

Annual
Report
of the **FEDERAL
TRADE
COMMISSION**

For the Fiscal Year Ended
June 30, 1955

Federal Trade Commission

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Letter of Transmittal

FEDERAL TRADE COMMISSION,
Washington, D. C.

To the Congress of the United States:

It is a pleasure to transmit herewith the Forty-first Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1955.

By direction of the Commission.

JOHN W. GWYNNE,
Chairman.

THE PRESIDENT OF THE SENATE.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

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THE YEAR'S HIGHLIGHTS

Fiscal 1955 brought to fruition the, new policies and planning of the previous 15 months. It saw significant results of the Commission's reorganization.

While the most conspicuous actions were the launching of an investigation into the rising trend of corporate mergers and an attack on misleading advertising of health and accident insurance companies, the Commission's new vitality was evidenced in the performance of all of its functions. At the year's end, sharp increases had been achieved in the number of investigations undertaken and completed, more complaints and orders had been issued in both antimonopoly and antideceptive cases than for the average of the previous 10 years, and long and unprecedented strides had been taken in policing compliance with previous orders.

Perhaps even more important was the Commission's determination to serve more effectively as a guide to business. By issuing opinions with each Commission order, the Commission's casework achieved a prophylactic value far greater than the effect of the restraints put on the particular firms involved. Supplementing this effort was the Commission's broad program for achieving voluntary compliance with those laws designed to insure fair competition in business. Here a 20-year high in the number of trade practice rules issued by the Commission to guide industry was reached.

A significant development in the Commission's program to advise and assist business in obtaining the full protection of the laws of fair competition was the creation of a Small Business Division. Here for the first time in Commission history, small-business men could avail themselves of help from attorneys most familiar with their problems and within an organizational unit designed for that purpose. During the fiscal year, the Division received 1,021 requests for help, of which 971 were completed, the rest being in varying stages of progress. In addition, more than 300 conferences were held.

The Commission's attack on delay in the handling of casework contributed importantly to the Commission's overall effectiveness. The phrase: "Delay is the worst enemy of administrative law," became virtually a slogan. It motivated an internal speedup embracing

not only the Commission itself but supervisors along the

Co.; the alleged monopolistic control by Union Bag and Paper Corp. Of its competitor, the Hankins Container Co.; and alleged illegal mergers involving Pillsbury Mills, Inc., the Nation's second largest flour miller; Crown Zellerbach Corp., one of the world's largest manufacturers of pulp and paper; and Luria Brothers & Co., the largest scrap steel broker in the country.

The principal action in the deceptive practice field during fiscal 1955 was the Commission's nationwide investigation of the advertising of some 1,400 insurance companies selling health, accident, and hospitalization policies. Twenty-eight complaints were brought, charging false and misleading advertising of the coverage and benefits to purchasers of the policies. Four of the complaints were against the four largest companies in the accident and health insurance business: Mutual Benefit Health & Accident Assn. (Mutual of Omaha), Bankers Life and Casualty Co. (The "White Cross Plan"), Reserve Life Insurance Co., and

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of these products for the purpose of fixing prices and regulating their importation. Among the products was agricultural bailer and binder twine widely used by American farmers. Another pending complaint challenged an alleged price-fixing combination in the Puget Sound salmon-packing industry. Still another attacked alleged restraints on competition in the food brokerage business by a national trade association and its 1,750 members.

Complaints also were issued against the multimillion dollar sportswear industry in California alleging an unlawful combination in restraint of trade to produce a rigid price structure enhancing prices to consumers, and against an alleged conspiracy of tobacco warehousemen in Wilson, N. C., to preclude expansion of warehouse facilities in the world's largest flue-cured tobacco market.

Progress was made in the trial of complaints charging eight major ice cream manufacturers and their subsidiaries with competition unfair to small independent ice cream producers. Also, exclusive-dealing arrangements were under attack by the Commission as unlawfully restraining trade in the important liquefied petroleum gas industry, the outboard motor industry, the hearing aid industry, and the growing business in industrial wiping cloths.

In addition, the Commission maintained steady pressure against misrepresentations injurious to the health or pocketbook of the American consumer. Several cases involved widely advertised vitamin and mineral preparations, kidney pills, and preparations for the hair and scalp, including products making the age-old claim of cure for baldness. False advertising in the mail order sale of eyeglasses was involved in 2 cases, and the advertising of oleomargarine as a dairy product brought 1 complaint and 2 cease and desist orders.

In the field of wearing apparel and fabrics, 20 complaints and 18 orders were issued in the enforcement of the Wool Products Labeling Act, and 14 complaints and 8 orders were issued to safeguard the public against the misbranding and false advertising of furs and fur products.

Also, in the field of wearing apparel, six complaints were issued against the sale of certain Japanese-made silk scarves too flammable to meet the standard for flammability.

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standard for flammability
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cent more stipulations in which firms and individuals agreed to stop improper business activities, usually false or misleading advertising. As a result of this speedup in its work, the Bureau had no stipulation pending that had been in negotiation more than 4 months.

Coupled with the obtaining of new stipulations, a systematic check of some 8,500 existing stipulations was undertaken. By the end of the fiscal year, the still continuing check had disclosed 60 violations against which corrective measures were begun.

Of far wider scope, however, was the Commission's full-scale effort to check and insure compliance with all outstanding orders. This obligation was one which too often in previous years had been neglected under pressure of more immediate responsibilities. However, because an unenforced cease and desist order means that the Commission's legal proceedings have failed their purpose, a major effort was made to bulwark the agency's previous actions.

As a result, a record number of civil penalty suits for violations of FTC cease and desist order was begun during fiscal 1955, and at the y during during bulwark

taken. Issuance of the report was a first major step in the Commission's continuing concern with the problem of corporate mergers.

~~A~~ report

SCOPE OF AUTHORITY

Basic Functions of the FTC

The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate, of whom no more than three may be of the same political party. The Commission is charged with the responsibility for administering and enforcing laws in the field of antitrust and trade regulation. They deal with prevention of monopoly, restraints of trade, and unfair trade practices. The Commission also has the duty of investigating and reporting economic problems and corporate activity, particularly in relation to the antitrust laws and in aid of legislation. A primary purpose of the laws which the Commission administers is to protect competition in our private enterprise economy. These statutes are briefly described below.

The Federal Trade Commission Act of 1914 including the Wheeler Lea Act Amendments of 1938

This legislation confers upon the Commission two broad functions. Under the first, the Commission, subject to certain exceptions, is "empowered and directed to prevent persons, partnerships, or corporations,¹ * * * from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce," which are declared by the statute to be unlawful. The Commission is given power to investigate, to hear cases and to make determination of practices falling within this proscription.

Whenever deemed necessary in the public interest to resort to mandatory proceedings, the Commission is authorized to issue complaints against persons, partnerships, or corporations within its jurisdiction which it has reason to believe have been or are using any such unlawful methods, acts, or practices in commerce. If, upon due processing and

¹ Excepted from the Jurisdiction of the Commission under such section are "banks, common carriers subject to the acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronau

hearing, the Commission finds that the practices in question violate the act, it is empowered to issue a cease and desist order against the offending party or parties. Such an order may be appealed from the Commission to a United States court of appeals, which is authorized to review the proceeding and to affirm, enforce, modify, or set aside the Commission's order. Thereafter, the case may be taken to the Supreme Court of the United States upon writ of certiorari.

Originally, the cease and desist orders issued under the Federal Trade Commission Act were enforceable only by the appellate court through contempt proceedings, after its action had transformed the order into a decree of the court. The 1938 Wheeler-Lea amendments provided for a civil penalty action in the United States district court for violation of such final cease-and-desist orders. Under this provision the orders become final either through affirmance by the Court of Appeals or at the end of 60 days in the event no appeal is taken. If the order is violated after becoming final, a civil penalty suit may be instituted by the United States. Such an action is brought by the Attorney General at the request of the Commission, and the district court is authorized to impose civil penalties up to \$5,000 for each offense. Under an amendment enacted in 1950, each day of a continuing violation may be treated as a separate offense.²

The Wheeler-Lea Act amendments also conferred special authority upon the Commission for the control of false advertising of foods, drugs, cosmetics and curative or corrective devices. For such purposes ~~it~~

The second broad category of functions conferred upon the Commission under the Federal Trade Commission Act consists of the powers conferred by section 6. This section empowers the Commission to gather and compile information

Section 2 of the Clayton Act, amended by the Robinson-Patman Act—Discriminatory Pricing.⁵—Subject to specified justification and defenses, this section provides that it shall be illegal to discriminate in price between different purchasers of commodities of like grade and quality sold for use, consumption, or resale within the United States, where the effect of the discrimination "may be substantially to lessen competition or tend to create' a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowin-a Tj 2.64 0 TD 0proc () Tl 2.52 0 TD 0.0022 Tc (438 Tc () Tj 3.12 0 TD 0.0

Tying or Exclusive Dealing Contracts.—Section 3 of the Clayton Act prohibits the lease or sale in the course of commerce of goods, wares, merchandise, machinery, supplies or other commodities, for use, consumption or resale within the jurisdiction of the United States on the condition, agreement or understanding that the lessee or purchaser shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of competitors of the lessor or seller, where the effect thereof "may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

Anti-Merger Law.—This statute, approved December 29, 1950,⁶ is in the form of a revision and restatement of section of the original Clayton Act. It is specific legislation on the subject of suppression of competition through the merger or consolidation of corporations.

acquisition of either stock or assets of the acquired corporation, where the effect of the acquisition

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for such exemption, an association must file with the Commission copies of its association papers or articles of incorporation and a complete description of its organizational structure, and bring this information to the Commission's attention. Tc () Tj 3.12 0 TD 0 Tc (association) Tj .0 TD 0 Tc (associatiote y

Regulation of Insurance Public Law 15, 79th Congress

This act was passed by Congress after the Supreme Court had ruled that the insurance business is subject to Federal jurisdiction under the commerce cause of the Constitution.

