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COMMISSION

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Report
of the

FEDERAL
TRADE
COMMISSION

For the Fiscal Year Ended

September 30, 1977

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(As of September 30, 1977)

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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 the sixty-third Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended September 30, 1977.

By direction of the Commission.

MICHAEL PERTSCHUK,
Chairman

THE PRESIDENT OF THE SENATE
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

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THE YEAR IN SUMMARY

During fiscal year 1977, the Federal Trade Commission expanded its range of antitrust efforts directed toward three sections of the economy that account for some of the largest categories of consumer expenditure: the energy, health care, and transportation industries. There was a continued level of activity in matters involving structure, conduct, and performance in the food and other industries. Involvement in each of these areas took the form of economic and legal analysis, law enforcement investigations, litigation, legislative recommendations, regulatory comment, or publication of reports.

Implementation of the Magnuson-Moss Act continued to be a dominant focus of law enforcement efforts within the Consumer Protection Mission in fiscal 1977. First in this effort was rulemaking activity. Several trade regulation rules are before the Commission for final action. In addition, the Commission began a program designed to measure, in economic terms, the effectiveness of existing and proposed rules.

Second, in the rulemaking public compensation program, the FTC expended its appropriated sum of $500,000. This significantly widened the spectrum of interests, including small business, represented in rulemaking proceedings. Brochures were developed and distributed describing the process through which citizens may apply for compensation. Third, in fiscal year 1977 the first civil penalty actions initiated under Section 205 of the Magnuson-Moss Act were brought to a successful conclusion. The Commission had developed a pilot enforcement project to implement that authority in fiscal 1976. As an outgrowth of that

project, five actions were filed in federal courts against parties alleged to have engaged in unlawful credit advertising practices. In three of those suits, consent judgments were approved by the court which required, among other things, the payment of $10,000 in civil penalties by each of the respondents.

During 1977, the FTC made several special efforts to open the agency to a variety of interests, with special attention to consumer and citizens' organizations. In line with the Administration's commitment to simplify and clarify government communications to the public, the Commission has been taking a very close look at the way final rules and regulations are drafted. An effort is being made to make them more readable so that consumers can understand the impact of the law on their purchasing decisions and business people can comprehend what is required of them without always having to hire a lawyer.

From the beginning of his term, the new Chairman established a practice of meeting in open session with groups of representatives from consumer, citizens, public interest, business and industrial organizations. These meetings have been widely covered in the press. The standard set by the Chairman has been to maintain some rough parity between presentations by consumer and public interest groups and by commercial interests.

MAINTAINING COMPETITION MISSION

The primary focus of the Commission's Maintaining Competition Mission is to relieve anticompetitive pressures and restrictions on the prices and supply of goods and services to consumers. The Commission continued to emphasize antitrust enforcement activities in those areas of greatest potential impact on the consumer.

A more detailed description of Maintaining Competition Mission activities during fiscal year 1977 is presented below. Direct contributions of regional offices and the Bureau of Economics are included in the discussion together with accomplishment-s of the Bureau of Competition. Support to the Mission by General ' Counsel and Administrative Law Judges is presented in separate sections.

Energy

Energy activities received great impetus during this fiscal year in response to the President's energy proposals and the emergence of solar energy as a potentially exploitable source of energy generation. Moreover, the Commission discharged its responsibilities under the Energy Policy and Conservation Act respecting the International Energy Program (IEP), by monitoring industry meetings, providing antitrust advice to other agencies of the United States Government, and preparing two reports to the President and the Congress on the competitive effects of the IEP. Pursuant to the Deepwater Port Act, in November 1976, the Commission filed reports with the Secretary of Transportation concerning the antitrust ramifications of two deepwater port license applications,

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and the staff continued to consult with the Department of Transportation throughout the fiscal year. The Commission has monitored extensively governmental activities in every significant area which is likely to have an impact upon the availability and cost of energy resources.

In order to expedite the discovery phase of Exxon Corp. et al., complaint counsel proposed a more limited, staged discovery program aimed toward the issuance of subpoenas duces tecum to respondents by the middle of fiscal year 1978. However, protracted delays associated with the discovery process continue to postpone the hearing and final resolution of this proceeding. Progress in this matter has been further delayed by a preenforcement suit that was brought in Delaware by seven of the respondents regarding the adequacy of Commission protective orders and by litigation involving compliance with the National Environmental Policy Act. The former action was dismissed in August 1977, while in the latter suit the Commission prevailed in September in the United States Court of Appeals for the Second Circuit.

Several segments of the Energy Study were completed and prepared for publication, while reports on the natural gas industry and bank-energy company interlocks were delayed by resistance to compulsory process.

Food

Effort in this program was designed to prevent and eliminate restraints of trade and promote price competition at each level of food production and marketing. Recommendations concerning cranberry and celery marketing orders were submitted to USDA. Two new complaints were issued. The first charges that Sunkist Growers, Inc. has allegedly maintained exclusive dealing contracts and agreements with commercial packing houses. The Sunkist complaint further alleges that the practice has foreclosed competitors from a substantial share of the citrus fruit market. The com-

plaint also charges that Sunkist has attempted to monopolize this market. The second complaint alleges that Pillsbury Company acquired Fox Deluxe Frozen Foods, Inc. (prepared frozen pizza) in violation of Clayton Act Section 7 and Federal Trade Commission Act Section 5.

The Commission accepted final consent agreements from SCM Corporation prohibiting illegal price discrimination in the snack foods industry. The Commission also dismissed its complaint against Food Town Stores, Inc. and Lowe's Food Stores, Inc., when the parties canceled their merger agreement.

Extensive hearings were conducted, in the Kellogg Company et al. case involving four major ready-to-cat breakfast cereal manufacturers charged with artificial product differentiation, brand proliferation and trademark promotion, control of shelf space and illegal exercise of monopoly power.

