enhance and maintain the profits of natural sulphur producers.

The domestic and export segments of the American Sulphur industry are inseparable in interest. From an economic standpoint, the distribution and pricing activities of Sulphur Export Corp. have a natural relationship to the production, distribution, and pricing activities of its individual producing members. Sulphur Export Corp.'s international agreements have distinctly eliminated and restrained competition abroad. Its policy of tolerance toward the two

<sup>3</sup> See p.82 for Commission's recommendations for readjustment of the business of Sulphur Export Corp.

smaller nonmember producers who have been permitted, and upon occasion even assisted, to find foreign outlets for tonnages, which additional tonnages, if sold in the domestic market, might have had a depressing effect thereon, has tended to forestall and ameliorate competition at home. The independents, while not always strictly observing Sulphur Export Corp.'s prices abroad, or its members' domestic prices at home have nevertheless followed quite closely the price and distribution leadership of their larger competitors in both markets because it was to their advantage to do so. To do otherwise would not have been good business. The report of the Canadian Commissioner of its Combines Act reports similar economic effects of the cartel agreements on sulphur distribution in Canada, one of the markets not included under the cartel agreements.

From 1926 through 1931, during the first three years of which there were only two American producers it appears that the domestic price level yielded substantial profits. Price protection afforded the Italians maintained export prices substantially higher than domestic prices, and still further enhanced the profits of the American producers. Quota restrictions under the cartel agreement, however, restricted the quantity of sulphur that could be sold at the higher export prices. The fact that domestic prices were lower than export prices would seem to indicate that, especially prior to 1933, the two dominant companies, after selling abroad their permitted quantities under the cartel agreement at the higher cartel price, so priced their product at home as to retain the maximum share of the domestic market in competition with pyrites and by-product sulphur. Such pricing would be especially effective in retaining the tonnage consumed by the growing sulphuric acid industry.

The continued prevalence of this price difference in favor of sales for export during the late 1920's produced a situation in which it became profitable for American consumer-purchasers to buy in the United States and divert tonnage for export. Manufacturers of ground sulphur likewise found it advantageous to export to foreign markets where ground sulphur prices were based on cartel maintained crude sulphur prices. Since Sulphur Export Corp. was obligated under its cartel agreements to absorb such exports in its quota, a definite policy of direct selling only to domestic users, or to those intermediate handlers who would cooperate to preserve foreign cartel controls, was adopted both at home and abroad. A formal agreement between the two company members of Sulphur Export Corp., in 1929, to limit domestic sales to the needs of domestic users was abandoned when the Federal Trade Commission pointed out the objectionable effects of such an agreement on domestic trade. Restraints abroad necessitated restraints at home in order to determine not only who might engage in export trade in sulphur, but the conditions of trading.

The operations of all four producers constituting the American sulphur industry have been highly profitable, and the indications are that Sulphur Export Corp.'s foreign cartel agreements have added to the profitability of the United States industry even with respect to the non-member companies.

## THE WHOLESALE BAKING INDUSTRY, PART II

A third concentrated industry studied by the Commission was the wholesale baking industry. The results of the study were presented to Congress August 7, 1946, in a report entitled *Wholesale Baking Industry, Part II--Costs, Prices and Profits*.

The commercial baking of bread and other bakery products increased considerably during the war period. A recent survey indicated that 85 percent of the bread and 35 percent of the cake consumed in this country were produced by commercial bakers. It is estimated that the baking industry in 1945 had annual sales in excess of \$2 billion compared with total sales of \$1.4 billion for 1939. The estimated quantity of commercial bread produced in 1945 amounted to 15 billion pounds, compared with 10.5 billion pounds for 1939.

Perhaps the most interesting finding in the study was the absence of any close relationship between size of corporations and efficiency. In fact, the report shows that the 4 largest baking companies--Continental Baking Co., General Baking Co., Purity Bakeries Corp., and Ward Baking Co.--had an average cost to produce and sell bread and rolls of 7.58 cents per pound in September 1945, compared with an average cost of 7.41 cents for 10 medium-large multiple plant baking companies. The lower costs of these 10 resulted principally from lower plant overhead expenses. Thus, based on average costs, the medium-large plants were definitely more efficiently operated than the plants of the industry's 4 giant corporations.

However, in terms of plants rather than corporations, the large plants had lower average costs than the medium and smaller sized plants. For September 1945, wholesale baking plants producing in excess of 1 million pounds of bread and rolls per month had total costs of 7.47 cents a pound, compared with average costs of 7.60 cents per pound for those plants baking from 500,000 to 1,000,000 pounds per month; 7.78 cents per pound for those plants baking from 250,000 to 500,000 pounds per month and 9.12 cents per pound for those plants baking under 250,000 pounds monthly. But, inasmuch as efficiency was highest in the medium-large corporations, it is obvious that many of the most efficient large plants were not operated by the giant corporations, but rather were owned by the medium-large concerns.

Although they were not the most efficient concerns, the 4 leaders nonetheless made the highest rates of profits on sales in the industry, ranging from 4.54 cents per dollar of sales in 1941 to 8.47 cents in 1943. Bakeries with annual sales of less than \$500,000 reported minimum profits on sales ranging from a low of 2.68 cents per dollar of sales in 1941 to a high of 5.04 cents in 1943. Similarly, the 4 largest baking companies reported the highest rates of return on net worth before income taxes, ranging from a maximum of 28.86 percent for 1943 to a minimum of 10.09 percent for 1941. These rates compare with those reported by wholesale baking companies with annual sales under \$500,000, ranging from a high of 23.7 percent for 1943 to a low of 11.06 percent for 1941. Out of the 192 companies in this smallest sized group reporting for 1941, a total of 43 reported losses while none of the 4 largest companies in the industry reported a net loss for any year from 1936 to 1945, inclusive.

It was found that the giant baking companies go to extreme lengths in order to get local retail stores to handle their bread. Consignment sales by large chain bakers was the principal method used to force smaller concerns out of the market. Other methods used by the giant firms were those of furnishing retailers with bread racks free, giving premiums, allowing special discounts, distributing free bread, and selling below cost in individual markets. The big companies with multiple-plants scattered over large areas have an advantage in that they can subsidize the costs of operation for one plant with the profits from the group as a whole. That is, while charging higher prices in an established market, they take heavy losses from returned products in a new territory and furnish retailers with free goods and free equipment in an effort to build up sales at the expense of local bakeries. Moreover, it was found that many of the large interstate baking companies truck bread long distances from their plants and sell it in competition with small local bakeries at lower prices than prevail in other places where there is no price competition.

(For summary of the report on the *Wholesale Baking Industry, Part I--Waste in the Distribution of Bread*, see p.15 of the Annual Report of the Federal Trade Commission for the 1946 fiscal year.)

#### **ECONOMIC EFFECTS OF GRAIN EXCHANGE ACTIONS AFFECTING FUTURES TRADING DURING THE FIRST 6 MONTHS OF 1946**

On February 4, 1947, the Commission reported the results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the conditions during the first 6 months of 1946 which made for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. It also reviews the economic effects of emergency actions taken by the exchanges, sometimes at the suggestion of Government agencies, on the interests trading in futures.

As principal grains, one after another, reached ceiling prices, the only field for speculation in futures became selling short in the hope of possible decrease in prices below ceilings. This produced the a normal condition that speculative interest shifted predominantly to selling short at ceiling prices. Confidence among speculators that this could be done safely was created by the fact that defaults were settled at ceiling prices in 1945, which meant no penalty to defaulting shorts. This resulted in speculative short traders assuming open positions opposite long interests desiring grain who froze the shorts in their open positions by refusal to sell.

When ceiling prices were advanced by Government action in March and May, 1946, shorts stood to lose the full amount of the increases as prices promptly moved up to the new ceilings. In March when the ceiling price for wheat was advanced, all three exchanges took action prematurely closing out May wheat contracts, thus protecting short interests on that future. In May, when a general advance was author-





ized affecting wheat, corn, oats, and barley, two of the exchanges, at the joint request of three Government agencies, followed the same emergency policy of closing out open contracts at the old ceiling prices, again protecting shorts at the expense of longs.

The inequity of this action from the viewpoint of injured long interests was promptly followed by suits against the Chicago Board of Trade, which thereupon reversed itself by reopening trading on contracts on July and specified later months which had been ordered closed out. This permitted these later-month contracts to advance to the new ceilings, whereupon they were again closed out prematurely on June 13, 1946, at the new ceilings. This placed on shorts the financial burden of the ceiling price advance on all old contracts closed out by the Chicago Board of Trade in anticipation of the expiration of price controls on July 1, 1946. A total of 28,648,000 bushels of July and later-month contracts for wheat, corn, rye, and barley was so closed out on May 13, 1946, at a total cost to shorts and a profit to longs of \$4,747,290. While this action burdened shorts with definite financial loss to this amount, it likewise protected them from further possible loss in case price controls expired as then expected on July 1, and prices advanced to levels higher than the ceilings prevailing up to July 1.

### **GROWTH AND CONCENTRATION IN THE FLOUR-MILLING INDUSTRY**

On June 2, 1947, the Commission transmitted a report to Congress on *Growth and Concentration in the Flour-Milling Industry*. The flour-milling industry of the United States is old, and, because of the relatively small capital required to build a flour mill in the early days and as a result of early lack of facilities for rapid and cheap transportation of wheat and flour, the industry was carried on by numerous small enterprises. With progressive improvement in design and efficiency of flour-milling equipment and the increased capital investment per fully equipped flour mill occasioned thereby, production in larger mills became increasingly important. The development of more rapid and less expensive means of transportation also favored the growth in size of flour-milling establishments. The result has been a progressive increase in the size of flour mill operations and a progressive decrease in the number of flour-milling establishments. For example, the United States Bureau of the Census reports a decline from 11,691 establishments in 1909 to 2,571 in 1945, a decrease of 78 percent. Meanwhile, the population of the United States increased from about 92 to 140 million, again of 52 per cent. On a per capita basis, there was 1 mill for every 7,869 inhabitants in 1909 and 1 for every 54,454 in 1945.

Through the combined processes of increasing the size of individual establishments, construction of multiple establishments and consolidation of previously independent enterprises, there has developed a certain degree of concentration in the flour-milling industry. The industry has also expanded its animal feed business. With all of this development, however, the flour-milling industry has not evolved as high a degree of concentration as that existing in many other industries.

In 1945 the aggregate capacity of the largest 6 companies, with individual capacities ranging from 130,300 down to 31,690 hundredweight per day, was 366,150 hundredweight, or 27.13 percent of the total of 1,349,749 hundredweight for the United States. The next 30 companies, in order of size, with capacities ranging from 26,000 down to 5,000 hundredweight per day, had an aggregate daily capacity of 314,526 hundredweight, or 23.30 percent of the total capacity of the industry. Thus, the largest 36 companies operated 50.43 percent of the industry's total capacity. The remaining 49.57 percent was distributed among an unknown number of enterprises ranging in size from something less than 5,000 down to 49 hundredweight per day.

In 1945 the largest corporation in the industry, General Mills, Inc., controlled 9.65 percent of the total capacity of the industry; Pillsbury Mills, Inc., the second largest flour mill organization, operated 6.13 percent of the industry's capacity; the third in size was Commander Larabee Milling Co., with 3.32 percent; the fourth, International Milling Co., with 2.89 percent; Russell-Miller occupied fifth place with 2.79 percent; and sixth place was held by Colorado Milling and Elevator Co., with 2.35 percent.

General Mills, Inc., was incorporated June 20, 1928, for the purpose of consolidating five flour-milling and grain storage enterprises, all of which were already controlled by a group of stockholders common to the five enterprises. In January and February, 1929, it acquired Sperry Flour Co. and Creston Harrington and Lind, and in April 1929 purchased Larowe Milling Co. No later acquisitions by General Mills were reported to the end of 1945.

The capital of General Mills increased by 250.3 percent, of which the growth resulting from mergers was no less than 178.5 percent, leaving 71.8 percent by internal growth. In 1945 General Mills had 14 subsidiaries operating in 24 localities from Buffalo, N. Y., to the Pacific Coast, with numerous grain storage elevators in the wheat-producing areas as well as at its flour mills.

The second largest domestic flour-milling company in the United States, Pillsbury Mills, Inc., was incorporated September 25, 1923, to consolidate 2 previously related companies, the original enterprise having been founded in 1872. Seven important acquisitions were made during the period 1915-1945. In 1945, Pillsbury Mills, Inc., operated flour mills in 9 cities from Buffalo to the Pacific Coast, commercial feed mills in 9 localities, packaged food plants in 4 cities and facilities in 14 cities.

The Russell-Miller Milling Co. made 3 acquisitions from 1915-1945--1 malting plant that had been closed by prohibition and 2 providing flour-milling and grain storage.

The Colorado Milling and Elevator Co. purchased 5 flour-milling properties during the period 1924-1945, and also acquired 5 country elevator stations. In 1945, it owned flour mills in 19 localities concentrated in Colorado, Idaho, Utah, Kansas, and Missouri, and in addition operated 6 feed mills and 155 grain elevators in localities other than at its flour mills.

Noticeable features of the development of these enterprises are : (1) the acquisition of flour mills in widely dispersed localities, (2) acquisition of grain storage well distributed throughout the principal wheat-producing regions, and (3) entry into and development of the feed-manufacturing business.

### **REPORTS ON INDUSTRIAL OPERATIONS**

The purpose of these reports is to provide accurate and current information as to the financial characteristics and operating results of American manufacturing industries without disclosing the individual features of any particular corporation. The reports represent a combined industry compilation of the financial statements of manufacturing corporations so as to disclose the simple facts of the true relationship between investments, sales, costs, and profits.

Prior to the war the Commission, in accordance with the powers granted by Congress in 1914, collected, summarized, and analyzed the financial operating statements of corporations in a number of industries and published summaries of the results. During the war period, this work was discontinued because the Price Control Act conferred upon the Office of Price Administration similar powers. On December 12, 1946, the President, by Executive Order, transferred this function back to the Federal Trade Commission and it thereupon resumed its peacetime work in this field.

On April 15, 1947, the Commission directed a representative cross-section of manufacturing corporations to file with it a brief financial statement of operations for the first three months of 1947. The significant facts developed from a combined tabulation of these reports are presented in the tables beginning on page 31.

The plan for resumption of this work was carefully developed after intensive work by an interagency committee on financial statistics representing nine Government agencies. This committee operated under the direction of the Bureau of the Budget as provided for by the Federal Reports Act of 1942. During the development of the work outline, advice was sought from the Industry Advisory Council on Government Reports and the Advisory Council representing labor organizations.

The interagency committee on financial statistics recommended a program of quarterly and annual financial reports. This work was assigned jointly to the Federal Trade Commission and the Securities and Exchange Commission. The Securities and Exchange Commission is responsible for the collection and compilation of information from corporations with securities listed on a national stock exchange and the Federal Trade Commission is responsible for the collection of information from a sufficient number of non-listed corporations so as to effectively round out a representative sample for determining current national estimates for all industrial manufacturing groups. The two agencies collaborated on the assembly and publication of the industry summaries.

The industrial financial summaries should be of increasing value to business and the Government in showing the financial trends of indus-

trial activity. Since the reports are to be issued on a quarterly basis they will provide a current barometer of the economic conditions of the economy and of its various industry segments. From these reports it will be possible to determine (1) the general financial situation of business; (2) the trend in economic activity; and (3) deficiencies which may appear in the economic position and operating results of the various industries. In short, these reports provide the Government and the general public with a current bird's eye view of the direction in which our economy is moving.

The summaries can also be used to determine not only the economic condition of industry as a whole, but also the differences which may exist among different sizes of operations. Comparisons can be made between large, medium size and small business. Those concerned with the problems of small business will undoubtedly use the reports as a primary source of information.

The Commission found after issuing similar reports in 1939 and 1940 that there existed a great demand for them among business concerns. The Commission has received hundreds of letters from private firms requesting the reports and commenting favorably upon them. An analysis of these requests and the comments reveal that business concerns used the reports for a variety of purposes. For example, they used the data in comparing their own financial position and operating results with that of their industry as a whole. Every businessman has a natural and legitimate interest in knowing how his operations compare with the industry as a whole and, more particularly, wants to compare with the industry's average his ratio of profits and sales to his investment, his net working capital, his capital turnover, and the ratio of his costs and expenses to net sales, such as labor costs, material costs, selling and distribution, general and administrative expenses, etc.

These financial reports are an important source of information for the internal operations of the Federal Trade Commission. The Commission, for example, is interested in the whole subject of economic concentration and particularly in the current changes which take place at the level of concentration among the Nation's various industries. The financial summaries will provide the data needed to construct an "Index of Concentration" for each of the Nation's major manufacturing industries. In this connection, it should be noted that the development of such an index was the second recommendation contained in the staff report of the Monopoly Subcommittee of the House Small Business Committee.

A number of other Government agencies have indicated their desire to obtain the reports for the purpose of assisting them in their own analysis of economic and industrial operations. The nine agencies which comprised the committee that developed the current program have all indicated a desire to obtain and use the reports.

In summarizing, the reports project provides for achieving these results with a minimum of burden on the responding corporations and without duplication in the collection of information and at a minimum cost to the taxpayers.

Table 1.--Federal Trade Commission and Securities and Exchange Commission quarterly industrial financial reports series, first quarter 1947, aggregate for all manufacturing industries combined

SELECTED INCOME AND EXPENSE ITEMS

	Assets range (thousands of dollars)					
	1 to 249	250 to 999	1,000 to 4,999	5,000 to 99,999	100,000 and over	Total
1 Net sales	\$1,620,181	\$3,299,698	\$6,127,657	\$12,325,826		\$11,201,091
\$34,574,452						
2 Costs and expenses	1,497,968	2,960,325	5,341,047	10,639,154	9,762,505	30,200,999
3 Net operating profit	122,213	339,372	786,610	1,686,672	1,438,586	473,453
4 Other income or deductions-net	1,699	7,354	14,510	8,480	3,694	28,348
5 Net income before Federal income taxes	123,912	346,726	801,120	1,695,152	1,434,892	401,801
6 Provision for Federal income taxes	48,090	143,840	317,921	670,963	547,765	1,728,577
7 Net income after taxes	75,822	202,880	483,199	1,024,189	887,127	2,673,224
8 Dividends paid (cash or in kind)	14,560	32,938	72,257	272,685	276,248	668,688

CONDENSED BALANCE SHEET

ASSETS

9 Cash	\$413,219	\$784,105	\$1,432,029	\$3,580,763	\$3,993,980	\$10,204,097
10 United States Government securities	113,538	367,229	749,216	2,267,994	3,106,732	6,604,709
11 Other marketable securities	37,383	77,690	174,144	319,616	70,134	678,966
12 Accounts and notes receivable net	538,152	1,018,678	2,076,665	4,476,942	3,441,221	11,551,659
13 Inventories	656,032	1,593,570	3,598,326	9,291,480	9,152,079	24,291,487
14 Other current assets	54,239	112,038	155,271	407,194	200,817	925,959
15 Total current assets	1,812,563	3,953,311	8,185,651	20,343,990	19,964,963	54,260,477
16 Property, plant and equipment-net	773,901	1,555,605	3,263,229	8,666,004	14,109,903	28,368,644
17 Other assets including deferred charges	171,203	298,714	755,857	2,113,043	2,736,004	6,074,826
18 Total	2,757,667	5,807,630	12,264,732	31,123,037	36,810,869	88,703,941

LIABILITIES

19 Bank loans payable within one year	\$107,701	\$258,468	\$658,503	\$1,219,476	\$430,878	\$2,675,025
20 Other notes and accounts payable	398,634	673,954	1,106,168	2,122,243	2,468,956	6,769,954
21 Federal income taxes accrued	120,600	436,595	989,178	2,286,965	1,862,848	5,696,185
22 Other current liabilities	121,616	234,627	639,401	1,524,176	1,635,354	3,955,174
23 Total current liabilities	748,551	1,603,643	3,293,249	7,152,860	6,298,036	19,096,338
24 Long-term debt and other liabilities	149,123	259,050	606,332	2,316,902	4,337,664	7,069,072
25 Stockholders' equity	1,859,992	3,944,937	8,305,157	21,653,273	26,175,171	61,938,531
26 Total	2,757,667	5,807,630	12,204,732	31,123,037	36,810,869	88,703,941

Number of sample corporations	725	1,206	2,368	1,112	57	5,468
-------------------------------	-----	-------	-------	-------	----	-------





accounts payable	9,662	737,794	51,083	411,972	206,927	108,382	62,855	175,186	192,161	411,716	851,702
Federal income taxes accrued	14,572	1,003,398	74,771	536,560	125,247	101,698	55,601	280,125	129,484	628,328	299,495
Other current liabilities	9,866	355,451	25,013	182,051	57,941	40,462	31,805	106,354	85,046	247,865	401,394
Total current liabilities	34,967	2,743,262	327,961	1,296,650	515,196	286,869	191,975	604,020	449,909	1,444,657	1,638,425
Long-term debt and other liabilities	4,414	999,519	559,448	213,045	39,182	78,780	43,513	300,933	126,083	488,687	1,574,163
Stockholders' equity	170,281	7,489,135	1,036,496	3,608,925	955,783	1,207,756	550,907	2,447,775	1,163,347	5,463,608	8,409,251
Total	209,663	11,231,916	1,923,904	5,118,620	1,510,160	1,573,405	786,394	3,352,729	1,749,338	7,396,946	11,621,839
Number of sample corporations	11	738	31	487	238	207	126	269	254	379	89

Miscellaneous	Income and expenses Total	Rubber products	Leather and leather products	Stone clay, and glass products	Primary metal industries	Fabricated metal products	Machinery	Electrical machinery and parts	Motor vehicles except motor vehicles and parts	Transportation equipment	Instruments, photo and manufactured goods; watches and clocks
Net sales	\$784,049	\$611,805	\$766,894	\$3,343,363	\$1,594,346	\$2,943,287	\$1,637,058	\$2,369,973	\$1,067,740	\$374,004	
\$525,528	\$35,553,577										
Costs and expenses	698,321	548,999	661,754	2,900,855	1,371,108	2,552,140	1,460,935	2,029,540	1,050,240	331,382	
467,354	31,184,068										
Net operating profit	85,728	62,806	105,140	442,508	223,238	391,147	176,123	340,433	17,590	42,622	
58,174	4,369,509										
Other income or deductions-net	-125	1,592	1,647	-3,970	1,840	-1,106	-3,968	-1,443	8,037	4,819	6
15,259											
Net income before Federal income taxes	85,603	64,398	106,787	438,538	225,078	390,041	172,155	338,990	25,537	47,441	
58,867	4,384,768										
Provision for Federal income taxes	36,332	26,710	43,468	170,932	86,879	157,748	62,580	144,344	14,256	18,708	
25,220	1,720,881										
Net income after taxes	49,271	37,688	63,319	267,606	138,199	232,293	109,575	194,646	11,281	28,733	
33,647	2,663,892										
Dividends paid (cash or in kind)	23,791	8,772	20,377	47,629	31,124	53,307	28,298	23,038	6,893	11,399	7
662,743											
<b>ASSETS AND LIABILITIES</b>											
<b>ASSETS</b>											
Cash	208,325	140,679	270,454	1,288,935	438,850	860,597	370,808	981,956	286,745	117,859	
150,999	10,204,097										
United States Government securities	149,939	61,185	178,089	1,342,158	259,155	489,807	159,811	229,233	271,270	99,452	
77,966	6,604,709										
Other marketable securities	2,499	6,408	29,313	36,565	29,087	67,316	13,844	11,468	32,328	2,696	
25,844	678,966										
Accounts and notes receivable	335,813	236,042	267,187	1,042,077	563,679	1,278,863	688,354	744,500	375,979	175,653	
215,461	11,551,659										
Inventories	646,397	345,261	409,296	1,952,463	1,129,579	2,864,633	1,325,940	1,806,835	871,951	446,159	
415,891	24,291,487										
Other current assets	4,051	13,762	21,620	65,328	35,318	123,586	114,571	62,269	108,481	16,931	
30,433	929,559										
Total current assets	1,374,024	803,338	1,175,959	5,727,526	2,455,668	5,684,802	2,673,327	3,836,261	1,946,755	858,750	
916,595	54,260,477										
Property, plant and equipment-net	498,616	135,749	976,030	4,044,204	1,142,806	1,991,929	721,668	1,741,723	405,840	312,238	
286,507	28,368,644										
Other assets including deferred charges	42,357	53,174	187,222	468,081	227,411	477,674	321,456	486,788	146,524	63,339	
81,682	6,074,820										
Total	1,887,998	992,261	2,339,211	10,239,811	3,825,884	8,154,406	3,716,451	6,064,772	2,499,118	1,234,326	
1,284,785	88,703,941										
<b>LIABILITIES</b>											
Bank loans payable within 1 year	34,167	34,170	35,596	69,734	110,993	353,325	154,133	154,599	106,399	45,810	
54,177	2,675,025										
Other notes and accounts payable	170,814	98,513	142,510	751,297	314,342	634,853	304,276	665,355	247,529	75,286	
145,739	6,769,954										
Federal income taxes accrued	170,303	84,045	136,541	616,850	238,274	492,812	174,208	256,809	96,833	94,137	
86,095	5,696,185										
Other current liabilities	110,365	35,614	58,682	397,456	166,145	539,378	345,986	323,165	324,565	48,912	



TABLE 3.--*Federal Trade Commission and Securities and Exchange Commission quarterly financial reports series, first quarter 1947, profit ratios by size classes*

Assets class (thousands of dollars)	Ratio of net income before taxes to stockhold- ers' equity	Ratio of net income after taxes to stockhold- ers' equity
	<i>Percent</i>	<i>Percent</i>
1 to 249	6.66	4.08
250 to 999	8.79	5.14
1,000 to 4,999	9.65	5.82
5,000 to 99,999	7.83	4.73
190,000 end over	5.48	3.39
All sizes	7.11	4.32

## **PART II. GENERAL LEGAL WORK**

### **DESCRIPTION OF PROCEDURE**

A case before the Federal Trade Commission may originate in any one of several ways: through complaint by a consumer or a competitor; from Federal, State, or municipal sources; or upon observation by the Commission. The Commission itself may initiate an investigation to determine whether the laws administered by it are being violated.<sup>1</sup> No formality is required in making application for complaint. A letter setting forth the facts in detail is sufficient, but it should be accompanied by all evidence in possession of the complaining party in support of the charges made.

### **PROCEDURE UPON APPLICATIONS FOR COMPLAINT**

Upon receipt of an application for complaint, the Commission through its Office of Legal Investigations considers the essential jurisdictional elements before deciding whether it shall be docketed for investigation. When docketed, it is assigned to the Chief Examiner or the Chief of the Radio and Periodical Division depending upon the type of investigation to be made. Cases requiring field investigations are assigned to the Chief Examiner; other matters, as more fully set out on pages 44 to 47, are assigned to the Radio and Periodical Division. The matter is thereafter assigned to an attorney for the purpose of developing all the essential facts.

The general procedure in matters requiring field investigations is to interview the party complained against, advise him of the charges and request such information as he may care to furnish in defense or in justification. It is the policy of the Commission not to disclose the identity of the complainant. If necessary, competitors of the respondent are interviewed to determine the effect of the practice from a competitive standpoint. Often it is desirable to interview consumers and members of the general public to obtain their assistance in determining whether the practice alleged constitutes an unfair method of competition or unfair or deceptive act or practice, and also to compare the existence of the requisite public interest.

After developing all the facts the examining attorney summarizes the evidence in a report, reviews the law applicable, and recommends the action he believes the Commission should take. The record is reviewed by the Chief Examiner or the Chief of the Radio and Periodical Division and, if found to be complete, is submitted, with a statement of facts together with his conclusions and recommendations, to the Commission for its consideration.

The Chief Examiner or the Chief of the Radio and Periodical Division may recommend to the Commission (1) that the case be closed without further action because of lack of evidence or because the practice does not violate any law administered by the Commission;

<sup>1</sup> A brief statement of the provisions of these laws appears on pp.1 and 2.



(2) disposition of the application by the respondent signing a stipulation as to the facts and an agreement to cease and desist from the practices as set forth in the stipulation; or (3) issuance of formal complaint.

If the Commission decides that a formal complaint should issue, the case is referred to the Chief Trial Counsel for preparation of the complaint and trial of the case. Should the Commission permit disposition by stipulation in lieu of formal complaint, the case is referred to the Director of the Division of Stipulations for negotiation of stipulation and submission thereof to the Commission for approval.

All proceedings prior to issuance of a formal complaint or stipulation are confidential.

### **PROCEDURE UPON FORMAL COMPLAINTS**

Only after careful consideration of the facts developed by the investigation does the Commission issue a formal complaint. The complaint and the answer of the respondent thereto and subsequent proceedings are a public record.

A formal complaint is issued in the name of the Commission acting in the public interest. It names the respondent, or respondents, alleges a violation of law, and contains a statement of the charges. The party complaining to the Commission is not a party to the formal complaint and the complaint does not seek to adjust matters between parties; rather, the prime purpose of the proceeding is to prevent, for the protection of the public, those unfair methods of competition and unfair or deceptive acts or practices forbidden by the Federal Trade Commission Act and those practices within the Commission's jurisdiction which are prohibited by the Clayton Act as amended by the Robinson-Patman Act, the Export Trade Act, and the Wool Products Labeling Act of 1939.

The rules of practice before the Commission provide that a respondent desiring to contest the proceeding, within 20 days from service of the complaint, shall file answer admitting or denying each allegation.

Upon request made within 15 days from service of the complaint any respondent shall be afforded an opportunity to submit offers of settlement or proposals of adjustment where time, the nature of the proceeding and the public interest permit, and due consideration shall be given to them.

Where evidence is to be taken either in a contested case or in one where the respondent has failed to file answer, the matter is set down for hearing before a trial examiner, which hearing may be held anywhere in the United States, the Commission's complaint being supported by one of its trial attorneys and the respondent having the privilege of appearing in his own behalf or by attorney.

After the submission of evidence in support of the complaint and on behalf of the respondent the trial examiner prepares and files a recommended decision which includes a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the record; material issues of fact, law, or discretion presented on and (2) an appropriate order. Exceptions to the trial examiner's recommended decision

may be taken by either counsel.

Briefs may be filed within a stated time after the trial examiner's



recommended decision is made and, in the discretion of the Commission, upon the written application of the attorney for the respondent or the attorney supporting the complaint, oral argument may be had before the Commission. Thereafter, the Commission reaches a decision either sustaining the charges of the complaint or dismissing the complaint, sometimes without prejudice.

If the complaint is sustained by the evidence, the Commission makes its findings as to the facts and states its conclusion that the law has been violated, and thereupon an order is issued requiring the respondent to cease and desist from such violation. If the complaint is dismissed, an appropriate order is entered.

Up to and including the issuance of an order to cease and desist, there is no difference in procedure whether the case is under the Federal Trade Commission Act, the Clayton Act, or the Wool Products Labeling Act, but the Clayton Act provides a procedure for enforcement of cease and desist orders different from the other two acts.

Under the Federal Trade Commission Act and the Wool Products Labeling Act, an order to cease and desist becomes final 60 days after date of service upon the respondent unless within that period the respondent petitions an appropriate United States Circuit Court of Appeals to review the order; In case of review, the order of the Commission becomes final after affirmance by the circuit court of appeals or by the Supreme Court of the United States, if taken to that Court on certiorari. Violation of an order to cease and desist after it shall have become final, and while it is in effect, subjects the offender to a civil penalty of not more than \$5,000 for each violation, recoverable by the United States.

Under the Clayton Act, an order to cease and desist does not become final by lapse of time. The order must be affirmed by a United States Circuit Court of Appeals on application for review by the respondent or upon petition of the Commission for enforcement. Thereafter, appropriate contempt proceedings may be brought in the particular court of appeals for violation of the court order.

Under all three acts, the respondent may apply to a circuit court of appeals for review of an order and the court has power to affirm, or to affirm after modification, or to set aside the order. Upon such application by the respondent and cross-application by the Commission, or upon application by the Commission for enforcement of an order under the Clayton Act, the court has power to enforce the order to the extent it is affirmed. In any event, either party may apply to the Supreme Court for review, by certiorari, of the action of the circuit court of appeals.

### **PROVISIONS OF WHEELER-LEA AMENDMENT FOR PREVENTING DISSEMINATION OF FALSE ADVERTISEMENTS**

Sections 12 to 15, inclusive, of the Federal Trade Commission Act, which were added by the Wheeler-Lea Act, approved March 21, 1938, make specific provision for the prevention of the dissemination of false advertisements of food, drugs, cosmetics, and devices (meaning devices for use in the diagnosis, prevention, or treatment of disease) The act as amended also empowers and directs the Commission to prevent

advertisers of food, drugs, devices, or cosmetics which may cause injury when used under prescribed or customary conditions from

disseminating advertisements that fail affirmatively to reveal that such products are dangerous or that their use under certain conditions may cause bodily injury.

In addition to the regular proceeding by way of complaint and order to cease and desist, the Commission may, in a proper case, bring suit in a United States district court to enjoin the dissemination of such false advertisements, whenever it has reason to believe that such a proceeding would be to the interest of the public. These temporary injunctions remain in effect until an order to cease and desist has been issued and become final, or until the Commission's complaint is dismissed by the Commission or set aside by the court on review.

Further, the dissemination of a false advertisement of a food, drug, device, or cosmetic, where the use of the commodity advertised may be injurious to health or where the act of disseminating is with intent to defraud or mislead, constitutes a misdemeanor; and conviction subjects the offender to a fine of not more than \$5,000, or imprisonment of not more than 6 months, or both. Succeeding convictions may result in a fine of not more than \$10,000, or imprisonment of not more than 1 year, or both.

## LEGAL INVESTIGATIONS

### INQUIRIES PRIOR TO FORMAL COMPLAINT OR STIPULATION

The Commission makes legal investigation of all applications for complaint preliminary to instituting formal action for the correction of unfair methods of competition or other acts or practices violative of the laws it administers.

Investigation of cases in initial stages includes the general preliminary legal investigating work of the Commission under the several acts and the continuing survey of radio and periodical advertisements with the object of correcting false and misleading representations.

Cases thus developed, unless closed without action, progress upon direction of the Commission to the status of either formal complaint or stipulation to cease and desist.

At the beginning of the fiscal year, in addition to cases pending as the result of the continuing survey of radio and periodical advertising (see pp.44 to 47), there were pending for investigation<sup>2</sup> 132 preliminary or undocketed cases, and 176 additional applications of this character were received during the year, making a total of 308 on band, of which 168 were investigated. Of the investigated matters 163 were docketed for action and 5 were closed without docketing because of lack of jurisdiction or other reasons. There remained 140 preliminary cases of this type pending for investigation at the end of the fiscal year.

Two hundred and ninety-one applications for complaint which had been docketed without preliminary investigation were pending for regular investigation at the beginning of the year. Subsequently 282 additional cases of this type were received, making a total of 573 such cases docketed for investigation. Of these 209 were investigated and transmitted to the Commission for action, leaving 364 cases of this character

pending for investigation at the close of the year.

During the year, 282 further investigations were made, including

<sup>2</sup> Statistics reported on pp. 38 to 47 concerning the legal investigation work are division records and not the consolidated record of the Commission, and therefore do not coincide with the figures reported in the tabular summary of the legal work for the entire Commission appearing on pp. 62-64.

inquiries into alleged violations of cease and desist orders and stipulations, investigations for the Chief Trial Counsel and others of a supplemental and special nature. At the end of the year 250 such matters awaited completion of investigation.