Under this statute, the Federal Trade Commission and the Clayton acts apply to the business of insurance to the extent that it is not regulated by State law.

Lanham Trade Mark Act, approved July 5, 1946¹²

This authorizes the Commission to proceed before the Patent Office for cancellation of certain trade-marks improperly registered or improperly used in competition, as provided in section 14 of this act.

Defense Production Act of 1950¹³ and Small Business Act of 1953¹⁴

The former statute authorizes the Commission to make surveys at the request of the Attorney General to determine any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of administration of the Defense Production Act of 1950. The Chairman of the Commission, as provided in section 708, also is consulted regarding voluntary industry agreements and programs which the President is authorized to utilize to further the objectives of the act. Similar consultative responsibilities rest upon the Chairman of the Commission under section 217 of the Small Business Act. After agreements and programs have been subjected to this consultative review and have received official sanction, those participating are afforded immunity from the antitrust laws and the Federal Trade Commission Act.

¹⁰ Approved March 9, 1945, 59 Stat. 33. Effective June 30, 1948, see amendment approved July 25, 1947, 61 Stat. 448.

¹¹ *United States v. Southeastern Underwriters Association*, 332 U. S. 533, June 5, 1944.

¹² 60 Stat. 427.

¹³ 64 Stat. 798.

¹⁴ 67 Stat. 232.

ADMINISTRATION

The effectiveness of the Commission during fiscal 1955 depended vitally on the organization and competence of its staff. The number and to a great extent the scope of the Commission's actions were determined by the volume and quality of staff work on investigations, litigation, and economic analyses. Only from this material could the five Commissioners fashion the decisions that would stop improper business practices and erect guideposts to fair competition.

The year marked the first 12 months of operation of the staff reorganization put into effect by Commission Chairman Edward F. Howrey after approval by the Commission. This reorganization based on

The principal objectives sought in the new organization were: (1) simplification of the form of organization, (2) grouping of related functions for most effective administration, (3) provision for clear-cut centers of responsibility and control, (4) development of the best use of manpower, and (5) strengthening of various segments of the organization in accordance with present and probable future needs as dictated by the estimated workload.

The executive director not only served as general manager in coordinating the work of the star, but he also functioned for the chairman in administrative matters concerning the general counsel, Secretary, and the Commission's hearing examiners.

The reorganization set up control procedures and provided for close supervision of field office investigative work. At the same time, improved supervision of casework was assured by the appointment of project attorneys in the Bureau of Investigation to supervise cases throughout the Commission's consideration of them. Previously, responsibility for a case had been reassigned at various stages of its development, with no single attorney continuously accountable for its progress.

Supplementing this speedup device was a system of time reports for all professional employees. The system called for recording of the total hours devoted to each case and to each step in its development. This enabled the Commission and top officials to recognize quickly where delays were occurring so that corrective action could be taken. Further aid to the general speedup was the elimination of time-consuming and unnecessary reviews of casework; about half of the former procedural steps were eliminated as needless.

In the field, a new office was established at Cleveland, Ohio, to bring the total to seven. Others continued to operate at Washington, New York, Chicago, New Orleans, San Francisco, and Seattle.

As a result of this streamlining throughout the agency, improvements were noted both in volume and in speed. Investigations pending in branch offices per attorney-investigator rose to 8.28, nearly double the 4.42 recorded during fiscal 1954. Investigations completed during the year jumped from a 15.42 average per attorney-investigator in 1954 to 18.13 in 1955. (See chart 2.)

Antimonopoly investigations pending in branch offices also reflected the speedup. In fiscal 1954, a total of 16 percent of these investigations p e r c e n t

percentage of cases over 2 years old dropped from 19 percent in 1954 to 8 percent in 1955. (See chart 5.)

The same streamlining produced the issuance of more antimonopoly complaints, 36 in 1955 contrasted to 30 in 1954 (chart 6), and more deceptive practice complaints, 125 in 1955 compared to 93 in 1954. (See chart 7.)

The 5-man Commission itself strove for speedier action with the result that at the year's end, Commission Secretary Robert M. Parrish reported that not a single formal briefed and argued case had been awaiting decision by the Commission for more than 30 days. An 30 Trc20 daya

FEDERAL TRADE COMMISSION
ORGANIZATION OF STAFF FUNCTIONS

ORGANIZATIONAL CHART - SEE IMAGE

INVESTIGATIONS PENDING IN
BRANCH OFFICES
PER ATTORNEY- INVESTIGATOR
AT CLOSE OF FISCAL YEAR

GRAPH - SEE IMAGE

INVESTIGATIONS COMPLETED
DURING FISCAL YEAR IN
BRANCH OFFICES
PER ATTORNEY- INVESTIGATOR

GRAPH - SEE IMAGE

ANTIMONOPOLY INVESTIGATIONS PENDING IN BRANCH OFFICES
(AGE IS FROM DATE OF RECEIPT IN BRANCH OFFICE)

156 Investigations
Pending June 30, 1953

GRAPH - SEE IMAGE

171 Investigations
Pending May 31, 1954

GRAPH - SEE IMAGE

264 Investigations
Pending June 30, 1955

GRAPH - SEE IMAGE

AGE OF ANTIMONOPOLY CASES PENDING IN LITIGATION AS OF JUNE 30
FISCAL YEARS 1952, 1953, 1954, 1955

(AGE IS FROM DATE OF ISSUANCE OF COMPLAINT)

1952	1953	1954	1955
85 Cases	75 Cases	71 Cases	70 Cases
GRAPH -	GRAPH -	GRAPH -	GRAPH -
SEE IMAGE	SEE IMAGE	SEE IMAGE	SEE IMAGE

AGE OF ANTIDECEPTIVE CASES PENDING IN LITIGATION AS OF JUNE 30
FISCAL YEARS 1952, 1953, 1954, 1955
(AGE IS FROM DATE OF ISSUANCE OF COMPLAINT)

1952	1953	1954	1955
127 Cases	89 Cases	89 Cases	127 Cases
GRAPH -	GRAPH - SEE	GRAPH - SEE	GRAPH - SEE
SEE IMAGE	IMAGE	IMAGE	IMAGE

ANTI MONOPOLY

COMPLAINTS ISSUED

CEASE AND DESIST
ORDERS ISSUED

GRAPH - SEE IMAGE

GRAPH - SEE IMAGE

Percentage Increase
Over 1944-53 Average

DECEPTIVE PRACTICE

COMPLAINTS ISSUED

CEASE AND DESIST
ORDERS ISSUED

GRAPH - SEE IMAGE

GRAPH - SEE IMAGE

INVESTIGATION

The casework production line—whose end product is public protection—begins with the Bureau of Investigation. Here facts are gathered and analyzed to determine whether they contain, in the staff's opinion, violations of the laws administered by the Commission.

The raw materials for this Bureau's work come principally in the form of letters from the public complaining of business skullduggery or from indignant competitors of business firms that have been cutting too sharply the corners of fair competition. Telephone calls and personal visits add to the grist. Indeed, the Congress and the Commission itself can and do call for investigation of dubious business practices.

Requests received from the public or from business for corrective action by the Commission are known as questions or applications for complaint to distinguish them from the formal complaints issued by the Commission against alleged offenders. It readily can be appreciated that more of these petitions for complaint are received than warrant Commission action, either formal or informal. Many, for example, lie outside the Commission's jurisdiction, and some are so trivial or so close to the borderline of legality that it would be poor utilization of the Commission's resources to pursue these instead of cases invested with more public concern. Therefore, the first step taken by the Bureau of investigation is to select from all petitions for complaint those impressed either with the greatest value as guideposts for all business or corrective of the worst dangers and injustices.

A petition for complaint is assigned to one of the bureau's project attorneys who makes preliminary report on it. In simple cases, the preliminary investigation can be handled by mail; the more complex are sent to field offices and assigned to attorney examiners. Reports by the latter are reviewed by branch managers who submit recommendations to the Bureau. At this point, the Bureau would reach a decision on whether the case should be closed or what type of corrective action would be appropriate. decision to close the case is reviewed first by the Commission's Secretary, and a report of its closing

is reviewed by the Commission itself. If the Bureau's decision is to recommend complaint, the case moves to the Bureau of Litigation.

Since July 1, 1954, the legal investigation work of the Commission has been under the general supervision of the Director, Bureau of Investigation, and the guidance of the chief project attorney and his staff of 22 project attorneys. Each of the latter has primary and continuing responsibility for the initiation and progress of a complaint from its inception to its final disposition.

During the investigations, economic, marketing, and accounting data from the Commission's records and technical and scientific advice from the staff and from other Government agencies are used. In addition, the party complained against may be interviewed and called upon to provide information. Frequently, it also is necessary to interview competitors and members of the general public to find out whether the charges are well founded and if public interest warrants pursuit of the case.

It is the Commission's policy to withhold the names of specific firms and specific products during their investigation. The obvious and valid purposes for this is to spare the firm and its product or service unfavorable publicity until the Commission decides whether the facts are sufficient to warrant the issuance of a formal complaint. (In the event a case is settled by informal stipulation, only the stipulation agreement is made a part of the public record.)