Pretrial activities proceeded in General Foods Corporation, involving alleged monopolization in the coffee industry, and in Coca-Cola Bottling Co. of New York (challenging the acquisition by a wine producer of another wine producer). Pretrial discovery and resolution of other preliminary issues proceeded in connection with complaints against Nestle Alimentana S.A. (alleged unlawful acquisition of Stouffer prepared frozen foods) and ITT Continental Baking Co. (alleged attempted monopolization of bread markets).

The Commission issued a final decision and order dismissing the complaint against the Central California Lettuce Producers et al. In doing so, the Commission held that the pricing practices challenged by the complaint are "marketing" activities within the scope of the Capper-Volstead Act agricultural cooperatives exemption to the antitrust laws.

Transportation

In fiscal 1977, the Commission devoted substantial resources to develop this new program, including both analysis of regulatory activities in the service sector and enforcement investigations and actions directed at manufacturers and distributors of transportation equipment. In order to meet the statutory responsibilities of the FTC under the Railroad Revitalization and Regulatory Reform Act, the Commission participated in rate bureau proceedings before the ICC and in the ICCs "market dominance" rulemaking proceeding. In another area, the Commission intervened in a major CAB rulemaking, the Domestic Passenger Fare Investigation. An industrywide investigation of the structure, conduct and performance of the automobile industry continued.

Enforcement activities in this program included issuance of a final consent order against Avis-Hertz-National relating to practices in airport rental car business; pretrial proceedings and subpoena enforcement in the General Motors Corporation, et al. auto crash parts case, and in the Rueben H. Donnelley Corporation airline flight guide book case; appeal by complaint counsel to the Commission of the initial decision in the Brunswick Corporation merger case; and a decision of the Administrative Law Judge in favor of complaint counsel in Fruehauf Corporation (involving the heavy truck parts market).

Health Services and Supplies

Special attention was directed toward consideration of specific problem areas which may affect the supply of health care services, products, and facilities. Consent orders were issued against three professional medical associations (involving distribution of "relative value scales"), and in the matter of Medical Service Corporation of Spokane County (involving restrictions on practice by prepaid medical plan physicians). Additional consent orders were accepted pending final review in Minnesota State Medical Association (involving a state relative value scale) and Damon Corporation

(involving merger activities and allegations of improper kick-backs in the medical laboratory industry).

A complaint was issued charging the American Dental Association with alleged unfair methods of competition in forbidding its members to engage in certain competitive practices such as advertising. Pretrial proceedings continued in the American Medical Association case involving similar alleged restrictions on competitive practices, and enforcement of Commission compulsory process was pursued in five other cases in the health care field.

The Commission released a staff report prepared by the Bureau of Economics entitled "The Health Maintenance Organization and Its Effects on Competition." In June 1977, the Commission sponsored a symposium to receive industry, academic, and governmental views on the role of competition in the health care sector.

Industrywide Matters

An initial decision issued by an Administrative Law Judge in the Borden Inc. case directed mandatory licensing of the trademark "ReaLemon". This decision was appealed by the respondent to the Commission.

The Commission announced an investigation of the dry cell battery industry to determine whether persons or corporations have conspired or attempted to monopolize or have monopolized all or any part of the primary dry cell battery industry.

An industrywide investigation of the manufacturers and distributors of insulation was also announced. The investigation seeks to determine whether key patented technology and manufacturing know-how were available to newcomers to this industry only on discriminatory or otherwise illegal terms and whether there may be other barriers to potential competitors.

Mergers and Joint Ventures

Considerable effort by the Commission has been devoted to promulgating rules to govern the premerger notification program as directed in the Hart-Scott-Rodino Antitrust Improvements Act of 1976. That act requires persons planning certain mergers or acquisitions to give the Federal Trade Commission and the Justice Department advance notice and to wait a certain length of time before carrying out such plans. Revised proposed rules were issued for public comment.

The Commission issued adjudicative complaints and filed civil actions for injunctions in district courts against Atlantic Richfield Co. et al. (copper and uranium industries), Tenneco, Inc. (replacement auto parts), Bic Pen Corporation (razor blades) and Lancaster Colony Corporation (machine made glassware). An amended complaint was issued in Heublein, Inc. (San Francisco Regional Office - wine industry). Final orders upholding the complaints were issued by the Commission in American General Insurance Co. and in RSR corporation (lead industry). Appeal proceedings before the Commission continued in the Jim Walter Corporation (prefabricated homes) and Retail Credit Corporation cases. An order to cease and desist was issued by an Administrative Law Judge, directing Reichhold Chemicals, Inc. to divest Corrulux Corporation, a competing producer of fiberglass-reinforced plastic panels.

Horizontal Restraints

Final consent agreements were issued in the Martin-Marietta et al. case (uniform delivered pricing in ready-mix cement) and the Five County, Builders, Florida West Coast Chapter, and Gulf Coast Builders Exchange cases (governing illegal use of bid depositories in the construction industry). Initial decisions were issued in Boise Cascade et al. (alleged price-fixing in the sale of plywood), and in Perpetual Federal Savings and Loan Association (interlocking directorates). A consent agreement with one respondent, Addres-

sograph-Multigraph Corporation, in TRW, Inc. was accepted pending final review while the trial of TRW, Inc. (involving the remaining corporate and individual respondents) continued.

Distributional Restraints

A complaint was issued charging Airco, Inc. with using illegal exclusive dealing; an agreement with Union Carbide Corporation concerning similar violations was accepted by Commission. A complaint was issued charging the Times-Mirror Corporation with price discrimination in the sale of advertising space in the Los Angeles Times.