Aside from matters handled as the result of the continuing survey of radio and periodical advertising and others of the same type not requiring field investigations, the Legal Investigations Division completed 752 investigations under the laws administered by the Commission, including those made in connection with industry-wide inquiries in the household fabric dye and the cosmetic and toilets preparations industries. There were also disposed of in connection with the legal investigational work of the Commission 15,299 pieces of incoming and outgoing mail relating to matters of complaints and inquiries involving varying degrees of research and study.

*Price fixing and other trade restraints.*--In the Congressional debates leading to the passage of the Federal Trade Commission Act in 1914, there was stressed the necessity for the establishment of an agency in Government to eliminate trade practices which, if carried to fruition, would result in monopoly or have a tendency toward that end. At the beginning of this fiscal year, 57 cases of this type were either awaiting investigation or being investigated. During the year, 135 additional cases were instituted, making a total of 192 restraint-of-trade matters on the calendar. Seventy investigations of this type were completed for consideration and disposition by the Commission, leaving 122 cases pending on the active investigational calendar as of June 30, 1947.

Practically the whole category of trade restraints will be found among the charges in the cases pending before the Commission during the fiscal year. These comprise such practices as price fixing, conspiracy to boycott or threats of boycott coercion, collusive bidding, control and limitation of supply, interference with sources of supply of competitors, intimidation, full-line forcing and tying contracts, various forms of basing-point, delivered-price and zoning systems designed to eliminate price competition, misuse of patents and licensing agreements for monopolistic purposes, resale price maintenance, and selling below cost with the intent and effect of injuring competitors. Of these, price fixing continues to be the most frequently recurring charge.

The following general classifications of commodities involved convey an idea of the widespread nature of the restraint-of-trade investigations : cellulose, lenses for traffic lights, magazines, drugs, bottled gas, toys, petroleum and petroleum products, sheet music, women's wearing apparel, display cases, quartz crystals, paper, cottonseed, watches, milk, hearing aids, household furniture and rugs, sheet steel, book matches, chemicals, motion picture films, beer, dental equipment and supplies, batteries, sewer pipe, natural gas, building materials, furnaces and furnace fittings, and many others.

Included in the above figures are 18 completed matters involving formal docketed cases. These consisted of a variety of matters, some to bring up to date investigations of complaints which had not yet been tried, but for the most part they consisted of complete investigations to determine whether the terms of Commission cease and desist orders had been violated. Where violations of orders were found, evidence was

obtained in appropriate form to support civil

penalty actions. Such investigations are equally extensive with those conducted in original cases. Fourteen cases of this character were pending at the close of the fiscal year.

Of the 192 restraint-of-trade investigations in progress during the fiscal year, 6 resulted from applications for complaint filed by Federal, State, or municipal agencies; 7 were submitted by trade associations; 1 by a labor union; and 35 were initiated by the Commission on its own motion. Most of the other cases originated as a result of complaints made by individuals and concerns whose business was being jeopardized by alleged unfair and illegal practices.

*Clayton Act, section 2, as amended by Robinson-Patman Act.*--The Robinson-Patman Act, approved June 19, 1936, amended section 2 of the Clayton Act and restated in more inclusive form the basic principles of prohibiting price discriminations which injuriously affect competition; it also prohibits per se certain classes of discrimination which may involve price only indirectly, without regard to their competitive effects in specific cases, thus supplementing and strengthening the previous legislation.

An effort is made by the Commission in preliminary stages of an investigation under the Robinson-Patman Act to determine not only whether the practice in question involves prima facie violation of the act but whether the defenses available thereunder are present in the particular matter. This frequently necessitates the checking of competitive prices and pricing policies and undertaking cost studies in cooperation with the parties charged with violations.

Experience in the administration of the act has made it possible for the Commission, through the development of certain information by preliminary inquiry, more readily to clear up misunderstandings among complainants as to the scope of the act and its application to specific situations, as well as to make a more accurate selection for investigation of matters involving probable violation of law. The Commission has endeavored in view of limited funds and personnel, to confine investigations, insofar as feasible, to matters of substantial importance and to eliminate the expenditure of time and money in the investigation of those which preliminary inquiry discloses possess little practical importance.

At the beginning of the year there were on hand for investigation 88 matters involving the Robinson-Patman Act, which included 1 for investigation as to compliance with an order to cease and desist, and 3 were formal matters for additional investigation. Aside from investigations made in industry-wide studies involving this act, the Commission instituted field investigations of alleged violations of the Robinson-Patman Act in 56 matters. Additional investigations were made in connection with 13 formal cases. At the close of the year 106 matters were pending, including 6 formal cases and 15 cases being investigated in connection with an industry-wide inquiry involving the manufacturers of paper-cutting machine knives.

During the year, 139 investigations were completed. This number included the investigation of 73 companies in an industry-wide survey of the cosmetic and toilet preparations industry and 11 investigations made in connection with formal cases.

As in previous years the administration of the statute touched widely varied fields of industry and commerce and involved many classes of commodities.



The proceedings of the Commission and the decisions of the courts in Robinson-Patman Act cases have served as useful guides for members of industries in determining their pricing and distribution policies. It is apparent that these guides have been beneficial both in effecting the voluntary elimination of unlawful or doubtful practices before they become the subjects of investigation and in discouraging the inception of such practices.

*Clayton Act, section 3.*--This section of the act has reference to exclusive dealing contracts made upon condition that the buyer or lessee will not deal in the goods, wares or merchandise of a competitor. There were 17 such cases pending at the beginning of the fiscal year awaiting investigation. During the fiscal year, 18 additional cases were instituted making a total of 35 such cases on the calendar. Fourteen investigations of this type were complete during the fiscal year for consideration and disposition by the Commission, leaving 21 pending on the active investigational calendar as of June 30, 1947.

The following commodities were involved in these investigations : motion picture films, beauty culture service, farm machinery and implements, fish, shrimp, gasoline, auto accessories and general merchandise, hearing aids, advertising space, soft drinks, fuel oil, baking soda, tobacco products, metallic packing, fire extinguishers and refills, towel cabinets, wire-tying machines and tying wire, rivets and rivet machines, and vending machines.

Included in the above figures are three completed matters which involved formal docketed cases. Twenty-one of such cases were pending at the close of the fiscal year.

Of the 35 exclusive-dealing contract investigations in progress during the fiscal year, some of the applications for complaint were filed by trade associations, some by newspaper companies and others by the Commission on its own motion. The greatest number, however, resulted from complaints made by individuals, companies and corporations alleging unfair practices which jeopardized their respective businesses.

*Stock acquisitions, mergers and consolidations.*--The Commission and the Department of Justice are invested with concurrent jurisdiction to prevent and restrain violation of the Clayton Act. Section 7 of the act prohibits the direct or indirect acquisition by one corporation engaged in commerce of the stock or other share capital of another corporation engaged also in commerce, or the acquisition by a holding company of the stock or share capital of two or more corporations engaged in commerce, where the effect of such acquisition or acquisitions, or the use of such stock by the voting or granting of proxies or otherwise, may be to substantially lessen competition between the acquiring and the acquired corporations or any of them, restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce. The formation of subsidiary corporations for the actual carrying on of the immediate lawful business of the acquiring corporation and the acquisition of the capital stock thereof is excepted from the prohibition. The purchase of capital stock solely for investment purposes,

where the stock is not voted or otherwise used to bring about the substantial lessening of competition, is also excepted under the provisions of the section. The acquisition of the property and assets of

a competing corporation or corporations, or the merger of the assets and businesses of competing corporations is not prohibited by the statute and the courts have held that the Commission is without authority to prevent such acquisitions or mergers notwithstanding the effect thereof on competition and commerce or tendency to create a monopoly.

The Commission's work under section 7 of the Clayton Act during the year included the consideration of two matters in which complaints were issued prior to the beginning of the year. One of these matters, involving groceries and food products, was dismissed and the other matter, involving building materials and fuel, was awaiting disposition at the close of the year. This complaint also involved alleged violation of section 5 of the Federal Trade Commission Act. No formal complaints were issued during the year.

Applications for complaint were docketed in five matters, two of which were closed after preliminary investigation. Six applications for complaint were pending at the close of the year, the commodities involved being asbestos products, evaporated milk, biscuits and crackers, and distillery products. During the year the Commission also gave consideration to two undocketed matters which were closed after preliminary investigation.

*Investigations involving food drugs, devices, and cosmetics.*--In the administration of the Wheeler-Lea amendment to the Federal Trade Commission Act, special attention is given to therapeutic representations made concerning, and pharmacological actions of, medicinal preparations, the use of which might be injurious, and to devices likely to be injurious to health.

Since enactment of the amendment, the Commission has completed 2,466 field investigations of alleged violations of section 12 of the act, which relates to false advertising of food drugs, devices, and cosmetics. Of these, 135 were completed during the fiscal year. This number includes new cases as well as old cases reinvestigated to determine whether Commission cease and desist orders, and stipulations executed by advertisers and accepted by the Commission, were being violated, and whether additional practices not previously prohibited were being carried on in contravention of the law.

At the close of the year, 143 applications for complaint respecting alleged false advertising of food, drugs, devices, and cosmetics were under investigation.

*Wool Products Labeling Act.*--Investigation of applications for complaint alleging violations of the Wool Products Labeling Act and of the regulations promulgated thereunder present many complex problems, particularly to identify accurately the true fiber content of wool products, the labeling of which is questioned, and to ascertain whether the false and improper labeling is willful and with intent to violate the criminal provisions of the law. In many instances the products must be traced through the various classes of traders handling them in order to determine who is primarily responsible for the alleged infractions or violations. It is also necessary in most cases to study and examine the books and records of manufacturers and others to identify accurately the various constituent fibers, and their



weights, which actually make up the products under investigation, and frequently laboratory tests are required.

Violations of the Wool Act generally are coupled with false advertising, misrepresentation, and other unfair or deceptive acts or practices or unfair methods of competition, necessitating investigation and proceedings under both the Wool Products Labeling Act and the Federal Trade Commission Act.

Since the effective date of the act, July 14, 1941, there have been completed 234 field investigations of applications for complaint involving alleged false and improper labeling, 15 during the fiscal year. At the close of the fiscal year, 15 such applications were in process of investigation.<sup>3</sup>

*Investigations under Export Trade Act.*--In its administration of the Export Trade (Webb-Pomerene) Act, the Commission directed the Legal Investigations Division to make periodic investigations of the organization and operation of export trade associations organized and functioning under the act, and in particular to ascertain from time to time whether they (a) are artificially or intentionally enhancing or depressing domestic prices; (b) are used to eliminate competition in the purchase of raw materials in the United States; (c) are in any way restraining trade within the United States; and (d) are engaging in unfair methods of competition in foreign trade.

Preliminary investigations were completed of the activities and operations of five export trade associations whose members are important producers and distributors of lumber, plywood, and books. Investigations of four other associations were pending at the close of the year. These involved producers and distributors of alkali, rubber, and lumber. (For further details of the administration of the Export Trade Act, see p.80.)

*Industry investigations.*--During the Year the Commission directed that investigations be conducted on an industry-wide scale when practicable. Such investigations are authorized by the Commission when it appears that there exists in an industry a practice or method of doing business that may call for corrective action under any of the laws administered by the Commission. The purpose of the procedure is to avoid placing a member or members of an industry in an unfair or disadvantageous position by widely separated actions. This procedure may terminate in a trade practice conference, the simultaneous negotiation of stipulations, or in a separate proceeding brought simultaneously against each member of an industry found to be guilty of the practice or method alleged.

Investigations of this type were directed in the following industries : household fabric dye, cosmetic and toilet products, mothproofing products, machine knives for paper cutting machines, imitation Pearl, manufacturers of cotton textiles, automobile dealers in the District of Columbia, automobile dealers in New York City area, liquid emulsion floor wax products, waterproofing products (cement and masonry), and textile looms.

<sup>3</sup> For additional work under the wool Act and the regulations, see p.76.

767228-48---4

Investigations of 4 of these industries were completed during the year. These investigations covered the individual activities of 182 different concerns, as follows:

<i>Industry</i>	<i>Number of companies investigated</i>
Household fabric dye	22
Cosmetic products	73
Waterproofing products (cement and masonry)	14
Mothproofing products	73
Total	182

### **SURVEY OF RADIO AND PERIODICAL ADVERTISING**

The Commission maintains its Radio and Periodical Division to conduct expeditious investigations of certain cases involving false and misleading advertising violative of the Federal Trade Commission Act, as well as other types of cases not requiring field investigations and including certain industry-wide investigations.

The survey of advertising was inaugurated by the Commission in 1929 and limited to magazines and newspapers. Expanded in 1934 to cover radio commercial continuities, it also has included, since 1939, mail-order catalogs, almanacs and foreign-language newspapers. Questioned advertisements noted in these surveys form the bases of prospective cases not previously investigated, and also provide a means of determining whether advertisers are complying with orders and stipulations to discontinue false and misleading representations.

Where the advertising is determined by the Commission to be false or misleading, and circumstances warrant, the advertisers are extended the privilege of disposing of the matters through an informal procedure more fully explained on page 65, which permits their executing stipulations to cease and desist from the use of the acts and practices involved. A large majority of the cases are adjusted in this manner. Effective August 12, 1946, the duty of negotiating stipulations based on investigations conducted by the Radio and Periodical Division was transferred to the Division of Stipulations, established the same date.

In matters involving advertising, the investigations cover the practices of all advertising agencies who participated in the preparation of the advertisements to determine whether they should be joined as parties in any corrective action by the Commission.

The only objective of the Commission's continuous survey of advertising is to prevent false and misleading advertisements. It does not undertake to dictate what an advertiser shall say, but merely indicates what he may not say under the law.

*Newspaper and magazine advertising.*--It has been found advisable in examining advertisements in current publications to call for some newspapers and magazines on a continuous basis due to the persistently questionable character of the advertisements published. However, as to publications generally, of which there are more than 20,000, it is physically impossible to survey continuously all advertisements of a doubtful nature. Also it has been found unnecessary to examine all the issues of publications of recognized high ethical standard whose publishers require that advertising copy be censored before acceptance.

Copies of current magazines and newspapers generally are procured on a staggered monthly basis, at an average rate of three times





yearly for each publication, the frequency of the calls for each publication depending upon its circulation and the character of its advertisements.

Through such systematic calls during the fiscal year, the Commission procured 1,733 editions of representative newspapers of established general circulation and 1,309 editions of magazines and farm and trade journals of interstate distribution. These periodicals included 236 issues of farm 179 issues of trade journals and specialty publications, and 10 issues of domestic foreign-language publications.

In these newspapers, magazines, and farm and trade journals, 398,711 advertisements were examined, of which 18,256 were noted as containing representations that appeared to warrant investigation as to the facts.

*Mail-order advertising.*--The Commission procured mail-order catalogs and circulars containing an aggregate of 14,239 pages, examination of which resulted in 238 advertisements being marked as containing possibly false and misleading representations. Of the 102 mail-order houses included in the survey, 5 had combined annual sales in excess of \$2,782,021,573.

*Radio advertising.*--The Commission issued calls for commercial continuities four times yearly up to July 1943, twice yearly up to January 1, 1947, and thereafter three times yearly, from each individual radio station. National and regional networks respond on a continuous weekly basis, submitting copies of the commercial advertising parts of all programs wherein linked hook-ups are used involving two or more stations. Producers of electrical transcription recordings each month submit typed copies of the commercial portions of all recordings produced by them for radio broadcast. This material is supplemented by periodic reports from individual stations listing the identities of recorded commercial transcriptions and related data.

The Commission received copies of 679,232 commercial radio broadcast continuities and examined 641,402. The continuities received amounted to 1,487,437 typewritten pages and those examined totaled 1,430,692 pages, consisting of 568,340 pages of network script, 833,352 pages of individual station script, and some 29,000 pages of script representing the built-in advertising portions of transcription recording productions destined for radio broadcast through distribution of multiple pressings of such recordings to individual stations. An average of 5,654 pages of radio script was read each working day. From this material 9,573 advertising broadcast statements were marked for further study as containing representations that might be false or misleading.

*Cooperation of radio and publishing industries.*--In general, the Commission has received the cooperation of the 4 Nation-wide network chains, 16 regional network groups, and transcription producers engaged in preparing commercial radio recordings; and of 898 commercial radio stations, 493 newspaper publishers, and 404 publishers of magazines, farm journals, and trade publications. It has observed a desire on the part of these broadcasters and publishers to aid in the elimination of false and misleading advertising.

*Analysis of questioned advertising.*--Analysis of the questioned advertisements, which were assembled into 1,299 cases and given legal

review, discloses that they pertained to 1,336 commodities in the proportions indicated below :

### CLASSIFICATION OF PRODUCTS

<i>Commodity</i>	<i>Percent</i>
Food, drugs, devices, cosmetics :	
Food (human)	4.7
Food (animal)	1.2
Drugs	55.8
Cosmetics	16.9
Devices	2.2
	80.8
Other products :	
Specialty and novelty goods	1.4
Automobile, radio, refrigerator, and other equipment	2.0
Home study courses	1.1
Tobacco products	2.2
Miscellaneous, including apparel, fuels, house furnishings, building materials	12.5
	19.2
Total	100.0

*Number of cases handled.*--At the close of the year, 680 cases were pending as compared with 640 at the close of the previous fiscal year. During the fiscal year, 345 investigations were completed and 335 new investigations were initiated, 212 of which were originated through the division's general survey of advertising, 107 through letters of complaint and 16 through reference by the Commission. Settlement by stipulation was recommended in 99 cases; issuance of complaint in 5 cases.

Correspondence handled by the division totaled 2,505 incoming pieces of mail and 8,275 outgoing pieces.

*Procedure in advertising cases.*--If it appears to the Commission that a published advertisement may be misleading, a contact letter is sent to the advertiser and request is made for a sample of the product advertised, if this is practicable, and the quantitative formula if the product is a compound. Representative specimens of all advertising copy containing all claims made for the product during a 6-month period also are requested.

Upon receipt of these data, scientific opinions are obtained based upon the sample and formula. Then a list of the claims that appear to be false or misleading is sent to the advertiser, together with a statement based upon the scientific opinion theretofore obtained. The advertiser is invited to submit informally by letter, or in person, or by counsel any evidence he chooses in support of his claims.

If, after a consideration of all available evidence, including that furnished by the advertiser, the questioned claims appear not to be false or misleading, the division reports the matter to the Commission with the recommendation that the case be closed. If it appears from the weight of the evidence in the investigational files that the advertising is false and misleading, the matter is referred to the Commission with recommendation either that complaint issue or that negotiation of an appropriate stipulation be authorized, provided the advertiser should desire to dispose of it by such voluntary agreement to cease and desist from the use of the acts and practices

involved.

*Industry-wide investigations.*--Pursuant to the reorganization plan effective August 12, 1946, the Commission, through its Radio and Periodical Division, completed an industry-wide investigation of the

## I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT 47

mothproofing products industry which dealt with the advertising and promotional practices of 73 separate companies.

At the close of the year the division was conducting industry -wide investigations with respect to the advertising and promotional practices of the simulated and cultured pearls industry, involving 122 separate companies, and the floor wax products industry, involving 107 manufacturers and distributors of all types of such products.

### **DISPOSITION OF CASES BY STIPULATION**

Instead of disposing of cases by the formal complaint and trial method, the Commission under certain circumstances affords respondents the opportunity of signing a statement of facts and an agreement to cease and desist from most types of unfair methods of competition and unfair or deceptive acts or practices in commerce. The policy of the Commission with respect to stipulations of this type is set forth in its Statement of Policy. (See p.119.)

During the fiscal year the Commission approved 145 stipulations, of which 120 were negotiated through the Division of Stipulations after it was established on August 12, 1946. (See p.65 for report of the Division of Stipulations.)

### **FORMAL COMPLAINTS**

During the fiscal year the Commission issued 53 formal complaints alleging violations of the laws it administers. Of this total, 39 charged violation of the Federal Trade Commission Act; 9, violation of the Clayton Act; 3, violation of the Federal Trade Commission and Clayton Acts; and 2, violation of the Wool Products Labeling and Federal Trade Commission Acts.

#### **I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT**

##### **A. PRICE-FIXING COMBINATIONS AND RESTRAINT-OF-TRADE PRACTICES**

[Complaints referred to are identified by accompanying docket numbers]

In each of five complaints issued by the Commission competing manufacturers and sales organizations were charged with combining, through their trade associations and otherwise, to fix prices and restrain trade in the sale of their products. The products involved in these complaints were glazed facing the (5467); brick (5468); vitrified sewer pipe (5483 and 5484) and corn products (5502). Complaints 5483, 5484, and 5502 also alleged price discrimination in violation of the Robinson-Patman Act.

The Commission also issued four complaints (5495, 5496, 5497 and 5498) separately charging four producers of motion picture advertising films with unfair competitive practices through the use of exclusive dealing contracts with various motion picture exhibitors.

##### **B. FALSE ADVERTISING AND MISREPRESENTATION**

A total of 26 corn complaints charged false and misleading advertising. They may be classified broadly as follows, although some involved more than one classification :

Five complaints alleged false and misleading representations with respect to the therapeutic properties of medicinal preparations and devices, and in some cases a

vertisements also were alleged to be false and misleading because they failed to reveal the potential danger

from the use of the products advertised; four charged misrepresentations concerning the properties of cosmetics; five, misrepresentations as to the origin, composition, condition, quality, ingredients, or price of the products advertised; five, misrepresentation as to results to be obtained through the use of products; two, misrepresentation as to business status; two, misrepresentation in connection with the sale of correspondence school courses; and three, misrepresentation in connection with making so-called special offers.

### **C. MISCELLANEOUS COMPLAINTS**

Complaints issued under this heading alleged such practices as sup-plying and using lottery devices to promote the sale of merchandise; misrepresenting that the profits from the sale of merchandise go to charitable organizations; misrepresenting, in connection with the sale of advertising, that it will be published in a local telephone directory or other well established publications; and misuse of the names "Army" and "Navy" in connection with the sale of products.

### **II. COMPLAINTS UNDER WOOL PRODUCTS LABELING ACT**

Two complaints alleged that wool products were misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, in that they were not labeled so as to disclose the kinds and percentages of the different fibers of which the fabrics were made, including the respective percentages of wool, reprocessed wool, or reused wool, together with the identity of the manufacturer or distributor or reseller of the products. (5457 and 5489)

### **III. COMPLAINTS UNDER CLAYTON ACT**

#### **A. VIOLATION OF SECTION 2 (a) OF CLAYTON ACT, AS AMENDED BY ROBINSON-PATMAN ACT**

Three complaints alleged violation of section 2 (a) which prohibits discrimination in price when it may have adverse effects on competition. The complaints involved vitrified sewer pipe and other clay products (5483 and 5484) and corn products (5502).

#### **B. VIOLATION OF SECTION 2 (c) OF CLAYTON ACT, AS AMENDED BY ROBINSON-PATMAN ACT**

Nine complaints alleged violation of section 2 (c), which prohibits the granting or acceptance of brokerage fees, except for services rendered, in connection with the interstate sale or purchase of merchandise. Seven of the complaints (5456, 5460, 5462, 5469, 5471, 5482, and 5494) involved food products; one (5470), women's apparel and accessories; and one (5501), men's clothing.

#### **C. VIOLATION OF SECTION 2 (d) OF CLAYTON ACT, AS AMENDED BY ROBINSON-PATMAN ACT**

A company and its officers were charged with paying one of their customers for advertising and other services furnished by the customer while not making such payments available on proportionally equal terms to all of their customers who were competing in the sale of the respondents' products with the favored customer (5482).

## **ORDERS TO CEASE AND DESIST**

The Commission during the fiscal year issued 56 orders to cease and desist from the use of unfair methods of competition and other viola-

tions of the laws it administers. The following cases are illustrative of the orders issued:

**I. ORDERS UNDER FEDERAL TRADE COMMISSION ACT**  
**A. PRICE-FIXING AND RESTRAINT-OF-TRADE CASES**

*National Retail Liquor Package Stores Association, Inc., New York, and others.*-- This Nation-wide association, whose membership is composed of various State, county, municipal, and local retail liquor associations, was ordered by the Commission to cease and desist from entering into or continuing any agreement or conspiracy with any of its members to fix uniform retail prices; to compel manufacturers by threat of boycott to sell at prices fixed by the association; to compel manufacturers by threat of boycott not to sell to retailers who sell at prices less than those set by the association; or to compel manufacturers by threat of boycott to grant uniform discounts and allowances to all retail liquor dealers who are members directly or indirectly of the association (4168).

*Tag Manufacturers Institute, New York, and others.*--This association of manufacturers and its members, who produce and sell 95 percent of the tags and like marking and pricing devices used in the United States, were ordered by the Commission to cease and desist from entering into or carrying out any conspiracy or planned common course of action to fix prices; to exchange information on present or future prices or conditions of sale; to take any action to secure compliance with any pricing policies; or to participate in any open price reporting plan which has the effect of injuring competition (4496).

**B. FALSE ADVERTISING OF FOOD, DRUGS, DEVICES, AND COSMETICS**

*Langendorf United Bakeries, Inc., San Francisco.*--The respondent, in connection with the manufacture and sale of Hollywood, Holsom and other brands of bread, was found to have deceived the falsely advertising the qualities and properties of its public by example, the baker made statements which misled the public into believing that by eating Hollywood brand bread as part of an effective reducing diet hunger would be prevented, and that the bread has greater reducing properties than ordinary bread. The Commission ordered the respondent to cease and desist from these and similar misrepresentations. The order also prohibits the respondent from representing it has been appointed official baker for the Dionne quintuplets (5250).

*Frontier Asthma Co., Buffalo, and others.*--In the order in this case the Commission banned advertisements which represented that the respondents' medicinal preparations constitute cures or remedies for asthma or possess any therapeutic value in the treatment of asthma except that they may afford temporary relief from the paroxysms of the ailment (3935).

*Modern Home Diathermy, Los Angeles.*--The inhibitions in this order were directed against representations that the respondent's device sold under the name of Vitatherm Short Wave Diathermy when used by unskilled laymen in the treatment of self-diagnosed conditions, is a scientific, effective or competent treatment of, or remedy for, arthritis, neuralgia, asthma, bronchitis, rheumatism,



lumbago or Similar disorders; or that the device constitutes a competent or effective treatment for the alleviation of pain resulting from diseases and ailments, unless such claim is specifically limited to conditions which do not involve acute inflammatory processes, glandular structures or the special senses. The Commission found that the device instead of being beneficial might result in serious and irreparable injury to health under certain conditions. It ordered the respondent to discontinue disseminating advertisements which fail to reveal that the device is not safe for use for any condition unless a competent medical authority has determined, as a result of diagnosis, that the use of diathermy is indicated and has prescribed the frequency and rate of application of the treatments, and the user has been adequately instructed by a trained technician in the use of the device (5032.)

*The Myndall Cain House of Beauty, Minneapolis.*--The Commission in this case prohibited numerous representations concerning the results to be accomplished by use of cosmetics known as the Myndall Cain line. The Commission ordered the respondents to discontinue representing that their cosmetics keep the complexion young, nourish and revitalize the skin and correct any complexion fault; or that the oils in the preparations have any beneficial effect on the skin in excess of their ability to facilitate the removal by mechanical means of foreign matter and to temporarily soften dry skin when caused by external conditions. Other provisions of the order were directed against the use of trade names of certain of the products which the Commission found to be deceptive and misleading (5466).

*Oxford Products, Inc., trading as Vitamin Guild of America, Cleveland, Ohio.*--Ruling that gray hair is not known to be the result of vitamin deficiency, the Commission ordered this respondent to cease and desist from making such a representation and from advertising that its product, Calcium Pantothenate Vitamin - Tablets (Cal-Pan), is a gray hair or antigray hair vitamin, the use of which will prevent gray hair or restore the original color to gray hair (5388).

### **C. UNFAIR PRACTICES OTHER THAN MISREPRESENTATION OF DRUGS, DEVICES, AND COSMETICS**

*William A. Herman, New York.*--The respondent was ordered to cease and desist from misrepresenting his private detective and investigating agency to be a business devoted to genealogical research and the locating of missing heirs in order to obtain information "by deceit and subterfuge." The Commission found that the respondent's principal business was the investigation of persons making claims against insurance companies or employers in connection with industrial insurance and workmen's compensation laws, but that he sought to obtain information for this purpose, as well as for other investigations, by disguising the true nature of his business through use of the trade name "National Estates Research" and by other means (5225).

*E. H. Roberts Portrait Co., Kansas City, Mo., and others.*--Practices tending to mislead and deceive the purchasing public with respect to the nature of the respondents' business and the quality and value of tinted or colored enlargements and miniatures of photographs, as well as frames for such reproductions, are prohibited by the order in this case. Among the numerous practices found to be deceptive were

representations that the reproductions sold by the respondents were “paintings” which were being sold at special or reduced prices; the display of attractive “samples” when the final products delivered were inferior to such specimens; and failure to disclose that the portraits were of such an unusual shape and design that they required a frame which could be procured only from the corporate respondent (4692).

*Central University, Indianapolis.*--In this case the Commission ordered a correspondence school operated solely by its secretary from her residence to stop describing itself as a university and otherwise misrepresenting its status. The order prohibits the respondent from representing that the school is a larger institution than it actually is or that it has more complete educational facilities or a larger student enrollment than is the fact. Commission findings were to the effect that there was neither a resident faculty nor a resident study body and that neither the credits earned by students of the school nor the degrees conferred are recognized by reputable ‘ accredited colleges or universities (5326).

## II. ORDERS UNDER WOOL PRODUCTS LABELING ACT

This act and the rules and regulations promulgated thereunder provide that woolen or purported woolen merchandise shall have attached thereto a stamp, tag, label, or other means of identification showing the kinds and percentages of the different fibers of which the product is made, including the respective percentages of wool, reprocessed wool, or reused wool; the maximum percentage of any non-process loading or adulterating material used; the name of the manufacturer of the product, or the manufacturer’s registered identification number and the name of the qualified distributor or reseller. The label or a proper substitute must be on the article when it is delivered to the consumer. The following cases are illustrative of the orders issued :

*David D. Doniger & Co., New York.*--The Commission ordered this respondent, which manufactures and sells “McGregor” sportswear and sweaters, to discontinue the practice of placing the information required by the Wool Products Labeling Act on labels bearing the statement “Detach for Stock Control.” The order requires that the information called for by the act be shown clearly and conspicuously by means of a stamp, tag, label or other mark attached securely to the respondent’s products. The order also prohibits the use of conflicting labels on the same garment, and provides that when the name of a specialty fiber from the hair of the camel, alpaca, llama or vicuna is used, such fiber shall not be described by any other name on any other label or tag attached to the product (5157).

*Bolger Brothers, Philadelphia.*--The respondent, a corporation engaged in garnetting or reclaiming wool waste material, was ordered to cease and desist from selling it without labeling it to show the percentage of wool and other information required by the Wool Products Labeling Act (5378).

## III. ORDERS UNDER THE CLAYTON ACT

### A. VIOLATION OF SECTION 2 (a) OF CLAYTON ACT. AS AMENDED BY ROBINSON-PATMAN ACT

*Draper Corp., Hopedale, Mass.*--This corporation, the sole manufacturer in the

United States of single shuttle cotton and synthetic fiber

automatic looms, was ordered to cease and desist from discriminating in price between its various costumers in connection with the sale of bobbins, shuttles and repair and re placement parts for automatic looms. The Commission found that the respondent granted a special discount to textile mill owners operating looms of Draper manufacture and that this discrimination had an adverse effect on competition (5436). (For part of the order dealing with section 3 of the Clayton Act, see below.)

**B. VIOLATION OF SECTION 2 (e) OF CLAYTON ACT, As AMENDED BY ROBINSON-PATMAN ACT.**

Seven orders were directed against violations of the brokerage section of the Robinson-Patman Act, which prohibits, in connection with transactions in interstate commerce, the payment by a seller or acceptance by a buyer of brokerage fees or other compensation in lieu thereof on purchases made by such a buyer in his own behalf f or by an agent or other intermediary acting for him or subject to his control.

*Food dealers paying unlawful brokerage to buyers.*--The respondents in five orders were directed, in connection with the interstate sale of seafood products, to cease and desist from paying to any buyer anything of Value as a commission, brokerage or other compensation, or any allowance or discount in lieu thereof upon purchases made by such buyer for his own account. The respondents named in the orders are :

Custom House Packing Corp., Monterey, Calif., and others (5404); High Seas Tuna Packing Co., Inc, San Diego, Calif. (5428); West Coast Packing Corp., Long Beach, Calif., and others (5432); French Sardine Company of California, Terminal Island, Calif. (5456); and California Marine Curing & Packing Co., Terminal Island, Calif., and others (5462).

*Dealers accepting unlawful brokerage from seller.*--The following two respondents, in connection with their interstate purchases of merchandise, were directed to cease and desist from accepting from any seller anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon purchases made for their respective accounts :

C. H. Robinson Co., and others, Minneapolis, fruits and Vegetables (4589); and Robert Rosoff, Trenton, N. J., furs and fur garments (5370).

**C. VIOLATION OF SECTION 3 OF CLAYTON ACT**

*Draper Corp., Hopedale, Mass.*--The Commission ordered the respondent to cease and desist from entering into or continuing in effect any contract for the sale of bobbins, shuttles and repair and replacement parts for automatic looms, which contract contains any agreement or understanding that the purchaser shall not use or deal in competitive equipment or parts. These exclusive-dealing contracts, providing for the sale of loom equipment and parts at special low prices in consideration of the purchaser's agreement to buy such products exclusively from the respondent, were found by the Commission to lessen competition and to tend to create a monopoly (5436). (For part of the order dealing with section 2 (a) of the Clayton Act, see p.51.)

**TYPES OF UNFAIR METHODS AND PRACTICES  
TYPICAL METHODS AND PRACTICES CONDEMNED IN ORDERS TO CEASE  
AND DESIST**

The following list illustrates unfair methods of competition and unfair or deceptive acts and practices condemned by the Commission

from time to time in its orders to cease and desist. The list is not limited to orders issued during the fiscal year. Because of space limitation it does not include specific practices outlawed by the Clayton Act and committed to the Commission's jurisdiction, namely, various forms of price discrimination, exclusive and tying-dealing arrangements, competitive stock acquisition, and certain kinds of competitive interlocking directorates.

1. The use of false or misleading advertising concerning, and the misbranding of, commodities, respecting the materials or ingredients of which they are composed, their quality, purity, origin, source, attributes, or properties, or nature of manufacture, and selling them under such name and circumstances as to deceive the public. An important part of these include misrepresentation of the therapeutic and corrective properties of medicinal preparations and devices, and cosmetics, and the false representation, expressly or by failure to disclose their potential harmfulness, that such preparations may be safely used.

2. Describing various symptoms and falsely representing that they indicate the presence of diseases and abnormal conditions which the product advertised will cure or alleviate.

3. Representing products to have been made in the United States when the mechanism or movements, in whole or in important part, are of foreign origin.

4. Bribing buyers or other employees of customers and prospective customers, without employer's knowledge or consent, to obtain or hold patronage.

5. Procuring the business or trade secrets of competitors by espionage, or by bribing their employees, or by similar means.