MAJOR INVESTIGATIONS

Most extensive investigations result in formal complaints, and in fiscal 1955, the following cases entailed considerable investigative time:

	Docket
Anheuser-Busch, Inc -----	6331
Cross Baking Co -----	6334
Magnesium Co. Of America -----	6370
Southern Oxygen Company -----	6372
Knomark Mfg. Co -----	6364
California Sportswear & Dress Association, Inc -----	6325
Callaway Mills Company -----	6352
National Food Brokers Assn., Inc -----	6363
Maryland Baking Company, et al -----	6327
Retail Paint and Wallpaper Distributors of America, et al -----	6367
United Fishermen of Alaska, et al -----	6378
The Union Malleable Manufacturing Company -----	6366
Otis Elevator Company, et al -----	6350
Wilson Tobacco Board of Trade, et al -----	6262
Florida Citrus Exchange -----	6255

Other antimonopoly investigations during the year involved charges of price-fixing tiein sales, price discrimination, payment of discriminatory promotional and advertising allowances, discrimination in service and facilities, exclusive dealing, boycott, agreements to elimi-

nate competition and preempt markets, agreements to restrict and limit trading on commodity markets, and other types of trade restraints,

In the deceptive practice field, the year's principal investigative work dealt with the following:

False advertising of a mineral and vitamin preparation for treatment of convulsions, rheumatism typhoid fever, and heart trouble.

False and misleading advertising of another preparation for treatment of gall bladder trouble, stomach ulcers, eczema, and hemorrhoids.

False and misleading advertising of mail order eyeglasses; representations concerning the calorie content of food.

False and misleading advertising of oleomargarine as a dairy product.

Disparagement of competing types of cookware.

False and misleading claims concerning usual price of wearing apparel.

False and misleading claims as to effectiveness of agricultural products, fertilizers, and soil conditioners.

Use of deceptive sales schemes in the distribution of sewing machines and other household appliances.

Misrepresentations of Government connection in the sale of correspondence courses.

Deceptive practice inquiries conducted during the year also included investigations among health, accident, and hospitalization insurers, as a continuation of the Commission's nationwide treatment of alleged false and misleading advertising in this industry.

Similar practices are covered by stipulations obtained as a result of deceptive practice investigations completed during fiscal 1955. In addition, cæ0 Tc (al M33646-77043540313410330

of unfair competitive practices. It is expected industry-wide treatment will continue to be necessary in many cases.

Issuance of an order prohibiting certain practices by one industry member quite often brings forth additional complaints from other members of the affected industry who had previously been indifferent to the existence of such practices or unaware of their illegality. Publicity given to Commission proceedings in the press and in trade journals has a tendency, therefore, to generate additional work and to increase the investigative caseload beyond normal expectations. This is particularly true of industries composed of numerous small independent business entities, such as ice cream manufacturers, food retailers, bakeries, dairies, and gasoline retailers, selling staple commodities in keenly competitive market.

SCIENTIFIC OPINIONS

The function of the Division of Scientific Opinions is largely advisory. Its workload is dependent largely upon the number of requests for opinions, consultations, and assistance in connection with formal and informal cases made by other divisions and bureaus of the Commission.

The vast majority of today's advertised products contain ingredients which have some merit, but this limited merit is often exaggerated and misrepresented in the advertising. This makes it necessary to define and delimit the value of the preparations in order to protect the public from misrepresentation and at the same time avoid denying advertisers the right to make valid claims. In many instances the drugs or cosmetics contain one or more relatively new ingredients regarding whose virtues and limitations the published medical and scientific literature frequently provides only fragmentary and inconclusive reports. These situations make it essential that the Division confer with the medical specialists and other scientists who have first-hand knowledge based on use of the drugs or cosmetics under conditions which demonstrate their therapeutic or other properties.

It is not possible accurately to determine the truth or falsity of the claims made for the new ingredients without having them subjected to clinical and hospital tests. In some cases the advertisers have had clinical tests conducted using their products. Some of these clinical tests are genuine contributions to science and assist materially in delimiting the value of the products whereas others are designed merely to provide a specious or spurious defense in the event of challenge. Distinguishing the one type of test from the other requires a painstaking study of the reports of tests submitted in connection with the investigation or litigation of many of the current false advertising cases. In some instances this study points to the necessity of having further clinical tests conducted for the Commission by competent

experts in order to demonstrate the fallacy of the tests sponsored by the advertisers and to establish definitely the virtues and limitations of the products advertised.

A total of 319 written and 622 oral medical and scientific opinions were prepared in this Division during the fiscal year.

WOOL, FUR, AND FLAMMABLE FABRICS

This Division is charged with administering the Wool Products Labeling Act of 1939, and the Fur Products Labeling Act, and the Flammable Fabrics Act. The purpose of the acts are to protect consumers, manufacturers, and distributors from misbranded wool and fur products and from false invoicing and advertising of fur products and furs, as well as from dangers attending the use and marketing of highly flammable wearing apparel.

The Wool Products Labeling Act in general provides for mandatory disclosure of the fiber content of products containing or purporting to contain woolen fibers which are subject to its provisions. The name or identification of the manufacturer or concern responsible for this content disclosure also must appear on the required label.

The Fur Products Labeling Act provides in substance that purchasers of furs and fur products shall be informed of the true name of the animal that produced the fur as set forth in the Fur Products Name Guide. It also requires disclosure whenever the fur or fur products is composed of used fur, is bleached or dyed, or is composed in whole or in substantial part of paws, tails, bellies, or waste fur. It further requires the name or registered identification number of the manufacturer or distributor of the fur product, and the name of the country of origin of any imported fur used in a fur product. This act covers the labeling of fur products and the advertising and invoicing of furs and fur products.

The

tors Subject to the Fur Act are approximately 7,500 manufacturers of fur products which are distributed through some 175,000 distributors.

The Flammable Fabrics Act applies to virtually the entire textile and garment manufacturing industry and to the corresponding distributing trades including converters, wholesalers, and retailers. Fabric and wearing apparel manufacturers in the United States number almost 40,000. Distributors and dealers of wearing apparel number over 300,000. The fact that Congress has placed the Flammable Fabrics Act in the hands of an administrative agency such as the Commission for enforcement clearly shows that the Act is intended to be prophylactic, with emphasis on industry counseling and early detection of incipient violations. The law would be of little value if it were to be administered simply from a punitive standpoint and with corrective measures taken against violators only after someone is burned.

There has been a heavy consumer demand for fabrics made from specialty fibers such as cashmere, vicuna, camel hair, alpaca, and llama. In addition, fur fibers such as mink, leaver, and guanaco, are now being blended with wool in the manufacture of fabrics. These specialty fur fabrics are in short supply and consequently command a premium price, resulting in increasing instances where manufacturers have tried to pass off inferior substitute fibers.

Workload Statistics for Fiscal 1955

	Flammable Fabrics Act	Wool Act	Fur Act
Commercial establishments covered in industry compliance investigations -----	2,598	4,315	1,326
Products examined for compliance (sampling methods used in wool products) -----	7,511,468	7,260,868	154,513
Fur advertisements examined for deficiencies -----	-----	-----	17,974
Matters involving questionable practices which were disposed of by the acceptance of assurances of discontinuance -----	-----	6,192	1,955
Opinions and interpretations rendered under the respective acts and regulations -----	4,530	2,822	1,994
Registered identification numbers issued -----	-----	512	328
Continuing guaranties accepted for public register -----	3,954	1,297	777
Number of matters investigated and referred for complaint or stipulation -----	7	26	21
Compliance investigations of concerns under cease and desist orders or stipulations -----	-----	15	-----

ACCOUNTING

This Division furnishes accounting services in connection with the investigation and trial of legal cases and in general economic investigations.

The Division's work consists of accounting analyses and studies of the pricing policies of respondents or proposed respondents to: (1) establish evidence of alleged price discrimination under section 2 of

the Clayton Act as amended by the Robinson-Patman Act; (2) evaluate cost data submitted by respondents in justification of alleged price discrimination, under the Robinson-Patman Act; (3) establish evidence of alleged price-fixing in cases arising under section of the Federal Trade Commission Act; (4) establish evidence of sales below cost in violation of section of the Federal Trade Commission Act; (5) compile production and sales statistics and analyzing financial data of companies and their competitors involved in mergers, in cases arising under section of the Clayton Act; and (6) compile statistics concerning costs, prices, and profits, and the financial position of companies under section 6 of the Federal Trade Commission Act.

During the year accounting services were furnished in connection with 55 legal cases and investigations. These included 33 Robinson-Patman cases, 4 other Clayton Act cases, and 18 section Federal Trade Commission Act cases.

preparation and filing of answers to defense motions, petitions, and appeals.

In many cases, this work requires time-consuming studies and conferences. It requires intimate and detailed knowledge of the voluminous material in investigational files and reports. It frequently calls for consideration of complex legal, medical, business, and economic factors.

The Bureau is headed by a director who exercises general supervision over its work. He is assisted by an assistant director who directly supervises the work of the trial attorneys. In addition, there are 5 legal advisers—who are specialists in the field of antimonopoly law and 2 who are specialists in the field of law dealing with misrepresentation and other deceptive practices. They provide advice and assistance to the director and assistant director, as well as the trial staff, at all stages of the litigatory process. They also serve as trial attorneys in cases of major importance involving a high degree of complexity and difficulty.