A final consent order was issued against Olin Ski Co. Inc. (Boston Regional Office), governing resale price maintenance in ski industry items.

Consent agreements were accepted and final orders entered involving resale price maintenance charges against two manufacturers of auto components, Nikko Electric Corp. of America and United Audio (New York Regional Office).

An initial opinion of an Administrative Law Judge was issued requiring Beltone Electronics Corp. to cease and desist alleged territorial restraints, price-fixing and a variety of distributional restraints; the order was appealed by the respondent to the Commission. The trial was virtually completed in Amway Corp. et al., involving alleged vertical and horizontal price-fixing, customer and advertising restrictions, deception, and other practices. Trial continued in the Gibson Products Company et al. case involving allegations of boycotting, inducing discrimination, and other distributional restraints.

Compliance Matters

In the area of supervision of compliance with Commission orders, compliance reports in approximately 75 major matters

were analyzed and processed, and 59 days of hearings were conducted in investigations of price-fixing in a number of products.

During fiscal 1977, nine significant divestiture proposals were processed by the staff and acted on by the Commission. These included divestiture of: the largest coal company in the United States; assets relating to a well-known line of cough drops; an Oklahoma City, Oklahoma producer of rebuilt automotive parts for sale to the independent aftermarket; a chain of discount department stores operating in four states; a manufacturer and distributor of semi-flexible coaxial cable for use in community antenna television (CATV) systems; a leading supplier of automotive engine parts to wholesalers; a producer of construction aggregates; a major supplier of automotive parts rebuilders; and two coal mines and their associated reserves. Recommendations concerning five applications for prior Commission approval of proposed acquisitions were also prepared by the staff and acted on by the Commission during this period.

One civil penalty case involving an acquisition without prior Commission approval in the lumber industry was forwarded to the Department of Justice and settled through entry of a consent judgment in the amount of $15,000.00.

Discovery was continuing and pretrial hearings held in a price fixing civil penalty proceeding involving steel products. Another civil penalty case was filed concerning alleged price-fixing in other steel products.

General Counsel Support
to Maintaining Competition

One hundred fifty-two court cases were pending at the beginning of the fiscal year and 66 were initiated during the fiscal year. There were 25 appeals to the Courts of Appeals, of which 10 were in the competition area. Additionally, the General Counsel represented the Commission in 61 collateral cases associated with

the Commission's Maintaining Competition mission. These cases included enforcement of compulsory process, injunctions, and matters concerning the Freedom of Information Act.

In fiscal 1977, the General Counsel assisted by Bureau staff represented the Commission in preliminary injunction suits brought against proposed mergers. In Lancaster Colony, the United States District Court for the Southern District of New York issued a preliminary injunction against a proposed acquisition by two manufacturers of glassware. In Bic Pen Corporation, after the Commission sought a temporary restraining order and preliminary injunction requiring the companies to hold separate the razor blade manufacturing division of Philip Morris, Inc., the proposed horizontal merger was abandoned. Also, in Pillsbury, the United States District Court for the Northern District of Illinois, Eastern Division, issued a temporary restraining order against the acquisition by Pillsbury of assets of a competition, Fox Deluxe Frozen Foods. Subsequently, a consent order requiring Pillsbury to hold Fox's frozen pizza business separate was entered.

In Atlantic Richfield, the Fourth Circuit affirmed the decision of the United States District Court for the Eastern District of Virginia denying a preliminary injunction against Atlantic Richfield's acquisition of the Anaconda Company. In Tenneco, the United States District Court for the District of Columbia denied the Commission's petition for a preliminary injunction against Tenneco's acquisition of the Monroe Auto Equipment Company. The acquisition was consummated after the Court of Appeals declined to stay the merger pending appeal.

On a petition to review a final Commission order, the Second Circuit reversed the Commission's finding that potential competition was eliminated in BOC International Ltd.

In the A&P case, the Second Circuit upheld the Commission's decision that A&P had violated Section 2(f) of the Robinson-Patman Act.

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In Mobil Oil, the Second Circuit reversed a ruling by the United States District Court for the Southern District of New York that the Commission must immediately prepare a draft environmental impact statement. The District Court had held that relief proposed in the Commission's Exxon proceeding is a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

The District of Columbia Circuit, sitting en banc, reversed the panel and district court decisions in Texaco insofar as they had imposed limitations on the enforcement of subpoenas in the AGA natural gas investigation. The full court disagreed with the panel's previous ruling that the Commission was collaterally estopped from inquiring into certain matters because of a previous Federal Power Commission investigation.

In Ashland, the same Court of Appeals held that the Commission could not be enjoined from disclosing confidential natural gas data to a congressional subcommittee at its request. Subsequently, in Exxon, Kerr-McGee, Union Carbide, and Occidental Petroleum, the District Court for the District of Columbia also ruled that the Commission could not be required to provide 10 days' prior notice to a company before transmitting confidential commercial information obtained from the companies to a congressional subcommittee in response to an official request. The District Court for the District of Delaware refused to preliminarily enjoin the Commission from disclosing to Congress and the public documents produced by certain respondents in the Exxon complaint proceeding.

In other cases the District Court for the District of Columbia enforced section 6(b) orders against several natural gas producers issued by the Commission as part of its study of the energy industry, and enforced subpoenas issued by Administrative Law Judges to third parties in the American Medical Association complaint proceeding (PTC v. Cockrell) and the Kaiser Aluminum and Chemical complaint proceeding (FTC v. Dresser Industries).

The General Counsel's legislative staff provided assistance to Bureau staff in the preparation of testimony to Congress and comments on proposed legislation. The legislative staff also provided assistance in responding to Congressional inquiries in such matters as the amendments to enhance the effectiveness of enforcement of the Federal Trade Commission Act; the President's energy plan; antitrust exemptions and immunities; prices and profits of retail food chains; development of the Outer Continental Shelf for oil exploration; and antitrust enforcement in the energy area in general, as well as Section 7 Clayton Act enforcement generally.