6. Inducing employees of competitors to violate their contracts and enticing them away in such numbers or under such circumstances as to hamper or embarrass the competitors in the conduct of their business.

7. Making false and disparaging statements respecting competitors' products and business, in some cases under the guise of ostensibly disinterested and specially informed sources or through purported scientific, but in fact misleading, demonstrations or tests.

8. Widespread threats to the trade of suits for patent infringement arising from the sale by competitors of alleged infringing products, not in good faith, but for the purpose of intimidating the trade and hindering or stifling competition, and claiming, without justification, exclusive rights in public names of unpatented products.

9. Conspiring to maintain uniform selling prices, terms and conditions of sale through the use of a patent-licensing system.

10. Trade boycotts or combinations of traders to prevent certain wholesale or retail dealers or certain classes of such dealers from procuring goods at the same terms accorded to the boycotters or conspirators, or through coercion to influence the trade policy of their competitors or of manufacturers from whom they buy.

11. Passing off goods for products of competitors through appropriation or simulation of such competitors' trade names, labels, dress of goods, or counter-display catalogs.

12. Selling rebuilt, second-hand, renovated, or old products, or articles made in whole or in part from used or second-hand materials, as new, by so representing them or by failing to reveal that they are not new or that second-hand materials have been used.



13. Buying up supplies for the purpose of hampering competitors and stifling or eliminating competition.

14. Using concealed subsidiaries, ostensibly independent, to obtain competitive business otherwise unavailable, and making use of false and misleading representations, schemes, and practices to obtain representatives and make contacts, such as pretended puzzle-prize contests purportedly offering opportunities to win handsome prizes, but which are in fact mere "come-on" schemes and devices in which the seller's true identity and interest are initially concealed.

15. Selling or distributing punchboards and other lottery devices which are to be or may be used in the sale of merchandise by lot or chance; using merchandising schemes based on lot or chance, or on a pretended contest of skill.

16. Combinations or agreements of competitors to fix, enhance, or depress prices, maintain prices, bring about substantial uniformity in prices, or divide territory or business, to cut off or interfere with competitors' sources of supply, or to close markets to competitors; or use by trade associations of so-called standard cost systems, price lists, or guides, or exchange of trade information calculated to bring about these ends, or otherwise restrain or hinder free competition.

17. Intimidation or coercion of producer or distributor to cause him to organize, join, or contribute to, or to prevent him from organizing, joining, or contributing to, producers' cooperative association or other association.

18. Aiding, assisting, or abetting unfair practice, misrepresentation, and deception, and furnishing means or instrumentalities there-for; and combining and conspiring to offer or sell products by chance or by deceptive methods, through such practices as supplying dealers with lottery devices, or selling to dealers and assisting them in conducting contest schemes as a part of which pretended credit slips or certificates are issued to contestants, when in fact the price of the goods has been marked up to absorb the face value of the credit slip; and the supplying of emblems or devices to conceal marks of country of origin of goods, or otherwise to misbrand goods as to country of origin.

19. Various methods to create the impression that the customer is being offered an opportunity to make purchases under unusually favorable conditions when such is not the case, such devices including

(a) Sales plans in which the seller's usual price is falsely represented as a special reduced price for a limited time or to a limited class, or false claim of special terms, equipment, or other privileges or advantages.

(b) The use of the "free goods" or service device to create the impression that something is actually being thrown in with-out charge, when it is fully covered by the amount exacted in the transaction as a whole, or by services to be rendered by the recipient.

(c) Use of misleading trade names calculated to create the impression that a dealer is a producer or importer selling directly to the consumer, with resultant savings.

(d) Offering of false "bargains" by pretended cutting of a fictitious "regular" price.

(e) Use of false representations that an article offered has been rejected as nonstandard and is offered at an exceptionally



favorable price, or that the number thereof that may be purchased is limited.

(f) Falsely representing that goods are not being offered as sales in ordinary course, but are specially priced and offered as a part of a special advertising campaign to obtain customers, or for some purpose other than the customary profit.

(g) Misrepresenting, or causing dealers to misrepresent, the interest rate of carrying charge on deferred payments.

20. Using containers ostensibly of the capacity customarily associated by the purchasing public with standard weights or quantities of the product therein contained, or using standard containers only partially filled to capacity, so as to make it appear to the purchaser that he is receiving the standard weight or quantity.

21. Misrepresenting in various ways the necessity or desirability or the advantages to the prospective customer of dealing with the seller, such as

(a) Misrepresenting seller's alleged advantages of location or size, or the branches, domestic or foreign, or the dealer outlets he has.

(b) Making false claim of being the authorized distributor of some concern, or failing to disclose the termination of such relationship, in soliciting customers of such concern, or of being successor thereto or connected therewith, or of being the purchaser of competitor's business, or falsely representing that competitor's business has been discontinued, or falsely claiming the right to prospective customer's special consideration through such false statements as that the customer's friends or his employer have expressed a desire for, or special interest in, consummation of seller's transaction with the customer.

(c) Alleged connection of a concern, organization, association, or institute with, or endorsement of it or its product or services by, the Government or nationally known organization, or representation that the use of such product or services is required by the Government, or that failure to comply with such requirement is subject to penalty.

(d) False claim by a vendor of being an importer, or a technician, or a diagnostician, or a manufacturer, grower, or nurseryman, or a distiller, or of being a wholesaler, selling to the consumer at wholesale prices; or by a manufacturer of being also the manufacturer of the raw material entering into the product, or by an assembler of being a manufacturer.

(e) Falsely claiming to be a manufacturer's representative and outlet for surplus stock sold at a sacrifice.

(f) Falsely representing that the seller owns a laboratory in which the product offered is analyzed and tested.

(g) Representing that ordinary private commercial seller and business is an association, Or national association, or connected therewith, or sponsored thereby, or is otherwise connected with noncommercial or professional organizations or associations, or constitutes an institute, or, in effect, that it is altruistic in purpose, giving work to the unemployed.

(h) Falsely claiming that business is bonded, or misrepresenting its age or history, or the demand established for its products, or the selection afforded, or the quality or comparative

value of its goods, or the personnel or staff or personages presently or theretofore associated with such business or the products thereof.

(i) Claiming falsely or misleadingly patent, trade-mark, or other special and exclusive rights.

(j) Granting seals of approval by a magazine to products advertised therein and misrepresenting thereby that such products have been adequately tested, and misrepresenting by other means the quality, performance, and characteristics of such products.

22. Obtaining business through undertakings not carried out and not intended to be carried out, and through deceptive, dishonest, and oppressive devices calculated to entrap and coerce the customer or prospective customer, such practices including--

(a) Misrepresenting that seller fills orders promptly, ships kind of merchandise described, and assigns exclusive territorial rights within definite trade areas to purchasers or prospective purchasers.

(b) Obtaining orders on the basis of samples displayed for customer's selection and failing or refusing to respect such selection thereafter in filling of orders, or promising results impossible of fulfillment, or false making promises or holding out guaranties, or the right of return, or results, or refunds, replacements, or reimbursements or special or additional advantages to the prospective purchaser such as extra credit, or furnishing of supplies or advisory assistance; Or falsely assuring the purchaser or prospective purchaser that certain special or exclusively personal favors or advantages are being granted him.

(c) Concealing from prospective purchaser unusual features involved in purchaser's commitment, the result of which will be to require o purchaser further expenditure in order to obtain benefit of commitment and expenditure already made, such as failure to reveal peculiar or nonstandard shape of portrait or photographic enlargement, so as to make securing of frame therefor from sources other than seller difficult and impracticable, if not impossible.

(d) Obtaining by deceit prospective customer s signature to a contract and promissory note represented as simply an order on approval.

(e) Making use of improper and coercive practices as means of exacting additional commitments from purchasers, through such practices as unlawfully withholding from purchaser property of latter lent to seller incident to carrying out of original commitment, such as practice of declining to return original photograph from which enlargement has been made until purchaser has also entered into commitment for frame therefor.

(f) Falsely representing earnings or profits of agents, dealers, or purchasers, or the terms or conditions involved, such as false statement that participation by merchant in seller's sales promotion scheme is without cost to merchant, and that territory assigned an agent, representative, or distributor is new or exclusive.

(g) Obtaining agents or representatives to distribute the seller's products through falsely promising to refund the money paid by them should the product prove unsatisfactory, or promising

that the agent would be granted right to exclusive or new territory, would be given assistance by seller, or would be given special credit or furnished supplies, or overstating the amount of his earnings or the opportunities which the employment offers.

(h) Advertising a price for a product as illustrated or described and not including in such price all charges for equipment or accessories illustrated or described or necessary for use of the product or customarily included as standard equipment, and failing to include all charges not specified as extra.

23. Giving products misleading names so as to give them a value to the purchasing public which they would not otherwise possess, such as names implying falsely that--

(a) The products were made for the Government or in accordance with its specifications and of corresponding quality, or that the advertiser is connected with the Government in some way, or in some way the products have been passed upon, inspected, underwritten, or endorsed by it; or

(b) They are composed in whole or in part of ingredients or materials which in fact are present only to a negligible extent or not at all, or that they have qualities or properties which they do not have; or

(c) They were made in or came from some locality famous for the quality of such products, or are of national reputation; or

(d) They were made by some well and favorably known process; or

(e) They have been inspected, passed, or approved after meeting the tests of some official organization charged with the duty of making such tests expertly and disinterestedly, or giving such approval; or

(f) They were made under conditions or circumstances considered of importance by a substantial part of the general purchasing public ; or

(g) They were made in a country, or city, or locality considered of importance in connection with the public taste, preference, or prejudice; or

(h) They have the usual characteristics or value of a product properly so designated, as through use of a common, generic name, such as "paint, to designate a product lacking the necessary ingredients of paint; or

(i) They are of greater value, durability, and desirability than is the fact, as labeling rabbit fur as "Beaver"; or

(j) They are designed, sponsored, produced, or approved by the medical profession, health and welfare associations, hospitals, celebrities, educational institutions and authorities, such as the use of the letters "M. D." and the words "Red Cross" and its insignia and the words "Boy Scout."

24. Selling below cost or giving products without charge, with intent and effect of hindering or suppressing competition.

25. Dealing unfairly and dishonestly with foreign purchasers and thereby discrediting American exporters generally.

26. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

27. Entering into contracts in restraint of trade whereby foreign corporations agree not to export certain products to the United States

in consideration of a domestic company's agreement not to export the same commodity, nor to sell to anyone other than those who agree not to so export the same.

28. Employing various false and misleading representations and practices attributing to products a standing, merit and value to the purchasing public, or a part thereof, which they do not possess, such practices, including--

(a) Misrepresenting, through salesmen or otherwise, products composition, nature, qualities, results accomplished, safety, value, and earnings or profits to be had therefrom.

(b) Falsely claiming unique status or advantages, or special merit therefor, on the basis of misleading and ill-founded demonstrations or scientific tests, or pretended widespread tests, or of pretended widespread and critical professional acceptance and use.

(c) Misrepresenting the history or circumstances involved in the making and offer of the products or the source or origin thereof (foreign or domestic), or of the ingredients entering therein, or parts thereof, or the opportunities brought to the buyer through purchase of the offering, or otherwise misrepresenting scientific or other facts bearing on the value thereof to the purchaser.

(d) Falsely representing products as legitimate, or prepared in accordance with Government or official standards or specifications.

(e) Falsely claiming Government or official or other acceptance, use, and endorsement of product, and misrepresenting success and standing thereof through use of false and misleading endorsements or false and misleading claims with respect thereto, or otherwise.

(f) Making use of a misleading trade name and representing by other means that the nature of a business is different than is the fact, such as a collection agency engaged in tracing alleged delinquent debtors representing itself as being connected with a Government agency, a delivery system, or in search of missing heirs.

(g) Misrepresenting fabrics or garments as to fiber content; and, in the case of wool products, failing to attach tags thereto indicating the wool, reused wool, reprocessed wool or other fibers contained therein, and the name of the manufacturer or qualified reseller, as required by the Wool Products Labeling Act, or removing or mutilating tags required to be affixed to the products when they are offered for sale to the public.

29. Failing and refusing to deal justly and fairly with customers in consummating transactions undertaken through such practices as refusing to correct mistakes in filling orders or to make promised adjustments or refunds, and retaining, without refund, goods returned for exchange or adjustment, and enforcing, notwithstanding agents alterations, printed terms of purchase contracts, and exacting payments in excess of customers commitments.

30. Shipping products at market prices to customers or prospective customers or to the customers or prospective customers of competitors without an order and then inducing or attempting by various means to induce the consignees to accept and purchase such consignments.

31. Inducing the shipment and sale of commodities through buyer's issuance of fictitious price lists and other printed matter falsely repre-

senting rising market conditions and demand, and leading seller to ship under the belief that he would receive prices higher than the buyer intended to or did pay.

**CASES IN FEDERAL COURTS**  
**COMMISSION ACTIONS IN THE UNITED STATES SUPREME, CIRCUIT, AND**  
**DISTRICT COURTS**

During the fiscal year there were 28 cases in the United States Supreme Court and circuit courts of appeals in which the Commission was a party.

Rulings favorable to the Commission were obtained in 16 cases. In this group were four cases before the Supreme Court and eight before circuit courts of appeals which finally were concluded in favor of the Commission.

Rulings were unfavorable to the Commission in five cases, three of these before circuit courts of appeals being concluded finally.

At the end of the fiscal year 12 cases, 1 in the Supreme Court and 11 in circuit courts of appeals, were pending.

The United States Supreme Court granted certiorari requested by the Commission in one case wherein a circuit court of appeals had set aside the Commission's order to cease and desist, and denied certiorari requested by others in four cases wherein circuit courts of appeals had affirmed the Commission and orders to cease and desist.

Circuit courts of appeals affirmed six Commission orders to cease and desist, one with modification and one with a dismissal as to one respondent; dismissed three petitions to review, thus leaving Commission orders to cease and desist in effect; remanded one proceeding at the request of the Commission to enable it to reinstate its order to cease and desist; denied a petition for injunction which attempted to enjoin a Commission proceeding; remanded one proceeding at the request of the Commission to enable it to set aside the order to cease and desist; remanded one proceeding for modification of an order to cease and desist; and set aside three Commission orders to cease and desist. A petition for rehearing was filed by the Commission in one of the latter cases and was denied. Seven petitions to review Commission orders to cease and desist were filed in circuit courts of appeals.

Six civil penalty proceedings were pending at the beginning of the fiscal year and one additional Civil penalty proceeding was instituted during the year. These proceedings were certified by the Commission to the Attorney General of the United States under section 16 of the Federal Trade Commission Act. Of these seven proceedings one was dismissed, one resulted in a judgment for \$38,000 in a district court, one was rejected by the Attorney General, and four were pending at the end of the fiscal year.

**PETITIONS TO REVIEW CEASE AND DESIST ORDERS**

Petitions in United States circuit courts of appeals to review cease and desist orders issued under section 5 of the Federal Trade Commission Act and section 2 of the Clayton Act, as amended by the Robinson-Patman Act, are summarized below.

(Except where otherwise indicated, cases involve violation of the Federal Trade Com

mission Act. United States circuit courts of appeals are designated First Circuit (Boston), etc.).

767228--48---5

**CASES DECIDED BY THE COURTS**

*Acme Asbestos Covering & Flooring Co., and others, Chicago.*--The Sixth Circuit (Cincinnati) affirmed the Commission order to cease and desist except as to one respondent in a case involving a price-fixing combination and restraint of trade in the sale of pipe insulation, through use of license agreements and zone-delivered prices.

*American Drug Corp., St. Louis, Mo.*--The Eighth Circuit (St. Louis) remanded this case to the Commission on motion of the Commission. The Commission then reinstated its order to cease and desist which had been vacated previously. The order is directed against misrepresentation of a medicinal preparation.

*A. P. W. Paper Co., Albany, N. Y.*--The Second Circuit (New York) remanded this case and directed the Commission to consider the desirability of modifying the order to cease and desist to accord with the mandate of the Supreme Court. The Commission modified the order in accordance with the court's direction.

*Elizabeth Arden, Inc., and others, New York.*--The Supreme Court of the United States denied a petition for writ of certiorari to review a decision of the Second Circuit (New York) affirming the Commission's order to cease and desist from violation of section 2 (e) of the Robinson-Patman Act by discrimination in the furnishing of cosmetic demonstrator services to retailers.

*Nelson C. Brewer, and others, Chicago.*--The Sixth Circuit (Cincinnati) affirmed the Commission's order prohibiting the sale of lottery devices in interstate commerce.

*S. Buchsbaum & Co., Chicago.*--The Seventh Circuit (Chicago) set aside the Commission's order forbidding use of the term "Elasti-Glass" to designate or describe merchandise made of vinylite or any other similar synthetic resinous compound.

*The Cement Institute, and others Chicago.*--The Seventh Circuit (Chicago) set aside the Commission's order to cease and desist issued under the Federal Trade Commission Act and the Robinson-Patman Act and involving alleged Nation-wide restraint of competition in the price of Portland cement through the agreed use of a multiple basing-point delivered-price system. The Supreme Court granted a writ of certiorari to review the circuit court decision.

*Eastman Kodak Co., Rochester, N. Y.*--The Second Circuit (New York) affirmed the Commission's order forbidding suppression of competition by use of a resale-price-maintenance policy in connection with the sale of photographic film. The Supreme Court denied a writ of certiorari. (Subsequently, the Commission modified its order so as to permit Eastman to use such a sales policy in selling Kodachrome film because the product is now "sold in free and open competition" with Ansco color film manufactured by a competitor of Eastman.)

*General Seafoods Corp., and others, Boston.*--The First Circuit (Boston) remanded this case to the Commission in accordance with stipulation of counsel to vacate the order and dismiss the complaint which had alleged misrepresentation in the sale of seafood.

*Harvest House, New York.*--The Second Circuit (New York) dismissed the petition to review in accordance with the stipulation of counsel. The Commission's order prohibits misrepresentation of a book dealing with methods for developing the body.

*Koret, Inc., New York.*--The Second Circuit (New York) dismissed the petition to review in accordance with stipulation of counsel. The modified order in this case is directed against certain representations concerning the composition of women's handbags.

*Langendorf United Bakeries, San Francisco.*--The Ninth Circuit (San Francisco) dismissed the petition to review in accordance with stipulation of counsel. The order was directed against misrepresentation of bread.

*Morton Salt Co., Chicago.*--The Seventh Circuit (Chicago) set aside the Commission and order to cease and desist involving alleged violation of section 2 (a) of the Clayton Act by discriminating in prices of salt.

*National Crepe Paper Association of America, and others, Philadelphia.*--The Seventh Circuit (Chicago) affirmed the Commission's order forbidding price fixing in the sale of paper through use of a system of zone-delivered prices. The Supreme Court denied a petition for writ of certiorari.

*The Parker Pen Co., Janesville, Wis.*--The Seventh Circuit (Chicago) modified and affirmed the Commission's order forbidding misleading advertising of guaranties in connection with the sale of fountain pens.

*Vacu-Matic Carburetor Co., Wauwatosa, Wis.*--The Seventh Circuit (Chicago) affirmed the Commission and order prohibiting misrepresentation concerning the economy in gasoline consumption to be derived from use of a mechanical device for attachment to automobile engines. The Supreme Court denied a petition for writ of certiorari.

### CASES PENDING IN THE COURTS

*Allied Paper Mills, Kalamazoo, Mich., and others.*--Seventh Circuit (Chicago), combination in restraint of trade in book print and coated paper.

*Amasia Importing Corp., New York.*--Second Circuit (New York), misbranding and mislabeling of women's girdles.

*American Association of Law Book Publishers, Rochester, N. Y., and others.*--Second Circuit (New York) and price-fixing combination in law books and legal publications.

*Canute Co., Milwaukee.*--Seventh Circuit (Chicago), false and misleading advertising of Canute Water, a hair dye.

*The Cement Institute, and others, Chicago.*--Supreme Court of the United States, alleged Nation-wide combination to restrain competition in the price of Portland cement and to discriminate in price through the agreed use of a multiple basing-point delivered-price system.

*Consumers Home Equipment Co., and others, Detroit.*--Sixth Circuit (Cincinnati), false and misleading representations as to silverware, mattresses and other household goods.

*Ox'O-Gas Co., New York.*--Second Circuit (New York), misrepresentation of solution designated "Ox'O," advertised and sold as capable of increasing the efficiency of automobile engines and mileage.

*Morton Salt Co., Chicago.*--Seventh Circuit (Chicago), alleged price discrimination



in the sale of salt, in violation of section 2 (a) of the Robinson-Patman Act. The case is pending on petition for rehearing.

*Edward P. Paul & Co New York.*--United States Court of Appeals for the District of Columbia, false and misleading advertising of lamps, dishes and other articles.

*Rigid Steel Conduit Association, and others, New York.*--*Seventh Circuit (Chicago)*, price-fixing combination through use of basing-point system.

*Scotch Woolen Mills, Chicago.*--*Seventh Circuit (Chicago)*, mis-leading use of the words "Scotch" and "Mills" in trade name.

*Standard Oil Company, an Indiana corporation, Chicago* --*Seventh Circuit (Chicago)*, price discrimination in the sale of gasoline in violation of section 2 (a) of the Robinson-Patman Act.

*United States Steel Corp., American Bridge Co., Carnegie-Illinois, Steel Corp., American Steel & Wire Co. of New Jersey, and Tennessee Coal, Iron & Railroad Co.*--*Third Circuit (Philadelphia) and Fifth Circuit (New Orleans)*, use of "Pittsburgh-plus" basing point system of fixing prices for rolled-steel products in alleged violation of the Clayton and Federal Trade Commission Acts.

### CIVIL PENALTY JUDGMENTS

*American Steel & Wire Co. Of New Jersey, Worcester, Mass.; Anaconda Wire & Cable Co., Phelps-Dodge Copper Products Corp., and General Cable Corp., all of New York; General Electric Co., Schenectady, N.Y.; and The Okonite Co., Passaic, N. J.*--Consent judgments totaling \$38,000 were entered in the United States District Court for the Southern District of New York against these six manufacturers of electric wire and cable for alleged violation of a Federal Trade Commission cease and desist order directed against a price-fixing conspiracy. General Cable Corp. paid a judgment of \$500 and the other five corporations paid judgments of \$7,500 each. The suit for recovery of civil penalties was filed at the direction of the Attorney General, acting on the request of the Commission.

### TABLES SUMMARIZING LEGAL WORK OF THE COMMISSION AND COURT PROCEEDINGS, 1915-47

TABLE I.--*Applications for complaints*

FISCAL YEAR ENDED JUNE 30, 1941		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1947	
Pending beginning of year	996	Applications docketed	20,809
Applications docketed	699	Previous action reconsidered :	
Previous action reconsidered :		To complaints	10
To complaints	0	Settled by stipulation to cease and desist	225
Settled by stipulation to cease and desist	1	Settled by acceptance of TPC rules	6
Settled by acceptance of TPC rules	0	Consolidated with other proceedings	1
Consolidated with other proceedings	0	Dismissed	81
Dismissed	0	Closed without further proceedings 1	45
Closed without further proceedings		Total for disposition	21,267
Total for disposition	1,696	To complaints	4,993
To complaints	41	Settled by stipulation to cease and	

desist	128	desist	6,674
Settled by acceptance of TPC rules	0	Settled by acceptance of TPC rules	97
Consolidated with other proceedings	14	Consolidated with other proceedings	172
Dismissed	0	Dismissed	3,863
Closed without further proceedings	1 373	Closed without further proceedings	1 4,828
Total disposition during year	556	Total disposition	20,127
Pending end of year	1,140	Pending June 30, 1947	1,140

1 This classification includes such reasons as death, business or practices discontinued, private controversy, controlling court decisions, etc.

TABLE 2.--*Complaints*

FISCAL YEAR ENDED JUNE 30, 1947		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1947	
Pending beginning of year	423	Complaints	5,563
Complaints docketed	53	Previous action reconsidered :	
Previous action reconsidered :		Orders to cease and desist	69
Orders to cease and desist	2	Settled by stipulation to cease and desist	1
Settled by stipulation to cease and desist	6	Dismissed	12
Dismissed	1	Closed without further proceedings 1	2
Closed without further proceeding 1	6	Total for disposition	5,587
Total for disposition	479		
Complaints rescinded	0	Complaints rescinded	12
Orders to cease and desist	50	Orders to cease and desist	3, 891
Settled by stipulation to cease and desist	2	Settled by stipulation to cease and desist	66
Settled by acceptance of TPC rules	2	Settled by acceptance of TPC rules	38
Dismissed	18	Dismissed	975
Closed without further proceedings 1	9	Closed without further proceedings 1	213
Total disposition during year	87	Total disposition	5,195
Pending end of year	392	Pending June 30, 1947	392

1 This classification includes such reasons as death, business or practices discontinued, private controversy, controlling court decisions, etc.

TABLE 3.--*Court proceedings--orders to cease and desist--petitions for review to circuit courts of appeals*

FISCAL YEAR ENDED JUNE 30, 1947		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1947	
Pending beginning of year	18	Appealed	375
Appealed	7	Decisions for Commission	194
Total for disposition	25	Decisions for others <sup>1</sup>	103
		Petitions withdrawn	65
Decisions for Commission	6	Cases remanded to Commission	2
Decisions for others	3	Petitions withdrawn	65
Petitions withdrawn	3	Total disposition	364
Cases remanded to Commission	2	Pending June 30, 1947	11
Total disposition during year	14		
Pending end of year	11		

<sup>1</sup> This table lists a cumulative total of 103 decisions in favor of respondents in Commission cases before the United States circuit courts of appeals. However, the Grand Rapids furniture (vener) group (with 25 different docket numbers) was in reality 1 case, with 25 different subdivisions. It was tried, briefed, and argued as 1 case and was so decided by the court of appeals. The same held true of the curb-pump group (with 12 different subdivisions), the Royal Milling Co. group (with 6 different subdivisions), and the white Pine cases (12 subdivisions). In reality, therefore, these 55 docket numbers mean but 4 cases; and, if cases and not docket numbers are counted, the total decisions in favor of the respondents would be 52.

NOTE.--During the fiscal years 1919-47, inclusive, 60 petitions by the Commission for enforcement of orders to cease and desist were passed upon by courts. Of these proceedings 56 were decided in favor of the Commission; 4 in favor of adversaries. Petitions for enforcement of orders issued under the Federal Trade Commission Act were made unnecessary by amendment of the Federal Trade Commission Act (Mar. 21, 1938) making orders finally effective unless review is sought by respondents within 60 days after service of an order.

TABLE 4.--*Court proceedings--orders to cease and desist--petitions for review to the Supreme Court of the United States*

FISCAL YEAR ENDED JUNE 30, 1947		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1947	
Pending beginning of year	6	Appealed by Commission	49
Appealed by Commission	1	Appealed by others	55

Appealed by others	4	Total for disposition	104
Total for disposition	5	Decisions for Commission	29
Decisions for Commission	0	Decisions for others	15
Decisions for others	6	Petitions withdrawn by Commission	2
Petitions withdrawn by Commission	6	Certiorari denied Commission	9
Certiorari denied Commission	6	Certiorari denied others	48
Certiorari denied others	4	Total disposition	103
Total disposition during year	4	Pending June 30, 1947	1
Pending end of year	1		

64 ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION, 1947

TABLE 5.--*Court proceedings--mandamus, injunction, etc.--district courts and circuit courts of appeals*

FISCAL YEAR ENDED JUNE 30, 1947		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1947	
Pending beginning of year	1	Instituted by Commission	72
Instituted by Commission	0	Instituted by others	42
Instituted by others	1	Total for disposition	114
Total for disposition	2	Decisions for Commission	83
Decisions for Commission	1	Decisions for others	18
Decisions for others	0	Petitions withdrawn by Commission	5
Petitions withdrawn by Commission	0	Petitions withdrawn by others	7
Petitions withdrawn by others	0	Cases remanded to Commission	1
Cases remanded to Commission	1	Total disposition	114
Total disposition during year	2	Pending June 30, 1947	0
Pending end of year	0		

TABLE 6.--*Court proceedings--mandamus, injunction, etc.--Supreme Court of the United States*

FISCAL YEAR ENDED JUNE 30, 1947		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1947	
Pending beginning of year	0	Appealed by Commission	9
Appealed by Commission	0	Appealed by others	4
Appealed by others	0	Total for disposition	18
Total for disposition	0	Decisions for Commission	3
Decisions for Commission	0	Decisions for others	5
Decisions for others	0	Certiorari denied Commission	1
Certiorari denied Commission	0	Certiorari denied others	4
Certiorari denied others	0	Total disposition	18
Total disposition during year	0	Pending June 30, 1947	0
Pending end of year	0		

### **PART III. SETTLEMENT OF CASES BY STIPULATION**

#### **AGREEMENTS ON CORRECTIVE ACTION RESULT FROM INFORMAL CONFERENCES WITH BUSINESSMEN**

The Commission on August 12, 1946, created the Division of Stipulations, consisting of a Director and Assistant Director, a staff of attorney-conferees and a small clerical force. All matters considered appropriate for settlement by stipulation are referred by the Commission to this division, which serves upon the proposed respondent a statement of the allegedly illegal practices the Office of Legal Investigations recommends should be stopped. The Division of Stipulations takes no part in the investigation or prosecution of any matter.

When served with such statement, the proposed respondent may reply by correspondence or confer with the Director of the Division of Stipulations, or with a designated attorney-conferee, either in person or through his authorized representative. Usually such conferences are presided over by an attorney-conferee and are participated in by one or more representatives of the Office of Legal Investigations and any other interested divisions, the proposed respondent and his representatives.

Thus all business is afforded an opportunity for an informal hearing. After a frank, informal and thorough discussion of the issues involved, amicable settlements are reached whereby any previous errors are corrected matters of no public interest eliminated, and stipulations in disposition of the cases, covering such charges as are deemed to have been substantially proved, are forthwith drafted, signed and presented to the Commission for its consideration in settlement of any remaining law violations. Or a recommendation for closing the case in whole or in part, or for such other action as appears to be in accordance with law and the public interest, is then submitted by the division for consideration and final action by the Commission.

Since its inception in August 1946, the division has reported 198 cases to the Commission with recommendation for their disposition as follows :

For acceptance of executed stipulation	120
For closing without prejudice	37
For further investigation	25
For issuance of complaint	16
Total	198

The Commission, through this division, encourages informal conferences with businessmen and whenever in the course of negotiations for a stipulation, facts and conditions are ascertained to exist in the industry involved which show a rather uniform indulgence by the proposed respondents' numerous competitors in the same or similar.

<sup>1</sup> The policy of the Commission with respect to disposition of cases by stipulation is set forth in its Statement of Policy on p. 119

acts, the division recommends, for the Commission's consideration, the institution of investigations on an industry-wide basis. Such recommendations have been made in the floor wax industry, the mothproofing industry and the shoe industry.

The objective is to provide uniform and concurrent voluntary corrective action, if any action is indicated, applicable to all the members of the various industries, so that all may be placed on an equal competitive basis for the betterment of the public interest.

The Division of Stipulations is also charged with the duty of obtaining reports from parties who have entered into voluntary agreements to cease and desist, showing in detail the manner and form of their compliance with such agreements.



## **PART IV. TRADE PRACTICE CONFERENCES**

### **ESTABLISHMENT AND ADMINISTRATION OF TRADE PRACTICE RULES FOR INDUSTRIES**

Trade practice conferences provide a cooperative procedure for preventing unfair competitive methods and other business practices contrary to laws administered by the Commission. Under this procedure rules defining and cataloging unfair trade practices are established after industry conferences and hearing of interested and affected parties, including representatives of the purchasing public. Such conference proceedings being industry-wide in scope, industry members are thereby placed on a fair and equal competitive basis. The accomplishment of law observance by this industry-wide cooperative action is aimed to effectuate substantial economies in the cost of law enforcement, both to Government and industry.

The work of administering promulgated rules is directed to the maintenance of active cooperation between the industry and the Commission in promoting voluntary observance of the rules and in ascertaining new industry situations requiring amendment of the rules or other appropriate action. Through this work industry members are afforded guidance and assistance to the end that the conduct of their business may be in accordance with the law.

*Trade practice conference procedure.*--The procedural steps and requirements applicable to industry proceedings for the establishment of trade practice rules are covered in the Commission's Rules of Practice (see p. 114). Trade practice conference proceedings may be instituted by the Commission upon its own motion or upon application therefor whenever such proceedings appear to the Commission to be in the interest of the public. Any interested party or group in an industry, large or small, may apply to the Commission for the institution of such proceedings. Prior to the beginning of proceedings and during the course thereof, members of the Commission's staff are available to afford guidance and assistance to industry in working out constructive solutions of the various competitive problems. As a part of such proceedings, industry-wide conferences are held and, before the Commission finally approves rules, public hearings on proposed rules are had to afford all interested or affected parties opportunity to present their views, suggestions, or objections, and to appear and be heard.

### **GROUP I AND GROUP II RULES EXPLAINED**

Trade practice rules appropriate for approval or acceptance by the Commission may include not only provisions for the elimination of practices which are illegal per se or are conducive to unfair competitive conditions in industry, but also provisions for fostering and promoting fair competition in the public interest. The rules as finally promulgated are classified by the Commission as Group I and Group II rules,

respectively.

*Group I rules.*--The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

*Group II rules.*--These rules embrace the wholly voluntary or recommended industry practices as distinguished from mandatory requirements. No such industry rule is received by the Commission unless the provision is in harmony with law and the public interest and is constructively in support of the maintenance of fair competitive conditions in the industry.

### CONFERENCE AND RULE MAKING ACTIVITIES DURING YEAR

During the fiscal year the conference and rule making work was considerably expanded. Conference proceedings for several industries were initiated by the Commission upon its own motion in addition to those instituted pursuant to applications received from interested industry groups. Comprehensive sets of rules clarifying legal requirements applicable to their trade practices were promulgated for nine important industries under the trade practice conference procedure; formal conferences and hearings for several other large and important industries were held; and pending and newly instituted proceedings were advanced. In addition, the practices of some other industries were surveyed and studied, and informal meetings held with various industry groups with a view to determining whether conference proceedings should be initiated.

The rules promulgated during the year are specifically applicable to the problems of the respective industries to which they apply and cover a wide diversity of practices.

*New rules promulgated during fiscal year.*--Trade practice rules for the following industries were promulgated during the fiscal year : (1) household fabric dye industry; (2) masonry waterproofing products industry; (3) vertical turbine pump industry; (4) watch industry (respecting the terms "waterproof", "shockproof" "non magnetic", and related designations); (5) saw and blade service industry; (6) doll and stuffed toy industry; (7) construction equipment distributing industry; (8) piston ring industry; and (9) wholesale confectionery industry (Philadelphia trade area) 1 These nine industries have an estimated annual volume of business of over one billion dollars in the aggregate.