Statistical comparison of fiscal 1954 with fiscal 1955 shows an increasing caseload and increasing output by the Bureau staff. Note, for example, the increase in the number of hearings held in 1955, as well as in the number of complaints issued.

	Antimonopoly		Antideceptive practices		Totals	
	1954	1955	1954	1955	1954	1955
Complaints issued -----	30	36	92			
Findings and orders -----	25	30	80			
Cases dismissed -----	10	8	13			
Other dispositions -----	4	7	1			
Hearings held -----	121	261	213			
Arguments -----	15	9	4			
Briefs or exceptions filed -----	26	21	17			

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of the stock or other share capital or the assets of one or more corporations engaged in commerce where, in any line of commerce, in any section of the country, the effect may be substantially to lessen competition or to tend to create a monopoly.

Through such litigation, the Commission is seeking to halt a growing trend in American industry toward mergers of formerly competing corporations.

In every case where a complaint of this type has been issued, it has resulted in hard-fought litigation.

The respondents in these merger cases are large corporations which generally are well prepared for any legal attack upon them. Thus, in litigating merger cases, counsel supporting the complaints are required to offer extensive proof, generally of an economic character, to establish their burden under the statute.

Under the law, the Commission institutes its proceeding against a merger or acquisition after its consummation. In view of the complications inherent in undertaking to restore, as near as practicable, the status quo ante, the order of divestiture must be issued as soon after the unlawful act as due process permits.

Pending cases in this field are described below:

1. Pillsbury Mills, Inc., Docket No. 6000

One of the principal pending merger cases involves Pillsbury Mills, Inc., the second largest flour milling company in the United States. Pillsbury operates flour mills throughout the United States and is also engaged in the manufacture of packaged food products ~~however~~

Crown acquired the assets, valued at over \$15 million, of St. Helen's Pulp & Paper Co., 1 of its 2 principal competitors in the sale of kraft paper and paper products in the Western States. One of the results of the acquisition, the complaint charges, is that paper jobbers and paper converters in the Pacific

along with certain tangible and intangible property, from Curtis Publishing Company.

The complaint alleges that there are only six farm magazines with circulation of 1,000,000 or more and that only the Farm Journal and Better Farming provide any substantial type of national coverage for the farm reader or advertiser. The complaint states that for the year 1953 advertising revenues for farm magazines were approximately \$41,000,000 of which Farm Journal and Better Farming received approximately 38 percent.

The complaint charges that through the acquisition, actual and potential competition between Farm Journal and Curtis Publishing Co., the first and second publishers in the agricultural field, has been eliminated. Elimination of the magazine Better Farming, it says, is prejudicial to both advertisers and subscribers.

ROBINSON-PATMAN ACT CASES

Section 2 of the Clayton Act, as amended by the Robinson-Patman Act' accounts for many of the Commission's cases.

This section of the Clayton Act is designed to safeguard the competitive order against the effects of a seller's unjustified discriminatory pricing. It also prohibits a buyer from knowingly inducing and receiving discriminatory prices; a seller from discriminating in the payment for, or furnishing of services or facilities as between competing buyers; and the payment or receipt of brokerage fees, commissions, or other compensation under certain conditions.

Illustrative of current enforcement is the corrective action taken in the import ant multimillion-dollar automotive replacement parts field. The Commission issued during fiscal 1955 orders prohibiting four manufacturers of automotive replacement parts, selling on a nationwide scale, from charging substantially higher prices to some jobbers or wholesaler customers than to other customers competing in the resale of these parts to garages, filling stations, and repair shops dealing with the consuming public.

There are pending before hearing examiners several cases relating to food, beverage, and industrial activities in which charges are made that major manufacturers have engaged in discriminatory pricing to the injury of unfavored customers or to the injury of competitors. The litigation of these various matters will, in all probability, extend through 1956 into 1957.

PENDING ANTIMONOPOLY CASES

In addition to the cases listed under sections 2 and 7 of the Clayton Act, there are pending numerous cases involving other types of monop-

olistic and trade-restraining practices, violating other sections of the Clayton Act and violating section of the Federal Trade Commission Act. Following are examples of some of the significant restraint of trade cases currently in litigation.

1. Cordage Importers Association, Inc., Docket No. 6389

After a thorough investigation of the importation into the United States from Mexico of various forms of twine and rope which are manufactured from henequin fiber or sisal grown in Mexico, the Commission issued this complaint against the Cordage Importers Association, Inc., its officers and members, and one importer who is not a member of the association. The complaint charged that these respondents conspired with the Mexican manufacturers of such twine for the purpose of regulating its importation and fixing the prices paid by importers, as well as resale prices. The complaint alleges that to carry out such an agreement, the respondents set up a system for enforcing the resale prices of this Mexican twine after it is imported. Among other things, it says, they reported to the Mexican twine manufacturers' association any sales by importers, wholesalers, and retailers high are not in accordance with the fixed prices, and the sources of supply of the offending importers were cut off for certain periods.

2. Retail Paint and Wallpaper Distributors of America, Inc., et al., Docket No. 6367

The Commission has instituted this proceeding against two trade associations of paint and wallpaper dealers. The complaint alleges a conspiracy to force paint manufacturers to confide their 9th Ed (1918) at 1536 0TW08 The 33rd Ed Tj 18.88D0TD0 (if that 6'72 Dc (1/1) 21280 III00.00T3v

4. California Sportswear and Dress Association, Inc., et al., Docket No. 6325

This complaint is directed against the concerted activities of three associations, the California Sportswear and Dress Association, Inc., Associated Sportswear Manufacturers of Los Angeles, and the California Apparel Contractors Association, aTc (orsoda-424511e c() Tj sod agwe

2. Stenographic Machines, Inc., et al., Docket No. 6076

The only two distributors of shorthand machines in the United States were ordered to refrain from carrying out any agreement to divide the market, between them. They were forbidden to allocate customers for shorthand machines or to restrict any manner the sale and distribution of the machines.

3. New York Coffee and Sugar Exchange, Inc., Docket No. 6235

Pursuant to a consent order, the respondents in this case were required to permit futures trading in all types of coffee which are in general use in the United States. The order outlaws a restrictive contract which specified only coffee from certain Brazilian port for futures trading in the United States. This restrictive arrangement was pointed out by the Commission in its economic report on coffee as one of the causes for the high coffee prices of 1953-54.

4. United States Steel Corp., et al., Docket No. 6078

This corporation, together with Jones & Laughlin, Inland steel Co., Rheems Manufacturing Co., and Republic Steel Corp., consented to the entry of an order requiring the discontinuance of any planned common c

customers of the terms upon which they too might receive such compensation.

8. Revlon Products Corp., Docket No, 5685

This corporation, a dominant manufacturer of lipsticks, nail products, and other cosmetic products, was required to terminate its exclusive-dealing contracts with beauty supply jobbers since the arrangements were found to violate section 3 of the Clayton Act.

These circumstances created a strong temptation to advertise the advantages of the insurance in large type and list the qualifying provisions in the legalistic fine print of the policies.

In addition, there has been an extremely rapid growth in this field. Many companies have doubled and tripled their premium income in recent years. Under these conditions of rapid change and fierce competition, a situation developed which, due to loose language in some cases and clear misrepresentation in others, resulted in an unusual amount of false and misleading advertising.

The companies against whom complaints were issued included the largest in this field. Collectively they received a substantial part of the estimated \$1 billion premium payments for all individual accident and health policies in effect in the United States. Their combined premium income from accident and health insurance in 1953 totaled over \$400 million.

Partly because these companies believe that the States and not the Federal Government have jurisdiction to regulate insurance advertising, the great majority are fully contesting these proceedings. They also contended that the complained of advertising was not misleading when considered in context with the rest of their advertising.

Examples of the companies fully contesting these proceedings are:

Mutual Benefit Health & Accident Association (Mutual of Omaha), Docket No. 6248

This company is the largest in the accident and health insurance field. It issues 11 percent of the total insurance carried on an individual basis in this field. Its premium receipts for 1953 totaled \$117,981,038.66. It is licensed to do business in all of the United States.

Bankers Life and Casualty Co., Docket No. 6240

This is the second largest of the accident and health insurance companies. It advertises its policies under the name "The White Cross Plan." Its premium income in this field in 1953 totaled \$90,850,469.02.

Reserve Life Insurance Co., Docket No. 6250

This is the third largest. Its premium income from this type of insurance totaled \$37,707,192.96 in 1953. It is licensed to do business in most of the States of the United States.

Two of the 28 insurance cases have resulted in the issuance of cease and desist orders on the basis of consent settlements.

FOOD, DRUGS AND DEVICES

1. LeBlanc Medicine Co., Docket No. 6390

This complaint challenged the advertising claims of a mineral and vitamin preparation known as "Kary-On." Contrary to published

and broadcast advertisements, the complaint charged that Kary-On is of no value in the

WEARING APPAREL AND FABRICS

Twenty complaints and 18 orders to cease and desist were issued in the enforcement of the Wool Products in 80 t h 4 0 6 2 3 1 f i l e t s

MISCELLANEOUS

1. Trade Union Courier Publishing Co., Docket No. 5966

In this case, the Commission ordered a halt to false claims that a newspaper is sponsored by or affiliated with the American Federation of Labor. The order also forbids the company to publish or collect for advertisements not authorized.

2. Fashion Academy, Docket No. 6194

The order in this case prohibits false or deceptive representations that a product has been presented with an award or other distinction as the result of a competitive contest.