The General Counsel also provided continued support to the Line of Business and Corporate Patterns Reports and the Natural Gas Special Report. Recommendations were made to the Commission concerning advisory opinions on non-profit institutions' exemption from the Robinson-Patman Act. Proposed revisions of the Commission's discovery and confidentiality rules, and recommendations concerning the Commission's premerger notification rules, post-employment clearance rule, and ex parte contacts in both rulemaking and adjudicative proceedings, were also prepared by the General Counsel.

Administrative Law Judges' Participation In the Competition Mission

The Commission's restraint of trade and antitrust cases are very significant because of the 'actual or potential effect upon individual corporations and the industries within which they operate. Commission cases often affect such fundamental areas as wholesale and retail prices, industry structure, conditions of entry, and competitive relationships within industries. Large nationwide financial and public interests are usually at stake. The issues raised are often controversial and relate to difficult economic and competitive questions. It is not uncommon for a record before an Administrative Law Judge in a major antitrust case to consist of thousands of pages of transcript and hundreds of exhibits. Additionally, complaints issued by the Commission have tended to

become more complex in recent years, involving larger firms and entire industries. Accordingly, disposition of the cases is more time-consuming and difficult.

Among the competition cases in trial before the administrative law judges during fiscal 1977 were the following: Airco, Inc.; American Dental Association; American Medical Association; Amway Corporation, Inc.; Atlantic Richfield Company; Boise Cascade Corp.; Brunswick Corporation; The Coca-Cola Company; Crush International Limited; Dr. Pepper Company; Exxon Corporation; Frito-Lay, Inc.; Fruehauf Corporation; General Foods Corporation; General Motors Corp.; Gibson Products Company; Heublein, Inc.; ITT Corp.; Kaiser Aluminum & Chemical Corp.; Kellogg Company; Lancaster Colony Corporation; Levi Strauss & Go.; Nestle Alimentana S.A.; Norton Simon, Inc.; Perpetual Federal Savings & Loan Association; Pillsbury Company; Reichhold Chemicals, Inc.; Reuben H. Donnelley Corporation; Royal Crown Cola Co.; SKF Industries, Inc.; The Seven-Up Company; Sunkist Growers, Inc.; TRW, Inc.; Tenneco, Inc.;

CONSUMER PROTECTION MISSION

Fiscal 1977 was marked by the initiation and continuation of several significant industrywide investigations into possible unfair or deceptive practices that inhibit the flow of useful product information to consumers or that unnecessarily support prices at artificially high levels. These investigations are designed to study and to evaluate the nature of the industry and the impact of the unfair or deceptive practices within the industry; and to formulate and develop appropriate remedial alternatives to address the problems uncovered.

Industrywide investigations conducted in fiscal 1977 concerned:

1. The adequacy of cost information provided to prospective life insurance purchasers.

2. The viability of prohibiting restrictions on the substitution of generic drugs.

3. Allegedly abusive practices in the auto repair, travel, home insulation, and nursing home industries.

4. Advertising directed toward children.

5. Claims regarding energy efficiency, the performance of dishwashers and lawnmowers, and the reliability of preference polls and surveys.

6. The usefulness of test preparation services and buying clubs.

7. Governmental or private restrictions which may inhibit the formulation of alternative delivery systems and that prohibit advertising for the services of accountants, dentists and dental hygienists, veterinarians, and real estate brokers.

Trade Regulation Rule Promulgation,
Enforcement and Evaluation

The Commission devoted substantial efforts to proposing, adopting, and enforcing trade regulation rules during fiscal 1977. The significant accomplishments included:

1. Focusing attention on ways of expediting formal rulemaking proceedings. Procedures were developed to be used in fiscal 1978. These steps may reduce significantly delays in these kinds of proceedings.

2. Preparation and, in some instances, completion of staff reports on proposed Magnuson-Moss TRRs concerning the funeral industry, vocational schools, prescription eyeglasses, hearing aids, over-the-counter drugs, used cars, food advertising claims, and care labeling of textile products. This work included the indexing and analyzing of records containing anywhere from 12,000 (eyeglass rule) to 100,000 pages (vocational school rule) and developing and supporting the substance of the recommended rule based on that analysis.

3. Completion and submission to the Commission of a PreMagnuson-Moss TRR regulating the marketing of franchises.

4. Issuance of final notices for TRRs concerning creditors remedies, sales and servicing of mobile homes, and health spa memberships. This work involved designating issues, and otherwise preparing for hearings on the proposed rule and in some instances initiating those hearings.

5. Preparation and development of TRRs concerning nutritional representations (phase R of the food rule), over-the-counter

antacids, detergent labeling, energy labeling and the development and use of standards and certifications.

Additionally, a new program to evaluate the impact of existing and proposed trade regulation rules was initiated. Among the rules studied during fiscal 1977 were those concerning unavailability of advertised specials, preservation of consumer claims and defenses (holder-in-due-course), and warranties. Further studies are providing the Commission with baseline data and analyses to enable it to determine the impact of the proposed Franchise Rule, the Ad Substantiation and Monitoring Program and the proposed OTC Drug Advertising Rule.

Litigation and Consent Orders

The Commission issued 55 complaints associated with the Consumer Protection Mission during fiscal 1977. In addition, the Commission accepted 53 consent orders, 49 in settlement of complaints issued in 1977, negotiated by Bureau and Regional. Office staff during the course of the year.