*Rules for the household fabric dye industry.*--Proceedings for the establishment of rules for this industry were initiated by the Commission after an industry-wide survey of the practices prevalent in the industry. In the course of the proceedings a general industry conference and public hearing were held on the proposed rules. The industry to which such rules apply is composed of persons, firms, and corporations engaged in the business of placing on the market fabric dyes,

<sup>1</sup> With respect to the last three industries named, the conference proceedings were completed during the fiscal year ended June 30, 1948, but rules for the industries were promulgated during the fiscal year 1947.

tints, and color removers which are prepared and packaged for use in the home in dyeing, redyeing, coloring, tinting, or retinting wearing apparel and fabric home furnishings or decorations or removing color therefrom preparatory to redyeing or retinting. Subjects covered by the rules include misuse of the terms "all fabric", "all purpose", and similar representations as applied to industry dyes or tints; misuse of the words "fast", "fadeless", "fadeproof", "unfadable", "sunfast", "wash-fast", and representations of similar import; deception respecting efficacy of color removers; deceptive guarantees; confusion as to "tint" and "dye"; and deception by failure to disclose essential information. Improper use of demonstrators and payment of "spiffs", push money, etc., also are defined and proscribed.

*Rules for the masonry water proofing products industry.*--Proceedings for the establishment of rules for this industry were instituted by the Commission upon a showing of widespread use of certain unfair practices in the industry. Rules covering these practices were promulgated after a general industry conference and public hearing for consideration of the proposed rules. Products of the industry are admixtures or coatings for concrete, brick, stone, stucco, concrete blocks, mortar, and other masonry, which are designed to render structures made thereof impermeable or resistant to water or moisture. In addition to the manufacturers and primary producers of such products, numbering about 150 concerns, there are many hundreds of marketers, including building supply houses, distributors, contractors, dealers, applicators, and other concerns through which the various industry products reach the purchasing public. Practices which are unfair are defined and proscribed in the rules, and members of the industry are thereby afforded a definite guide for keeping the conduct of their business in constant adjustment with the law. The rules prescribe the requirements for proper use of such significantly descriptive terms as "waterproof", "dampproof", "water-resistant", "damp-resistant", "weatherproof", "watertight", "moistureproof", "vaporproof" etc as descriptive of industry products or the results to be obtained by their use. The industry's products are of vital importance and the promulgation of rules is especially timely by reason of the expected extensive construction of masonry buildings, basements, foundations, floors, piers, docks, dams, reservoirs, swimming pools, etc.

*Rules for vertical turbine pump industry.*--The rules promulgated for this industry are of considerable public interest. The industry's products are used extensively in water works, mining, agriculture, smelting, milling, construction work, marine operations, and in many other activities or pumping water, sewage, gasoline, fuel oil, chemicals, and other liquids.- The rules proscribe various unfair methods of competition. and unfair or deceptive acts or practices, such as commercial bribery, use of false or deceptive guarantees or warranties, deception as to rebuilt or used products, combinations to fix prices or suppress competition or restrain trade, and unfair selling methods. The industry is most essential to postwar construction and the rules are designed to keep the business practices of industry members in consonance with the requirements of law.

*Rules respecting the terms "waterproof", "shockproof", "nonmagnetic", and*

*related designations, as applied to watches, watch cases and watch movements.--*  
These rules clarify requirements for proper use of the terms named and have for their purpose the elimination

and prevention of deception in the marketing of watches, watch cases or watch movements, whether of domestic or foreign manufacture, and maintenance of fair competition among persons, firms, and corporations engaged in the sale, offering for sale, or distribution of these articles. Provisions of the rules respecting the use of such terms are applicable to all types of advertising, whether in newspapers, periodicals, sales catalogs, sales promotional literature, on the radio, or otherwise; and also to the use of the terms as a mark, or part of the marking, on any watch, watch case, or movement, or on any label, tag, container, or literature used in connection with the sale, offering for sale, or distribution of such articles. The rules prescribe definite and specific requirements as to conditions to use of the terms and are designed to adequately protect the buying public. The definition of such terms as applied to watches, watch cases, and watch movements has been an urgent need of the industry.

*Rules for the saw and blade service industry.*--Members of this industry engage in the business of supplying and servicing, under lease or rental contract, saws, saw frames, knives, chopper machines, knife or slicer machines (and plates or blades for such machines), and similar articles for use in meat markets, packing houses, restaurants, and other food processing or food dispensing establishments. The promulgated draft for this industry consists of 18 Group I rules prohibiting a variety of unfair competitive practices, together with 5 Group II rules constituting voluntary expressions recommending against the use of practices which the industry considers harmful or unethical, or recommending use of ethical practices which the industry considers beneficial to itself or the public, such provisions having been considered by the Commission as in harmony with the law and the public interest.

*Rules for doll and stuffed toy industry.*--Another industry for which rules were promulgated during the fiscal year is the doll and stuffed toy industry. The rules are designed to eliminate and prevent unfair trade practices in the manufacture and marketing of all kinds of dolls and stuffed toys and they prohibit a variety of forms of misrepresentation of products. Use of unsanitary material is specially proscribed and disclosure of used or second-hand material is required. Lottery schemes used in the marketing of industry products, tie-in sales and price discrimination violative of the provisions of the Robinson-Patman Antidiscrimination Act also are prohibited.

(Explanatory statements respecting the rules promulgated during the fiscal year for the construction equipment, piston ring and whole-sale confectionery industries were included in the Annual Report for the fiscal year ended June 30, 1946.)

### **PENDING TRADE PRACTICE PROCEEDINGS**

Trade practice proceedings were undertaken for other industries and were pending in various stages of progress at the close of the fiscal year. In some instances proposed rules had been released by the Commission and public hearings held. In other cases, where the proceedings were less advanced, the necessary preliminary study and consideration had been undertaken preparatory to further action. Among the new conference proceedings instituted during the fiscal period was that for the cosmetic

and toilet preparations industry.



After an industry-wide survey of practices in this industry a general industry conference was called by the Commission to consider proposed rules for the elimination of unfair practices and abuses in the industry. At the close of the fiscal year the results of this conference were being studied prior to release of proposed rules for hearing.

### ADMINISTRATION OF RULES

Rules for over 150 industries, comprising more than 2,000 separate provisions, have been promulgated and are now under administration. During the fiscal year rule administration activities were undertaken to the extent possible with the personnel available for this work. Existing rules for several industries received special attention over and above the general rule administration activities.

*Artificial limb industry.*--The rules for this industry have as their principal objective the aiding of some 600,000 physically handicapped persons in the United States who use artificial limbs or devices by protecting them from the harmful effects of deceptive trade methods and monopolistic practices in the sale of prosthetic devices. Various practices which are deceptive and otherwise unfair or harmful are defined in the rules and provision made therein for their elimination and prevention. The administration of these rules was conducted with due regard to the substantial public interest involved and to the requirements of the probationary order of a Federal Court to which certain members of the industry were subject.

*Masonry waterproofing products industry.*--The rules for the masonry waterproofing products industry likewise received special attention. The advertising of industry members was examined and informal conferences and correspondence conducted with the members for the purpose of assisting them in bringing their advertising into conformity with the approved rules. Through these administrative efforts, unwarranted and deceptive claims as to the efficacy of industry products and other unfair competitive practices have been reduced substantially.

*Radio receiving set manufacturing industry.*--Another rule administration problem receiving special consideration concerned the rules for the radio receiving set manufacturing industry. Having found that a considerable number of advertisers of radio sets were including rectifiers in the tube count of sets advertised, the Commission issued an interpretation of applicable trade practice rule provisions in the light of a recent court decision on the subject. All industry members were afforded opportunity to bring their advertising into conformity with such provisions as interpreted. Thereafter, a survey was made of radio set advertising with the view to taking appropriate corrective action against industry members who fail to comply with legal requirements.

*Other industry rules receiving special attention.*----Other rules receiving special attention during the fiscal period include those for the following industries: household fabric dye, watch (respecting use of designations "waterproof", "shockproof",

“nonmagnetic”, etc.), linen, rayon, and fur.

*Cooperative liaison* working-During the year contacts were renewed with several industries having trade practice rules for the purpose of creating cooperative liaison by means of which the rules might

be more effectively administered and enforced in the best interest of both the industries and the public. The cooperative liaison established with these industries proved helpful in determining whether present rules are adequate in fulfilling industry needs; whether new practices have developed which indicate a need for rule revision; and whether the rules have accomplished the results toward which they are directed.

#### TYPES OF PRACTICES COVERED IN PROMULGATED RULES

The following are illustrative of the variety of subjects covered by trade practice rules now in effect :

Misrepresentation in various forms, including false or misleading advertising; misbranding; defamation of competitors or disparagement of their products; commercial bribery in purchasing or selling supplies; inducing breach of competitor's contract; false invoicing; imitation of competitor's trade-marks, trade names, etc.; substituting inferior products for those ordered; lottery schemes; use of consignment distribution to close competitor's trade outlets; enticing away employees of a competitor; giving "push money", gratuities, etc., under circumstances involving commercial bribery, deception or restraint of trade; full-line forcing as a monopolistic weapon; combination or conspiracy to fix prices, suppress competition or restrain trade; unfair bidding methods. discriminations in price, service or facilities, such as discrimination effected through rebates, refunds, discounts credits, returns, or other means; prohibited brokerage or commissions; the making of advertising or promotional allowances or the furnishing of services or facilities on terms not accorded to all customers on proportionally equal terms; and aiding or abetting another in the use of unfair trade practices.

Other subjects covered in the rules are : Use of slack-filled or short-weight containers, or those of odd size simulating standard and generally recognized types; use of deceptive depictions (photographs, engravings, cuts, etc.) in describing industry products, use of false or misleading guarantees, warranties, price quotations, price lists, or terms of sale; misrepresentation as to possible earnings or opportunities afforded on completion of correspondence school courses, or as to Government connection with, or indorsement of, any school, or respecting an training or services offered by such school; falsely representing offers as "special" or "limited"; misrepresenting regular lines of merchandise as "close-outs" to induce belief that bargains are available; representing products as conforming to recognized industry standards when such is not the fact; misrepresenting kind, quality, thickness or backing of mirrors; use of fictitious animal designations in descriptions of furs; misrepresenting character, extent or type of business engaged in; representing retail prices as wholesale, or deception through failure to differentiate between wholesale and retail transactions; use of false or misleading testimonials; use of "blind" advertisements in such manner as to mislead or deceive; representing domestic products as imported or imported products as domestic; use of misleading or deceptive representations in procuring sales representatives; use of deceptive titles or names in

selling books under the subscription plan; and false representations respecting tube capacity of radio sets and their range or receptivity.

The rules also cover the following: Misuse of terms “perfect”, “perfect cut”, “commercially perfect”, “real” “genuine”, “natural”, etc., in describing precious stones or their imitations; deceptive use of word as applied to sun glasses; improper use of terms “pullorum tested” “blood tested” etc, as applied to baby chicks; misuse of words “all fabric”, “all purpose” “fast”, “fadeless” “fadeproof” “unfadable”, “sunfast”, or “wash-fast” as descriptive of products of the household fabric dye industry; deceptive use of such terms as “all-wave”, “world-wave”, “world-wide wave”, etc., with reference to radio receiving sets; improper use of words “bristle”, “puce bristle”, etc., in the sale of toilet brushes; misuse of terms “extra fancy”, “extra select”, “extra quality”, “deluxe”, “choice”, etc., to describe tuna fish products; improper use of words “lisle cotton”, “cotton lisle”, etc., as applied to hosiery products; deceptive use of terms “hand woven”, “hand loomed”, “hand printed”, and “hand embroidered” in describing linen products; misuse of term “waterproof” as applied to watches, watch cases or watch movements, or to luggage or related products, or to masonry waterproofing products, or of the expression “water resistant” to describe watches, watch cases or watch movements or masonry waterproofing products, or of the words “water repellent” as descriptive of such watches watch cases or watch movements, or of luggage or related products; improper use of terms “water tight”, “moistureproof”, or “water sealed” as applied to watches, watch cases or watch movements, or to masonry waterproofing products; misuse of terms “vaporproof”, “dampproof”, “dampproofin”, “damp-resistant”, “weatherproof”, “weatherproofing”, “perpetual”, “eternal”, “permanent”, or “permanently” to describe “everlasting”, products of the masonry waterproofing industry; deceptive use of words “water protected”, “shockproof”, “shock protected”, “shock absorbing”, “shock resistant”, “unconditionally shock resistant”, “jarproof”, “nonmagnetic”, or “antimagnetic” in referring to watches, watch cases or watch movements; and misuse of words “dustproof” or “warp-proof” as applied to luggage and related products.

Subjects embraced in other rules include : Exclusive or preemptive deals to eliminate or suppress competition; improper use of demonstrators and payment of “spiffs,” “push money,” etc., in the sale of industry products; deceptive concealment of name of sponsor and other pertinent information respecting product offered for sale; persuading distributors to refrain from submitting independent bids and price quotations to buyers; coercing adherence to published rental rates or trade-in values; furnishing property on condition of exclusive right to service the same; deception of customers of competitors as to identity; and prejudicing competitors’ relationships with their agents.

In addition, there are rules providing for disclosure of fiber content of textile merchandise made of rayon, or of two or more fibers containing either rayon, silk or linen; disclosure as to remaining shrinkage in so-called preshrunk merchandise; disclosure of fact that apparently new products are not new, but are secondhand, used, rebuilt, or renovated; disclosure that products are artificial or imitations and not real or genuine; disclosure of country of origin of imported products; prevention of marketing of substandard or imitation products as and for standard or genuine, and the

specification of

minimum requirements for standard or genuine products; proper nomenclature for industry products; disclosure as to true composition of paint and varnish brushes, as to imperfect or defective merchandise, as to use of adulterant or substitute for linseed oil in respect to putty products, as to presence of metallic weighting in silk or silk products, as to minimum yardage of ribbons, as to true functions of radio parts and accessories, as to quality, quantity, and size of ripe olives packed in cans and other opaque containers, as to latent defects in artificial limbs or devices, as to price charged for so-called premiums in sale of piston rings, and as to use and application of masonry waterproofing products.

### INFORMATIVE LABELING

Informative labeling enters extensively into the work of the Commission under the trade practice conference rules. Fiber identification, or what is generally referred to as "Truth in Fabrics", forms a large part of such informative labeling work. While consumer goods containing or purporting to contain wool are subject to Wool Act labeling, similar fiber identification of other textiles under certain circumstances, and informative labeling of various lines of merchandise outside the field of textiles, are covered by trade practice rules.

The object of informative labeling is twofold: (1) To aid intelligent purchasing and to prevent deception by informing consumers what they are to receive for their money, thus enabling them to be in a better position to judge quality and to buy according to their needs or preferences; and (2) to protect business from the unfair commercial practices attendant upon the sale of competing articles under conditions of misleading representations or deceptive concealment of the facts.

The value of such labeling is widely recognized as a necessary and effective preventive of confusion or deception of the public and of unfair competitive conditions.

Products containing rayon in whole or in part are covered by the rules for the rayon industry, promulgated October 26, 1937. Those containing silk in whole or in part are covered by the rules for the silk industry, issued November 4, 1938. Corresponding rules for linen and part-linen merchandise were promulgated February 1, 1941. Informative labeling for all types of hosiery is the subject of trade practice rules for the hosiery industry, issued May 15, 1941. Similar rules covering fur garments and fur products generally were promulgated June 17, 1938. Informative labeling provisions on the subject of shrinkage of woven cotton merchandise were put into effect on June 30, 1938. Other textile provisions are found in the rules promulgated for infants' and children's knitted outerwear industry, June 28, 1939; uniform industry, May 18, 1940; and ribbon industry, June 30, 1942.

Provisions on the subject of informative labeling are also contained in the different sets of rules promulgated for the following industries on the dates mentioned: Rubber tire, October 17, 1936; toilet brush manufacturing, December 31, 1937; wholesale jewelry, March 18, 1938; paint and varnish brush manufacturing, January 14, 1939;

putty manufacturing, June 30, 1939; mirror manufacturing, July 19, 1939;



curled hair, January 12, 1940 ; luggage and related products, September 17, 1941 ; sun glass, December 23, 1941 ; razor and razor blade, June 19, 1945 ; wood-cased lead pencil, June 29, 1945 ; artificial limb, April 16, 1946 ; masonry waterproofing, August 31, 1946 ; and household fabric dye, May 29, 1947.

Rules providing for informative disclosure in advertising and selling also have been issued for such industries as macaroni, noodles, and related products, July 7, 1938 ; tomato paste manufacturing, September 3, 1938 ; sardine, March 5 , 1940 ; and tuna (revised and extended rules) , June 23, 1945.

## **PART V. WOOL PRODUCTS LABELING ACT**

### **INFORMATIVE LABELING FOR PROTECTION OF INDUSTRY AND THE PUBLIC**

The Wool Products Labeling Act of 1939 provides, in substance, that purchasers shall be informed as to the true content of articles, subject to the provisions of the Act, which are made or appear to be made in whole or in part of woolen fiber, and that producers, manufacturers, merchants, and the public generally shall be safeguarded against the deception and unscrupulous competition arising from misbranding and nondisclosure of content. The act, approved by the President October 14, 1940, and effective July 14, 1941, is enforced and administered by the Federal Trade Commission.

The fiber content of articles containing, purporting to contain, or represented as containing "wool," "reprocessed wool," or "reused wool" is required by the act to be disclosed by appropriate stamp, tag, label, or other means of identification. The act applies to such articles when manufactured for, or marketed in, "commerce" as defined by section 2, excepting carpets, rugs, mats, and upholsteries exempted by section 14.

The act requires that the label or other identification mark disclose the kind and percentage of each different fiber contained in the product including the respective percentages of "wool," "reprocessed wool," and "reused wool." Disclosure of the maximum percentage of loading and adulterating material, if any, and the name of the manufacturer of the wool product or the name of a qualified distributor or reseller, must also appear on the label. The label, or a proper substitute specified by the statute, is to remain on the merchandise when it is delivered to the consumer.

Products covered by the act include in general all articles of clothing or wearing apparel, blankets, etc., made or purporting to be made in whole or in part of wool; also the yarns and fabrics of the wool textile industry and the products of manufacturing industries using such yarns and fabrics. These products come from approximately 70 industries and are marketed through distributor and dealer outlets estimated to number in excess of 250,000.

*Rules and regulations under Wool Act.*-The act authorizes and directs the Commission to make such rules and regulations as may be necessary and proper for its administration and enforcement. Comprehensive rules and regulations were issued by the Commission, effective July 15, 1941. They are published in booklet form and may be obtained upon application to the Commission. They afford instruction and guidance as to how manufacturers, distributors, dealers, and others may proceed in various situations and assure themselves of being within the requirements of the law in its application

to merchandise covered by the act.<sup>1</sup> Collaboration of industry members and other interested parties was invited in the preparation of the rules and regulations. Hearings were held and all concerned were afforded opportunity to contribute their views and suggestions in arriving at rules which would be of maximum assistance to business and consonant with law, and also would afford full protection of the public interest. The cooperation of members of industry and others was of material assistance to the Commission.

*Manufacturers' registered identification numbers.*--Under rule 4 of the regulations the Commission affords manufacturers of wool products residing in the United States opportunity to have assigned to them manufacturers' registered identification numbers. Such a number may be used upon the manufacturer's label in lieu of his name as a means of identifying the manufacturer when the label carries the name of the dealer or reseller. At the close of the fiscal year, 6,239 registered identification numbers had been assigned to manufacturers pursuant to their applications filed under this rule, an increase of 459 over the preceding fiscal year. Numbers may be canceled when the firm goes out of business or changes its form of organization or for other sufficient reasons. Up to the close of the fiscal year, a total of 1,593 manufacturers' registered identification numbers had been canceled.

*Continuing guaranties.*--For the purpose of protecting distributors, dealers and other resellers from the charge of misbranding when relying in good faith upon the manufacturer's statement of content, provision is made in section 9 of the act whereby such protection may be afforded by a guaranty on the part of the supplier. It may be either (1) a separate guaranty specifically designating the wool product guaranteed, or (2) a continuing guaranty filed with the Commission applicable to all products handled by a guarantor and in such form as the Commission may prescribe. The form prescribed by the Commission is set forth in rule 33 of the rules and regulations. This rule also provides for renewal of the continuing guaranties annually and whenever any change in ownership or management of the guarantor is made. At the close of the fiscal year, 7,552 continuing guaranties had been properly filed with the Commission as against 6,770 at the end of the 1946 fiscal year. These have been duly recorded and are maintained as documents open to public inspection.

*Enforcement.*--In cases of alleged violation requiring corrective action by formal proceedings, the use of the cease and desist order procedure prescribed in the Federal Trade Commission Act, which is also authorized by the Wool Act has been utilized and proven adequate and effective without resorting to the supporting peremptory remedies specifically provided by the Wool Act. Such peremptory remedies are available when needed, and, in cases of deliberate or willful violation, misdemeanor proceedings may be applied.

Administrative compliance work includes inspections, examinations, and correction of labeling practices of specific concerns in

<sup>1</sup> The Commission has issued a publication (W-3) setting forth illustrations, with explanatory text, of certain forms of labels and tags which are acceptable under the act. Manufacturers, distributors, dealers and other interested parties may obtain the leaflet upon request to the Commission.



spections of labeling and related matters during the year concerned over 7,500 manufacturers, distributors, and other marketers in 549 cities. Field inspections covered in excess of 18 million articles. During the preceding fiscal year the field inspections totaled approximately 5,500 in 172 cities and covered more than 10 million articles.

Compliance in cases of improper labeling under the act was effected for the most part through cooperative effort and voluntary action on the part of the respective concerns involved, thus avoiding the necessity of resorting to compulsory remedy to protect the public interest. Relatively few cases have arisen in which voluntary cooperative action has not been sufficient to effect correction and where it has been necessary to invoke mandatory processes.<sup>2</sup> The administrative compliance work proved, both effective and economical in the large volume of instances arising.

<sup>2</sup> For complaints alleging violations of the Wool Products Labeling Act, see p. 48 ; for Commission orders directed against such violations, see p.51.

## **PART VI. MEDICAL AND SCIENTIFIC OPINIONS**

### **DATA ARE UTILIZED BY COMMISSION IN CASES RELATING TO FOOD, DRUGS, DEVICES, AND COSMETICS**

The Medical Advisory Division furnishes the Commission with scientific facts and opinions concerning the composition of and the advertising claims made for food; drugs, curative devices, cosmetics, and other commodities in cases where questions of science arise. It arranges for analyses of samples of such products under investigation and gathers information with respect to their nature.

The division provides medical opinions and scientific information needed in the preparation of formal complaints issued and stipulations accepted by the Commission. During the fiscal year it prepared 187 written opinions and in addition rendered many verbal opinions. A substantial amount of time was devoted to assisting the Commission's legal staff in its preparation for hearings involving questions of science, and to securing the services of expert scientific witnesses whose testimony was essential to a determination of the scientific facts. Forty-two such experts served as witnesses during the year.

The Director of the Medical Advisory Division is the Commission's liaison officer with the Food and Drug Administration. In instances where it is necessary or desirable for contacts to be made by other members of the staff, they are cleared through the liaison officer.

Through the Director of the Medical Advisory Division the Commission maintains cooperative contact with many other Government agencies concerned with food, drugs, curative devices, cosmetics, insecticides, etc. Included among these are the Food and Drug Administration, the National Bureau of Standards, the United States Public Health Service, the Bureau of Animal Industry, and the Agricultural Marketing Service. Similar contacts also are maintained with many nongovernmental clinics, hospitals, laboratories, and scientists.

## PART VII. FOREIGN TRADE WORK

### EXPORT TRADE ACT

The Commission administers the Export Trade Act, commonly called the Webb-Pomerene Law, which grants exemption from the antitrust laws to associations or cooperatives solely engaged in export trade under certain conditions set out in the law.

Export associations are required to file with the Commission copies of their organization papers and periodic reports and if the Commission has reason to believe that an association is not operating in accordance with law, an investigation may be made and recommendations issued for readjustment of the association's business.

The law prohibits restraint of the trade of a domestic competitor of the association, artificial enhancement or depression of prices within the United States, and substantial lessening of competition or other restraint of trade in this country.

### FORTY-NINE ASSOCIATIONS OPERATING UNDER THE ACT

At the close of the fiscal year the following 49 export associations were on file with the Federal Trade Commission :

American Hardwood Exporters, Inc., 901 Carondelet Building, New Orleans.	California Alkali Export Association, 608 Lathain Square Building, Oakland, Calif.
AMTEA Corp. (American Machine Tool Export Association), Empire State Building, New York.	California Dried Fruit Export Association, 1 Drumm Street, San Francisco.
American Phonograph Cooperative, Ltd., 134 North LaSalle Street, Chicago.	California Prune Export Association, 1 Drumm Street, San Francisco.
American Provisions Export Co., c/o Armour & Co., Foreign Sales Department, Union Stock Yards, Chicago.	Carbon Black Export, Inc., 500 Fifth Avenue, New York.
American Soda Pulp Export Association, 280 Park Avenue, New York.	Citrus Corporation of America, 424 Madison Avenue, New York.
American Spring Manufacturers Export Association, 30 Church Street, New York.	Copper Exporters, Inc., 50 Broadway, New York.
American Tire Manufacturers Export Association,	Door Export Co., 1212 Washington Building, Tacoma, Wash.
	Douglas Fir Export Co., 530 Henry Building, Seattle, Wash.

30 Church Street,  
New York.

80

Durex Abrasives Corp.,  
63 Wall Street,  
New York,



FORTY-NINE ASSOCIATIONS OPERATING UNDER THE ACT 81

Easco Lumber Association,  
821 Market Street,  
San Francisco.

Electrical Export Corp.,  
122 East Fifty-first Street,  
New York.

Export Screw Association of the United  
States,  
21 Stevens Street,  
Providence, R I.

Flints Export Agency,  
50 Broad Street,  
New York.

Florida Hard Rock Phosphate Export  
Association,  
318 East Main Street,  
Lakeland, Fla.

Flour Millers Export Association,  
859 National Press Building,  
Washington, D. C.

Friction Materials Export Association,  
Inc.,  
22 East Fortieth Street,  
New York.

General Milk Co., Inc.,  
19 Rector Street,  
New York.

Goodyear Tire & Rubber Export Co.,  
The,  
1144 East Market Street,  
Akron, Ohio.

Maine Sardine Packers' Export Asso-  
ciation,  
Eastport, Maine.

Metal Lath Export Association, The,  
Room 1504,  
205 East Forty-second Street,  
New York.

Motion.Picture Export Association, Inc.,  
546 Fifth Avenue,  
New York.

Pacific Forest Industries,  
1219 Washington Building,  
Tacoma, Wash.

Pacific Fresh Fruit Export Association,  
333 Pine Street,  
San Francisco.

Pine Street, Pencil Industry Export Association,  
167 Wayne Street,  
Jersey City, N. J.

Pipe Fittings & Valve Export Associa

Railway Car Export Corp. of America,  
1025 Connecticut Avenue,  
Washington, D. C.

Redwood Export Co.,  
405 Montgomery Street,  
San Francisco.

Rubber Export Association, The  
1185 East Market Street,  
Akron, Ohio.

Steam locomotive Export Association,  
Inc.,  
Room 1622,  
30 Church Street,  
New York.

Sulphur Export Corp.,  
420 Lexington Avenue,  
New York.

Texas Rice Export Association,  
407 Jensen Drive,  
Houston, Tex.

Textile Export Association of the  
United States,  
320 Broadway,  
New York.

Typewriter Manufacturers Export Asso-  
ciation,  
1611 Forty-fourth Street,  
Washington, D. C.

United States Alkali Export Associa-  
tion,  
11 Broadway,  
New York.

United States Scientific  
Export Association, Inc.,  
50 Broadway,  
New York.

Universal Dairy Products Co.,  
80 East Jackson Boulevard,  
Chicago.

Walnut Export Sales Co., Inc.,  
540 Postal Station Building,  
Indianapolis.

Washington Evaporated Apple Export  
Association,  
709 First Avenue, North,  
Yakima, Wash.

Wescosa Lumber Association,  
Room 500  
San Francisco.

Wine & Brandy Export Association of  
California,  
717 Market Street,  
San Francisco.

tion, The,  
347 Madison Avenue,  
New York.

Potash Export Association, Inc.,  
420 Lexington Avenue,  
New York.

Wire Rope Export Trade Association,  
The  
Room 2006,  
19 Rector Street,  
New York.

### NEW ASSOCIATIONS

The Maine Sardine Packers' Export Association was formed in July 1946, and now represents 11 sardine packing companies located on the coast of Maine. Association offices were established in Eastport, Maine, and New York.

The American Phonograph Cooperative, Ltd., was formed in September 1946 by 23 companies to export used coin-operated phonographs, with offices in Chicago.

The United States Scientific Export Association, organized in November 1946, will ship scientific, chemical, technical and laboratory apparatus, instruments, equipment and supplies to foreign countries for its five member companies in Illinois, Pennsylvania and New York. The association office is in New York.

The Citrus Corporation of America filed its organization papers with the Commission in February 1947 and established offices in New York and Delaware. Members are producers of citrus fruits in Florida and include one growers , association, a packing company and four individuals.

### EXPORTS IN 1946 TOTAL \$322,597,224

Exports during 1946 showed a substantial increase over 1945, especially in metal products and foodstuffs :

	<i>1945</i>	<i>1946</i>
Metals and metal products	\$16,303,330	
\$93,435,947		
Products of mines and wells	20,003,356	29,320,916
Lumber and wood products	8,207,702	9,636,851
Foodstuffs	9,450,482	1 3 1 ,
623,782		
Miscellaneous	40,007,613	58,579,728
Totals	94,172,483	
322,597,224		

### INQUIRIES AND RECOMMENDATIONS

Several inquiries as to operation of certain export associations were in progress during the fiscal year.

Summons and bill of particulars were issued in August 1946 to the Pacific Forest Industries, an association exporting plywood from the West Coast. This was a reopened case, continuing an inquiry made in 1939 and 1940 (Docket 202-1). Hearings were held on the West Coast in the Fall of 1946 and the matter is still pending.

Inquiries involving Carbon Black Export, Inc., Electrical Apparatus Export Association, General Milk Co., Inc., and The Pipe Fittings & Valve Export Association also are pending (Dockets 202-5, 202-4, 202-6 and 202-9).

After formal hearings, the Commission issued recommendations for the readjustment of the business of Sulphur Export Corp. (Docket 202-6) on February 7, 1947, as follows:

1. That Sulphur Export Corp. refrain in the future from formulating, promoting or participating in any plan, program or agreement whereby either or any of the following described provisions, or provisions of similar purport or effect, are continued, entered into or effectuated, to wit :

(a), Provisions such as those in the agreement between Sulphur Export Corp. and the Ufficio per la Vendita Dello Zolfo Italiano, whereby said Sulphur Export Corporation bound itself to deduct from its tonnage quota of shipments of American Sulphur for export, certain shipments of sulphur from the United States made by or through American producers not stockholders or members of said Corporation;

(b) Provisions such as those in the agreement between Sulphur Export Corporation and the Ufficio per la Vendita Dello Zolfo Italiano, whereby the latter was guaranteed the right to sell a specified minimum tonnage of sulphur in a certain designated period, on a priority basis over and above the tonnage of sulphur to be sold by Sulphur Export Corporation in said territory during the same period ;

(c) Provisions such as those in the agreement between Sulphur Export Corp. and the Ufficio per la Vendita Dello Zolfo Italiano, requiring that shipments of manufactured sulphur from the United States made by or through American exporters be deducted from the tonnage quota of export shipments of crude sulphur made by Sulphur Export Corporation ;

(d) Provisions such as those in the agreement between Sulphur Export Corp. and the Ufficio per la Vendita Dello Zolfo Italiano, requiring that the parties to such agreement were to maintain the status quo in the manufactured sulphur industry in the trade territories to which said agreement applied and to do nothing which would encourage any alteration in the competitive trade situation in said industry in said trade areas.

2. That Sulphur Export Corp. refrain in the future from formulating, promoting or participating in any plan, program or agreement such as that provided in the agreement with Orkla-Grube Aktlebolag, that Sulphur Export Corp. shall acquire or control or participate in the acquisition or control of any share in patents or processes useful for or capable of being used in connection with the production of sulphur for commercial purposes, and that said Corporation in the future refrain from so obligating itself, financially or otherwise, in any such understanding or agreement.

3. That Sulphur Export Corp. in the future refrain from entering into any understanding or agreement with American producers of sulphur who are not regularly admitted and recognized members of said Corporation, whereby said producers or Sulexco agree not to sell sulphur in certain foreign markets, or to sell only at agreed or noncompetitive prices and terms, or to refrain from competing with each other in export trade in sulphur.

4. That Sulphur Export Corp. in the future cease and desist from selling, banding, marketing or disposing of sulphur for the account of or belonging to any American producer who is not a regularly admitted and recognized member of the Sulphur Export Corp.

5. That Sulphur Export Corp. in the future seasonably file with the Commission all information required by the Export Trade Act to be filed annually, and furnish all information and documentary evidence requested or required by the Commission, pursuant to said Act, whether called for any report forms, by questionnaires or communications, by personal visitation or otherwise.

It is ordered by the Commission that Sulphur Export Corp. file with the Commission within 30 days hereof a report stating whether it has elected to comply with the above recommendations, and if so, the manner in which it has so complied.

The sulphur association reported compliance and has continued to operate.

The Commission, after formal hearings, made the following recommendations for the readjustment of the business of Export Screw Association of the United States on February 19, 1947 (Docket 202-8):

1. That Export Screw Association of the United States refrain in the future from formulating, promoting or participating in any plan, program or agreement whereby

either or any of the following-described undertakings, or undertakings of similar purport or effect, are abetted, continued, entered into or effectuated, to wit:

(a) Undertaking or practice, such as the participation in the purchase of the Fair Works of Sweden, by means of which foreign competitors who have or may ship their products into the United States are eliminated or their production terminated or abandoned.

(b) Undertaking or agreement, such as the agreement with the International Union of Wood Screw Manufacturers by means of which the United States was agreed upon as the home market for the members of the Association and the importation of wood screws into this country by members of the Union was prevented.

(c) Undertaking or practice, such as the Association's cooperation with the International Union of Wood Screw Manufacturers, whereby machinery for the

making of wood screws was purchased or sequestered and made unavailable to manufacturers or potential manufacturers of wood screws.

(d) Undertaking or agreement, such as the agreement between the Association and Guest, Keen and Nettlefolds, Ltd., of Birmingham, England, a foreign competitor, whereby the export of wood screws from foreign countries into the United States and its territories and possessions was limited, restrained and prevented.

2. That Export Screw Association of the United States in the future refrain from entering into any understanding or agreement with American manufacturers of wood screws who are not regularly admitted and recognized members of said Association, whereby said manufacturers agree to sell only at agreed and noncompetitive prices and terms, or to refrain from competing in export trade in wood screws.

3. That Export Screw Association of the United States refrain In the future from fixing prices, terms or discounts upon or trading in any manner in wood screws marketed in Puerto Rico or any other territory or possession of the United States.

4. That Export Screw Association of the United States in the future seasonably file with the Commission all information required by the Export Trade Act to be filed annually, and furnish all information and documentary evidence requested or required by the Commission, pursuant to said Act, whether called for by report forms, by questionnaires or communications, by personal visitation or otherwise.

It is ordered by the Commission that Export Screw Association of the United States file with the Commission within 30 days hereof a report stating whether it has elected to comply with the above recommendations, and if so, the manner in which it has so complied.

The Screw Association reported compliance.