3. Fabricon Company, Docket 52150

Summarizing the Commission's performance, Commission C

his staff are available for informal conferences with small businessmen, attorneys, and others requesting informal advice on the staff level. Particularly is this guidance important to the Small Business and Trade Practice Conference Divisions. It affords assurance against conflicting interpretation or application of the law and provides unity of action essential to effective functioning of the Commission.

Divisions within the Office of the General Counsel carry out the following functions:

APPELLATE WORK

The principal work of this division is to defend or prosecute proceedings instituted in Federal courts in which the Commission is a party. Any party against whom a cease-and-desist order is issued has a right to test the validity of the order by filing a petition for its review in a United States court of appeals, and any person aggrieved by any final action taken by the Commission for which review is not specifically provided by statute may challenge that action by appropriate proceedings in a United States district court. In cases under the Clayton Act, if the Commission's order is not obeyed, the Commission may seek affirmance and enforcement of the order in a United States court of appeals. This division handles all phases of such litigation, including the briefing and oral argument before the courts. It also participates with the solicitor general whenever these reach the Supreme Court of the United States on petition for writ of certiorari.

This division prepares drafts of reports by the Commission upon legislative proposals on which committees of the Congress or the Bureau of the Budget request the Commission's views. It also drafts legislative proposals which the Commission may wish to submit to the Congress. The division also makes recommendations on questions involving substantive and administrative law and procedure arising from both Commission and court proceedings.

During fiscal 1955 the division carried 20 court cases to completion, 9 of which were antimonopoly cases and 17 were antideceptive practice cases. Of these, 20 were upon petitions for review of orders to cease and desist; 2 were petitions by the Commission for enforcement of orders to cease and desist; and 2 were proceedings initiated by the Commission for modification of orders previously affirmed by the courts. Five of the 26 cases went to the Supreme Court, on petition of the Commission in which certiorari was granted and the modification made by the lower court in the Commission's order was reversed, and 4 were petitions for certiorari by parties who were respondents before the Commission, all of which were denied by the court.

At the close of the fiscal year the workload consisted of 1 case pending in the Supreme Court on petition for rehearing, 30 proceedings pending in United States courts of appeals or on remand to the Commission, and 1 pending in district court. Of the 32 pending cases, 22 are antimonopoly matters, 9 are antideceptive, and 1 pertains to employment rights.

During the fiscal year the division prepared draft reports upon 44 legislative proposals.

COMPLIANCE

The Compliance Division's assignment is to obtain and maintain compliance with cease and desist orders issued by the Commission.

Violation of an order issued under the Federal Trade Commission Act makes a respondent liable to civil penalty in a suit brought in a United States district court up to \$5,000 for each violation. Where the violation continues, each day of its continuance is a separate offense. This is particularly applicable to continuing conspiracies in restraint of trade.

Penalty proceedings for the period July 1, 1954, to June 30, 1955 were as follows:

Pending July 1, 1954	-----	5
Filed during year	-----	9
Total for disposition	-----	14
Disposed during year	-----	3
Pending July 30, 1955	-----	11
Certified, not yet filed	-----	3
Complaints being prepared, including 1 on suspense at direction of commission	-----	11

Since the institution of this division in 1947 the record of civil penalty suits is:

Fiscal year	Total Judgments and settlements	Number of suits certified to the Attorney General	Fiscal year	Total judgments and settlements	Number of suits certified to the Attorney General
1947 -----	\$38,000.00				
1948 -----					
1949 -----					
1950 -----					
1951 -----					
1952 -----					

Where millions of dollars of the taxpayers' money are being expended annually to obtain orders in the public interest, adequate financial arrangements ought to be made to see that these orders are obeyed. These orders look to the future and have no termination. Experience shows that a respondent may be in compliance today and in violation 3 or 4 years hence, and that without the reasonable and continued surveillance conducted by the Commission through this

accomplished; 469 supplemental report of compliance were requested, and in about 450 cases respondents are known to be presently in compliance. Out of this review grew 1 civil penalty proceeding and 5 civil penalty investigations. In addition 26 compliance general investigations were instituted. The foregoing relates to antideceptive cases only. No antimonopoly compliance investigations were instituted as a result of the survey during the year, but 71 supplemental reports were requested in such cases and one was received and filed as satisfactory. These reports are nearly always voluminous and complicated, requiring many man-hours of analysis.

A special survey of 171 Robinson-Patman Act orders issued before 1947 also was initiated. In 42 of these cases compliance was found to be current, 22 were screened out as requiring no further present attention, 17 supplemental reports were received and 5 have been filed as satisfactory. The rest are still being actively studied. Also voluminous supplemental compliance reports from the 70 respondents in the Cement case were under study.

A substantial number of the approximately 2,800 outstanding orders with respect to which no investigation or examination whatsoever has been made, proscribed industrywide pricefixing and restraint of trade practices and discriminatory practices violative of the Clayton Act. These orders are directed against numerous evils in (classified by FOIA) industry's most 2,800. t

DIVISION OF SPECIAL LEGAL ASSISTANTS

The principal function of the Division of Special Legal Assistants is to formulate and prepare

serves as liaison between the Commission and other agencies of Government administering matters related to United States foreign trade.

Barton, Duer & Koch Paper Company, Baltimore, Md. (Fourth Circuit). Petition for review of order prohibiting price-fixing and other restraints

Whitaker Cable Corporation, North Kansas City, Mo. (Seventh Circuit). Petition for review of order to cease and desist prohibiting price discrimination in the sale of automotive parts.

E. Edelmann & Company, Chicago, Illinois (Seventh Circuit). Petition for review of order to cease and desist prohibiting price discrimination in the sale of automotive parts.

Moog Industries, Inc., St. Louis Mo. (Eighth Circuit). Petition for review of order to cease and desist prohibiting price discrimination in the sale of automotive parts.

American Crayon Company, Sandusky, Ohio (Sixth Circuit). Discrimination in price and promotional allowances in the sale of school supplies. Review by the Supreme Court of part of judgment of Court of Appeals for the Sixth Circuit being sought.

DECEPTIVE PRACTICE CASES IN FEDERAL COURTS

In the Supreme Court

The Rhodes Pharmacal Co., case was pending at the beginning of the fiscal year on petition for certiorari to review that part of the judgment of the Court of Appeals for the Seventh Circuit which modified one provision of the Commission's order prohibiting false claims for a drug product. The petition was granted, the lower court was reversed, and the Commission's original order restored. Petitions for certiorari were filed during the year by Perry Halseth (lottery), Seymour Sales Co. (lottery), and Dolcin Corporation (false claims for a drug product), to review decisions of lower court affirming orders of the Commission. All three were denied.

In the United States Courts of Appeals

In addition to the 1 case pending in the Supreme Court there were 13 deceptive practice cases pending in the United States Courts of Appeals at the beginning of the fiscal year. Five new petitions to review and set aside Commission orders and 3 motions for modification of decrees were filed during the year and 13 such proceedings were completed. Five cases were decided. In 4 the orders were affirmed and enforced without change; and in 1 the order was modified and affirmed. Two cases were dismissed for lack of prosecution, 1 case on remand was closed by the Commission, and in 2 the original proceedings were completed, but further litigation was instituted.

Decisions

Cases in which the Commission's orders were affirmed and enforced without change are: Perry Halseth, et al., Chicago, Ill. (Seventh Circuit). Lottery devices.

Marlene's

James H. Sewell, Santa Ana, Calif. (Ninth Circuit). False advertisements of a device for insertion in shoes for corrective purposes

Standard Distributors, Inc., Chicago, Ill. (Second Circuit). Misrepresentation of an encyclopedia. The Commission directed institution of proceeding to obtain modification of court decree to conform with modified order of Commission.

Marshall Maltz, Chicago, Ill. (Seventh Circuit). Lottery devices.

The New American Library of World Literature, Inc., et al., New N. Y. (Second Circuit). Misrepresentation of book reprints and condensations. Petition to review modified order of Commission.

U. S. Industries, Inc., New York, N. Y. and Chicago, Ill. (Fifth Circuit). False representation and unfair practices in the sale of cookware.

Clean-Rite Vacuum Stores, Inc., Washington, D. C. (District of Columbia Circuit). False advertising in the sale of vacuum cleaners.

Pending on Remand to the Commission

Carter Products, Inc., New York, N. Y. (Ninth Circuit). False advertisements of a drinker. Neg. Uj Bw 6 D

ECONOMIC ANALYSIS AND REPORTING

The role of economic analysis as part of the Commission's law enforcement function assumed increasing importance during the year. This shift in emphasis was accelerated by close cooperation of the economic staff with the Merger Task Force appointed in April 1955, as well as by increased participation of the economic staff in the preparation and trial of cases arising under enactments other than section 7 of the Clayton Act as amended. More of the resources of the Bureau of Economics thus were directed to pretrial and trial work with the result that at least 60 percent of the time of the combined professional staff of the Bureaus Division of Economic Evidence and Reports and the Division of Financial Statistics was spent in law enforcement during the year. The other 40 percent was spent on the Commission's financial reporting service on United States manufacturing corporations, on preparation of the May 1955 merger report, and on other general and special assignments.

The Bureau's function in casework includes work on both section 7 and other cases. On section 7 matters, the work includes the recording, screening, preliminary investigation, and economic evaluation of the effects of particular acquisitions and mergers prior to the issuance of complaint and also the preparation and presentation of evidentiary material in formal proceedings. Economic analysis also is performed both before and after complaint in cases arising under other laws administered by the Commission.