Initial decisions were issued by Administrative Law Judges (ALJ) in six consumer protection matters. In Grolier, Inc., the ALJ ruled that the respondent had used unfair and deceptive means to sell encyclopedias and other materials. The ALJ issued an order which, if upheld on appeal, would require Grolier to cease these tactics and to disclose certain material information to consumers both in its advertising and at the time of purchase. In Genesco, Inc., the ALJ ruled that the respondent had failed to advise consumers of the existence of credit balances in their accounts and of the availability of refunds. The Commission, in May 1977, adopted the findings and conclusions of the ALJ but modified the provisions of the order to provide for stricter standards of conduct to be followed by Genesco's retailing divisions. In the third initial decision, the ALJ ruled that Emdeko International and its principal operating division, National Housewares, Inc., had encouraged distributors to adopt deceptive prac-

tices in the sale of "Emdeko" brand household products. An ALJ ruled that The Raymond Lee Organization, Inc., an idea promotion firm had misrepresented the nature and value of its services and had failed to disclose material facts to clients. In Jay Norris Corp., the ALJ found that a mail order merchandiser had made misleading performance claims about its products and had delayed the delivery up to one year of ordered products. Finally, in Trans World Accounts, Inc., an ALJ ruled that respondents had used unfair and deceptive debt collection practices. The order requires Trans World Accounts to discontinue those activities found to be unlawful.

A substantial effort was expended in the pre-trial phase and litigation of five cases involving large national advertisers and their advertising agencies. Three of the cases were against large analgesic companies and their ad agencies: American Home Products, Bristol-Myers Company, and Sterling Drug, Inc. Joint hearings were held in these cases which challenged the comparative superiority and uniqueness claims made for several of the different analgesic products manufactured by the three companies. The American Homes Products case will commence at the start of fiscal 1978 with Bristol-Myers and Sterling Drug following.

In the Block Drug case, which challenges the efficacy claims for Polident denture cleanser and Poligrip denture adhesive, the staff submitted Proposed Findings of Fact to the Administrative Law Judge. The staff also negotiated a consent order with Block's advertising agency, Grey Advertising, which is pending before the Commission.

The staff was engaged in pre-trial efforts in the Ford Motor Company case in which the complaint challenges the fuel economy advertising claims for Ford's small cars.

The Commission accepted consent orders in five matters involving large supermarket chains: Kroger Food Co., Safeway Stores, Inc., Fisher Foods, Inc., Shop-Rite Foods, Inc., and Food Fair Stores, Inc. These orders prohibit overpricing and overcharg-

ing and generally ensure that advertised specials are available at advertised prices. Additionally, the Commission accepted two consent orders concerning unavailability in non-food stores: Walgreen Co. and Zayre Co.

In the area of land sales, several cases were successfully completed and continued progress was made toward bringing others to completion either through litigation or consent settlements. In Las Animas Ranch, Inc., the Commission accepted a consent order prohibiting a number of promotional and sales practices, requiring respondents to furnish certain disclosures, and establishing a 10-day cooling-off period. More importantly, the agreement preserves the Commission's right to institute a Section 19 action for consumer redress. In Australian Land Title, et al., the Commission asked a federal court to enjoin three firms from engaging in alleged unfair and deceptive practices in connection with the offering of what the evidence indicates are essentially worthless interests in unmarketable land" in Western Australia. The action is being held in abeyance while a consent order is negotiated but the staff has secured a stipulation from the companies for interim relief. This stipulation establishes an escrow account comprised of payments received by the company after a certain date.

Other Statutory Responsibilities

Equal Credit Opportunity Act

The Commission issued for public comment two interpretations regarding the impact of the Fair Credit Reporting Act on the Equal Credit Opportunity Act.

The Commission recently announced an industrywide investigation of compliance with the Equal Credit Opportunity Act by montage lending and credit card companies. These investigations will study the extent of discrimination against members of protected classes with a major focus on the problems of red-lining in the nation's urban areas.

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The staff also has undertaken widespread consumer education efforts, including the preparation and distribution of pamphlets in English and Spanish, describing consumer rights and remedies under the Act, and has responded to approximately 5,500 letters from individual consumers.

Warranties Program

During fiscal 1977, the Warranties and Product Reliability Program continued to implement and to administer the Magnuson-Moss Warranty Act. Three warranty rules under the Act, relating to full disclosure of warranty terms, warranty pre-sale availability, and informal dispute settlement mechanisms, became effective and a program was begun to monitor and to enforce compliance. A fourth warranty rule under full warranties was proposed and work on a fifth rule designed to regulate and encourage warranty advertising was begun. Staff opened an industrywide investigation of five warrantors as well as several preliminary investigations of potential Act and rule violations. Research and recommendations for a number of advisory opinions under the Act and rules were completed as was a new set of Commission interpretations of the Act. A consumer warranty pamphlet was written and distributed, and staff continued to respond to large numbers of consumer and business inquiries about the Act, Commission rules and general warranty rights.

Consumer Leasing Act

During the first six months after the Consumer Leasing Act became effective (March 23, 1977), announcements of the Act were sent to industry, media and consumer organizations, and packets of Leasing Act educational material were mailed to every leasing trade association and independent lessor in every metropolitan area in the country. A consumer pamphlet describing the Leasing Act was written and is being printed. Five preliminary investigations of violations were opened and are being pursued.

Credit Statutes

The Commission also continued Truth-in-Lending Act enforcement during fiscal 1977. In addition to the Section 205 civil penalty actions discussed earlier, three home improvement cases involving restitution through pro rata distribution of respondent's assets are in final settlement stages. A major credit insurance case, US Life, is being appealed by the Commission staff. Also, the Commission issued final opinions that clarified the requirements of Regulation Z with respect to loan brokers, Security Industrial Loan Association, and that applied the regulation to insurance premium finance companies, Providence Washington Insurance Company. In addition to Genesco discussed earlier, final consent orders were also entered by the Commission in five cases brought under the Credit Billing Program. The cases involved were: The Diners Club, Inc., Carte Blanche Corporation, Federated Department Stores, Inc., City Stores Company, and Atlantic Richfield Company.