### **TRUST LAWS AND TRADE REGULATION ABROAD**

Under section 6 (h) of the Federal Trade Commission Act, the Commission compiles information as to trust laws, unfair competition and regulation of trade and industry in foreign countries. A few of the more important measures are noted :

*Argentina.*--A number of decrees in May and June 1946 effected reorganization of the economic and financial structure of the country. In October 1946 the President presented to Congress a Five-Year Plan including 27 basic laws for expansion of industry, agriculture, communications and trade; reforms in public health, education and the electoral system; reorganization of government offices; and regulation of fuel and power. As a step toward nationalization of public services, the Government purchased 3 French-owned railways in December 1946, and the British-owned roads in February 1947.

*Australia.*--The Commonwealth Wheat Stabilization Acts passed in August 1946 provided for a guaranteed price, control of acreage, continuation of the Wheat Board as a central marketing organization, and subsidy through a stabilization fund.

*Austria.*--A Nationalization Act passed July 26, 1946, was made effective September 17, 1946, for certain industries.

*Brazil.*--A decree on April 4, 1946, prescribed a rigid system of price control. The new Constitution of September 18, 1946, set out principles for regulation of natural resources, business and banking.

*Canada.*--The Combines Investigation Act was amended August 31, 1946.

*China.*--Emergency measures were taken by the National Government in February 1947 in an effort to balance the budget. Wartime



price control, outlawing of strikes and factory closing, and prohibition of hoarding and speculation were reimposed.

*Colombia.*--Price and rent control were reimposed in March 1946 to prevent speculation, scarcity and increased prices.

*Costa Rica.*--A Legislative Decree on July 23, 1946, increased the capital of the Agricultural Development Section of the National Bank to make loans to organized industrial and agricultural cooperatives. Price-fixing measures were reestablished in August 1946.

*Czechoslovakia.*--The nationalization program begun in 1945 now covers about 65 percent of the industrial capacity of the country.

*Ecuador.*--A decree effective February 8, 1947, provided a new system of foreign trade control. Only essential articles may be imported, and prices of imported goods are under control of the Director of Foreign Trade who may determine a maximum profit and confiscate goods sold contrary to the regulations.

*France.*--The French Four-Year Plan contemplates revitalizing six basic industries of the country, coal, electricity, transport, steel, cement, and farm machinery, through price control, rationing, allocation of materials, control of credit and foreign exchange, and a system of building licenses, as well as control of employment. The gas and electricity industries, certain insurance companies and the coal industry were nationalized in 1946.

*Germany.*--A Decartelization Act, made effective by the American and British military Governments, prohibits combines in restraint of trade and concentration through employment of more than 10,000 employees by one company.

*Great Britain.*--The Bank of England was nationalized by law February 14, 1946, and the coal industry by act of July 12, 1940, effective January 1, 1947. Other industries which it is proposed to nationalize are iron and steel, Cable & Wireless, Ltd., civil aviation, inland transportation, and electricity. In December 1946 the Government announced a program to modernize the textile industry, the Government to reimburse the spinners to the extent of 25 percent of the cost of replacing obsolete machinery. An Agriculture Bill was introduced in December 1946, a Town and Country Planning Bill and an Industrial Organization Bill in January 1947.

*Hungary.*--State ownership of coal mines was provided in a decree on January 1, 1946. Under a land reform program, about 4,000,000 acres have been taken over by the Government and divided among about 700,000 families.

*International.*--In the fall of 1946 the Combined Tin Committee effected a world allocation of tin supplies. An International Shipping Conference met in London in February 1947 with representatives of shipowners from 12 maritime countries. An International Wool Study Group met in London in April 1947 with delegates and observers from 25 countries. A draft convention has been prepared by the International Wheat Council to assure adequate supplies, promote stability in price, establish reserves, provide security for efficient producers, and promote wheat consumption.

*Italy.*--Decrees in March and June 1946 established a Central Industrial Commission with consultative functions with respect to control of industry and trade, and power to allocate industrial development and determine prices and distribution of products.

*Mexico.*--A National Securities Commission was created by decree on April 16, 1946. A Soil and Water Conservation Act was passed July 19, 1946. A decree on October 15, 1946, declared all radioactive mineral resources a part of the national reserves.

*Netherlands.*--The National Welfare Plan for 1946 provided for coordination of the economic, social and financial policy of the Government by forecasting production, prices, national income and expenditures.

*New Zealand.*--The Government has a seven-point plan for encouraging secondary industries , including import control , trade agreements, decentralized of industry, and financial assistance.

*Panama.*--Laws on July 3, 1946, and August 30, 1946, respectively, created a National Price Bureau and a Tariff Commission.

*Peru.*--A National Food Supply Corporation has been created to regulate prices and distribution of food products. An Office of Industries and a National Food and Agriculture Council, created in 1946, will prepare plans for an industrialization program to utilize National raw materials. A National Foreign Trade Council was created by decree January 21, 1947, to promote and control foreign trade.

*Poland.*--Under the Nationalization Law of January 3, 1946, key industries have been taken over by the Government. Economic development is in the hands of a Cabinet Committee, served by a Central Planning Board. Agriculture holdings of over 125 acres have been confiscated for distribution among small holders.

*Rumania.*--The National Bank was declared a state enterprise under a law dated December 23, 1946, effective January 1, 1947.

*Salvador.*--A decree on July 13, 1946, authorized the President to control and supervise the price and supply of articles affecting the standard of living.

*Union of Soviet Socialist Republics.*--A decree was issued in September 1946 to correct violations and further implement the 1935 basic Law of Collective Agriculture. The Law on the Fourth Five-Year Plan was adopted by the Supreme Soviet March 18, 1946.

*Uruguay.*--A proposed law for the regulation of monopolies was introduced in May 1947. A message to Congress by the Executive Branch of the Government stated that the purpose was not a prohibition of concentration per se, but elimination of unfavorable effects of private business monopolies. State monopolies are not affected. A residential decree on August 30, 1946, prescribed rules for marking and sale of pharmaceutical preparations and for analytical control of their contents through chemical analysis.

*Venezuela.*--Decrees on March 8, 1946, and May 19, 1946, respectively, created a National Economic Council to make studies and advise the Government, and a Development Corporation to evolve a plan for projects to utilize the agricultural, livestock and industrial resources of the country.

*Yugoslavia.*--The Nationalization Act of December 5, 1946, provided for nationalization of 42 branches of trade and industry, covering practically every field of economic activity except the retail trade and agriculture.

## PART VIII. FISCAL AFFAIRS

### APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation Act, 1947 (Public Law 334, 79th Congress), approved March 28, 1946, provided funds for the fiscal year 1947 for the Federal Trade Commission as follows :

#### FEDERAL TRADE COMMISSION

Salaries and expenses : For salaries and expenses of the Federal Trade Commission, including personal services in the District of Columbia ; contract stenographic reporting services ; supplies and equipment, lawbooks, books of reference, periodicals, garage rentals ; traveling expenses ; newspapers not to exceed \$500, foreign postage ; not to exceed \$5,000 for deposit in the general fund of the Treasury for cost of penalty mail as required by section 2 of the Act of June 28, 1944 (Public Law 364); and witness fees and mileage in accordance with section 9 of the Federal Trade Commission Act ; \$2,194,120, of which not less than \$228,695 shall be available for the enforcement of the Wool Products Labeling Act : *Provided*, That no part of the funds appropriated herein for the Federal Trade Commission shall be expended upon any investigation hereafter provided by concurrent resolution of the Congress until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such investigation.

Printing and binding : For all printing and binding for the Federal Trade Commission, \$45,000.

In addition to this sum, there was appropriated in the Third Deficiency Appropriation Act, 1946, (Public Law 521, 79th Congress), approved July 23, 1946, a supplemental amount for the fiscal year 1947 as follows:

#### FEDERAL TRADE COMMISSION

Salaries and expenses : For an additional amount, fiscal year 1947, for "Salaries and expenses," \$325,000: *Provided*, That the limitation under this head in the Independent Offices Appropriation Act, 1947, on the amount which may be expended for penalty mail costs is hereby increased from \$5,000 to \$6,000.

Printing and binding : For an additional amount, fiscal year 1947, for "Printing and binding", \$5,000.

Also, in accordance with the provisions of Executive Order No.9809, dated December 12, 1946, the sum of \$125,000 was transferred to the Commission from the Office of Price Administration to permit the resumption of the financial reports program, duties which had been performed by that office during the emergency period, but by the Commission prior to that time.

Finally, House Joint Resolution 159, making appropriations to supply deficiencies

in certain appropriations for the fiscal year ending June 30, 1947, and for other purposes (Public Law 25, 80th Congress), approved March 29, 1947, provided funds in the amount of \$281,000 to meet increased pay costs authorized by the Act of May 24, 1946 (Public Law 390).

### **APPROPRIATIONS FOR FISCAL YEAR**

Funds available to the Commission for the fiscal year 1947 as cited above amounted to \$2,975,120. This sum was made up of two items : (1) \$2,925,120 for the general work of the Commission, and (2) \$50,000 for printing and binding.

*Appropriations, allotments, expenditures, liabilities, and balances for the fiscal year ended June 30, 1947*

	Amount available	Amount expended	Liabilities	Expenditures and liabilities	Balances
Federal Trade Commission, 1947- Salaries, Commissioners, and all other authorized expenses	\$2,800,120.00	\$2,564,163.94	\$161,347.65	\$2,725,511.59	\$74,608.41
Printing and binding, Federal Trade Commission, 1947	50,000.00	9,546.63	29,116.44	38,663.07	11,336.93
Transfer from Office of Price Ad- ministration, 1947	125,000.00	85,709.93	11,779.49	97,489.42	27,510.58
Total, fiscal year 1947	2,975,120.00	2,059,420.50	202,243.58	2,801,004.08	113,455.92
Unexpended balances:					
Federal Trade Commission, 1946	53,015.13	42,165.63	2,855.01	45,020.64	8,594.49
Printing and binding, Federal Trade Commission, 1946	36,605.23	12,220.48	16,010.00	28,230.48	8,374.75
Federal Trade Commission, 1945	59,493.77	1,885.30		1,885.30	57,608.47
Printing and binding, Federal Trade Commission, 1945	27,590.45	22,098.57		22,098.57	5,491.88
Total	3,152,424.58	2,737,790.48	221,108.59	2,958,899.07	193,525.51

*Detailed statement of costs for the fiscal year ending June 30, 1947*

	Salary	Travel	Other	Total
Commissioners	\$48,076.25	\$1,269.31	\$3.41	\$49,348.97
Office of Commissioners	69,433.71			69,433.71
Office of the Secretary	44,200.92			44,200.92
Total	161,710.88	1,269.31	3.41	162,983.60
Administration:				
Budget and planning	29,094.80			29,094.80
Library	19,239.83			19,239.83
Personnel	28,627.21			28,627.21
Stenographic	110,164.16			110,164.16
Information service	18,164.15			18,164.15
Legal research and publications	32,114.00			32,114.00
Legal records	60,594.64			60,594.64
Economic and administrative records	10,472.94			10,472.94
Services and supplies	84,292.71			84,292.71
Communications			16,820.07	16,820.07
Contract services			2,491.86	2,491.86
Equipment			13,827.32	13,827.32
Rents			7,218.56	7,218.56
Supplies			13,916.40	13,916.40
Transportation of things			2,050.13	2,050.13
Travel expense		141.50		141.50
Total	392,704.50	141.50	56,324.34	449,230.34
Legal:				
Preliminary inquiries	140,218.95	5,662.23	465.65	146,346.83
Application for complaints	399,666.92	26,449.54	676.22	426,792.68
Complaints	747,780.26	50,081.45	19,606.41	817,468.12
Export trade associations	19,978.37	1,057.34	10.66	21,048.37
Trade practice conferences	69,283.39	1,843.55	203.11	71,330.05
Wool products labeling act	183,664.02	21,785.88	86.24	205,536.14
Stipulations	67,835.39			67,835.39
Legal aids to Commission	32,385.32			32,385.32
Industry wide investigations	19,906.75	5,644.61	46.78	25,598.14
Total	1,680,719.37	112,524.60	21,095.07	1,814,339.04
General investigations:				
Accounting work, unlawful practices	102,174.51	182.89	1.09	102,358.49
Export trade study	472.24	15.00		487.24
Office of coordinator of fisheries	2,724.31	132.14		2,856.45
Wholesale bread baking	842.32	99.17		941.49
Senate Committee on Agriculture	3,122.10	552.64	2.20	3,676.34
Farm machinery	48,250.75	1,473.66	9.13	49,733.54

Fertilizer industry	15,448.60	1,027.96	4.50	18,481.08
Financial reporting program	84,222.44	952.67	1,171.63	86,346.74
Study of the efficiency of large, small and medium-sized companies	2,432.26	30.58		2,462.84
Production and distribution policies	197.62			197.62
Study of the steel situation for Senate Committee on Small Business	1,830.01			1,830.01
Total	281,717.16	4,468.11	1,188.55	267,371.82

*Detailed statement of costs for the fiscal year ending June 30, 1941--Continued*

	Salary	Travel	Other	Total
Printing and binding			\$43,865.68	\$43,865.68
Summary:				
Commissioners and Secretary Administration	\$161,710.88	\$1,269.31	3.41	162,983.60
Legal	392,764.50	141.50	56,324.34	449,230.34
General investigations	1,080,719.37	112,524.60	21,095.07	1,814,339.04
Printing and binding	261,717.16	4,460.11	1,188.55	267,371.82
Total	2,496,911.91	118,401.52	122,477.05	2,737,790.48

**RECAPITULATION OF COSTS BY DIVISIONS**

Commissioners and Secretary	\$158,865.16	\$1,269.31	\$3.41	\$160,137.88
General Counsel	463,798.51	27,713.92	15,434.57	506,947.00
Accounts, statistics, and economic reports	208,074.73	5,285.94	1,193.10	274,553.77
Legal investigations	700,599.44	46,418.63	975.68	747,994.75
Trial examiner	136,093.00	13,538.05	12.22	149,643.27
Medical advisory	24,104.47	404.74	4,377.70	28,886.91
Trade practice conferences and Wool Act administration	252,947.41	23,629.43	289.35	276,866.19
Stipulations Division	64,433.65			64,433.65
Legal aids to Commission	32,385.32			32,385.32
Administrative	395,610.22	141.50	56,324.34	452,076.06
Printing and binding			43,865.68	43,865.68
Total	2,496,911.91	118,401.52	122,477.05	2,737,790.48

**APPROPRIATIONS AND EXPENDITURES, 1915-47**

Appropriations available to the *Commission* since its organization and expenditures for the same period, together with the unexpended balances, are :

Year	Nature of appropriations	Appropriations and liabilities	Expenditures	Balance
1915	Lump sum	\$184,016.23	\$90,442.05	\$93,574.18
	Printing and binding	12,386.76	9,504.10	2,882.60
1916	Lump sum	430,964.08	379,927.41	51,636.67
	Printing and binding	15,000.00	14,997.55	2.45
1917	Lump sum	542,025.92	448,890.66	93,135.26
	Printing and binding	25,000.00	23,610.54	1,389.48
1918	Lump sum	1,578,865.92	1,412,280.19	166,585.73
	Printing and binding	30,000.00	11,114.06	18,885.94
1919	Lump sum	1,693,622.18	1,491,637.39	201,984.97
	Printing and binding	14,934.21	14,934.21	0
1920	Lump sum	1,206,587.42	1,007,593.30	198,994.12
	Printing and binding	28,348.97	28,348.97	0
1921	Lump sum	938,609.94	842,991.24	95,618.70
	Printing and binding	37,182.56	37,182.56	0
1922	Lump sum	952,505.45	878,120.24	74,385.21
	Printing and binding	22,801.73	22,801.73	0
1923	Lump sum	952,020.11	948,293.07	3,727.04
	Printing and binding	22,460.21	22,400.21	0
1924	Lump sum	990,000.00	900,020.93	29,979.07
	Printing and binding	20,000.00	19,419.25	580.75
1925	Lump sum	990,000.00	988,082.37	1,917.63
	Printing and binding	20,000.00	19,866.14	133.86
1926	Lump sum	990,000.00	976,957.02	13,042.98
	Printing and binding	18,000.00	18,000.00	0
1927	Lump sum	980,000.00	943,881.99	36,118.01
	Printing and binding	17,000.00	17,000.00	0
1928	Lump sum	967,850.00	951,965.15	15,884.85
	Printing and binding	16,500.00	16,500.90	0
1929	Lump sum	1,135,414.83	1,131,521.47	3,893.36
	Printing and binding	27,777.69	27,777.69	0
1930	Lump sum	1,440,971.82	1,430,084.17	10,887.65

	Printing and binding	35,363.58	35,363.58	0
1931	Lump sum	1,932,857.81	1,808,463.35	124,454.46
	Printing and binding	39,858.73	39,858.73	0
1932	Lump sum	1,808,097.19	1,749,484.00	58,612.59
	Printing and binding	30,000.00	30,000.00	
1933	Lump sum	1,421,714.70	1,378,973.14	42,741.56
	Printing and binding	30,000.00	20,000.00	10,000.00

90 ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

Year	Nature of appropriations	Appropriations	Expenditures and liabilities	Balance
1934	Lump sum	1,273,763.49	1,273,006.38	157.11
	Printing and binding	40,250.00	40,250.00	0
1935	Lump sum	2,063,398.01	1,922,313.34	141,084.67
	Printing and binding	34,000.00	34,000.00	0
1936	Lump sum	1,998,665.58	1,788,729.76	209,935.82
	Printing and binding	36,800.00	32,996.05	3,803.95
1937	Lump sum	1,895,571.94	1,850,673.82	44,898.12
	Printing and binding	43,353.95	43,353.95	0
1938	Lump sum	1,950,000.00	1,895,519.47	54,480.35
	Printing and binding	46,000.00	46,000.00	0
1939	Lump sum	2,236,795.00	2,150,474.40	86,320.60
	Printing and binding	46,700.00	46,709.00	0
1940	Lump sum	2,285,500.00	2,214,889.07	70,610.93
	Printing and binding	60,000.00	60,000.00	0
1941	Lump sum	2,240,000.00	2,167,256.24	72,743.76
	Printing and binding	60,000.00	59,000.00	1,000.00
1942	Lump sum	2,373,822.00	2,296,921.13	76,900.87
	Printing and binding	60,000.00	42,000.00	18,000.00
1943	Lump sum	2,237,705.00	2,100,783.09	138,921.91
	Printing and binding	50,250.00	32,210.75	18,039.25
1944	Lump sum	2,040,050.00	1,917,307.50	122,742.50
	Printing and binding	43,000.00	39,848.47	3,151.55
1945	Lump sum	2,016,070.00	1,957,818.31	58,251.69
	Printing and binding	43,000.00	39,728.72	3,271.28
1946	Lump sum	2,129,833.00	2,119,462.47	10,370.53
	Printing and binding	44,000.00	43,557.97	9,442.03
1947	Lump sum	2,925,120.00	2,823,001.01	102,118.99
	Printing and binding	50,000.00	38,663.07	11,336.93



## APPENDIXES

### FEDERAL TRADE COMMISSION ACT

(15 U.S. C., Secs. 41-58)

AN ACT To create a Federal Trade Commission, to define its powers and duties,  
and for

other purposes

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission) , which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed : *Provided, however,* That upon the expiration of his term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The Commission shall choose a chairman from Its own membership. No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for Inefficiency, neglect of duty, or malfeasance in office. A vacancy in the Commission shall not impair the right of the remaining commissioners to exercise all the powers of the Commission.

The Commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint secretary who shall receive a salary of \$5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the Commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the Commission and by the Civil Service Commission.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making *any* investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers

therefor approved by the Commission.

Until otherwise provided by law, the commission may rent suitable offices for its use.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the Commission.<sup>2</sup>

<sup>1</sup> The salary of the secretary is controlled by the provisions of the Classification Act of 1923, approved March 4, 1923, 42 Stat. 1488.

<sup>2</sup> Auditing of accounts was made a duty of the General Accounting Office by the Act of June 10, 1921, 42 Stat. 24.

767228--48--7

SEC. 3. That upon the organization of the Commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the Commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the Commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the Commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the Commission in the exercise of the powers, authority, and duties conferred on it by this Act.

The principal office of the Commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The Commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 4. The words defined in this section shall have the following meaning when found in this Act, to wit:

“Commerce” means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

“Corporation” shall be deemed to include any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members, and has shares of capital or capital stock or certificates of interest, and any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, without shares of capital or capital stock or certificates of interest, except partnerships, which is organized to carry on business for its own profit or that of its members.

“Documentary evidence” includes all documents, papers, correspondence, books of account, and financial and corporate records.

“Acts to regulate commerce” means the Act entitled “An Act to regulate commerce,” approved February 14, 1887, and all Acts amendatory thereof and supplementary thereto and the Communications Act of 1934 and all Acts amendatory thereof and supplementary thereto.

“Antitrust Acts” means the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July 2, 1890; also sections 73 to 77, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved August 27, 1894; also the Act entitled “An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February 12, 1913; and also the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October 15, 1914.

Sec. 5. (a) Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers, subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, <sup>3</sup> and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall

<sup>3</sup> By subsection (f), Section 1107 of the “Civil Aeronautics Act of 1938,” approved June 23, 1938, Public No.706, 75th Congress, Ch. 601, 3d Sess., S. 3845, 52 Stat. 1028, Section 5 (a) of the Federal Trade Commission Act was amended by inserting before the words "and persons" (and following the words “to regulate commerce”), the following: “air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938.”

appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition or such act or practice. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the transcript of the record in the proceeding has been filed in a circuit court of appeals of the United States, as hereinafter provided, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time, after notice and opportunity for bearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require : *Provided, however,* That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate circuit court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days<sup>4</sup> from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the Commission. Upon such filing of the petition and transcript the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to

prevent injury to the public or to competitors pendente lite. The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and

<sup>4</sup> Section 5 (a) of the amending Act of 1938 provides :

SEC. 5. (a) In case of an order by the Federal Trade Commission to cease and desist, served on or before the date of enactment of this Act, the sixty-day period referred to in section 5 (c) of the Federal Trade Commission Act, as amended by this Act, shall begin on the date of the enactment of this Act.

conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

(d) The jurisdiction of the circuit court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.

(e) Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the Commission or judgment of court to enforce the same shall in anywise relieve or absolve any person, partnership, or corporation from any liability under the Antitrust Acts.

(f) Complaints, orders, and other processes of the Commission under this section may be served by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the residence or the principal office or place of business of such person, partnership, or corporation; or (c) by registering; and mailing a copy thereof addressed to such person, partnership, or corporation at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

(g) An order of the Commission to cease and desist shall become final--

(1) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the Commission may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b); or

(2) Upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed, or the petition for review dismissed by the circuit court of appeals, and no petition for certiorari has been duly filed; or

(3) Upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the circuit court of appeals; or

(4) Upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Commission be affirmed or the petition for review dismissed.

(h) If the Supreme Court directs that the order of the Commission be modified or set aside, the order of the Commission rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(i) If the order of the Commission is modified or set aside by the circuit court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order

of the Commission rendered in accordance with the mandate of the circuit court of appeals shall become final on the expiration of thirty days from the time such order of the Commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(j) If the Supreme Court orders a rehearing; or if the case is remanded by the circuit court of appeals to the Commission for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission has been rendered.



(k) As used in this section the term “mandate,” in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

(l) Any person, partnership, or corporation who violates an order of the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

Sec. 6. That the commission shall also have power--

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust Acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation and the report shall be made public in the discretion of the commission.

(d) Upon the direction of the President or either <sup>5</sup> House of Congress to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust Acts in order that the corporation may thereafter maintain Its organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest ; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act.

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders,

or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided In the antitrust Acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

<sup>5</sup> See footnote on p. 2.

SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon Its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this Act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question ; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made In pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken, and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it ; *Provided*, That no natural person

so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Sec. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or cause to be made, full, true, and correct

entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000 or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 11. Nothing contained in this Act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust Acts or the Acts to regulate commerce, nor shall anything contained in the Act be construed to alter, modify, or repeal the said antitrust Acts or the Acts to regulate commerce or any part or parts thereof.

SEC. 12. (a) It shall be unlawful for any person, partnership, or corporation to disseminate, or cause to be disseminated, any false advertisement--

(1) By United States mails, or in commerce by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics ; or

(2) By any means, for the purposes of inducing, or which is likely to induce directly or indirectly, the purchase in commerce of food, drugs, devices, or cosmetics.

(b) The dissemination or the causing to be disseminated of any false advertisement within the provisions of subsection (a) of this section shall be an unfair or deceptive act or practice in commerce within the meaning of section 5.

SEC. 13. (a) Whenever the Commission has reason to believe--

(1) that any person, partnership, or corporation is engaged in, or is about to engage in, the dissemination or the causing of the dissemination of any advertisement in violation of section 12, and

(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist

made thereon has become final within the meaning of section 5, would be to the interest of the public, the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or in the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing a temporary injunction or restraining order shall be granted without bond. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business.

(b) Whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals--

(1) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and

(2) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement. the court shall exclude such issue from the operation of the restraining order or injunction.

Sec. 14. (a) Any person, partnership, or corporation who violates any provision of section 12 (a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than six months, or by both such fine and imprisonment ; except that if the conviction is for a violation committed after a first conviction of such person, partnership, or corporation, for any violation of such section, punishment shall be by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment : *Provided*, That for the purposes of this section meats and meat food products duly inspected, marked, and labeled In accordance with rules and regulations issued under the Meat Inspection Act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

(b) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of advertising, except the manufacturer, packer, distributor, or seller of the commodity to which the false advertisement relates, shall be liable under this section by reason of the dissemination by him of any false advertisement, unless he has refused on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the United States, who caused him to disseminate such advertisement. No advertising agency shall be liable under this section by reason of the causing by it of the dissemination of any false advertisement, unless it has refused, on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, or seller, residing in the United States, who caused it to cause the dissemination of such advertisement.

SEC. 15. For the purposes of section 12, 13, and 14--

(a) The term "false advertisement" means an advertisement, other than labeling, which is misleading in a material respect ; and in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement or, under such conditions as are customary or usual. No advertisement of a drug shall be deemed to be false if it is disseminated only to members of the medical profession, contains no false representations of a material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

(b) The term "food" means (1) articles used for food or drink for man or other

animals, (2) chewing gum, and (3) articles used for components of any such article.

(c) The term “drug” ‘means (1) articles recognized In the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them ; and (2) articles Intended for use In the diagnosis, cure, mitigation, treatment, or prevention of disease In man or other animals ; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals ; and (4) articles intended for use as a component of any article

<sup>6</sup> Section 5 (b) of the amending Act of 1938 provides :

Sec. 5 (b) Section 14 of the Federal Trade Commission Act, added to such Act by section 4 of this Act, shall take effect on the expiration of sixty days after the date of the enactment of this Act.



specified in clause (1), (2) , or (3); but does not include devices or their components, parts, or accessories.

(d) The term “device” (except when used in subsection (a) of this section) means instruments, apparatus, and contrivances, including their parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals ; or (2) to affect the structure or any function of the body of man or other animals.

(e) The term “cosmetic” means (1) articles to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof intended for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles ; except that such term shall not include soap.

Sec. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (1) of section 5, it shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection.

SEC. 17. If any provision of this Act, or the application thereof to any person, partnership, corporation, or circumstance, is held invalid, the remainder of the Act and the application of such provision to any other person, partnership, corporation, or circumstance shall not be affected thereby.

SEC. 18. This Act may be cited as the “Federal Trade Commission Act.”

Original act approved September 26, 1914.

Amended act approved March 21, 1938.

## **OTHER ACTS ADMINISTERED BY THE COMMISSION**

In addition to the Federal Trade Commission Act, the Commission also administers section 2 of the Clayton Act (U. S. C., title 15, sec. 13), as amended by the Robinson-Patman Antidiscrimination Act, and sections 3, 7, and 8 of the Clayton Act (U. S. C., title 15, secs. 61); the Wool Products Labeling Act (U. S. C., title 15, sec. 68); and certain sections of the Lanham Trade-Mark Act (Public Law 489, 79th Congress).

## **RULES OF PRACTICE**

### **RULE I. THE COMMISSION**

*Offices.*--The principal office of the Commission is at Washington, D. C.

All communications to the Commission must be addressed to Federal Trade Commission, Washington 25, D. C., unless otherwise specifically directed.

Branch Offices are maintained at New York, Chicago, San Francisco, Seattle, and New Orleans.

Their addresses are : Federal Trade Commission, Room 501, 45 Broadway, New York, N. Y.; Federal Trade Commission, 1118 New Post Office Building, 433 West Van Buren Street, Chicago 7, Ill.; Federal Trade Commission, Federal Office Building, Room 133, Civic Center, San Francisco 2, Calif.; Federal Trade Commission, 447 Federal Office Building, Seattle 4, Wash.; Federal Trade Commission, Room 652, Federal Office Building, 600 South Street, New Orleans 12, La.

*Hours.*--Offices are open on each business day from 8: 30 a. m. to 5 p. m.

*Sessions.*--The Commission may meet and exercise all its powers at any place, and may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

Sessions of the Commission for hearings will be held as ordered by the Commission.

Sessions of the Commission for the purpose of making orders and for transaction of other business unless otherwise ordered will be held at the principal office of the Commission at Pennsylvania Avenue at Sixth Street, Washington, D. C., on each business day at 10 a. m.

*Quorum.*--A majority of the members of the Commission shall constitute a quorum for the transaction of business.

*Public information.*--All requests, whether for information or otherwise, and submittals shall be addressed to the principal office of the Commission.

### **RULE II. THE SECRETARY**

The Secretary is the executive officer of the Commission and shall have the legal custody of its seal, papers, records, and property; and all orders of the Commission shall be signed by the Secretary or such other person as may be authorized by the Commission.

### **RULE III. INVESTIGATIONAL HEARINGS**

Investigational hearings, as distinguished from formal hearings in adversary proceedings, shall be held only as ordered by the Commission and shall be held before the Commission, one or more of its members, or a duly designated representative for the purpose of hearing the testimony of witnesses and receiving documents and other data

relating to subjects within the investigational jurisdiction of the Commission. Unless otherwise ordered by the Commission, such hearings shall be public. Hearings shall be stenographically reported and a transcript thereof shall be made which shall be a part of the record of the investigation.

Every person required to attend and testify or submit documents or other data shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript of such person's testimony or documents produced.

#### **RULE IV. APPLICATIONS FOR COMPLAINT**

Any person, partnership, corporation, or association may apply to the Commission to institute a proceeding in respect to any violation of law over which the Commission has jurisdiction.

Such application for complaint shall be in writing, signed by or in behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation of law and the name and address of the applicant and of the party complained of.

#### **RULE V. COMPLAINTS**

Whenever the Commission shall have reason to believe that there is a violation of law over which the Commission has jurisdiction, and in case of violation of the Federal Trade Commission Act, if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, the Commission shall issue and serve upon the proper parties a complaint stating its charges and containing a notice of a hearing upon a day and at the place therein fixed, at least thirty (30) days after the service of said complaint.

Upon request made within 15 days after service of the complaint, any party shall be afforded opportunity for the submission of facts, arguments, offers of settlement, or proposals of adjustment where time, the nature of the proceeding, and the public interest permit, and due consideration shall be given to the same. Such submission shall be in writing. The filing of such request shall not operate to delay the filing of the answer.

#### **RULE VI. SERVICE**

Complaints, orders, and other processes of the Commission, and briefs in support of the Complaint, will be served by the secretary of the Commission by registered mail, except when service by other method shall be specifically ordered by the Commission, by registering and mailing a copy thereof addressed to the person, partnership, or corporation to be served at his or its principal office or place of business. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

When service is not accomplished by registered mail complaints, orders, or other processes of the Commission, and briefs in support of the complaint may be served by anyone duly authorized by the Commission, or by any examiner of the Commission,

(a) By delivering a copy of the document to the person to be served, or to a member of the partnership to be served, or to the presi-



dent, secretary, or other executive officer or a director of the corporation to be served; or

(b) By leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

The return post-office receipt for said complaint, order, or other process or brief registered and mailed as aforesaid, or the verified return by the person serving such complaint, order, or other process or brief, setting forth the manner of said service, shall be proof of the service of the document.

### **RULE VII. APPEARANCE**

Any individual or member of a partnership which is a party to any proceeding before the Commission may appear for himself, or such partnership upon adequate identification, and a corporation or association may be represented by a bona fide officer of such corporation or association upon a showing of adequate authorization therefor.

A party may also appear by an attorney at law possessing the requisite qualifications, as hereinafter set forth, to practice before the Commission.

Attorneys at law who are admitted to practice before the Supreme Court of the United States, or the highest court of any State or Territory of the United States, or the United States Court of Appeals for the District of Columbia, or the District Court of the United States for the District of Columbia, may practice before the Commission.

No register of attorneys who may practice before the Commission is maintained. No application for admission to practice before the Commission is required. A written notice of appearance on behalf of a specific party or parties in the particular proceeding should be submitted by attorneys desiring to appear for such specific party or parties, which notice shall contain a statement that the attorney is eligible under the provisions of this rule. Any attorney practicing before the Commission or desiring so to practice may, for good cause shown, be disbarred or suspended from practicing before the Commission, but only after he has been afforded an opportunity to be heard in the matter.

No former officer, examiner, attorney, clerk, or other former employee of this Commission shall appear as attorney or counsel for or represent any party in any proceeding resulting from any investigation, the files of which came to the personal attention of such former officer, examiner, attorney, clerk, or other former employee during the term of his service or employment with the Commission.

### **RULE VIII. ANSWERS**

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Ten (10) copies of answers shall be furnished. The original of all answers shall be signed in ink, by the respondent or by his attorney at law. Corporations or associations shall file answers through a bona fide officer or by an attorney at law. Answers shall show the office and post-office address of the signer.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Such answer will constitute a waiver of any hearing as to the facts alleged in the complaint and the Commission may proceed to make its findings as to the facts and conclusions based upon such answer and enter its order disposing of the matter without any intervening procedure. The respondent may, however, reserve in such answer the right to other intervening procedure, including a hearing upon proposed conclusions of fact or law, in which event he may, in accordance with Rule XXIV, file his brief directed solely to the questions reserved.

Requests for leave to withdraw an answer and file a substitute or amended answer made prior to the appointment of a trial examiner shall be addressed to the Commission, and if made subsequent to such appointment shall be addressed to and ruled upon by the trial examiner subject to the provisions of Rule XX.

### **RULE IX. INTERVENTION**

So far as the responsible conduct of public business shall permit, any interested person, after leave granted, may appear before the Commission, or its delegated responsible officer, for the presentation, adjustment, or determination of any issue, request, or controversy in any proceeding or in connection with any function of the Commission.

Any person, partnership, corporation, or association desiring to intervene in a contested proceeding shall make application in writing, setting out the grounds on which lie or it claims to be interested

The Commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem proper.

### **RULE X. MOTIONS**

Motions before the Commission or the trial examiner shall state briefly the purpose thereof and all supporting affidavits, records, and other papers, except such as have been previously filed, shall be filed with such motions and clearly referred to therein.

Motions in any proceeding before a trial examiner which relate to the introduction or striking of evidence, to matters of procedure, or to any other matters coming within the scope of the trial examiner's authority shall be made to the trial examiner and shall be ruled on by him. All other motions in any proceeding, except as otherwise provided in these rules, shall be addressed to and shall be ruled on by the Commission, but in the case of motions to dismiss for alleged failure of

proof based upon testimony taken before a trial examiner, the motion will be referred to the trial examiner for report and recommendation before a ruling is made by the Commission.