Financial Reports of United States Manufacturing Corporations

Balance sheets and income and expense statements of United States manufacturing corporations are statistically consolidated by the Financial Statistics Division of the Bureau of Economics. This work is carried on in cooperation with the Securities and Exchange Commission which furnishes data on registered corporations.

This quarterly series was inaugurated in 1947 to:

(1) Provide authoritative data for Government agencies that need statistics on the consolidated financial condition of manufacturing corporations in the United States on a current and continuing basis, and

(2) Eliminate duplicate reporting to Government agencies and thereby reduce

through 1954 the long-term statistical series on disappearance of manufacturing and mining concerns through mergers and acquisitions that was begun by the Temporary National Economic Committee.³ The Commission found that since 1949 the pace of important mergers and acquisitions had been rising; in 1954 the number in manufacturing and mining reported in financial manuals was three times that of 1949, and just slightly less than the number reported for each of the years 1946 and 1947 when merger activity reacted postwar peak. Nevertheless, mergers and acquisitions were occurring at substantially lower rate in 1954 than during the later twenties.

A second statistical reconfor

a survey of jobber and converter markets for coarse papers was conducted in the 11 Western States, the results of which have been submitted in evidence. During the trial of the case, the economic sta, assisted by accountants from the Division of Accounting of the Bureau of Investigation, prepared a number of exhibits; supplied expert testimony;

person or group. The great majority of proceedings culminating in rules have been commenced in response to such applications.¹

The Commission grants applications for trade practice conference proceedings only when it appears likely that the proceedings will constructively advance the best interest of the industry on sound competitive principles, or result in substantial improvement in voluntary compliance with the law, or otherwise protect or advance the public interest.

After the Commission authorizes a trade practice conference proceeding for an industry, a conference is scheduled in a city convenient to a majority of its members, and all known members of the industry are invited.

At the conference, unfair trade practices within the industry are discussed, suggested rules are considered and ample opportunity is given industry members to present their views. If necessary, additional conference sessions may be held.

Following the conference, the Commission staff studies all the suggestions made, orally and in writing, and prepares a draft of proposed rules. This is submitted to the Commission with recommendation that these rules be released for public hearing. If the Commission agrees, a public hearing is scheduled and copies of the proposed rules are mailed to all known industry members and other interested parties.

Comments and suggestions made by industry members and others at the hearing are considered, and a draft of recommended final rules is submitted to the Commission for approval and promulgation. When approved, they are published in the Federal Register and become effective, usually 30 days after promulgation. Copies are sent to each member of the industry, accompanied by an acceptance card which the member may use to signify his intention to comply with them.

Classification of Rules

Trade practice rules for an industry may be wholly of the Group I classification, or also may include rules in Group II.

Group I rules embrace trade practices which are considered illegal under laws administered by the Commission. Appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in commerce by any person or organization subject to its jurisdiction.

Group II rules embrace industry practices that may be recommended by industry members as suitable guides for sound business.

¹ The method for Instituting trade practice conference proceedings for industries is set forth in subpart (c) of Part 2 of the ~~of the~~ the

methods. Since these practices are not required by law compliance with Group II rules is wholly voluntary.

Conference Proceedings

More trade practice rules (new and revised) were promulgated by the Commission during fiscal 1955 than in any year during the previous 2 decades.

A summary of the rulemaking work of the division during the year follows:

Conference proceedings pending July 1, 1954		
Conferences authorized—new and revised rules	-----	26
Applications for conferences—new and revised rules	-----	12
Total	-----	38
Applications for Conference proceedings received during the year	-----	14
Total Conference proceedings in process July 1, 1954 to June 30, 1955	-----	52
Conference proceedings disposed of July 1, 1954 to June 30, 1955:		
By Closing	2	
By promulgation of new rules	6	
By promulgation of revised rules	7	
	-----	15
Total proceedings pending June 30, 1955	-----	37
Trade Practice rules in force July 1, 1954	-----	163
New Trade Practice rules promulgated	-----	6
Total	-----	169
Trade Practice rules in foreshindring the y Tj 299.51 -14TD 2.5637 Tc 0 Tw (-----) Tj		

as to the convertibility of a television set to services other than those for which it was originally manufactured; deception concerning being "new"; misuse of terms "discontinued model," "floor sample," "demonstrator," etc.; deception concerning identity of products when products are repaired, reconditioned, or rebuilt by other than the original manufacturer; misuse of terms "factory rebuilt"; and misrepresentation of the effectiveness of television antennas.

The trade practice rules for the Chemical Soil Conditioner Industry provide needed clarification of legal requirements for this comparatively new industry. The rules deal with a variety of misrepresentations and will assist in the elimination of unfair practices. They prohibit, for example, claims that an industry product will help produce good crops in every type of soil, or that it offers a significant substitute for nutrient material. The rules also require disclosure of applicable conditions and limitations in claims that a product will treat effectively a specified area; will effectively form or stabilize soil aggregates; will, when mixed with a plant nutrient, serve as a soil conditioner or fertilizer, or will "condition" soil when used as a surface application only on uncultivated soil.

Rules for the wholesale plumbing and heating industry represent a significant advance in the guidance afforded industry members for compliance with subsections 2 (a) and 2 (f) of the Clayton Act as amended. Notes and examples clarify provisions of these subsections as interpreted in Commission and court decisions.

voluntary industry-wide compliance with the Group I provisions. This liaison is maintained through informal correspondence, office conferences and, in certain cases, field visits by staff members with the industry members and representatives.

Subject to exceptions specified in the Commission's published policy statement, complaints of rule violations are handled by the Division of Trade Practices Conferences. Necessary corrections are made promptly and, in most instances, informally. Sometimes, however, mandatory action under the law is necessary.

During fiscal 1955 the hitherto separate rule making and rule administration activities of the Trade Practice Conference Division were integrated to achieve more effective administration of rules. The attorney conducting proceedings leading to the rules now also handles their administration. Both the division and industry profit by the attorney's familiarity with problems of the industry and his acquaintance with industry members.

A novel method of counseling members of industry operating under trade practice rules was used for the wholesale plumbing and heating industry. At a panel discussion, Bureau of Consultation staff members answered questions on provisions of the rules and their administration. The questions on provisions of the rules and their administration. The questions and answers were publicized for the entire industry to receive the benefit of the discussion. The panel discussion was so well received and so useful that it is proposed to extend the plan to other industries to the extent budgetary and personnel limitations permit.

A summary of compliance work during the fiscal year under trade practice rules then in effect is as follows:

Compliance matters pending July 1, 1954 -----	178
New matters initiated -----	553

Total matters for disposition -----	731
Disposed of July 1, 1954 to June 30, 1955	
By Division of Trade Practice Conferences	445
Referred out of division	74

Total matters disposed of -----	519

Compliance matters pending June 30, 1955 -----	212

Several industries received special attention in the administration of the rules among them were:

Masonry Waterproofing Industry.—Representations exaggerating the degree and permanence of water impermeability of industry products were substantially 10 Twat37Tj 2.88 06b

Watch Designation Rules—Discontinuance of numerous deceptive representations in

taining compliance with them. As a result, 60 percent more stipulations were negotiated than during the previous year.

Stipulation Procedure

Matters appropriate for disposition by stipulation are referred for this procedure after investigation by the Bureau of Investigation. The alleged offender is furnished with a statement of the acts or practices which, following investigations, appear to be unlawful. He is afforded an opportunity to present his side of the matter either in person or through counsel, by written communication or at an informal conference with a Commission representative. (102 such conferences were held during the year.) Thereafter, a stipulation or voluntary agreement providing for discontinuance of any practices shown by writtwf TD 0.00184.inu

produced by a "water demineralizer" is chemically pure or the chemical equivalent of distilled water; the food freezer unit of a refrigerator is self-defrosting; a correspondence course assures the taker of passing Civil Service examinations; a cleaning fluid is "fireproof."

In other stipulations, a manufacturer of home-freezers and two distributors of freezers in combination with food purchase plans agreed to discontinue claims that savings in food costs will pay for the freezer or that any definite savings can be realized through the use of home-freezer.

In two stipulations, promoters of "product awards" agreed not to grant any "award" which purports to be based on the judgment of qualified and impartial appraisers that the product receiving the award is superior to competitive products in specified respects, when in fact the "award" is not granted on that basis.

Nine importers or distributors of hooked rugs stipulated they would not use the word "wool" to describe any rug which is not composed wholly or "wool" as defined in the stipulations.

Two manufacturers of hair and scalp preparations agreed to stop representing that their products grow hair or prevent baldness.

Four insecticide manufacturers stipulated not to claim that their products kill all insects.

Two vendors of jackets of a type issued to the Armed Forces agreed to refrain from representing that the jackets were manufactured for or in accordance with specifications of the Armed Forces.

Two furriers entered into agreements not to label or invoice fur products falsely or deceptively.

A manufacturer of woolen fabrics and a manufacturer of woolen interlining material agreed not to misbrand their products as to fiber content.

Stipulation Compliance

Parties to approved stipulations are required to file with the Commission within 60) days after notice of this approval a report showing how they have complied with their agreements. A stipulator may be required thereafter to file supplemental reports as the situation demands. During the year, 74 reports were received and filed as showing satisfactory compliance. Nineteen matters in which compliance reports were not considered satisfactory were referred for further attention.

In a continuing compliance check of older stipulations, violations of 60 stipulations were found and corrective action initiated by the division. Satisfactory reports of compliance with 111 stipulations were received.