The trial in Equifax (formerly Retail Credit Co.) was concluded and briefs are now being filed. This complaint alleges that respondent has engaged in unfair and deceptive methods of collecting and reporting information in violation of the Fair Credit Reporting Act.

Three Fair Credit Reporting Act investigations were settled by consent orders. One order involved unauthorized access to the files of an automated credit bureau (Diners Club). Another involved the failure of a user of employment reports to give notices required by the Act (Alexanders), and the third involved the dissemination of the names of consumers by check cashing lists (Interstate Check Systems). The Commission also issued a formal complaint charging a second check list distributor with violations of the Fair Credit Reporting Act (Howard Enterprises). The Commission authorized an industrywide inquiry into the accuracy of consumer reports issued by computerized credit bureaus. Finally, the Commission issued for public comment interpretations designed to clarify the relationship of the ECOA with the FCRA.

Packaging and Labeling Statutes

Six compliance surveys have been conducted and 68 violations of the Fair Packaging and Labeling Act were found. Corrective action has been taken, including the submission of new packages reflecting compliance which meet Commission standards.

In the Care Labeling area, hearings were held in Washington, D.C. and Los Angeles, California on the proposed revisions of the Trade Regulation Rule. Approximately 8,000 pages of written comments and 2,900 pages of hearings transcript were indexed and analyzed by the staff. The staff report is being written now.

Complaint has been issued against Gold Bullion International Ltd., alleging the importation of unmarked imitation numismatic items. This matter is the first litigation against an importer under the Hobby Protection Act.

The most significant undertaking in the Textile, Wool and Fur Act area has been a major shift in enforcement strategy. Instead of relying on traditional cease and desist orders, the Commission will use Section 205 actions. This change in enforcement strategy will increase greatly the deterrent potential of Commission activity. Section 205 notices have been served on approximately 80 major importers and domestic firms in the industry, primarily in the New York area. Follow-up inspections are underway, and civil penalties will be sought in appropriate cases.

Compliance Activities

Judgments for civil penalties under Section 5(l) of the FTC Act totaling $516,000 were obtained during the fiscal year. An additional $3,950,000 in refunds to consumers was obtained. Further, a commitment to expend from $8,000,000 to $16,000,000 in subdivision improvements was secured in the settlement of the Great Western United matter and entered in the U.S. District Court of the Central District of California. Nine addi-

tional civil penalty matters under Section 5(l) are pending before the courts.

General Counsel Support
to Consumer Protection

Fifteen of the cases handled by the General Counsel during the fiscal year involved petitions to the courts of appeals to review final Commission orders in the area of consumer protection. Forty-three of the collateral suits initiated by or against the Commission were related to the Commission's protection activities.

Among the decisions issued in fiscal 1977 was a landmark opinion by the Court of Appeals for the District of Columbia Circuit upholding the Commission's authority to order corrective advertising in Warner-Lambert. The Circuit also affirmed, with modification, the Commission order in Chrysler dealing with fuel economy advertising claims. In Ford Motor, the Sixth Circuit, on a petition for rehearing filed by the Commission, reversed a previous holding that the Commission had erred in not according respondent a hearing on its claim that the order placed it at an unfair competitive disadvantage because of a subsequent consent order entered against a competitor. In Johnson Products, the Seventh Circuit held (agreeing with the Sixth Circuit in Ford) that the respondent could not unilaterally withdraw from a consent order agreement after initial acceptance by the Commission. The court remanded the case, however, to allow respondent to petition for reopening of the order.

In collateral lawsuits involving consumer protection matters district courts enforced subpoenas in Swanson, Stanley H. Kaplan Educational Center, Florida Development and Terra Investment Corporation. In Swanson the First Circuit affirmed, holding that the Commission's investigation of tour operators should not be delayed by premature challenges to its regulatory jurisdiction. In Miller, the Seventh Circuit reversed a subpoena enforcement decree against a common carrier holding that Section 6 of the FTC

Act provided that such an entity was immune from FTC investigation. In American Brands the Commission obtained a consent decree requiring six tobacco companies to comply with investigational subpoenas.

In State of California, the Ninth Circuit reversed a district court injunction which had halted a Commission complaint proceeding involving advertising claims for milk by a state milk producers' board. The appellate court agreed with the Commission that assertions of Parker v. Brown immunity should not be resolved by way of an injunction proceeding prior to final agency action.

The legislative staff provided support in a number of congressional inquiries focused on subjects within the jurisdiction of the Bureau of Consumer Protection. The Commissioners and staff testified on the subjects of prescription eyeglass advertising; public participation in federal agency proceedings; abusive debt collection practices; automobile fuel economy; creation of a system of small claims courts; over-the-counter tranquilizers and sleep-aids; Truth-In-Lending amendments; the National Energy Act and consumer protection problems related to energy. The legislative staff also assisted the Bureau of Consumer Protection in beginning to draft amendments to the Fair Credit Reporting Act that were recommended in the recent report of the President's Privacy Protection Study Commission.

Legal counsel support for the Consumer Protection Mission included continued counseling concerning the Commission's rulemaking regulations, in particular drafting of expedited procedures for the R-value insulation rule. Advice was given to the Commission concerning motions to quash orders to file special reports on cigarette advertising, clearances to participate in consumer protection proceedings, and various disciplinary matters. Assistance was given in the preparation of staff guidelines for applying for reimbursement of participation in rulemaking proceedings. Recommendations were made to the Commission concerning advisory opinions on the Commission's holder-in-due course rule,

various marketing and advertising plans, and the effect of the Commission's door-to-door sales rule on the District of Columbia home solicitation sales law.