Ten (10) copies of all written motions shall be filed with the Commission.

Prompt notice shall be given of the granting or denial, in whole or in part, of any written application, petition, or other request of any interested person made in connection with any formal proceeding. Except in affirming a prior denial or where the denial is self-explanatory, such notice shall be accompanied by a simple statement of grounds.

### **RULE XI. CONTINUENCE AND EXTENSION OF TIME**

Except as otherwise expressly provided by law, the Commission, for cause shown, may extend any time limits prescribed in these rules. A hearing before a trial examiner shall begin at the course of the hearing shall be regulated by the trial examiner subject to the provisions of Rule XX.

Applications for continuances and extensions of time should be made prior to the expiration of time prescribed by these rules.

### **RULE XII. DOCUMENTS**

*Filing.*--All documents required to be filed with the Commission in any proceeding shall be filed with the Secretary of the Commission.

*Title.*--Documents shall clearly show the docket number and title of the proceeding.

*Copies.*--Documents, other than correspondence, shall be filed *in triplicate*, except as otherwise specifically required by these rules.

*Form.*--Documents not printed shall be typewritten, on one side of paper only; letter size, eight (8) inches by ten and one-half (10 1/2) inches; left margin, one and one-half (1 1/2) inches; right margin, one (1) inch.

Documents may be printed, in ten (10) or twelve (12) point type, on good, unglazed paper, of the dimensions and with the margins above specified.

Documents shall be bound at *left side only*.

The originals of all answers, briefs, motions, and other documents shall be signed in ink, by the respondent or his duly authorized attorney. Where the respondent is an individual or a partnership, the originals of said documents shall be signed by said individual or by one of the partners, or by his or its attorney. Where the respondent is a corporation, the originals of said documents shall be signed under the corporate name by a duly authorized official of such corporation, or by its attorney. Where the respondent is an association, the originals of said documents shall be signed under the association name for said association by a duly authorized official of such association, or by its attorney.

One copy of a brief or other document required to be printed shall be signed as the original.

**RULE XIII. ADMISSION AS TO FACTS AND DOCUMENTS**

At any time after answer has been filed counsel or parties in any controversy may serve upon the opposing side a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request or the admission of the truth of any relevant matters of fact set forth in such documents.

Copies of the documents shall be delivered with the request unless copies have already been furnished. Each of the matters on which an admission is so requested shall be deemed admitted unless, within a period designated within the request, not less than ten days after service thereof or within such further time as the Commission or the trial examiner may allow on motion and notice, the party so served serves upon the party making the request, a sworn statement either denying specifically the matters of which an admission is requested, or setting forth in detail the reasons why he can neither truthfully admit nor deny those, matters. Service required hereunder may be made upon a respondent either by registering and mailing or by delivering a copy of the documents to be served to the respondent or his attorney, or by leaving a copy at the principal office or place of business of either. Service upon the attorney supporting the complaint may be either by registering and mailing or by delivering a copy of the documents to be served to such attorney.

**RULE XIV. TRIAL EXAMINERS**

All hearings pursuant to formal complaints shall be presided over by the Commission, a member of the Commission, or by a trial examiner appointed by the Commission and duly qualified as an examiner or hearing officer within the meaning of the Administrative Procedure Act. So far as practicable trial examiners shall be assigned to cases in rotation.

Subject to the published rules of the Commission and within its authority, officers presiding at hearings shall have the following powers and duties in all cases to which they are assigned by the Commission, to wit:

- (1) To administer oaths and affirmations.
- (2) To issue subpoenas authorized by law.
- (3) To rule upon offers of proof and receive relevant evidence.
- (4) To take or cause depositions to be taken whenever the ends of justice would be served thereby.
- (5) To regulate the course of the hearings.
- (6) To hold conferences for the settlement or simplification of the Issues by consent of the parties.
- (7) To dispose of procedural requests or similar matters.
- (8) To make and submit to the Commission a recommended decision as provided by Rule XXII.
- (9) To certify questions to the Commission for its determination.
- (10) To take any other action authorized by Commission rule consistent with the Administrative Procedure Act.

Trial examiners shall perform no duties inconsistent with their duties and responsibilities as such. Save to the extent required for the disposition of *ex parte* matters as authorized by law, no trial





examiner shall consult any person or party as to any fact in issue unless upon notice and opportunity for all parties to participate.

Trial examiners shall not be responsible to, or subject to the supervision or direction of, any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission.

The trial examiner is charged with the duty of conducting a fair and impartial hearing and of maintaining order in form and manner consistent with the dignity of the Commission. He will note on the record any disregard by counsel of his rulings on matters of order and procedure and where he deems it necessary shall make special written report thereof to the Commission. In the event that counsel supporting the complaint or counsel for any respondent shall be guilty of disrespectful, disorderly, or contumacious language or conduct in connection with any hearing, the trial examiner may suspend the proceeding and submit to the Commission his report thereon, together with his recommendations as to whether any rule should be issued to show cause why such counsel should not be suspended or disbarred pursuant to Rule VII or subjected to other appropriate action in respect thereto. A copy of such trial examiner's report shall be furnished to any counsel upon whose language or conduct such report is made, and the Commission will take disciplinary action only after an opportunity for hearing has been accorded such counsel.

#### **RULE XV. HEARINGS IN ADVERSARY PROCEEDINGS**

All hearings pursuant to formal complaint shall be public unless otherwise ordered by the Commission, and such hearings shall be subject to the following conditions and requirements

(a) Every party respondent shall have the right of due notice, cross-examination, presentation of evidence, objection, exception, motion, argument, appeal and all other fundamental rights.

(b) The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay.

(c) Not less than five (5) days notice of the time and place of any indefinitely postponed hearing shall be given to counsel of record or to parties, but in appointing such hearing due regard shall be had for the convenience and necessity of all parties or their representatives.

(d) The trial examiner may withdraw from a case when he deems himself disqualified, or he may be withdrawn by the Commission after timely affidavits alleging personal bias or other disqualification have been filed and the matter has been heard by the Commission or by a trial examiner whom It has delegated to Investigate and report.

(e) Hearings shall be stenographically reported by the official reporter of the Commission under supervision of the presiding trial examiner. A transcript of said report shall be a part of the record and the sole official transcript of the proceeding. Transcripts will be supplied to respondents and to the public by the official reporter at rates not to exceed the maximum rates fixed by contract between the Commission and the reporter.

(f) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made in or upon the official record or copies thereof in the custody of the

Commission. Lists of

changes agreed to in writing by opposing counsel may be incorporated into the record, if and when approved by the trial examiner, at the close of evidence in support of the complaint, or at the final hearing before the trial examiner, or at any time thereafter before he files his report, and at no other times. If any changes are ordered by the trial examiner without such written agreement between opposing counsel they shall be subject to objection and exception.

### **RULE XVI. SUBPOENAS**

Subpoenas requiring the attendance of witnesses or the production of documentary evidence from any place in the United States, at any designated place of hearing, may be issued by the presiding trial examiner or a member of the Commission. Application therefor may be made either to the presiding trial examiner or to the Commission.

Application for subpoenas for the production of documentary evidence shall be made in writing to the presiding trial examiner or to the Commission. The application must have reasonable scope and specify as exactly as possible the documents desired, and show their general relevancy. The application shall be verified by oath or affirmation.

An appeal may be taken to the Commission by the parties from the presiding trial examiner's denial of a motion to quash or refusal to issue a subpoena for the production of documentary evidence.

### **RULE XVII. WITNESSES AND FEES**

Witnesses at formal hearings shall be examined orally. Witnesses summoned in support of the complaint shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

Witnesses whose depositions are taken, and the persons taking such depositions, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

Witness fees and mileage, and fees for depositions, shall be paid by the party at whose instance witnesses appear.

### **RULE XVIII. EVIDENCE**

*In general.*--Counsel supporting the complaint shall have the general burden of proof and the proponent of any factual proposition shall be required to sustain the burden of proof with reference thereto. The trial examiner, subject to appeal to the Commission as provided in Rule XX, shall admit relevant, material and competent evidence, but shall exclude irrelevant, immaterial and unduly repetitious evidence.

*Documentary.*--Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be put in evidence, such immaterial or irrelevant parts shall be excluded, and shall be segregated insofar as practicable.

*Official notices of facts.*--Where any recommended decision of the trial examiner or any decision of the Commission, or part thereof, rests upon the taking of official notice of a material fact not appearing in the evidence in the record, any party shall, upon timely motion, be afforded an opportunity to show the contrary.

*Objections.*--Objections to evidence shall be in short form, stating the grounds relied upon, and the transcript shall not include argument or debate thereon except as ordered by the presiding officer. Rulings on such objections shall appear in the record.

### **RULE XIX. DEPOSITIONS**

For good and exceptional cause the testimony of any witness may be taken in any case whether at issue or not, by deposition de bene esse or, prior to the pendency of a case, according to the common usage in Chancery. Depositions may be taken orally or upon interrogatories before any person having power to administer oaths and who has been duly designated by the Commission or the presiding trial examiner.

Unless notice be waived, no deposition shall be taken except after at least five (5) days written notice to the parties within the United States, and fifteen (15) days notice when deposition is to be taken elsewhere.

Any party desiring to take the deposition of a witness shall make application in writing to the Commission or the presiding trial examiner setting out the reasons why such deposition should be taken, the character of the deposition, the time when, the place where, and the name and post office address of the person before whom such deposition is to be taken, the name and post office address of each witness, and the subject matter concerning which the witness is expected to testify. If good and exceptional cause be shown, an order containing such instruction will be made and served upon the parties.

Upon application granted, such deposition may be taken before a person having power to administer oaths other than the person designated in the notice, provided reasonable written notice of such change is given the opposing party. Each witness so testifying shall be duly sworn and the adverse party shall have the right to cross examine such witnesses. The questions propounded to the witnesses and the answers thereto shall be reduced to writing, and, in the presence of the officer taking the deposition, read to the witness and subscribed by the witness and certified in usual form by said officer. Thereafter the said officer shall forward said deposition with three copies thereof, in an envelope under seal, endorsed with the title of the case, and addressed to the Commission at its office in Washington, D. C. If in a pending case, such sealed deposition shall immediately be forwarded to the presiding trial examiner and at a time of hearing read in evidence subject to such objections to the questions and answers as were noted at the time of taking the deposition or as would be valid were the witness personally present at such hearing.

### **RULE XX. APPEALS TO THE COMMISSION FROM RULINGS OF TRIAL EXAMINERS**

Except as provided for in rule XVI, parties shall not have the right to prosecute interlocutory appeals from rulings of a trial examiner during the time the proceeding is pending before him unless it be shown to the Commission that the prompt decision of such appeal is necessary to prevent unusual delay and expense.

Motions for reconsideration and reversal of previous rulings may be made before the trial examiner at the termination of the reception of evidence. In such motions each exception shall be separately set

out, with exact citations to each portion of the record involved and references to the principal authorities relied upon. The trial examiner shall rule upon each exception. An appeal may be taken to the Commission from any adverse ruling on any such motion and the record relating thereto shall be certified to the Commission. Notice of such appeal shall be made on the record when the rulings are made and thereupon the trial examiner shall fix a time, not exceeding fifteen (15) days unless the necessity for further time shall clearly appear, for filing the appeal and a like time for filing the answer. Pending Commission decision and action upon such appeal the case shall remain open. Any such matters not thus laid before the Commission shall be deemed waived.

### **RULE XXI. PROPOSED FINDINGS AND CONCLUSIONS BEFORE TRIAL EXAMINER**

At the close of the reception of evidence before the trial examiner in all formal proceedings, or within a reasonable time thereafter to be fixed by the trial examiner, parties may file for consideration by the trial examiner their proposed findings and conclusions, together with their reasons therefor. Such proposals shall be in writing and shall contain exact references to the record and authorities relied on. Copies thereof shall be furnished all parties, and three copies, including the signed original, shall be filed with the Commission.

Oral argument may be allowed at the discretion of the trial examiner. The record shall show the ruling on each such proposal. Exceptions to such rulings shall be subject to appeal under Rule XXIII only.

### **RULE XXII. TRIAL EXAMINER'S RECOMMENDED DECISION IN ADVERSARY PROCEEDINGS**

The trial examiner, as soon as practicable and within thirty (30) days after receipt of the complete transcript and all exhibits in adversary proceedings, shall make and file a recommended decision which shall become a part of the record and include a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and (2) an appropriate order.

In cases in which the issues of fact are to be determined upon complaint and admission answer or stipulation of facts, no recommended decision will be made if waived by respondent, but in any case where evidence has been taken and must be considered in the decision thereof, a recommended decision will be made regardless of any waiver by the parties.

Except where he shall have become unavailable to the Commission, the recommended decision shall be made by the trial examiner who presided at the hearing.

No officer, employee or agent, engaged in the performance of investigative or prosecuting functions for the Commission, and no party respondent or his agent or counsel in any case shall, in that or a factually related case, participate or advise in the recommended decision of the trial examiner, except as a witness or as counsel in public proceedings.

All findings, conclusions and orders recommended by the trial examiner shall be based upon the whole record and supported by reliable,



probative and substantial evidence (including facts of which he may take official notice). No findings shall be recommended except such as he deems supported by the greater weight of the evidence

At any time prior to the filing of his recommended decision the trial examiner may, for good cause shown, reopen the case for the reception of further evidence.

A copy of the trial examiner's recommended decision shall be served upon each party, counsel or other representative, who has appeared pursuant to Rule VII.

### **RULE XXIII. EXCEPTIONS**

Any party may, within ten (10) days after receipt of a copy of the trial examiner's recommended decision, file with the Commission exceptions to any part thereof and to the trial examiner's failure to include proposed findings and conclusions requested under Rule XXI. Each exception shall specify the portions of the record and the authorities relied on to sustain each point.

Ten (10) copies of the exceptions shall be filed. All exceptions and rulings thereon shall become part of the record.

A copy of such exceptions shall forthwith be furnished the trial examiner and a copy served upon each of the parties and counsel who were served with a copy of the trial examiner's recommended decision.

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits, except as otherwise provided in Rule XX.

### **RULE XXIV. BRIEFS AND ORAL ARGUMENTS BEFORE THE COMMISSION**

#### **A. QUESTIONS FOR PRESENTATION**

Questions which may be presented for consideration and decision by the *Commission on* final hearing include the following :

(1) Whether the findings and conclusions recommended by the trial examiner are relevant and material to the issues and are supported by reliable, probative, and substantial evidence and by the greater weight of the evidence;

(2) Whether additional findings and conclusions, not recommended by the trial examiner, should be made either with or without sending the case back to the trial examiner for the reception of further evidence;

(3) Whether the trial examiner was justified in having taken official notice of any fact and whether the Commission should take official notice of any other fact;

(4) Whether due process was observed and whether there was any prejudicial irregularity in procedure or prejudicial error in the rulings of the trial examiner;

(5) Whether the facts show a violation of law amenable to redress by the Commission and what conclusions of law are justified and requisite in the premises; and

(6) Whether an order to cease and desist, an order of dismissal, or other order, should be entered and issued, and the substance and form thereof.

#### **B. BRIEFS**

*Filing.*--Any party to a proceeding may file a brief in support of his contentions within the time limits fixed by these rules.





Briefs not filed on or before the time fixed in the rules will be received only by special permission of the Commission.

*Time.*--Opening brief shall be filed by the attorney supporting the complaint within twenty (20) days after service upon him of a copy of the recommended decision of the trial examiner.

Brief on behalf of respondent shall be filed within twenty (20) days after service upon respondent or respondent's attorney of copy of brief in support of the complaint.

Where respondent shall have filed an answer admitting all material allegations of fact, the time so limited shall begin to run at the time of filing such answer.

In the event permission is granted for filing reply brief in support of the complaint, it shall be filed within ten (10) days after filing of brief on behalf of respondent. No further brief on behalf of respondent shall be filed.

*Number.*--Twenty (20) copies of each brief shall be filed.

*Contents.*--Briefs, except the reply brief in support of the complaint, shall contain, in the following order:

(a) A concise abstract or statement of the case.

(b) A brief of the argument, exhibiting a clear statement of the points of fact or law to be discussed, with references to the pages of the record and the authorities relied upon in support of each point.

The exceptions, if any, to the recommended decision of the trial examiner may also be included in the brief.

*Index.*--Briefs comprising more than ten (10) pages shall contain on their top flyleaves a subject index with page references. The subject index shall be supplemented by an alphabetical list of all cases referred to, with references to pages where references are cited.

*Form.*--Briefs shall be printed, multigraphed, or otherwise neatly processed on good unglazed white paper in type not smaller than ten (10) point double leaded, citations and quotations single leaded; footnotes not less than eight (8) point single leaded. Type page shall not be more than twenty-nine (29) picas wide by approximately forty-eight (48) picas deep and trimmed page shall be seven (7) Inches by ten (10) inches, with an inside margin of not less than one (1) inch.

*Length.*--Unless leave be granted, briefs shall not exceed seventy-five (75) printed pages.

*Signing.*--At least one copy of each brief shall be signed in ink, by the respondent or his duly authorized attorney, as prescribed in Rule XII.

### C. ORAL ARGUMENTS

Oral arguments before the Commission shall be had as ordered, on written application of the Chief Trial Counsel of the Commission, or of the respondent, or of attorney for respondent, filed within fifteen (15) days after filing of brief on behalf of respondent.

Oral arguments before the Commission shall be reported stenographically unless otherwise ordered by the Commission.

## RULE XXV. COMMISSION'S ADJUDICATION

Upon submittal of a case to the Commission for final decision on the merits the Commission will consider the whole record, including the recommended decision of

the trial examiner and the exceptions

thereto, will resolve all questions of fact by what it deems to be the greater weight of the evidence thereon, will make its decision stating the reasons or basis therefor and enter an appropriate order, and wherever it decides that an order to cease and desist should be entered will also make, as provided by law, a report in writing stating its findings as to the facts. As authorized under the various statutes defining its powers and duties the Commission adjudicates all formal proceedings brought before it and as authorized under the Administrative Procedure Act reserves such adjudications exclusively to itself.

No officer, employee or agent, engaged in the performance of investigative or prosecuting functions for the Commission, and no party respondent or his agent or counsel in any case shall, in that or a factually related case, participate or advise in the decision of the Commission, except as a witness or as counsel in public proceedings.

#### **RULE XXVI. REPORTS SHOWING COMPLIANCE WITH ORDERS AND WITH STIPULATIONS**

In every case where an order to cease and desist is issued by the Commission for the purpose of preventing violations of law and in every instance where the Commission approves and accepts a stipulation in which a party agrees to cease and desist from the unlawful methods, acts, or practices involved, the respondents named in such orders and the parties so stipulating shall file with the Commission, within sixty days of the service of such order and within sixty days of the approval of such stipulation, a report, in writing, setting forth in detail the manner and form in which they have complied with said order or with said stipulation; provided, however, that if within the said sixty (60) day period respondent shall file petition for review in a circuit court of appeals, the time for filing report of compliance will begin to run *de novo* from the final judicial determination; and provided further that where the order prevents the use of a false advertisement of a food, drug, device, or cosmetic, which may be injurious to health because of results from such use under the conditions prescribed in the advertisement, or under such conditions as are customary or usual, or if the use of such advertisement is with intent to defraud or mislead, an Interim report stating whether and how respondents intend to comply shall be filed within ten days.

Within its sound discretion, the Commission may require any respondent upon whom such order has been served and any party entering into such stipulation, to file with the Commission, from time to time thereafter, further reports in writing, setting forth in detail the manner and form in which they are complying with said order or with said stipulation.

Reports of compliance shall be signed in ink by respondents or by the parties stipulating.

#### **RULE XXVII. REOPENING OF PROCEEDINGS**

In any case where an order to cease and desist has been issued by the Commission it may, upon notice to the parties, modify or set aside, in whole or in part, its report of findings as to the facts or order in such manner as it may deem proper at any time prior to expiration of the time allowed for filing a petition for review or prior to the filing of the transcript of record in the proceeding in a Circuit Court of Appeals

of the United States pursuant to a petition for review or for enforcement of such order.

In any case where an order to cease and desist issued by the Commission has become final by reason of court affirmance or expiration of the statutory period for court review without a petition for such review having been filed, the Commission may at any time after reasonable notice and opportunity for hearing as to whether changed conditions of fact or of law or the public interest so require, reopen and alter, modify or set aside in whole or in part its report of findings as to the facts or order therein whenever in the opinion of the Commission, after such hearing, such action is required by said changed conditions or by the public interest.

In any case where an order dismissing a formal complaint of the Commission has been entered the Commission may, upon reasonable notice to the parties and opportunity for a hearing as to whether said proceeding should be reopened, issue an order reopening the same whenever, in the opinion of the Commission, changed conditions of fact or of law or the public interest so require.

### **RULE XXVIII. TRADE PRACTICE CONFERENCE PROCEDURE**

(a) *Purpose.*--The trade practice conference procedure has for its purpose the establishment, by the Commission, of trade practice rules in the interest of industry and the purchasing public. This procedure affords opportunity for voluntary participation by industry groups or other interested parties in the formulation of rules to provide for elimination or prevention of unfair methods of competition, unfair or deceptive acts or practices, and other illegal trade practices. They may also include provisions to foster and promote fair competitive conditions and to establish standards of ethical business practices in harmony with public policy. No provision or rule, however, may be approved by the Commission which sanctions a practice contrary to law or which may aid or abet a practice contrary to law.

(b) *When authorized.*--Trade practice conference proceedings may be authorized by the Commission upon its own motion or upon application therefor whenever such proceedings appear to the Commission to be in the interest of the public. In authorizing proceedings, the Commission may consider whether such proceedings appear to have possibilities (1) of constructively advancing the best interests of industry on sound competitive principles in consonance with public policy, or (2) of bringing about more adequate or equitable observance of laws under which the Commission has jurisdiction, or (3) of otherwise protecting or advancing the public interest.

(c) *Application.*--Application for a trade practice conference may be filed with the Commission by any Interested person, party, or group. Such application shall be in writing and be signed by the applicant or the duly authorized representative of the applicant or group desiring such conference. The following information, to the extent known to the applicant, shall be furnished with such application or In a supplement thereto :

- (1) A brief description of the industry, trade, or subject to be treated.
- (2) The kind and character of the products involved.

(3) The size or extent and the divisions of the industry or trade groups concerned.

(4) The estimated total annual volume of production or sales of the commodities involved.

(5) List of membership of the industry or trade groups concerned in the matter.

(6) A brief statement of the acts, practices, methods of competition or other trade practices desired to be considered, or drafts of suggested trade practice rules.

(d) *Informal discussions with members of the Commission's staff.*--Any interested person or group may, upon request, be granted opportunity to confer in respect to any proposed trade practice conference with the Commission's trade practice conference office, either prior or subsequent to the filing of any such application. They may also submit any pertinent data or information which they desire to have considered. Such submission shall be made during such period of time as the Commission or its duly authorized official may designate.

(e) *Industry conferences.*--Public notice of the time and place of any such authorized conference shall be issued by the Commission. A member of the Commission or of its staff shall have charge of the conference and shall conduct the conference pursuant to direction of the Commission and in such manner as will facilitate the proceeding and afford appropriate consideration of matters properly coming before the conference. A transcript of the conference proceedings shall be made, which, together with all rules, resolutions, modifications, amendments or other matters offered, shall be filed in the office of the Commission and submitted for its consideration.

(f) *Public hearing on proposed rules.*--Before final approval by the Commission of rules for an industry, and upon public notice, further opportunity shall be afforded by the Commission to all interested persons, corporations or other organizations, including consumers, to submit in writing relevant suggestions or objections and to appear and be heard at a designated time and place.

(g) *Promulgation of rules.*--When trade practice rules shall have been finally approved and received by the Commission, they shall be promulgated by official order of the Commission and published, pursuant to law, in the Federal Register. Said rules shall become operative thirty (30) days from date of promulgation or at such other time as may be specified by the Commission. Copies of the final rules shall be made available at the office of the Commission. Under the procedure of the Commission a copy of the trade practice rules as promulgated by the Commission is sent to each member of the industry whose name and address is available, together with an acceptance form providing opportunity to such member to signify his intention to observe the rules in the conduct of his business.

(h) *Violations.*--Complaints as to the use, by any person, corporation or other organization, of any act, practice or method inhibited by the rules may be made to the Commission by any person having information thereof. Such complaints, if warranted by the facts and the law, will receive the attention of the Commission in accordance with the law. In addition, the Commission may act upon its

own motion in proceeding against the use of any act, practice or method contrary to law.

(i) *Amendment of rules.*--Trade Practice rules may be amended or rescinded by the Commission upon its own motion or upon application filed with it by any interested person, party or group. Such application shall be in writing, signed by the applicant or his duly authorized representative, and shall set forth the reasons for the requested action.

### **RULE XXIX. PUBLIC INFORMATION**

The Rules of Practice of the Commission, and such amendments as may be made thereto, shall be published in the Federal Register and may be obtained from the Commission upon application.

The findings, conclusions of law, and final orders of the Commission in respective formal proceedings and a digest of accepted stipulations to desist from unlawful practices shall be published in the official reports of the Commission.

Trade Practice Conference Rules for respective industries, issued under Rule XXVIII hereto, may be obtained upon application to the Commission and shall be published in the Federal Register.

Information concerning the activities of the Commission will be released from time to time under the direction or pursuant to the authority of the Commission.

In proceedings instituted by the issuance of formal complaint, the pleadings, transcript of testimony, exhibits, and all documents received in evidence or made a part of the record therein shall be available for inspection and copying by the public at the convenience of the Commission.

Documents, records, and reports made public by the Commission, including stipulations to cease and desist, certain trade practice conference records, and certain papers filed under the Wool Products Labeling Act, shall be available for inspection and copying at the convenience of the Commission.

The records and files of the Commission, and all documents, memoranda, correspondence, exhibits, and information of whatever nature, other than the documentary matters above described, coming into the possession or within the knowledge of the Commission or any of Its officers or employees in the discharge of their official duties, are confidential, and none of such material or information may be disclosed, divulged, or produced for inspection or copying except under the following circumstances :

Upon good cause shown, the Commission may by order direct that certain records, files, papers, or information be disclosed to a particular applicant.

(a) Application by a member of the public for such disclosure shall be in writing, under oath, setting forth (1) the interest of the applicant in the subject matter; (2) a description of the specific information, files, documents, or other material inspection of which is requested; (3) whether copies are desired; and (4) the purpose for which the information or material, or copies, will be used if the application is granted. Upon receipt of such an application the Commission will take action thereon, having due

regard to statutory restrictions, its rules of practice, and the public interest.



(b) In the event that confidential material is desired for inspection, copying, or use by some agency of the Federal or a State Government, a request therefor may be made by the administrative head of such agency. Such request shall be in writing, and shall describe the information or material desired, its relevancy to the work and function of such agency and, if the production of documents or records or the taking of copies thereof is asked, the use which, is intended to be made of them. The Commission will consider and act upon such requests, having due regard to statutory restrictions, its rules of practice, and the public interest.

In cases in which an officer or employee of the Commission has been lawfully served with a subpoena duces tecum, material designated herein as confidential shall be produced only when and as authorized by the Commission. Service of such subpoena shall immediately be reported to the Commission with a statement of all relevant facts. The Commission will thereupon enter such order or give such instructions as it shall deem advisable in the premises. If the officer or employee so served has not received instructions from the Commission prior to the return date of the subpoena, he shall appear in response thereto and respectfully decline to produce the documents or records subpoenaed (pointing out that he is not permitted to do so under this rule, and request a continuance pending action by or instructions from the Commission. If, notwithstanding, the court or other body orders the production of any of the material subpoenaed, the officer or employee shall immediately report the facts to the Commission.

## **STATEMENT OF POLICY**

### **STATUS OF APPLICANT OR COMPLAINANT**

The so-called “applicant” or complaining party has never been regarded as a party in the strict sense. The Commission acts only in the public interest. It has always been and now is the rule not to publish or divulge the name of an applicant or complaining party, and such party has no legal status before the Commission except where allowed to intervene as provided by the statute.

### **POLICY AS TO PRIVATE CONTROVERSIES**

It is the policy of the Commission not to institute proceedings against alleged unfair methods of competition or unfair or deceptive acts or practices where the alleged violation of law is a private controversy redressable in the courts, except where said practices tend to affect the public. In cases where the alleged injury is one to a competitor only and is redressable in the courts by an action by the aggrieved competitor and the interest of the public is not involved, the proceeding will not be entertained.

### **SETTLEMENT OF CASES BY TRADE PRACTICE CONFERENCE AND STIPULATION AGREEMENTS**

Upon the promulgation of trade practice conference rules for an industry, an examination will be made of all charges of law violations by members of that industry then pending before the Commission which have not reached the formal stage through the issuance of complaint. In those instances in which the pending charges are adequately covered by the trade practice conference rules, and which are not excluded by the exceptions hereinafter stated, the Commission will consider the advisability of closing the matters without prejudice to reopening whenever that action appears to be warranted. In such instances consideration will be given to whether or not a proposed respondent has subscribed to the trade practice conference rules for his industry, to whether or not there is adequate reason to believe that he is in fact complying with such rules and will continue to do so, and to whether or not the public interest or the applicable statute requires any further proceedings.

Upon the promulgation of trade practice conference rules for an industry, formal complaints which have not then been adjudicated and in which the charges are adequately covered by such rules, and which are not excluded by the exceptions hereinafter stated, may be brought directly before the Commission on motion to suspend without prejudice to the Commission’s right to resume the proceeding. In considering such motions the Commission will be guided by factors similar to those outlined above with respect to informal matters.



Whenever the Commission shall have reason to believe that any person has been or is using unfair methods of competition or unfair or deceptive acts or practices in commerce, and that the interest of the public will be served by so doing, it may, in instances which are not excluded by the exceptions hereinafter stated, withhold service of complaint and extend to the person opportunity to execute a stipulation satisfactory to the Commission, in which the person, after admitting the material facts, promises and agrees to cease and desist from and not to resume such unfair methods of competition or unfair or deceptive acts or practices. All such stipulations shall be matters of public record, and shall be admissible as evidence of prior use of the unfair methods of competition or unfair or deceptive acts or practices involved in any subsequent proceeding against such person before the Commission.

It is the policy of the Commission to utilize the trade practice conference and stipulation procedures to encourage widespread observance of the law by enlisting the cooperation of members of industries and informing them more fully of the requirements of the law, so that wherever consistently possible the Commission may avoid the need for adversary proceedings against persons who, through misunderstanding or carelessness, may violate the law unintentionally. But it is not the policy of the Commission to grant the privilege of settling cases through trade practice conference or stipulation agreements to persons who have violated the law where such violations involve intent to defraud or mislead; false advertisement of foods, drugs, devices or cosmetics which are inherently dangerous or where injury is probable; suppression or restraint of competition through conspiracy or monopolistic practices; or violations of the Clayton Act; nor will the privilege be granted where the Commission is of the opinion that such procedure will not be effective in preventing continued use of the unlawful methods, acts or practices. The Commission reserves the right in all cases to withhold the privilege of settlement by trade practice conference or stipulation agreements. When in connection with an industry-wide investigation informal matters of whatever nature are docketed against individual members of that industry, from which the promulgation of trade practice conference rules ensues covering the questioned practices, and which are subscribed to and accepted by the affected members of the industry, the Commission will give careful consideration to whether or not the public interest requires further investigation of such informal matters.

*Explanatory statement.*--The Commission has long had a public statement of policy governing the settlement of informal cases by stipulation agreements. There has been no comparable generally published statement of policy with respect to trade practice conference agreements. Under its present program, the Commission may institute trade practice conferences on its own initiative. When it appears that questionable practices are so prevalent in an industry that they may be more effectively and expeditiously reached by trade practice conference than by individual proceedings, the Commission may utilize that procedure in dealing with the over-all problem. In those situations it is necessary, after the promulgation of trade practice conference rules, to determine what further action should be taken in pending informal cases relating to the same parties and practices, as

well as to determine the extent to which pending formal matters may have been affected.

It is the desire of the Commission to inform the public on these matters, but to avoid commitments which may abrogate its statutory procedures or frustrate the effectiveness of its corrective processes. To this end the Commission has formulated a statement of policy concerning the scope and effect of its trade practice conference procedure insofar as it may affect the settlement of pending matters before it, and it has reappraised its policy with respect to the settlement of cases by stipulation agreements.

For many years the Commission has sought to encourage voluntary compliance with the laws which it administers. It has utilized individual stipulation agreements and conferences with whole industries and has otherwise cooperated with businessmen to inform and guide them with respect to the scope and meaning of the laws within its jurisdiction. A cooperative procedure similar to trade practice conferences was first used by the Commission in about 1919; the Trade Practice Conference Division was established in 1926; and the present active list of trade practice conference rules covers about 160 industries.

It has long been the Commission's practice in certain instances where proper circumstances are present to dispose of pending matters upon acceptance by the affected parties of trade practice rules for their industry covering the charges in such matters. This practice was specifically limited in 1936 when the Commission determined that whenever an application for trade practice conference is received from an industry, some or all of whose members are respondents in proceedings before the Commission involving alleged violations of the Clayton Act or combinations or conspiracies in restraint of trade in violation of the Federal Trade Commission Act, such proceedings will have to go forward without regard to the trade practice conference procedure.

The cooperative procedures, however, require a constant vigilance to avoid the dangers inherent in them. Their use should never be permitted as an easy escape for wilful violators of the laws administered by the Commission or as a means for avoiding or delaying the effectiveness of the Commission's corrective action. These considerations have governed the Commission's policy with respect to the settlement of pending matters by trade practice conference or stipulation agreements.

Trade practice conference rules have no force of law in themselves. Violations of those rules are not proceeded against directly. The Commission can proceed only on a charge of violation of the law upon which the rules are based. Their purpose is to express the requirements of the statutes and decisions in terms which may be understood by the members of particular industries and in language addressed to their problems and practices. An agreement by a member of an industry to abide by the rules is an expression of intention to abide by the basic law.

It is manifestly difficult to draft a statement of policy on a broad basis which does not afford an evasive device to the wilful violator while seeking to avoid unduly harsh treatment of the unintentional or casual violator. Any statement of policy must, therefore, depend for



its effectiveness upon the consistent and sound judgment of the Commission in applying it in individual instances. But no statement of policy should be so broad as to constitute an invitation to reluctant or recalcitrant respondents to avail themselves of informal settlements for the purpose of delaying or defeating effective action. It should invite only those who desire in good faith to correct unlawful practices on a cooperative and voluntary basis. The object of the Commission is to correct--not to punish. But there must be a reasonable assurance that any cooperative procedure will be effective and provide full freedom to institute such further proceedings as are or may become necessary in the public interest.

Conspiracies and monopolistic practices are, with few exceptions, deliberately engaged in for the purpose of restraining competition and ordinarily with knowledge of their illegality. Since good faith is ordinarily lacking in such violations, it cannot be expected to be present in agreements by the conspirators to discontinue and not resume the violations. Violations of this type are frequently also criminal violations of the Sherman Act, and the settlement of such violations by informal agreement may impair the rights of private litigants or compromise the enforcement of that act by the Department of Justice. When conspirators are discovered, or when they are on the verge of being discovered, they would doubtless be glad to make use of the Commission's trade practice conference or stipulation procedure as a protection against the more rigorous procedure provided by the antitrust laws.