SMALL BUSINESS

The Division of Small Business completed its first year of operation on June 30, 1955. It was created specifically to enable the Commission to assist small business more fully in obtaining the protection, relief and guidance available to it under the Federal Trade Commission Act, the Clayton Act, the Robinson-Patman Act, and other statutes administered by the Commission.

The principal functions of the division are:

1. To consult with the small-business man and explain the functions and procedure of the Federal Trade Commission and assist him in their use to the fullest extent;
2. To give informal advice relative to the applicability of Commission case law and statutes administered by it to specific practices, thereby enabling the small-business man to conform his practices to the law. This procedure grants no immunity and is not binding upon the Commission.
3. To keep small businessmen informed with respect to, and to expedite the movement through the Commission of, those matters which involve practices adversely

APPROPRIATIONS AND FINANCIAL OBLIGATIONS

FUNDS AVAILABLE FOR FISCAL YEAR 1955

Funds available to the Commission for the fiscal year 1955 amounted to \$4,129,000. Public Law 428, 83d Congress, approved June 24, 1954, provided \$4,045,000; and Joint Resolution 69 Stat. 240-241, approved June 30, 1955, provided the sum of \$84,000 for the

COMPARATIVE APPROPRIATIONS

Appropriations available to the Commission for the past 3 fiscal years and obligations for the same period, together with the unobligated balances, are shown in the table below. The table also lists the number of employees as of June 30 of each year.

Year	Number of employees	Nature of appropriations	Appropriations	Obligations	Balance
1953	642	Lump sum (including printing and binding)	\$4,178,800	\$4,172,992.33	\$5,087.67
1954	596	--- do -----	4,053,800	4,045,966.21	7,833.79
1955	584	--- do -----	4,129,000	4,126,281.00	2,719.00

APPENDIXES

Federal Trade Commissioners—1915-55

Name	State from which appointed	Period of service
Joseph E. Davies		
Edward N. Hurley		
William J. Harris		
Will H. Parry		
George Rublee		
William B. Colver		
John Franklin Fort		
Victor Murdock		
Huston Thompson		
Nelson B. Gaskill		
John Garland Pollard		
John F. Nugent		
Vernon W. Van Fleet		
Charles W. Hunt		
William E. Humphrey		
Abram F. Myers		
T14S Abram F. Myerselohn GarymSIlloch -0.0101 c 0.009mk		

Types of Unfair Methods and Practices

The following list illustrates unfair methods

12. Selling rebuilt, second-hand, renovated, or old products, or articles made in whole or in part from used or second-hand materials, 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 contracts, 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 crevices 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 market to competitors; or use by trade associations of so-called standard cost system, 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 of instrumentalities therefor; 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 presented 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) False or misleading use of the word "Free" in advertising.

(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 and

(b) Obtaining orders on the

(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 of 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

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 representing 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.

Statutes Pertaining to the Federal Trade Commission

The authority and powers of the Federal Trade Commission in the main are drawn from the following statutes:

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated below.
2. Clayton Act, sections 2, 3, 7, 8 and 11, approved October 15, 1914 (35 Stat. 730, 731, 732), amended as indicated below.
3. Webb-Pomerene Export Trade Act, approved April 10, 1918 (40 Stat. 510).
4. Wheeler-Lea Act, approved March 21, 1938 (52 Stat. 111), amending the Federal Trade Commission Act.
5. Robinson-Patman Act, approved June 19, 1936, and amendment thereto approved May 26, 1938 (49 Stat. 1526; 52 Stat. 446), revising and extending section of the Clayton Act.
6. Wool Products Labeling Act of 1939, approved October 14, 1940 (54 Stat. 1128) .
7. Public Law 15, 79th Congress, approved March 9, 1945, "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" (59 Stat. 33).
8. Lanham Trade Mark Act, approved July 5, 1946 (60 Stat. 427).
9. Oleomargarine Act, approved March 16, 1960, amending Section 5 of the Federal Trade Commission Act respecting civil penalties, and section 15 respecting misleading advertisement of oleomargarine or margarine (64 Stat. 20).
10. Public Law 899, 81st Congress, approved December 29, 1950, the so-called antimerger legislation, amending and extending section 7 of the Clayton list. (64 Stat. 1125).
11. Fur Products Labeling Act, approved August 8, 1951 (65 Stat. 175).
12. Flammable Fabrics Act, approved June 30, 1953, and amendment thereto approved August 23, 1954 (67 Stat. 111; 68 Stat. 770).

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,

* Published as last amended by the Federal Fair Trade, or McGuire, Act approved July 14, 1952. (See footnote 5 on p. 82.)

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

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 regulate commerce," approved February 14, 1887, all

which such resale is to be made, or to which the commodity is to be transported for such resale.

(3) Nothing contained in this Act or in any of the Antitrust Acts shall render unlawful the exercise or the enforcement of any right or right of action created by any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia, which in substance provides that willfully and knowingly advertising, offering for sale, or selling any commodity at less than the price or prices prescribed in such contracts or agreements whether the person so advertising, offering for sale, or selling is or is not a party to such a contract or agreement, is unfair competition and is actionable at the suit of any person damaged thereby.

(4) Neither the making of contracts or agreements as described in paragraph (2) of this subsection, nor the exercise or enforcement of any right or right of action as described in paragraph (3) of this subsection shall constitute an unlawful burden or restraint upon, or interference with, commerce.

(5) Nothing contained in paragraph (2) of this subsection shall make lawful contracts or agreements providing for the establishment or maintenance of minimum or stipulated resale prices on any commodity referred to in paragraph (2) of this subsection, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

(6) 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, 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 perso

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 hearing, 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 days⁶ 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 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.

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(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 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 or 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 Court, 1e-0 The 1900129 (with mandate) 43

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 to 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. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.⁷

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 person, partnership, or corporation, the commission shall have power to enforce such decree.

FILED IN THE OFFICE OF THE CLERK OF THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

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 the 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.

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

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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 investigationthe

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

(2)¹⁰ In the case of oleomargarine or margarine an advertisement shall be deemed misleading in a material respect if in such advertisement representations are made or suggested by statement, word, grade designation, design, device, symbol, sound, or any combination thereof, that such oleomargarine or margarine is a dairy product, except that nothing contained herein shall prevent a truthful, accurate, and full statement in any such advertisement of all the ingredients contained in such oleomargarine or margarine.

(b) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, (3) chewing tobacco.

Clayton Act ¹

(Approved in original form Oct. 14, 1914; 38 Stat. 730; 15 U. S. C. Sec. 12, et. seq.)

[PUBLIC—No. 212—63D CONGRESS, AS AMENDED BY PUBLIC—No. 692—74TH CONGRESS,¹ AND PUBLIC—No. 899—81ST CONGRESS]

[H. R. 15657]

AN ACT To supplement existing laws against unlawful restraints and monopolies, and for other purposes

Be it enacted by the Senate and house of Representatives of the United States of America in Congress assembled, That “antitrust laws,” as used herein, includes the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive, of an Act entitled “An Act to reduce taxation of profits (inclusive, sections seventy-three to seventy-seven, inclusive, of an Act entitled “An Act to reduce taxation of profits (inclusive,

in which such commodities are to such purchasers sold or delivered: Provided, however, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds

SEC. 4. That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court; of the United States in the district in which the defendant resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

SEC. 5. That a final judgment or decree hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters, respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, This section shall not apply to consent judgments or decrees entered before any testimony has been taken: Provided further, This section shall not apply to consent amendments or decrees rendered in criminal proceedings or suits in equity, now pending, in which the taking of testimony has been commenced but has not been
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of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: Provided, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Civil Aeronautics Board, Federal Communications Commission, Federal Power Commission, Interstate Commerce Commission, the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 of the Public Utility Holding Company Act of 1935, the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in such Commission, Secretary, or Board.

SEC. 8. No private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; but the foregoing prohibition shall not apply in the case of any one or more of the following or any branch thereof:

(1) A bank, banking association, savings bank, or trust company, more than 90 per centum of the stock of which is owned directly or indirectly by the United States or by any corporation of which the United States directly or indirectly owns more than 90 per centum of the stock.

(2) A bank, banking association, savings bank, or trust company which has been placed formally in liquidation or which is in the hands of a receiver, conservator, or other official exercising similar functions.

(3) A corporation, principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States which has entered similar prohibition.

stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

SEC. 9.⁴ Every president, director, officer or manager of any firm, association or corporation engaged in commerce as a common carrier, who embezzles, steals, abstracts or willfully misapplies or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation, arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or the use of another, shall be deemed guilty of a felony and upon conviction shall be fined not less than \$500 or confined in the penitentiary not less than one year nor more than ten years, or both, in the discretion of the court.

Prosecutions hereunder may be in the district court of the United States for the district wherein the offense may have been committed.

That nothing in this section shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof; and a judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

SEC. 10. That after two years from the approval of this Act no common carrier engaged in commerce shall have any dealings in securities, supplies, or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership, or association when the said common carrier shall have upon its board of directors or as its president, manager, or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership, or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors, and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate Committee Commission a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding \$25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$5,000, or confined in jail not exceeding one year, or both in the discretion of the court.

⁴ Repeated by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified, and enacted into "positive law" Title 18 of the Code (Crimes and Criminal Procedure. Said act reenacted said matter as to substance, as 18 U. S. C., Sec. 660 (62 Stat. 730).