Administrative Law Judges' Participation In the Consumer Protection Mission

The Commission's consumer protection matters often involve large corporations and pose difficult issues of major importance to the public and the industries concerned, both relating to liability and proper relief. During fiscal 1977, the following were among the consumer protection cases in trial before the administrative law judges: American Home Products Corporation; Amrep Corporation; Bankers Life & Casualty Company; Bell & Howell Company; Block -Drug Company, Inc.; Bristol-Myers Company; California Milk Producers Advisory Board; Cavanagh Communities Corp.; Century 21; Chrysler Motors Corporation; Equifax Inc.; Ford Motor Company; General Motors Corp.;Genesco,,Incorporated; Horizon Corporation; Jay Norris Corp.; Kroger Company, Raymond Lee Organization, Inc.; Safeway Stores, Inc.; Sterling Drug, Inc.; Trans World Accounts, Inc.; and, US Life Credit Corporation.

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ECONOMIC ACTIVITIES MISSION

The major thrust of the Economic Activities Mission is to provide the economic information and analysis necessary to understand the structure, conduct, and performance of U.S. industry. During fiscal 1977, the Line of Business Program was significantly advanced by a court decision requiring the delinquent companies to file reports. During fiscal 1977 reports were published concerning the economic performance of diverse industries including prescription drugs, semiconductors, health care organizations, and the international steel industry. Two studies of different aspects of the coal industry will be completed shortly and forwarded to the Commission. Substantial progress has been made toward completion of studies of energy industries and the electrical equipment industry. A series of seven working papers were completed and distributed for comment. Increased manpower has been furnished to provide input to the selection of studies and cases in the consumer protection area.

Financial and Statistical Reports

Quarterly Financial Report - The QFR was published on schedule for each quarter. A study of the sampling and statistical procedures of the QFR was conducted to determine the impact and feasibility of reducing the sample in order to alleviate some of the reporting burden on the small companies in the sample. Based on that study, a recommendation was made and approved by the Commission to eliminate the smallest asset size from the manufacturing sample and also to remove the new firms from the sample of manufacturing corporations. Additional statistical procedures were adopted to ensure that there will be no substantial degradation in the usefulness of the QFR as a result of the new sampling procedures.

Line of Business Report - The 1975/1976 Line of Business (LB) Report forms were mailed in August 1976 to 481 companies. Apart from minor changes, the form is the same as the 1974 LB form, which was the subject of considerable litigation activity this year. On July 15, 1977, the U.S. District Court issued a decision enforcing the 1974 LB orders. The matter is now on appeal and we are awaiting the court's decision. The auditing of the 1974 LB forms was completed and auditing was begun on the 1975/1976 forms.

Other studies were conducted in conjunction with 1973 LB data, including the calculation of understatement ratios for industry categories, the estimation of the degree of contamination in costs and assets, and the calculation of weighted average 1972 concentration ratios for industry categories. In addition, the Bureau is analyzing the relation of R&D intensity to size and concentration, and of advertising, brand loyalty, and unit pricing to each other. A draft report containing aggregated data supplied by companies which completed the 1973 LB form has been prepared and will be forwarded to the Commission for a publication determination.

Statistical Report on Mergers and Acquisitions - The 1975 report was published in November 1976 and the 1976 report was published December 5, 1977. Collection of data for 1977 has been expanded to cover partial acquisitions.

Working Capital Series - The decision was made in fiscal 1977 to transfer this function from the Securities and Exchange Commission to the Bureau of Economics. Preliminary planning was done to affect smooth transfer of this function. The Working Capital Series is a statistical summary of working capital utilized by the Federal Reserve Board in preparing their flow of funds statistics.

Economic Reports

Several economic reports were completed and published by the Commission during fiscal 1977. These included a major study of the prescription drug industry, a major study of the international steel industry, a study of the semiconductor industry, a study of the sulfuric acid industry, an analysis and evaluation of policy options of dealing with the OPEC cartel, a study of the effect of Federal price and allocation regulations on the petroleum industry, and a study of health maintenance organizations and their competitive effect on the fee-for-service sector.

In addition to the foregoing reports released by the Commission, drafts of several other studies were completed in fiscal 1977 and will be forthcoming shortly. These included a study of the electric lamps industry, a report of the relationship between intraindustry firm size distribution and price-cost margins, and several studies of the "energy sector." Included in the latter are studies of the nuclear fuel and natural gas industries and two studies of different aspects of the coal industry.

An economics "working paper" series was established during fiscal 1977. Working papers are preliminary drafts of analyses and findings from research conducted on non-confidential information. They are circulated among academic and other professional economists for the purpose of stimulating critical comment and discussion. Seven such papers were circulated during fiscal 1977. Two dealt with the relationships between market structure and industrial pricing behavior. Others dealt with the minimum optimal scale of steel plants, product differentiation and structural change in truck manufacturing, firm size distribution and price cost margins, the management of marine fisheries under the extended two-hundred mile limit, and the role of market power in the recent inflation.

Support to Consumer Protection

Economic support to the Consumer Protection Mission takes the form of participation on the Bureau of Consumer Protection's evaluation committee and in activities related to rulemaking in the Bureau, and the undertaking of studies in areas where "market failure" problems may be potentially important.

During fiscal 1977, the Bureau of Economics participated in rulemaking related activities in regard to health spas, real estate sales, mobile homes, voluntary standards and certification, travel agencies, hearing aids, and over-the-counter drugs.

"Market failure" studies were initiated with regard to the life insurance industry, the optometry profession, the auto repair industry, and the used car market. In addition, a major study was initiated to evaluate consumers' responses to and processing of governmentally supplied information. The particular application here is with regard to the impact of nicotine content information on tobacco consumption.