Trade practice conference rules may include rules against restraints of trade and against violations of the Clayton Act. Insofar as such rules may be informative to and followed by members of the affected industries, they have a substantial value. They should not be accepted, however, as a basis for the settlement of cases in which the Commission has reason to believe that such violations have occurred.

### **COOPERATION WITH OTHER AGENCIES**

In the exercise of its jurisdiction with respect to practices and commodities concerning which other Federal agencies also have functions, it is the established policy of the Commission to cooperate with such agencies to avoid unnecessary overlapping or possible conflict of effort.

It is the policy of the Commission not to institute proceedings in matters such as the labeling or branding of commodities where the subject matter of the questioned portion of the labeling or branding used is, by specific legislation, made a direct responsibility of another Federal agency.

In proceedings involving false advertisements of food, drugs, cosmetics, and devices as defined in section 15 of the Federal Trade Commission Act, account is taken of the labeling requirements of the Food and Drug Administration in any corrective action applied to the advertising. In the case of advertisements of food, drugs, cosmetics, or devices which are false because of failure to reveal facts material with respect to the consequences which may result from the use of the commodity, it is the policy of the Commission to proceed only when the resulting dangers may be serious or the public health may be impaired, and in such cases to require that appropriate disclosure of the facts be made in the advertising.





## INVESTIGATIONS BY THE COMMISSION, 1915-47

Since its establishment In 1915, the Federal Trade Commission has conducted numerous general inquiries which are alphabetically listed and briefly described in the following pages.<sup>1</sup> They were made at the request of the President, the Congress, the Attorney General, Government agencies, or on motion of the Commission pursuant to the Federal Trade Commission Act.

Reports on these inquiries in many instances have been published as Senate or House documents or as Commission publications. Printed documents, unless indicated as being out of print, <sup>2</sup> may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D. C. Processed publications are available without charge from the Federal Trade Commission while the supply lasts.

Agencies initiating or requesting investigations are indicated in parentheses in the headings below. For wartime inquires, 1917-18 and 1941-45, see paragraphs headed "Wartime."

**Accounting Systems (F. T. C.).**--Pointing the way to a general improvement in accounting practices, the Commission published *Fundamentals of G Cost System for Manufacturers* (H. Doe. 1356, 64th, 31 p., o. p., 7/1/16) and *A System of Accounts for Retail Merchants* (19 p., o. p., 7/15/16).

**Accounting Systems.**--See Distribution Cost Accounting.

**Advertising as a Factor in Distribution.**--See Distribution Methods and Costs.

**Agricultural Implements.**--See Farm Implements and Distribution Methods and Costs.

**Agricultural Implements and Machinery (Congress).** <sup>3</sup> --Prices of farm products reached record lows in 1932 but prices of many farm implements, machines, and repair parts maintained high levels resulting in widespread complaints in the next few years. The Commission investigated the situation (Public Res. 130, 74th, 6/24/36) and, following submission of its report, *Agricultural Implement and Machinery Industry* (H. Doc. 702, 75th, 1,176 p., 6/6/38), the industry made substantial price reductions. The report criticized certain competitive practices on the part of the dominant companies which the companies later promised to remedy. It showed, among other things, that a few major companies had maintained a concentration of control which resulted In large part from their acquisition of the capital stock or assets of competitors prior to enactment of the Clayton Antitrust Act in 1914 and thereafter from their purchase of assets of competitors rather than capital stock.<sup>4</sup> (See also under Farm Implements and Independent Harvester Co.)

**Agricultural Income (Congress).**--Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 61, 74th, 8/27/35), and table and juice grapes, fresh fruits and vegetables (Public Res. 112, 74th, 6/20/36), the Commission made recommendations concerning, among other things, the marketing of commodities covered by the inquiry: coporate consolidations and mergers:s unbalanced agricultural-industrial relations; cooperative associations; production financing; transporta-

1 The wartime cost-finding inquiries, 1917-1918 (p. 139), include approximately 870 separate investigations.

2 Documents out of print (designated "o. p.") are available in depository libraries.

3 Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses. For further explanation, see footnote on p.2.

4 F. T. C. recommendations that section 7 of the Clayton Act be amended to declare unlawful the acquisition of corporate assets under the same conditions that acquisition of corporate stock has been unlawful since 1914, are discussed in *Chain Stores--Final Report on the Chain Store Investigation* (S. Doc. 4, 74th, 12/14/34), p.96; *Summary Report on Conditions With Respect to the Sale and Distribution of Milk and Dairy Products* (H. Doc. 94, 75th 1/4/37), p. 38; *Report of the F. T. C. on Agricultural Income Inquiry, Part I* (3/2/37), p.28 *Agricultural Implement and Machinery Industry* (H Doc. 702, 75th, 6/8/39), p. 1038; and F. T. C. Annual Reports : 1938, pp. 19 and 29; 1939, p.14; 1940, p.12; 1941,p.19; 1942, p. 9; 1943, p.9; 1944, p. 7; 1945, p.8; 1948, p.12; 1947, p.12.

5 See footnote 4.

tion; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that act (Public, 328, 75th) in 1937. [*Report of the F. T. C. on Agricultural In-come Inquiry, Part I, Principal Farm Products*, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p.); *Part II, Fruits, Vegetables, and Grapes*, 906 p. 6/10/37 ; *Part III, Supplementary Report*, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 p.).]

**Agricultural Prices.**--See Price Deflation.

**Aluminum Foundries (W. P. B.), Wartime, 1942-43.**--Details were obtained for the War Production Board, at its request, from aluminum foundries throughout the U. S. covering their operations for May 1942 and their compliance with W. P. B. Supplementary Orders m-1-d, M-1-c, and M-1-f.

**Antifreeze Solutions, Manufacturers of (W. P. B.), Wartime, 1943-44.**--War Production Board Order L-258 of 1/20/43 prohibited production of salt and petroleum-base antifreeze solutions. While production of these products had ceased, great quantities were reported to be still in the hands of producers and distributors. To enable W. P. B. to determine what further action should be taken to protect essential automotive equipment from these solutions, it requested the Commission to locate producers' inventories as of 1/20/43, and to identify all deliveries made from such inventories to distributors subsequent to that date.

**Automobiles.**--See Distribution Methods and Costs, and Motor Vehicles.

**Bakeries and Bread.**--See under Food.

**Beet Sugar.**--See under Food--Sugar.

**Building Materials.**--See Distribution Methods and Costs.

**Calcium Arsenate (Senate).**--High prices of calcium arsenate, a poison used to destroy the cotton boll weevil (S. Res. 417, 67th, 1/23/23), appeared to be due to sudden increased demand rather than trade restraints (*Calcium Arsenate Industry*, 5. Doc. 345, 67th, 21 p., 3/3/23).

**Capital Equipment (W; P. B.), Wartime, 1942-43.**--For the War Production Board, a survey was made in connection with Priorities Regulation No.12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had been related had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

**Cartels.**--See paragraphs headed Copper Industry, International Phosphate Cartels, and Sulphur Industry.

**Cement (Senate).**--Inquiry into the cement industry's competitive conditions and distributing processes (S. Res. 448, 71st, 2/16/31) showed that rigid application of the multiple basing-point price systems tended to lessen price competition and destroy the value of sealed bids; concerted activities of manufacturers and dealers strengthened the system's price effectiveness ; and dealer associations' practices were designed to restrict sales to recognized "legitimate" dealers (*Cement Industry*, 5. Doc. 71, 73d, 160 p., 6/9/33).

**Chain Stores (Senate).**--Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/12/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short

weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities. (For subtitles of 33 reports published under the general title, *Chain Stores*, 1931-33, see F. T. C. Annual Report, 1941, p.201.)

In the *Final Report on the Chain-Store Investigation* (S. Doc. 4, 74th, 110 p., o. p., 12/14/34), legal remedies available to combat monopolistic tendencies in chain-store development were discussed.<sup>7</sup> The Commission's recommendations pointed the way to subsequent enactment of the Robinson-Patman Act (1936) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

**Chromium Processors (W. P. B.), Wartime, 1942-43.**--For the War Production Board, the Commission investigated the transactions of the major chro-

<sup>6</sup> Basing-point Systems are also discussed in the published reports listed herein under "Price Bases," "Steel Code," and "Steel Sheet Piling."

<sup>7</sup> See footnote 4, p.123.

mium processors to determine the extent to which they were complying with Amendment No. 2 to W. P. B General Preference Order No. m-18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

**Cigarette Shortage (F. T. C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944-45.**--In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44) , the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that it was not attributable to violations of laws administered by the Commission; but that certain Undesirable practices such as hoarding and tie-in sales had developed. (*Report of the F. T. C. on the Cigarette Shortage*, 33 pages, processed, 2/13/45.)

**Coal (Congress and F. T. C.), Wartime, 1917-18, Etc.**--From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and the coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were : *Anthracite Coal Prices*, preliminary (S. Doc. 19, 65th, 4 p., o. p., 5/4/17); *Preliminary Report by the F. T. C. on the Production and Distribution of Bituminous Coal* (H. Doc. 152, 65th, 8 p., o. p., 5/19/17); *Anthracite and Bituminous Coal Situation*, summary (H. Doc. 193, 65th, 29 p., o. p., 6/19/17); and *Anthracite and Bituminous Coal* (S. Doc. 50, 65th, 420 p., o. p., 6/19/17)--pursuant to 5. Res. 217, 64th 6/22/16; H Res. 352, 64th, 8/18/16, and 5. Res. 51, 65th, 5/1/17; *Washington, D. C., Retail Coal Situation* (5 p., release, processed, o. p., 8/11/17)--pursuant to F. T. C. motion ; *investment and Profit in Soft-Coal Mining* (two parts, 5/31/22 and 7/6/22, 218 p., o. p., 5. Doc. 207, 65th)--pursuant to F. T. C. motion; and *Report of the F. T. C. on Premium Prices of Anthracite* (97 p., o. p., 7/6/25)--pursuant to F. T. C. motion.

**Coal, Cost of Production (F. T. C.), Wartime, 1917-18.**--President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U. S. Fuel Administration In continuing price control, the Commission compiled monthly cost production reports, collecting cost records for 1917-18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (*Cost Reports of the F. T. C.-Coal*, 6/30/19, summarized for principal coal-producing States or regions: (1) Pennsylvania, bituminous, 103 1), o. p.; (2) Pennsylvania, anthracite, 145 p., o. p.; (8) Illinois, bituminous, 127 p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p.; (5) Ohio, Indiana, and Michigan, bituminous, 288 p.; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p.; and (7) trans-Mississippi States, bituminous, 459 p.).

**Coal, Current Monthly Reports (F. T. C.).**--The Commission (December 1919) initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917-18 (*Coal--Monthly Reports on Cost of Production*, 4/20/20 to 10/30/20, Nos. 1 to 6, and two quarterly reports with revised costs, 8/25/20 and 12/6/20, processed, o. p.). An injunction to prevent the calling for the monthly reports (denied about seven years later) led to their abandonment.

**Combed Cotton Yarns.**--See Textiles.

**Commercial Bribery (F. T. C.).**--Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published A

*Special Report on Commercial Bribery* (H. Doc. 1107, 65th, 3 p., o. p., 5/15/18), recommending legislation striking at. this practice; *Commercial Bribery* (S. Doc. unnumbered, 65th, 36 p., o. p., 8/22/18); and *Commercial Bribery* (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

**Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W. P. B.), Wartime, 1942-43.**--The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W. P. B Limitation Orders L-182 and L-182 as amended 3/2/43; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No 1.

**Contractors, Prime, Forward Buying Practices of (W. P. B.), Wartime, 1941-43.**--The matter of procurement, use, and inventory stocks of critical materials involved in the operation of major plants devoting their efforts to war production were inquired Into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

**Cooperation in American Export Trade.**--See Foreign Trade.

**Cooperation in Foreign Countries (F. T. C.).**--Inquires made by the Commission regarding the cooperative movement in 15 European countries resulted in a report, *Cooperation in Foreign Countries* (S. Doc. 171, 68th, 202 p., o. p., 11/29/24), recommending further development of cooperation in the U.S.

**Cooperative Marketing (Senate)** --This inquiry (S. Res. 34, 69th, 3/17/25) covered the development of the cooperative movement in the U.S. and illegal Interferences with the formation and operation of cooperatives ; and a comparative study of costs, prices, and marketing methods (*Cooperative Marketing*, 5. Doc. 95, 70th, 721 p., o. p., 4/30/28).

**Copper.**--See Wartime Cost Finding, 1917-18.

**Copper Base Alloy Ingot Makers (W. P. B.), Wartime, 1942-43.**--This investigation was designed to ascertain the operations, shipments, and Inventories of copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M-9-a and b, and M-9-c.

**Copper Industry (F. T. C.)**--The Commission's report on *The Copper Industry*, transmitted to Congress (3/11/47), was In two parts : *Part I--The Copper Industry of the United States and International Copper Cartel-s*, and *Part II-Concentration and Control By the Three Dominant Companies*. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the ore reserves and of the productive capacity, but also because the domestic supply is inadequate to meet the demands of high level national production and employment. furthermore, the production of foreign copper, on which the United States will become increasingly dependent, is likewise dominated by a few corporate groups which in the past have operated cooperatively in cartels to regulate production and prices." A summary of the report appears at p.18.

**Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.**--A survey and Inspection of a specified list of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

**Corporation Reports.**--See Industrial Financial Reports.

**Corporate Mergers and Acquisitions (F. T. C.).**--To determine the impact on the Nation' s economy of corporate mergers and acquisitions, the Commission made a study of the merger movement for the years 1940-46, inclusive. The results of the study were transmitted to Congress In a report entitled *The Present Trend of Corporate Mergers and Acquisitions* (23 p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel--all predominantly "small business" fields. A summary of the report appears at p.14.

**Cost Accounting.**--See Accounting Systems.

**Cost of Living (President), Wartime, 1917-18.**--Delegates from the various States

met In Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See Foods (President), Wartime, 1917-18, herein.] Proceedings of the conference were published (*High Cost of Living*, 119 p. o. p.).

**Cost of Living (President).**--President Roosevelt, in a published letter (11/16/37), requested the Commission to Investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the Inquiry and a few months thereafter submitted a confidential report to the President.

**Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1942-44.**--Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume Jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M-38, M-11, M-11-b, M-126, L-81, L-131, and L-131-a, all as amended.

**Cotton Industry.**--See Textiles.



**Cottonseed Industry (House)** --Investigating alleged price fixing (H. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refiners had fixed prices in violation of the antitrust laws (*Cottonseed Industry*, H. Doc. 193, 70th; 37 p., 3/5/28).

**Cottonseed Industry (Senate)** --Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29-71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at a fixed price under boycott threat; and whether such corporations acquired control of cotton gins to destroy competitive markets and depress or control prices paid to seed producers (*Investigation of the Cottonseed Industry*, preliminary report, S. Doc. 91, 71st, 4 p., o. p., 2/28/30, and final report, 207 p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

**Distribution Cost Accounting (F. T. C.)**--To provide a guide for current legislation and determine ways for improving accounting methods, the Commission studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection (*Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling*, H. Doc. 287, 77th, 215 p., 6/23/41).

**Distribution.**--See Millinery Distribution.

**Distribution Methods and Costs (F. T. C.)**--This inquiry into methods and costs of distributing important consumer commodities (F. T. C. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F. T. C. Act. Eight parts of the *F. T. C. Report on Distribution Methods and Costs* were transmitted to Congress and published under the subtitles: *Part I, Important Food Products* (11/11/43, 223 p., o. p.); *Part III, Building Materials-Lumber, Paints and Varnishes and Portland Cement* (2/19/44, 50 p., o. p.); *Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements* (3/2/44, 189 p., o. p.); *Part V, Advertising as a Factor in Distribution* (10/30/44, 50 p., o. p.); *Part VI, Milk Distribution, Prices, Spreads and Profits* (6/18/45, 58 p.); *Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area* (6/30/45, 59 p.); *Part VIII, Cost of Production and Distribution of Fish in New England* (6/30/45, 118 p.); and *Part IX, Cost of Production and Distribution of Fish on the Pacific Coast* (7/25/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Dept. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

**Du Pont Investments (F. T. C.)**--The *Report of the F. T. C. on Du Pont Investments* (F. T. C. motion 7/29/27; report, 46 p., processed, 2/1/29) discussed reported acquisitions by E. I. du Pont de Nemours & Co. of U.S. Steel Corp. stock, together with previously reported holdings in General Motors Corp.

**Electric and Gas Utilities, and Electric Power.**--See Power.

**Electric Lamp Manufacturers (W. P. B.), Wartime, 1942-43.**--At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W. P. B. Limitation and Conservation Orders L-33 and m-9-c.

**Electrical Household Appliances.**--See Distribution Methods and Costs.

**Farm Implements (Senate), Wartime, 1917-18.**--The *Report of the F. T. C. on the Causes of High Prices of Farm Implements* (inquiry under S. Res. 223, 65th, 5/13/18; report, 713 p., o. p., 5/4/20) disclosed numerous trade combinations for advancing prices and declared the consent decree for dissolution of International Harvester Co. to be inadequate. The Commission recommended revision of the decree and the Department of Justice proceeded to that end.

**Feeds, Commercial (Senate).**--Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Commission found that although some association activities were in restraint of trade, there were no substantial antitrust law violations (*Report of the F. T. C. on Commercial Feeds*, 206 p., 3/29/21).

**Fertilizer (Senate).**--Begun by the Commissioner of Corporations (S. Res. 487, 62d, 3/1/13), this inquiry disclosed extensive use of bogus independent fertilizer

<sup>8</sup> The Commission was created September 26 1914, upon passage of the Federal Trade Commission Act, sec. 3 of which provided that "all pending g investigations and proceedings of the Bureau of Corporations [of the Department of Commerce] shall be continued by the Commission."

companies for competitive purposes (*Fertilizer Industry*, S. Doc. 551, 64th 269 p., o. p., 8/19/16). Agreements for abolition of such unfair competition were reached.

**Fertilizer (Senate).**--A second fertilizer inquiry (S. Res. 307, 67th, 6/17/22) developed that active competition generally prevailed in that industry in the U. S., although in some foreign countries combinations controlled certain important raw materials. The Commission recommended improved agricultural credits and more extended cooperation by farmers in buying fertilizer (*Fertilizer Industry*, S. Doc. 347, 67th, 87 p., o. p., 3/3/23).

**Fertilizer and Related Products (O.P. A.), Wartime, 1942-43.**--At the request of O. P. A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

**Fish.**--See Distribution Methods and Costs.

**Flags (Senate), Wartime, 1917-18.**--Unprecedented increases in the prices of U.S. flags in 1917, due to wartime demand, were investigated (S. Res. 35, 65th, 4/16/17). The inquiry was reported in *Prices of American Flags* (S. Doc. 82, 65th, 6 p., o. p., 7/26/17).

**Flour Milling.**--See Food, below.

**Food (President), Wartime, 1917-18.**--President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs" and "to ascertain the facts bearing on alleged violations of the antitrust acts." Two major series of reports related to meat packing and the grain trade with separate inquiries into flour milling, canned vegetables and fruits, canned salmon, and related matters, as listed below.

**Food (President) Continued--Meat Packing.**--*Food Investigation-Report of the F. T. C. on the Meat-Packing Industry* was published in six parts : I. *Extent and Growth of Power of the Five Packers in Meat and Other Industries* (6/24/19, 574 p., o. p.); II. *Evidence of Combination Among Packers* (11/25/18, 294 p., o. p.) ; III. *Methods of the Five Packers in Controlling the Meat-Packing Industry* (6/28/19, 325 p., o. p.); IV *The Five Large Packers in Produce and Grocery Foods* (6/30/19, 390 p., o. p.); V. *Profits of the Packers* (6/28/19, 110 p., o. p.) ; VI. *Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Live-stock* (6/30/19, 183 p., o. p.); and summary (H. Doc. 1297, 65th, 51 p. o. p., 7/3/18).

The reports first led to antitrust proceedings against the Big Five Packers, resulting in a consent decree (Supreme Court of the D. C., 2/27/20, which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Congress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p. 130).

**Food (President) Continued--Grain Trade.**--Covering the industry from country elevator to central market, the *Report of the F. T. C. on the Grain Trade* was published in seven parts : I. *Country Grain Marketing* (9/15/20, 350 p., o. p.); II. *Terminal Grain Markets and Exchanges* (9/15/20, 333 p., o. p.); III. *Terminal Grain Marketing* (12/21/21, 332 p., o. p.); IV. *Middlemen's Profits and Margins* (9/26/23, 215 p., o.p.); V. *Future Trading Operations in Grain* (9/15/20. 347 p., o.p.); VI. *Prices of Grain and Grain Futures* (9/10/24, 374 p., o.p.); and VII. *Effects of Future Trading* (6/25/26, 419 p., o. p.). The investigation as reported in Vol. V, and testimony by members of the Commission's Staff (*U. S. Congress House Committee on Agriculture, Future Trading*, hearings, 67th, April 25-May 2, 1921) was an important factor in

enactment of the Grain Futures Act (1921). (Further reference to the grain trade is made under Grain Elevators, Grain Exporters, and Grain Wheat Prices, p.130.

**Food (President) Continued--Bakeries and Flour Milling.**--One F. T. C. report was published by the Food Administration (*U.S. Food Administration, Report*

<sup>9</sup> The legal history of the consent decree and a summary of divergent economic interests involved in the question of packer participation in unrelated lines of food products were set forth by the Commission in *Packer Consent Decree* (S. Doc. 219, 68th, 44 p., o. p., 2/20/25), prepared pursuant to. S Res. 278, 68th, 12/8/24.

of the *F. T. C. on Bakery Business in U. S.*, pp. 5-13, o. p., 11/3/17). Other reports were : *Food Investigation, Report of the F. T. C. on Flour Milling and Jobbing* (4/4/18, 27 p., o. p.) and *Commercial Wheat Flour Milling* (9/15/20, 118 p., o. p.)

**Food (President) Continued--Canned Foods,<sup>10</sup> Private Car Lines, Wholesale Food Marketing.**--Under the general title *Food Investigation* were published *Report of the F. T. C. on Canned Foods--General Report and Canned Vegetables and Fruits* (5/18/18, 103 p., o. p.): *Report of the F. T. C. on Canned Foods--Canned Salmon* (12/27/18, 83 p., o.p.); *Report of the F. T. C. on Private Car Lines*, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p., o.p.); and *Report of the F. T. C. on Wholesale Marketing of Food* (6/30/19, 268 p., o. p.), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

**Food--Biscuits and Crackers (O. P. A.), Wartime, 1942-43.**--As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

**Food--Bread Baking (O. E. S.), Wartime, 1942-43.**--This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O. E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O. P. A.

**Food--Bread Baking (O.P. A.), Wartime, 1941-42.**--In the interest of the low income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O. P. A. (Jan. 1942) in an unpublished report.

**Food--Bread and Flour (Senate) .**--Reports on this inquiry (S. Res. 163, 68th, 2/26/24) were: *Competitive Conditions in Flour Milling* (S. Doc. 97, 70th, 140 p., o.p., 5/3/26); *Bakery Combines and Profits* (S. Doc. 212, 69th, 95 p., 2/11/27); *Competition and Profits in Bread and Flour* S. Doc. 98, 70th, 509 p., o. p., 1/11/28); and *Conditions in the Flour Milling Business, supplementary* (S. Doc. 96, 72d, 26 p., 5/28/32).

**Food--Wholesale Baking Industry (F. T. C.).**--This inquiry (F. T. C. Res., 8/31/45) resulted in two reports to Congress : *Wholesale Baking Industry, Part I--Waste in the Distribution of Bread* (4/22/46, processed, 29 p.) and *Wholesale Baking Industry, Part II--Costs, Prices and Profits* (8/7/46, 137 p.). *Part I* developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread ; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products.- It was found that, although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days, or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful

trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread baking industry.”

*Part II* presents information concerning prices and pricing practices in the industry, profits earned, and unit costs of production and distribution. It compares the details of production and distribution costs for bread and rolls, other bakery products, and for all bakery products for two operating periods in 1945,

<sup>10</sup> In connection with its wartime cost finding inquiries, 1917-18, p. 139 herein, the Commission published *Report of the F. T. C. on Canned Foods 1918--Corn, Peas, String Beans Tomatoes, and Salmon* (86 p., 11/21/21).

March and September. Comparisons of costs are also made for these two periods for plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by size groups of wholesale bakeries. A summary of *Part II* appears at p. 25.

**Food--Fish.--**See Distribution Methods and Cost.

**Food-Flour Milling (Senate).--**This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in *Wheat Flour Milling Industry* (S. Doc. 130, 68th, 130 p., o. p., 5/16/24).

**Food-Flour Milling (O. E. S.-), Wartime, 1942-43.--**Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices.- The report was made to O. E. S. and a more detailed report was prepared for O. P. A.

**Food-Flour-Milling Industry, Growth and Concentration in (F. T. C.).--**The Commission's study showed that there has been a progressive increase in the size of flour mill operations and a progressive decrease in the number of flour-milling establishments.- Nevertheless, the Commission reported, there is a lesser degree of concentration in the flour-milling industry than in many other important industries. The results of the study were presented to Congress in a report on the *Growth and Concentration in the Flour-Milling Industry* (6/2/47). A summary of the report appears at p. 27.

**Food--Grain Elevators (F. T. C.), Wartime, 1917-18.--**In view of certain bills pending before Congress with reference to regulation of the grain trade, the Commission, in a preliminary report, *Profits of Country and, Terminal Grain Elevators* (S. Doc. 40., 67th. 12 p., o.p., 6/13/21) presented certain data collected during its inquiry into the grain trade ordered by the President.

**Food--Grain Exporters (Senate).--**The low prices of export wheat in 1921 gave rise to this inquiry (S. Res. 133, 67th, 12/22/21) concerning harmful speculative price manipulations on the grain exchanges and alleged conspiracies among country grain buyers to agree on maximum purchasing prices. The Commission recommended stricter supervision of exchanges and additional storage facilities for grain not controlled by grain dealers (*Report of the F. T. C. on Methods and Operations of Grain Exporters*, 2 vols., 387 p., o. p., 5/16/22 and 6/18/23).

**Food--Grain, Wheat Prices (President).--**An extraordinary decline of wheat prices was investigated (President Wilson's directive, 10/12/20) and found to be due chiefly to abnormal market conditions (*Report of the F. T. C. on Wheat Prices for the 1920 Crop*, 91 p., o.p., 12/13/20).

**Food--Important Food Products.--**See Distribution Methods and Costs.

**Food--Meat Packing Profit Limitations (Senate), Wartime, 1917-18.--**Following an inquiry (S. Res. 177, 66th, 9/3/19) involving wartime control of this business as established by the U.S. Food Administration in 1917-18, the Commission recommended greater control and lower maximum profits (*Maximum Profit Limitation on Meat Packing Industry*, S. Doc. 110, 66th, 179 p., o. p., 9/25/19).

**Food-Milk.--**See Distribution Methods and Costs.

**Food--Milk and Milk Products (Senate), Wartime, 1917-18.--**Covering an inquiry (S. Res. 431, 65th, 8/3/19) into fairness of milk prices to producers and of canned milk prices to consumers, the *Report of the F. T. C. on Milk and Milk Products 1914-18* (6/6/21, 234 p.) showed a marked concentration of control and questionable practices many of which later were recognized by the Industry as being unfair.

**Food-Milk and Dairy Products (House).--**Competitive conditions in different milk-producing

areas were investigated (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes : *Report of the F. T. C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds* (H. Doc. 152, 74th, 901, p., 4/5/35); *Report of the F. T. C. on the Sale and Distribution of Milk and Milk Products* (Connecticut and Philadelphia milk-sheds, interim report, H. Doc. 887, 74th, 125 p., 12/81/85); *Chicago Sales Area* (H. Doc. 451, 74th, 103 p., o. p., 4/15/36); *Boston, Baltimore, Cincinnati, St. Louis* (H. Doc. 501, 74th, 243 p., 6/4/36); *Twin City Sales Area* (H. Doc. 506, 74th, 71 p., 6/13/36); and *New York Milk Sales Area* (H. Doc. 95, 75th, 138 p., o. p., 9/30/36.) The Commission reported that many of the industry's problems could only be dealt with by the States and recommended certain legislation and procedure, both State and Federal (*Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products*, H. Doc. 94, 75th, 39 p., o. p.,



1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

**Food--Peanut Price. (Senate).**--An alleged price-fixing combination of peanut crushers and mills was investigated (S. Res. 139, 71st, 10/22/29).- The Commission found that an industry-wide decline in prices of farmers' stock peanuts during the business depression was not due to such a combination, although pricing practices of certain mills tended to impede advancing and to accelerate declining prices (*Prices and Competition Among Peanut Mills*, S. Doc. 132, 72d, 78 p., 6/30/32).

**Food--Raisin Combination (Attorney General).**--Investigating allegations of a combination among California raisin growers (referred to F. T. C. 9/30/19), the Commission found the enterprise not only organized in restraint of trade but conducted in a manner threatening financial disaster to the growers. The Commission recommended changes which the growers adopted (*California Associated Raisin Co.*, 26 p., processed o.p., 6/8/20).

**Food--Southern Livestock Prices (Senate).**--Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination was being practiced, a Commission investigation (S. Res. 133, 66th, 7/25/19) revealed the alleged discrimination did not appear to exist (*Southern Livestock Prices*, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

**Food--Sugar (House).**--An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (*Report of the F. T. C. on Sugar Supply and Prices*, 205 p., 11/15/20).

**Food--Sugar, Beet (F. T. C.).**--Initiated by the Commissioner of Corporations,<sup>11</sup> but completed by the F. T. C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (*Report on the Beet Sugar Industry in the U. S.*, H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

**Foreign Trade--Antidumping Legislation (F. T. C.).**--To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (*Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries*, S. Doc. 112, 73d, 100 p., 1/11/34 ; supplemental report, 111 p., processed, 6/27/38).

**Foreign Trade--Cooperation in American Export Trade (F. T. C.).**--This inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U.S. manufacturers for export trade, was enacted as a result of Commission recommendations (*Cooperation in American Export Trade*, 2 vols., 984 p., o. p., 6/30/16 ; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions, 1916. 14 p., o. p.).

**Foreign Trade--Cotton Growing Corporation (Senate).**--The report of an inquiry, (S. Res. 317, 68th, 1/27/25) concerning the development of this British company, *Empire Cotton Growing Corporation* (S. Doc. 226, 68th, 30 p., o. p., 2/28/25) , showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

**Fruit Growers and Shippers (W. P. B.), Wartime, 1943-44.**--This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape shippers, all located in California, were in violation of W. P. B.- Order L-232 with respect to quotas affecting the use of lugs (wooden shipping containers).

**Furnaces, Hot Air, Household (W. P. B.), Wartime, 1943-44.**--The Commission made a Nation-wide survey for the War Production Board of the operations of one of the largest

manufacturers in the United States of household hot air furnaces, to determine whether its practices in selling and servicing domestic heating plants were in violation of Orders L-79 and P-84, and other applicable regulations and orders of W. P. B.

**Fuse Manufacturer. (W. P. B.), Wartime, 1942-43.**--For the War Production Board the Commission Investigated and reported on the activities of representative fuse manufacturers whose operations were subject to W. P. B. Limitation Orders L-158 and L-161, as amended.

**Gasoline.**--See Petroleum.

<sup>11</sup> See footnote 8, p.127.

**Glycerin, Users of (W. P. B.), Wartime, 1942-43.**--At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

**Grain.**--See Food.

**Grain Exchange Actions (F. T. C. and Chairman of Senate Committee on Agriculture and Forestry).**--The Commission's report on *Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946* (85 p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1940, for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act and the U.S. Warehouse Act "should be so amplified and coordinated, or even combined, as to make effective the type and scope of regulation over futures trading contemplated by the Congress in enacting the Commodity Exchange Act." A summary of the report appears at p.26.

**Guarantee Against Price Decline (F.- T. C.).**--Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in *Digest of Replies in Response to an Inquiry of the F. T. C. Relative to the Practice of Giving Guarantee Against Price Decline* (68 p., 5/27/20).

**Housefurnishings (Senate).**--This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (*Report of the F. T. C. on Ho use furnishing Industries*, 1018 p., 1/17/23, 10/1/23, and 10/6/24).

**Household Furniture (O. P. A.), Wartime, 1941-42.**--Costs, prices, and profits of 67 representative furniture companies were studied to determine whether, and to what extent, price increases were justified. A study was also made to determine whether price-fixing agreements existed and whether wholesale price increases resulted from understandings in restraint of trade. Confidential reports were transmitted to O. P. A. in Sept. 1941.

**Independent Harvester Co. (Senate), Wartime, 1917-18.**--After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the *F. T. C. Report to the Senate on the Independent Harvester Co.* (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and insufficient capital.

**Industrial Financial Reports (F. T. C. and S. E. C.).**--This new series of reports (1947) is intended to meet the general needs of the Government and the public for current reliable corporation financial data. The reports show the aggregate estimates for American manufacturing corporations as derived from reports collected by the Federal Trade Commission and the Securities and Exchange Commission. This work is based upon resumption by F. T. C. of its prewar financial reporting function and continuation by S. E. C. of its current responsibilities for collection of financial information from corporations with securities registered on a national exchange. F. T. C. obtains comparable information from a carefully selected sample of small, medium size and large non-registered corporations. The sample has been designed so that the two sets of data can be combined to provide estimates for 21 major

industry groups as well as the aggregate for all manufacturing corporations. For the first quarterly period of 1947, total assets of all manufacturing corporations were estimated at \$89 billion. The aggregate sales for all manufacturing corporations were estimated at \$35.6 billion, profits before taxes at \$4.4 billion and the net profit after provision for federal income taxes at \$2.7 billion. The aggregate stockholders' equity was estimated at \$61.9 billion and the resulting quarterly rate of return was 4.3 percent. The *Industrial Financial Reports* formerly were known as *Industrial Corporation Reports*. A summary of the report appears at p.29.

**Insignia Manufacturers (W. P. B.), Wartime, 1944-45.**--Preliminary studies made by the War Production Board disclosed the probability that certain insignia manufacturers had acquired larger quantities of foreign silver than necessary to

fill legitimate orders and diverted the balance to unauthorized uses. In response to W. P. B.'s request the Commission surveyed the acquisition and use of foreign silver by such manufacturers to determine the degree of their compliance with Order M-199 and checked the receipt and use of both domestic and treasury silver, as well as the manufacture of insignia, as controlled by Orders L-131 and M-9-c.

**International Phosphate Cartels (F. T. C.).**--The *F. T. C. Report on International Phosphate Cartels* (F. T. C. Res., 9/19/44) developed facts with respect to the practices, arrangements and agreements between domestic phosphate companies and foreign competitors through International cartels, through which minimum export prices were fixed. These prices varied from market to market, depending upon competition, ocean freight rates, and other factors. The agreements established fixed quotas in each grade, and sales were allocated among members of the Phosphate Export Association according to their quotas and the grade involved. The report (processed, 60 p.) was transmitted to Congress 5/1/46.

**Jewel Bearings, Consumers of (W. P. B.), Wartime, 1942-43.**--For the War Production Board, users of jewel bearings were investigated to determine the extent to which they were complying with W. P. B. Conservation Order m-50, which had been issued to conserve the supply and direct the distribution of Jewel bearings and jewel-bearing material.