SEC. 11.⁵ That authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject. To the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Civil Aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce to be exercised as follows:

Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 2, 3, 7, and of this Act, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect, and containing a notice of hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person 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 or Board requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the Commission or Board, to intervene and appear in quid 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 or Board. If upon such hearing the Commission or Board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, 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 an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share, capital, or assets, held or rid itself of the directors chosen contrary to the provisions of sections 7 and 8 of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a United States court of appeals, as hereinafter provided, the Commission or Board 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.

If such person fails or neglects to obey such order of the Commission or Board while the same is in effect, the Commission or Board may apply to the United States court of appeals within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its publication a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the Commission or Board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission or Board. The findings of the Commission or Board as to the facts, if supported by substantial evidence, shall be conclusive. 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 or Board, the court may order such additional evidence to be taken before the Commission or Board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission or Board 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 substantial evidence, shall be conclusive, and its recommendations, 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 1254 of title 28, United States Code.

⁵ Section 11, also section 7, of the Clayton Act appear here in the form into which they were amended by Act of Dec. 29, 1950 (P. L. 899; 64 Stat. 1125; 15 U. S. C. 21).

Any party required by such order of the Commission or Board to cease and desist from a violation charged may obtain a review of such order in said United States court of appeals by filing in the court a written petition praying that the order of the Commission or Board be set aside. A copy of such petition shall be forthwith served upon the Commission or Board, and thereupon the Commission or Board forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by substantial evidence, shall in like manner be conclusive.

The jurisdiction of the United States court of appeals to enforce, set aside, or modify orders of the Commission or Board shall be exclusive.

Such proceedings in the United States court of appeals shall be given precedence over cases pending therein, and shall be in every way expedited. No order of the Commission or Board or the Judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust Acts.

Complaints, orders, and other processes of the Commission or Board under this section may be served by anyone duly authorized by the Commission or Board. either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to 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 principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his 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.

SEC. 12. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought; not only in the judicial district v hereof it is an inhabitant, but also in any district wherein it may be found or transacts business: and all process in such cases may be served in the district of which it is an inhabitant, or whatever it may be found.

SEC. 13. That in any suit, action, or proceeding brought by or on behalf of the United States subpoenas for witnesses who are required which are

SEC. 16. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in

necessary to prevent irreparable injury to property, or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any ~~from~~

person charged with contempt; in which event such person, when arrested, shall be brought before such court or a judge thereof without unnecessary delay and shall be admitted to bail in a reasonable penalty for his appearance to answer to the charge or for trial for the contempt; and thereafter the proceedings shall be the same as provided herein in case the rule had issued in the first instance.

SEC. 23⁵ That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as Justice may require. Upon the granting of such writ of error, execution of judgment shall be stated and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

SEC. 24.⁸ That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all the other cases of contempt not specifically embraced within section twenty-one of this Act, may be punished in conformity to the usages at law and in equity now prevailing.

SEC. 25.⁸ That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this Act.

SEC. 26. If any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved, October 15, 1914.

Flammable Fabrics Act

(Approved June 30, 1953; 67 Stat. 111; 15 U. S. C. Sec. 1191)

PUBLIC—No. 88—83D CONGRESS, CH. 164—1ST SESS.]

[H. R. 5069]

AN ACT To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

Be it enacted by the Senate and use of Representatives of the United States of America in Congress assembled,

SHORT TITLE

of

(b) The term "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.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: Provided, however, that such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: Provided further, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: And provided further, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than fiber, filament, or yarn) woven, knitted, felled, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, the sale, or the offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and footwear covered by section 2 (d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together with such proposals for legislation as he deems appropriate.

(c) Notwithstanding the provisions of paragraph 3.1 Commercial Standard 191-53, textiles free from nap, pile, tufting, dock, or other type of raised fiber surface when tested as described in said standard shall be classified as class 1, normal flammability, when the time of flame spread is three and one-half seconds or more, and as class 3, rapid and intense burning, when the time of flame spread is less than three and one-half seconds.¹

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8 (b) of this Act shall be enforced by the Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 of this Act in the same manner, by the same means and with the same ~~as the Federal Trade Commission Act~~

thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or (b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: Provided, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty is not, under the provisions of section 4 of this Act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing effected the flammability of the fabric or wearing apparel covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty be

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provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXECUTIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: Provided, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this Act, as to be dangerous when worn by individuals.

EFFECTIVE DATE

SEC. 12. This Act shall take effect one year after the date of its passage.

competitors rather than capital stock.⁴ (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; corporate consolidations and mergers;⁵ unbalanced agricultural industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress 1.0191 pired06.88 0 -2igj 41.04 0 TD 0 Tc ()e 1.56 0 0 Tc (markets.) Tj 37.56 0 D 0 Tc (

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.⁷ 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.

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 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, 85th, 8 p., o. p., 5/19/17); Anthracite and Bituminous Coal Situation, summary (H. Doc. 193, 65th, 29 p., (Doc.) Tj 21.12 0oo.Coa Tc 2 0.0064 TTD

prevent the calling, for the monthly reports (denied about 7 years later) led to their abandonment.

Coffee (F. T. C.).—In its 1954 Economic Report of the Investigation of Coffee Prices, the Commission reported that the coffee price spiral of 1953-54

Corporation Reports.—See Quarterly 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., o. 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.

In 1947 the Commission published *The Present Trend of Corporate Mergers* (23 p., o. p.). This is a review of some of the economic effects of the loophole in the Clayton Act existing at that time in the fact that there was no prohibition against mergers by the acquisition of assets.

In 1948 the Commission published *The Merger Movement: A Summary Report* (134 p., o. p., also 7 p. processed summary). In this report the legal history of the antimerger provisions of the Clayton Act is reviewed. Significant individual mergers are examined in detail. Maps, diagrams, charts and tabular statistical materials are used to illustrate the economic effects of the then in force antimerger legislation.

The Report on Corporate Mergers and

gress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the

Products 1914-18

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

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International Electrical Equipment Cartel (F. T. C.).—In its 1948 report on this subject (107 p., also 10 p. processed summary) the Commissiop.,

Lumber Trade Association (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., o. p., 2/13/29).

Meat-Packing Profit Limitations.—See Food.

Mergers (F. T. C.).—(See Corporate Mergers.)

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, 11/21/30).

Monopolistic Practices and Small Business.—A study by the staff of the Commission on the effect of certain monopolistic practices on small business, requested by the Subcommittee on Monopoly of the Senate Select Committee on Small Business. The results were transmitted to the Subcommittee and published as a committee print by Select Committee on Small Business, U. S. Senate, 82d Cong. (88 p. 3/31/52).

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. Doc. 468, 76th, 1077 p., o. p., 6/5/39). The lending 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)].

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., o. p., 2/13/29).

Packer Consent Decree.—See Food (President) Continued—Meat Packing.

Paper—Book (Senate), Wartime, 1917-18.—This inquiry (S. Res. 269, 64th, 9/7/1;) 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 News-

meet, United States Treasury,

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 Delation (President).—To an Inquiry (3/21/21) of President Harding, the Commission made prompt reply (undated) presenting Its views of the cause of a disproportional decline of agricultural prices compared with consumer' prices (Letter of the F. T. C. to the President of the U. S., 8 p., o. p.).

Profiteering (Senate), Wartime,

to the first inquiry, resulting in a report, Resale Price Maintenance (H. Doc 1480, 65th, 3 p., o. p., 12/2/18). Other reports were: A Report on Resale Price Maintenance (H. Doc. 145, 66th, 3 p., o. p., 6/30/19) and Resale Price Maintenance (F. T. C motion,, 7/25/27; reports, Part I, II. Doc. 546, 70th, 141 p., o. p., 1/30/29, and Part II, 215 p.,o. p., 6/22/31). The Report of the F. T. C. on Resale Price Maintenance, o. p., (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 none 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 Nev York stock: or curb exchanges. The Report of the F. T C. on Compensation of Officers and Directors of Certain Corporations (15 p., processed, 2/26/14) explained the results of the inquiry.¹⁶ The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

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, S. Doc. 159, 73d, 79 p.,o. 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., o p., 11/30/34).¹⁷ The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).—An inquiry (S. Res. 286, 67th 6/12/22) 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 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 o. p.) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system¹⁸ 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

¹⁶ The salary lists do not appear in the report but are available for inspection.

¹⁷ As 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 (175 p., processed). The basing-point system is also discussed in published reports listed under “Cement” and “Price Bases” herein.

¹⁸ See footnote 15, p. 120.

questionable as a business policy (Stock Dividends, S. Doc. 26, 70th, 273 p., o. 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 Corp. readjust its business to conform to law.

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.

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., o. 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., o. 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 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 cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, 68th, 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.

Textiles—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

contained in the report was begun by the Office of Price Administration priie

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).

Cost of Living (President).—President Roosevelt, In a published letter (11/16/37), requested the Commission to investigate living costs.

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.

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 shipper, 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 Manufacturers (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.

Glycerin, Users of (W. P. B.), Wartime, 1942-43.—At the request of the War Production Board, paint and resin manufacturers, tobacco companies, etc. (W. P. B. Order L-131) and other manufacturers (W. P. B. Order L-132)

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.

Optical Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 8/12/52) the manner in which an antitrust consent decree entered (Sept. 1948) against the American Optical Company and others, restraining them from discriminatory and monopolistic practices, was being observed, and report (2/10/54) to the Attorney General.

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. allocations, 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—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.

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.

Priorities (W. P. B.), Wartime, 19415.—Pursuant to Executive orders (January 1)40), 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, Manufactures 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.

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.

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, as amended.

Silverware ManB.