**Leather and Shoes (F. T. C. and House), Wartime, 1917-18.**--General complaint regarding high prices of shoes led to this inquiry, which is reported in *Hide and Leather Situation*, preliminary report (H. Doc. 857, 65th, 5 p., o.p., 1/23/18), and *Report on Leather and Shoe Industries* (180 p., 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the *Report of the F. T. C. on Shoe and Leather Costs and Prices* (212 p., 6/10/21).

**Lumber--Costs.**--See Wartime Cost Finding, 1917-18.

**Lumber Trade Associations (Attorney General).**--The Commission's extensive survey of lumber manufacturers' associations (referred to F. T. C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: *Report of the F. T. C. on Lumber Manufacturers' Trade Associations*, incorporating regional reports of 1/10/21, 2/18/21, 6/9/21, and 2/15/22 (150 p., o. p.); *Report of the F. T. C. on Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau* (22 p., 1/24/23), also known as *Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory* (S. Doc. 293, 67th, o. p.); and *Report of the F. T. C. on Northern Hemlock and Hardwood Manufacturers Association* (52 p., 5/7/23).

**Lumber Trade Associations (F. T. C.).**--Activities of five large associations were investigated in connection with the Open-Price Associations inquiry to bring down to date the 1919 lumber association inquiry (Chap. VIII of *Open-Price Trade Associations*, S. Doc. 226, 70th, 516 p., 2/13/29).

**Meat-Packing Profit Limitations.**--See Food.

**Metal-Working Machines, Invoicing and Distribution of (W. P. B.), Wartime, 1942-43.**--For the War Production Board an inquiry was made to obtain complete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all nonportable power-driven shears, presses, hammers, bending machines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

**Milk.**--See Food.

**Millinery Distribution (President).**--This inquiry, requested by President Roosevelt,

embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of leased departments in department or specialty stores (*Report to the President of the United States on Distribution Methods in the Millinery Industry*, 65 p., processed, 11/21/39).

**Motor Vehicles (Congress).**--Investigating (Public Res. 87, 75th, 4/13/38) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and strong competition ; that many local dealers' associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition ; that inequities existed in dealer agreements and in certain manufacturers' treatment of some dealers ; and that some companies' car finance

plans developed serious abuses (*Motor Vehicle Industry*, H. Doe.- 468, 76th, 1077 p., 6/5/39). The leading companies voluntarily adopted a number of the Commission's recommendations as company policies.

**National Wealth and Income (Senate).**--In 1922 the national wealth was estimated (inquiry pursuant to S. Res. 451, 67th, 2/28/23) at \$353,000,000,000 and the national income in 1923 at \$70,000,000,000 [*National Wealth and Income* (S. Doc. 126, 69th, 381 p., o.p., 5/25/26) and *Taxation and Tax-Exempt Income* (S. Doc. 148, 68th, 144 p., o.p., 6/6/24).]

**Nickel Processors (W. P. B.), Wartime, 1942-43.**--The Commission was designated by the War Production Board to investigate the transactions of some 600 nickel processors for the purpose of determining the extent to which they were complying with W. P. B. Preference Order No. M-6-a, issued 9/30/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

**Open-Price Associations (Senate).**--An investigation (S. Res. 28, 69th, 3/17/25) to ascertain the number and names of so-called open-price associations, their importance in industry and the extent to which members maintained uniform prices, was reported in *Open-Price Trade Associations* (S. Doc. 226, 70th, 516 p., 2/13/29).

**Packer Consent Decree.**--See Food (President) Continued--Meat Packing.

**Paint, Varnish, and Lacquer Manufacturers (W. P. B.), Wartime, 1943-44.**--The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M-139, M-150, M-159, M-246, and M-327 in their acquisition and use of certain chemicals, all subject to W. P. B. allocation, used in the manufacture of paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

**Paperboard (O. P. A.), Wartime, 1941-42.**--Costs, profits, and other financial data regarding operations of 68 paperboard mills (O.P. A. request, 11/12/41) for use in connection with price stabilization work, were transmitted to O. P. A. in a confidential report (May 1942).

**Paper--Book (Senate), Wartime, 1917-18.**--This inquiry (S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints [*Book Paper Industry--A Preliminary Report* (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and *Book Paper Industry--Final Report* (S. Doc. 79, 65th, 125 p., o.p., 8/21/17)].

**Paper--Newsprint (Senate), Wartime, 1917-18.**--High prices of newsprint (S. Res. 177, 64th, 4/24/16) were shown to have been partly a result of certain news-print association activities in restraint of trade. Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers.- The Commission for several years conducted monthly reporting of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [*Newsprint Paper Industry*, preliminary (S. Doc. 3, 65th, 12 p., o. p. 3/3/17); *Report of the F. T. C. on the Newsprint Paper Industry* (S. Doc. 49, 65th, 162 p., o.p., 6/13/17); and *Newsprint Paper Investigation* (in response to S. Res. 95, 65th, 6/27/17 ; 5. Doc. 61, 65th, 8 p., o.p., 7/10/17)]

**Paper--Newsprint (Senate).**--The question investigated (S. Res. 337, 70th, 2/27/29) was whether a monopoly existed among newsprint manufacturers and distributors in supplying paper to publishers of small dailies and weeklies (*News-print Paper Industry*, S. Doc. 214, 71st, 116 p., 6/30/30).

**Paper--Newsprint (Attorney General).**--The Commission investigated (inquiry referred to F. T. C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U. S. District Court, Southern District of New York.

**Peanut Prices.**--See Food.

**Petroleum Products.**--See Distribution Methods and Costs.

**Petroleum and Petroleum Products, Prices (President and Congress).**--At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows : *Investigation of the Price of Gasoline, preliminary* (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and *Report on the Price of Gasoline in 1915* (H. Doc. 74, 65th 224 p., o. p., 4/11/17-both pursuant to S. Res. 109, 63d, 6/18/1312 and S. Res. 457, 63d, 9/28/14, which reports discussed high prices and the Standard Oil Companies' division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; *Advance in the Prices of Petroleum Products* (H. Doc. 801, 66th, 57

12 See footnote 8, p.127.



p., 6/1/20)--pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; *Letter of Submittal and Summary of Report on Gasoline Prices in 1924* (24 p. processed, 6/4/24, and Cong. Record, 2/28/25, p. 5158)--pursuant to request of President Coolidge, 2/7/24; *Petroleum Industry--Prices, Profits and Competition* (S. Doc. 61, 70th, 360 p., 12/12/27)--pursuant to S. Res. 81, 69th, 6/3/36; *Importation of Foreign Gasoline at Detroit, Mich.* (S. Doc. 206, 72d, 3 p., o.p., 2/27/33)--pursuant to S. Res. 274 72d, 7/16/32; and *Gasoline Prices* (S. Doc. 178, 73d, 22 p., 5/10/34)--pursuant to S. Res. 166, 73d, 2/2/34.

**Petroleum Decree (Attorney General).**--The Commission investigated (inquiry referred to F. T. C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

**Petroleum--Foreign Ownership (Senate).**--Inquiry was made (S. Res. 311, 67th, 6/29/22) into acquisition of extensive oil interests in the U. S. by the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American interests (*Report of the F. T. C. on Foreign Ownership in the Petroleum Industry*, 152 p., o.p., 2/12/23).

**Petroleum Pipe Lines (Senate).**--Begun by the Bureau of Corporations, 13 this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipe-line companies which were unfair to small producers (*Report on Pipe-Line Transportation of Petroleum*, 467 p., o. p., 2/28/16), some of which practices were later remedied by the interstate Commerce Commission.

**Petroleum-Regional Studies (Senate and F. T. C.).**--Reports published were: *Pacific Coast Petroleum Industry* (two parts 4/7/21 and 11/28/21, 538 p.)--pursuant to S. Res. 138, 66th, 7/31/19; *Reports of the F. T. C. on the Petroleum Industry of Wyoming* (54 p., o. p., 1/3/21)--pursuant to F. T. C. motion; *Petroleum Trade in Wyoming and Montana* (S. Doc. 233, 67th, 4 p., 7/13/22)--pursuant to F. T. C. motion, in which report legislation to remedy existing conditions was recommended; and *Report of the F. T. C. on Panhandle Crude Petroleum (Texas)* (19 p., 2/3/28)--pursuant to F. T. C. motion, 10/6/26 (in response to requests of producers of crude petroleum).

**Potomac Electric Power Co. (Procurement Director, United States Treasury).**--A study (2/29/44) of the financial history and operations of this corporation for the years 1896-1943 was made at the request of the Director of Procurement, United States Treasury, and the report thereon was introduced into the record in the corporation's electric rate case before the District of Columbia Public Utilities Commission.

**Power--Electric (Senate).**--This inquiry (S. Res. 329, 68th, 2/9/25) resulted in two reports, the first of which, *Electric Power Industry--Control of Power Companies* (S. Doc. 213, 69th, 272 p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in superposing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power--Utility Corps., below. *Supply of Electrical Equipment and Competitive Conditions* (S. doc. 46, 70th, 282 p., 1/12/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

**Power--Interstate Transmission (Senate)** --Investigation (S. Res. 151, 71st, 11/8/29) was made of the quantity of electric energy transmitted across State lines and used for development of power or light, or both (*Interstate Movement of Electric Energy*, S. Doc. 238, 71st, 134 p., 12/20/30)

**Power--Utility Corporations (Electric and Gas Utilities) (Senate).**--This extensive inquiry

(S. Res. 83, 70th, 2/15/28 ; Public Res. 46, 73d, 6/1/34 ; and F. T. C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating In interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to Influence public opinion with respect to municipal ownership of electric utilities. The Commission's reports and recommendations, focusing Congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities,

13 See footnote 8, p.127. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in *Conditions in the Healdton Oil Field* (Oklahoma) (116 p., 8/15/15).

were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets; 70 subholding companies with \$5,685,463,201 total assets; and 278 operating companies with \$7,245,106,464 total assets. The testimony, exhibits and final reports (*Utility Corporations*, S. Doc. 92, 70th) comprised 95 volumes.

**Price Bases (F. T. C.).**--More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F. T. C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-haul or cross-freighting to be an economic evil (*Report of the F. T. C. on Price Bases Inquiry, Basing-Point Formula and Cement Prices*, 218 p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N. R. A. code (*Study of Zone-Price Formula in Range Boiler Industry*, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

**Price Deflation (President).**--To an inquiry (8/21/21) of President Harding, the Commission made prompt reply (undated) presenting its views of the causes of a disproportional decline of agricultural prices compared with consumers' prices (*Letter of the F. T. C. to the President of the U. S.*, 8 p., o.p.).

**Priorities (W. P. B.), Wartime, 1941-45.**--Pursuant to Executive orders (January 1942), W. P. B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with W. P. B. orders relative to the allocation of supply and priority of delivery of war materials. F. T. C. priorities investigations are listed herein under the headings: Aluminum, Foundries Using; Antifreeze Solutions, Manufacturers of; Capital Equipment; Chromium, Processors of; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of; Contractors, Prime, Forward Buying Practices of; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of; Costume Jewelry, Manufacturers of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufacturers; Jewel Bearings, Consumers of; Metal-working Machines, Invoicing and Distribution of; Nickel, Processors of; Paint, Varnish and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and Silver Suppliers; Steel Industry; Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W. P. B.

**Profiteering (Senate), Wartime, 1917-18.**--Current conditions of profiteering (S. Res. 255, 65th, 6/10/18) as disclosed by various Commission investigations were reported in *Profiteering* (S. Doc. 248, 65th, 20 p., 6/29/18).

**Quinine, Manufacturers and Wholesalers of (W. P. B.), Wartime, 1942-43.**--At the Instance of the War Production Board, investigation was made to determine whether requirements of its Conservation Order No. m-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

**Radio (House).**--A comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23; *Report of the F. T. C. on the Radio Industry*, 347 p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended 11/2/35).

**Rags, Woolen.**--See Textiles.

**Raisin Combination.**--See Food.

**Range Boilers.**--See Price Bases.

14 Final reports were published in 1935 ; a general index in 1937. Some of the volumes are out of print. For report titles, see F. T. C. Annual Report, 1941, p. 221 ; and for lists of companies investigated, see F. T. C. Annual Reports, 1985, p.21. and 1936, p. 36.

15 Basing-point systems are also discussed in the published reports listed under Cement," "Steel Code," and "Steel Sheet Piling" herein.

**Resale Price Maintenance (F. T. C.).**--The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led to the first inquiry, resulting in a report, *Resale Price Maintenance* (H. Doc. 1480, 65th, 8 p., o. p., 12/2/18). Other reports were : *A Report on Resale Price Maintenance* (H. Doc. 145, 66th, 3 p., 6/30/19) and *Resale Price Maintenance* (F.T.C. motion, 7/25/27 ; reports, Part I, H. Doc. 546, 70th, 141 p., o.p., 1/30/29, and Part II, 215 p., 6/22/31). The *Report of the F.T.C. on Resale Price Maintenance* (F. T. C. Res., 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities In both the price-maintained and non-price-maintained categories.

**Rubber Tires and Tubes.**--See Distribution Methods and Costs.

**Salaries (Senate).**--The Commission investigated (S. Res. 75, 73d, 5/29/33) salaries of executives and directors of corporations (other than public utilities) engaged in interstate commerce, such corporations having more than \$1,000,000 capital and assets and having their securities listed on the New York stock or curb exchanges.- The *Report of the F. T. C. on Compensation of Officers and Directors of Certain Corporations* (15 p., processed, 2/26/34) explained the results of the inquiry.<sup>16</sup> The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

**Silverware Manufacturers (W. P. B.), Wartime, 1942-43.**--Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the copper orders, that is, W. P. B. General Preference Order No. m-9-a, Supplemental Order No. m-9-b, and Conservation Order m-9-c, all as amended.

**Silverware Manufacturers and Silver Suppliers (W. P. B.), Wartime, 1942-43.**--The activities of silverware manufacturers and silver suppliers under W. P. B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L-140 were investigated and reported on at the request of the War Production Board.

**Sisal Hemp (Senate).**--The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised how certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (*Mexican Sisal Hemp*, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

**Southern Livestock Prices.**--See Food.

**Steel Code and Steel Code as Amended (Senate and President).**--The Commission investigated (S. Res. 166, 73d, 2/2/34) price fixing, price increases, and other matters (*Practices of the Steel Industry Under the Code*, 5. Doc. 159, 73d, 79 p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (*Report of the F. T. C. to the President in Response to Executive Order of May 30, 1934, With Respect to the Basing-Point System in the Steel Industry*, 125 p., 11/30/34).<sup>17</sup> The Commission recommended important code revisions.

**Steel Companies, Proposed Merger (Senate).**--An inquiry (S. Res. 286, 67th, 5/12/22) into a proposed merger of Bethlehem Steel Corp. and Lackawanna Steel Co., and of Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co., resulted in a two-volume report, *Merger of Steel and Iron Companies* (S. Doc. 208, 67th, 11 p., o.p., 6/5/22 and 9/7/22).

**Steel Costs and Profits.**--See Wartime Cost Findings, 1917-18.

**Steel Costs and Profits (O.P. A.), Wartime, 1942-43.**--A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942 at the request of O. P. A., was made to that agency. The inquiry covered 29 important steel-producing companies.

**Steel Industry (O. P.M.), Wartime, 1941-42.**--This investigation covered practically every steel mill in the country and was conducted for the purpose of determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed, i. e., the technique used in the steel industry in meeting the requirements of O. P. M. (later the

<sup>16</sup>The salary lists do not appear in the report but are available for inspection has of the same date the N. R. A. published its *Report of the National Recovery Administration on the Operation of the Basing-Point System in the Iron and Steel Industry* basing- point system is also discussed in published reports listed (175 p., processed). The basing-point under "Cement" and herein.

War Production Board) orders and forms controlling the distribution of pig iron, iron and steel, iron and steel alloys, and iron and steel scrap.

**Steel Sheet Piling--Collusive Bidding (President).**--Steel sheet piling prices on certain Government contracts in New York, North Carolina, and Florida were investigated (inquiry referred to F. T. C. 11/20/35). The *F. T. C. Report to the President on Steel Sheet Piling* (42 p., processed, 6/10/36) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system 11 and provisions of the steel industry's code.

**Stock Dividends (Senate).**--The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same information for an equal period prior to the decision was also requested. The Commission submitted a list of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (*Stock Dividends*, S. Doc. 26, 70th, 273 p., 12/5/27).

**Sugar.**--See Food.

**Sulphur Industry (F. T. C.)** --In its report to Congress on *The Sulphur Industry and International Cartels* (6/16/47), the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export readjust its business to conform to law (see pp.21 and 82).

**Taxation and Tax-Exempt Income.**--See National Wealth and Income.

**Temporary National Economic Committee, Studies of the F. T. C.**--See F. T. C. Annual Report, 1941, p.218, for titles.

**Textile Mills, Cotton (W. P. B.), Wartime, 1943-44.**--For the War Production Board the Commission conducted a compliance investigation of manufacturers of cotton yarns, cordage and twine to ascertain whether they were in violation of Priorities Regulation 1, as amended, by their failure to fill higher rated orders at the time they filled lower rated orders.

**Textiles (President).**--President Roosevelt (Executive order of 9/26/34) directed an inquiry into the textile industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. Reports covering the cotton, woolen and worsted, silk and rayon, and thread, cordage and twine industries were : *Report of the F. T. C. on Textile Industries*, Parts I to VI, 12/31/34 to 6/20/35, 174 p. (Part VI, financial tabulations, processed, 42 p., o.p.); *Report of the F. T. C. on the Textile Industries in 1933 and 1934*, Parts I to IV, 8/1/35 to 12/5/35, 129 p. ; Parts II and III, o. p. (Part IV, processed, 21 p., o. p. ; accompanying tables, processed, 72 p., o. p.); *Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934*, 1/31/36, 20 p., processed, o. p.; *Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934*, 3/24/36, 48 p., processed, o. p. ; *Textile Industries in the First Half of 1935*, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed, o.p. ; *Textile Industries in the Last Half of 1935*, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed, o. p. ; and *Textile Industries in the First Half of 1936*, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed, o.p.

**Textiles--Combed Cotton Yarns.**--High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (*Report of the F.T.C. on Combed Cotton Yarns*, 94 p., o.p., 4/14/21).

**Textiles--Cotton Growing Corporation.**--See Foreign Trade.

**Textiles--Cotton Merchandising (Senate).**--Investigating abuses In handling consigned cotton (S. Res. 252, 68th, 6/7/24) , the Commission made recommendations designed to correct or alleviate existing conditions (*Cotton Merchandising Practices*, S. Doc. 194, 68th, 38 p., o.p., 1/20/25).

**Textiles--Cotton Trade (Senate).**--Investigation (S. Res. 262, 67th, 3/29/22) Involved a decline In cotton prices, 1920-22, as reported in *Preliminary Report of the F. T. C.- on the Cotton Trade* (S. Doc. 311, 67th, 28 p., o.p., 2/26/23). After a second Inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of

18 See footnote 15, p.136.



cotton on New York futures contracts (*The Cotton Trade*, incl. testimony, S. Doc. 100, 88th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery on New York futures contracts (11/16/28 and 2/26/30) In accordance with the Commission's recommendations.

**Textile Woolen Rag Trade (F. T. C.), Wartime, 1917-18.**--The *Report on the Woolen Rag Trade* (90 p., o. p., 6/30/19) contains information gathered during the World War, 1917-18, at the request of the War Industries Board, for Its use In regulating the prices of woolen rags employed in the manufacture of clothing.

**Tin Consumers (W. P. B.), Wartime, 1942-43.**--The principal consumers of tin were investigated at the Instance of the War Production Board to determine the degree of their compliance with Conservation Order m-43-a, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories illustration, and use of the tin supply in the U.S.

**Tobacco (Senate).**--Inquiry (S. Res. 329, 68th, 2/9/25) into activities of two well-known companies disclosed that alleged illegal agreements or conspiracies did not appear to exist (*The American Tobacco Co. and the Imperial Tobacco Co.*, S. Doc. 34, 69th, 129 p., o. p., 12/23/25).

**Tobacco Marketing-Leaf (F. T. C.).**--Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to. control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and improvement of marketing processes and cooperative relations (*Report on Marketing of Leaf Tobacco in the Flue-Cured Districts of the States of North Carolina and Georgia*, 54 p., processed, 5/3/31).

**Tobacco Prices (Congress).**--Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533, 66th, 6/3/20) and low tobacco prices as compared with high prices of manufactured tobacco products (S. Res. 129, 67th, 8/9/21) resulted in the Commission recommending modification of the 1911 decree (dissolving the old tobacco trust) to prohibit permanently the use of common purchasing agencies by certain companies and to bar their purchasing tobacco under any but their own names (*Report of the F. T. C. on the Tobacco Industry*, 162 p., o. p., 12/11/20, and *Prices of Tobacco Products*, S. Doc., 121, 67th, 109 p., o. p., 1/17/22).

**Trade and Tariffs in South America (President).**--Growing out of the First Pan-American Financial Conference held In Washington, May 24-29, 1915, this inquiry (referred to F. T. C. 7/22/15) was for the purpose of furnishing necessary Information to the American branch of the International High Commission appointed as a result of the conference. Customs administration and tariff policy. were among subjects discussed in the *Report on Trade and Tariffs in Brazil Uruguay, Argentina, Chile, Bolivia, and Peru* (246 p., o. p., 6/30/16).

**Twine.**--See Sisal Hemp and Textiles.

**Utilities.**--See Power.

**War Material Contracts (House), Wartime, 1941-42.**--At the request of the House Committee on Naval Affairs, the Commission assigned economic and legal examiners to assist in the Committee's inquiry into progress of the national defense program (H. Res. 162, 77th, 4/2/41). The Commission's examiners were active in field Investigations covering aircraft manufacturers' cost records and operation, naval air station construction, materials purchased for use on Government contracts, and industry expansion financing programs.

**Wartime Cost Finding (President), 1917-18.**--President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in's approximately 370 wartime cost investigations. At later dates reports on a few of them were published,<sup>19</sup> including: *Cost Reports of the F. T. C.-Cooper* (26 p., o. p., 6/30/19); *Report of the F. T. C. on Wartime Costs and Profits of Southern Pine Lumber Companies* (94 p., o. p., 5/1/22); and *Report of the F. T. C. on Wartime Profits and Costs of the*

*Steel Industry* (138 p., 2/18/25). The unpublished reports 20 cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled In various degrees, by Government agencies such as the War and

<sup>19</sup> See footnote 10, p.129.

<sup>20</sup> Approximately 260 of the wartime cost inquires are listed In the F. T. C. Annual Reports, 1018, pp.29-30, and 1919, pp. 38-42 and in's *World War Activities of the F. T. C., 1917-18* (69 p., processed, 7/15/40).

767228--48--10

Navy Departments, War Industries Board, Price Fixing Committee, Fuel Administration, Food Administration, and Department of Agriculture. The Commission also conducted cost inquiries for the Interior Department, Tariff Commission, Post Office Department, Railroad Administration, and other Government departments or agencies. It is estimated that the inquiries helped to save the country many billions of dollars by checking unjustifiable price advances.

**Wartime Inquiries, 1917-18, Continued.**--Further wartime inquiries of this period are described herein under the headings : Coal, Coal Reports--Cost of Production, Cost of Living, Flax, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper--Book, Paper-Newsprint, Profiteering, and Textiles--Woolen Rag Trade.

**Wartime Inquiries, 1941-45.**--To aid in the 1941-45 war program, F. T. C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal, accounting statistical and other services in conducting investigations. It made cost, price and profit studies ; compiled industrial corporation financial data; investigated compliance by basic industries with W. P. B. priority orders; and studied methods and costs of distributing important commodities. The 1941-45 wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; Cigarette Shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food--Biscuits and Crackers; Food--Bread Baking; Food-Fish; Food--Flour Milling; Household Furniture; Industrial Financial Reports; Metal-Working Machines; Paperboard; Priorities; Steel Costs and Profits; and War Material Contracts.

## INDEX

[Index does not include names or items in alphabetical lists, tables, or appendixes. For names of export trade associations, see p.80; for appropriation items, see p.87; and for titles and summaries of investigations, 1915-47, see p.123.]

	Page
Acme Asbestos Covering & Flooring Co	60
Administrative Procedure Act	5
Advertising, false and misleading :	
Analysis of	45
Complaints alleging	47
Food, drugs, devices, cosmetics	37, 42
Injunctive proceedings involving	38
Mail-order	45
Newspaper and periodical	44
Orders directed against	49
Radio commercial	45
Stipulations relating to	46
Survey of	44
Agricultural Marketing Service, the	79
Allied Paper Mills, and others	61
Amasia Importing Corp	61
American Association of Law Book Publishers, and others	61
American Bridge Co	62
American Drug Corp	60
American Phonograph Cooperative, Ltd., The	82
American Steel & Wire Co. of New Jersey	62
Anaconda Wire & Cable Co	62
A P. W. Paper Co	60
Arden, Elizabeth, Inc., and others	60
Artificial limb industry, trade practice rules for	71
Attorney General of the United States, the	7, 13, 59, 62
Automobile dealers, District of Columbia and New York City, industry-wide investigation of	3, 43
Ayres, William A., Commissioner	9
Bolger Brothers	51
Brewer, Nelson C., and others	60
Buchsbaum & Co., S	60
Bureau of Animal Industry, the	79
Bureau of the Budget, the	29
California Marine Curing & Packing Co., and others	52
Canute Co	61
Carbon Black Export, Inc	82
Carnegie-Illinois Steel Corp	62
Cement Institute, The, and others	60, 61
Central University	51
Citrus Corporation of America, The	82
Clayton Act :	
Amendments proposed	12
Complaints issued under	48
Contempt proceedings under	37
Orders issued under	51
Procedure under	36
Section 2 (see also Robinson-Patman Act)	2, 9, 40, 48, 52, 60, 61, 62
Section 3	2, 41, 52
Section 7	2, 12, 14, 15, 41, 42
Section 8	2



	Page
Commissioner of Patents, the	6
Committee on the Judiciary, Rouse of Representatives	12, 14
Committee on the Judiciary Senate	14
Complaints, formal	7, 47
Congress of the United States, The	2, 5, 8, 11, 12, 13, 15, 18, 19, 21, 25, 27, 29
Construction equipment distributing industry, trade practice rules for	7, 68, 70
Consumers Home Equipment Co., and others	61
Copper industry, investigation of	8, 14, 18
Corporate mergers and acquisitions, investigation of	8, 14
Cosmetic and toilet preparation industry, industry-wide investigation of	3, 39, 43
Cosmetic and toilet preparation industry, trade practice conference for	70
Cotton textile manufacturing industry, industry-wide investigation of	3, 43
Court cases :	
Civil penalty suits	7, 59, 62
Decided	7, 60
Pending	61
Petitions to review	59
Custom House Packing Corp., and others	52
Davis, Ewin L., Commissioner	9
Department of Commerce, the	13
Department of Justice, the	11, 13, 41
Doll and stuffed toy industry, trade practice rules for	7, 68, 70
Doniger & Co., David D.	51
Draper Corp	51, 52
Eastman Kodak Co	60
Electrical Apparatus Export Association	82
Export Screw Association of the United States	8, 83
Export Trade Act (Webb-Pomerene Law) :	
Export associations operating under	8, 80
Export associations organized during fiscal year	82
Inquiries and recommendations under	8, 43, 82
Provisions of	80
Federal Power Commission Act of 1934	9
Federal Reports Act of 1942	29
Federal Trade Commission :	
Acts administered by	1, 2, 36
Administrative divisions	5, 9
Appropriations, expenditures and fiscal affairs	87
Cases in Federal courts	7, 59
Chairman	9
Chief Economist	5
Chief Examiner	35
Chief, Radio and Periodical Division	35
Chief Trial Counsel	4, 36, 39
Chief Trial Examiner	5
Commissioners	9
Director, Division of Stipulations	4, 36, 65
Director, Medical Advisory Division	5, 79
Director, Office of Industrial Economics	5
Director, Office of Legal Investigations	4
Director, Office of Trade Practice Conferences and Wool Act Administration	4
Division of Stipulations	3, 4, 9, 44, 65
Duties of	1, 2, 9
Executive Office	9
Export Trade Office	4
Foreign trade work	80
General Counsel	3

Investigations, general	1, 2, 8, 14
Investigations, industry-wide	2, 3, 39, 43, 47
Legal activities	1, 2, 7
Legal investigations	35, 38
Legal Investigations Division	4, 39, 43

## INDEX

143

Federal Trade Commission--Continued	Page
Medical Advisory Division	5, 9, 79
Office of Chief Trial Counsel	4, 9
Office of Compliance	7
Office of General Counsel	3, 4, 7, 9
Office of Industrial Economics	5, 9
Office of Legal Investigations	4, 35, 65
Office of Trade Practice Conferences and Wool Act Administration	4, 9
Offices and divisions assigned to Commissioners	9
Organizational designations revised	5
Organized	1
Personnel	10
Procedure upon applications for complaint	35
Procedure upon formal complaints	36
Publications	10
Radio and Periodical Division	4, 35, 44
Recommendations to Congress (with minority recommendations)	12
Reorganization plan adopted	2
Rules of practice	101
Secretary	10
Statement of policy	119
Stipulations accepted by	3, 7, 47, 65
Trade-Mark Division	7
Trial Examiners Division	5, 9
Federal Trade Commission Act :	
Amended	1
Approved	1
Civil penalties under	7, 37, 59, 62
Complaints issued under	47
Orders to cease and desist issued under	49
Procedure under	36, 37
Section 5	1, 13, 42, 59
Section 6	2, 5, 10, 12, 84
Section 9	87
Section 12	37, 42
Section 15	37
Section 10	60
Text of	91
Types of unfair practices in violation of	52
Wheeler-Lea amendment to	1, 13, 37, 42
Ferguson, Garland S., Chairman, Federal Trade Commission	9
Flour-milling industry, investigation of	8, 14, 27
Food and Drug Administration, the	79
Freer, Robert E., Commissioner	9
French Sardine Co. of California	52
Frontier Asthma Co	49
General Cable Corp	62
General Electric Co	62
General Milk Co., Inc	82
General Seafoods Corp., and others	60
Grain exchanges, investigation of	8, 14, 26
Harvest House	60
Herman, William A	50
High Seas Tuna Packing Co	52
Household fabric dye industry, industry-wide investigation of	3, 39, 43

Household fabric dye industry, trade practice rules for	7, 68
Independent Offices Appropriations Acts	2, 87
Industrial financial reports, first quarter 1947	8, 14, 29
Investigations, general :	
Copper industry	8, 14, 18
Corporate mergers and acquisitions, present trend of	8, 14
Flour-milling industry	8, 14, 27
Grain exchanges	8, 14, 26
Sulphur Industry and international cartels	8, 14, 21
Wholesale baking industry	8, 14, 25



Investigations, industry-wide :	Page
Automobile dealers, New York City and District of Columbia	3, 43
Cosmetic and toilet preparation industry	3, 39, 43
Cotton textile manufacturing industry	3, 43
Household fabric dye industry	3, 39, 43
Liquid emulsion floor wax industry	3, 43, 47
Manufacturers of machine knives for paper-cutting machines	3, 43
Masonry waterproofing product industry	3, 43
Mothproofing product industry	3, 43, 47
Simulated and cultured pearl industry	3, 43, 47
Textile loom manufacturing industry	3, 43
Koret, Inc	61
Langendorf United Bakeries Inc	49, 61
Lanham Trade-Mark Act	2, 3, 6
Liquid emulsion floor wax industry, industry-wide investigation of	3, 43, 47
Maine Sardine Packers' Export Association, The	82
Manufacturers of machine knives for paper-cutting machines, i ndustry wide investigation of	3, 43
Mason, Lowell B.-, Commissioner	9, 13
Masonry waterproofing product industry, industry-wide investigation of	3, 43
Masonry waterproofing product industry, trade practice rules for	7, 68, 69, 71
Modern Home Diathermy	49
Morton Salt Co	61, 62
Mothproofing products industry, industry-wide investigation of	3, 43, 47
Myndall Cain House of Beauty, The	50
National Bureau of Standards, the	79
National Crepe Paper Association of America, and others	61
National Retail Liquor Package Stores Association, Inc., and others	49
Natural Gas Act of 1938	9
Office of Price Administration, the	29
Okonite Co., The	62
Orders to cease and desist	7, 48
Oxford Products, Inc	50
Ox'O-Gas Co	61
Pacific Forest Industries	82
Packers and Stockyards Act	9
Parker Pen Co., The	61
Patent Office, the	2
Paul & Co., Edward P	62
Phelps-Dodge Copper Products Corp	62
Pipe Fittings & Valve Export Association	82
Piston ring industry, trade practice rules for	7, 68
President of the United States, The	2, 5, 9, 13, 29
Price-fixing and restraint-of-trade cases	39, 47, 49
Public Utilities Holding Company Act of 1935	9
Radio receiving set manufacturing industry, trade practice rules for	71
Rigid Steel Conduit Association, and others	62
Roberts Portrait Co., E. H	50
Robinson Co., C. H., and others	52
Robinson-Patman Act (see also Clayton Act, sec. 2)	2, 9, 40, 41, 48, 52, 60, 62
Rosoff, Robert	52
Saw and blade service Industry, trade practice rules for	7, 68, 70
Scotch Woolen Mills	62
Securities Act of 1933	9
Securities and Exchange Commission	8, 14, 29
Senate, United States	9
Senate Committee on Expenditures in the Executive Departments	5
Simulated and cultured pearl industry, industry-wide investigation of	3, 43, 47
Small Business Committee, House of Representatives	14, 30
Small Business Committee, Senate	14
Standard Oil Co. (Indiana)	62

Stipulations to cease and desist	3, 7, 47, 65
Stock Exchange Act of 1934	9
Sulphur Export Corp	8, 23, 24, 82
Sulphur industry and international cartels, investigation of	8, 14, 21
Tag Manufacturers Institute, and others	49

	Page
Tennessee Coal, Iron & Railroad Co	62
Textile loom manufacturing industry, industry-wide Investigation of	3, 43
Trade practice rules :	
Administration of	71
Group I and Group II rules explained	67
Informative labeling provisions of	74
Procedure for establishing	67
Promulgated during fiscal year	3, 7, 68
Purposes of	67
Trade practice conferences	3, 67, 70
Types of practices covered by	72
United States Public Health Service, the	79
United States Scientific Export Association, The	82
United States Steel Corp	62
Vacu-Matic Carburetor Co	61
Vertical turbine pump industry, trade practice rules for	7, 68, 69
Watch industry, trade practice rules for	7, 68, 69
Webb-Pomerene Law ( <i>see under</i> Export Trade Act)	
West Coast Packing Corp., and others	52
Wheeler-Lea amendment :	
Approved	1
Injunctive procedure and penalties under	38
Investigations under	42
Provisions of	37
Wholesale baking industry, investigation of	8, 14, 25
Wholesale confectionery industry (Philadelphia trade area), , trade practice rules for	7, 68
Wool Products Labeling Act :	
Administration of	7, 76
Approved	76
Civil penalties under	37
Complaints issued under	48
Effective date of	76
Enforcement of	77
Investigations under	42
Orders Issued under	51
Procedure under	36
Provisions of	76
Rules and regulations under	76
Section 2	76
Section 9	77
Section 14	76

U. S. GOVERNMENT PRINTING OFFICE: 1948

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington 25, D. C. - Price 30 cents