Economic support to the Maintaining Competition Mission was previously addressed under the section on Maintaining Competition.

General Counsel Support
to Economic Activities

In fiscal 1977, the Office of the General Counsel continued to be involved in support of the work of the Bureau of Economics. The Line of Business Program was the subject of extensive litigation in various cases filed by companies in anticipation of the Commission's efforts to require them to participate in the Line of Business surveys for 1974. In an effort to secure a comprehensive resolution of the legal issues in one proceeding, the General Counsel had previously secured the reversal of a preliminary injunction barring enforcement of Line of Business orders, initiated a proceeding to enforce the 1974 Line of Business orders,

and obtained transfers of the pre-enforcement suits to the court where the enforcement proceeding is pending. These actions culminated in a decision by the United States District Court for the District of Columbia enforcing the 1974 Line of Business orders. A similar enforcement ruling was secured in litigation concerning the Corporate Patterns Survey. The matters are now on appeal and were argued on December 16, 1977.

The legislative staff assisted in the preparation of Congressional testimony utilizing the expertise of the Bureau of Economics in areas such as coffee marketing practices; economic impact of development of the Outer Continental Shelf for oil exploration; and the economics of the eyeglass industry.

Legal counsel support to the Economics mission included advising the Commission with respect to motions to quash orders to file special reports pursuant to the Line of Business Program. Advice to the Bureau was given concerning confidentiality of data in the report on sales, promotion and product differentiation in two prescription drug markets, Commission access to IRS tax data, and liaison with the Federal Paperwork Commission regarding the Line of Business Program.

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EXECUTIVE DIRECTION AND POLICY PLANNING

In fiscal 1977 the Executive Director's Office continued to study and strengthen its policy development and evaluation activities, refine its program planning and budget execution capabilities, expand the Commission's Management Information System, and place new emphasis on program impact evaluation as a management technique for improving the focus of Commission activities.

The highlight of these efforts was the Md-Year Review, held in April 1977.

Strengthening of the management processes at all levels within the Commission has been a continuing goal. To encourage the development and strengthening of these processes, specific management initiatives, along with their expected results, are identified each quarter. For each initiative, detailed task plans are developed which indicate the specific tasks required to achieve the desired results, the time frame in which the tasks will be completed, and those responsible for accomplishing the delineated tasks. On a weekly basis, the Chairman and the Executive Director review the task plans with the responsible individuals to ensure timely execution of the stated plans.

Office of the Secretary

The Office of the Secretary has the responsibility for establishing, maintaining, and disposing of all formal and informal records of the Commission, preparing all manuscripts for publication, processing consumer letters, answering requests for public information, and providing those records that are available under the Freedom of Information and Privacy Acts.

A study has been conducted relating to the present use of microfilm throughout the Commission, and the relationship between the present microfilm system and the anticipated computer output microfilm and computer indexing thereof. The Office of the Secretary is coding, indexing, and putting full text of Commission actions into the computer.

Procedures have been written for the purpose of replacing the manual recordkeeping activity of the Document Processing Branch with computer terminals.

Office of Public Information

The Commission's public information staff distributed copies of approximately 500 news and information releases to reporters, consumers, attorneys, educators, businesses and other groups; handled approximately 40,000 telephone inquiries, and answered or referred thousands of written requests for information to the appropriate action office.

In addition, OPI published a weekly calendar, a weekly NEWS SUMMARY, and a weekly summary of other matters not covered by news releases.

OPI also conducted news briefings at headquarters, and assisted or advised the regional offices in holding others. Staff also arranged speakers for consumer groups and associations on request.

Office of Policy Planning and Evaluation

In the area of policy planning and evaluation, the Commission increased its use of cost/benefit analysis where appropriate as one of the major criterion in making its resource allocation decisions among, and evaluating the effectiveness of, various programs. Additionally, utilizing its Office of Policy Planning and Evaluation, the Commission will increase the number and scope of impact evaluations for selected programs and rules in an effort to deter-

mine the overall effectiveness and impact on consumers of these programs and rules. As part of the policy planning process, the Commission continued its periodic review (Mid-Year and Year-End) of progress in each individual program. These reviews, conducted on a formal basis, enable the staff to recommend changes in program emphasis for the next operating period and to reduce, delete, or recommend the addition of new program areas. In addition, the Office continued to serve in a "research and development" capacity by generating specific new enforcement programs. In this vein, the Office, in consultation with the Bureau of Competition, revised five draft policy protocols for five areas of antitrust enforcement. The Office also worked with the Bureau of Consumer Protection, Office of Evaluation, and a private contractor to design a research plan for seven impact evaluation projects to design a research plan now underway.

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ADMINISTRATION AND MANAGEMENT

The major activities of the Administration and Management Mission are associated with providing on-going support and services to the Commission and its major operating units and, as such are closely related to the programmatic activities of the Commission. The six principal support and service components are personnel, budget and finance, management analysis, information systems, library, and general office and administration.

Personnel

Training

Two supervisory training courses involving 42 employees and 1176 participant hours, four attorney workshops and tapes totaling 197 employees and 573 hours; and three secretarial sessions totaling 71 employees and 1596 participant hours were conducted. Courses and lectures in trial advocacy, use of computers, investigation techniques, accounting, pre-trial proceedings, cross-examination practices and secretarial development were also offered.

Executive Development

A Rotational Assignment Training Program was initiated for agency managers. In addition, the Executive Resources Board reviewed the status of the Executive Development Program and named 15 new "high potential" managers for fiscal 1977. The Executive Development Coordinator assisted these new members of the program in formulating their Individual Development Plans.

Position Management and Classification

The agency's hiring plan was implemented in fiscal 1977. Bureau/Office officials meet monthly with representatives of Personnel to identify any necessary modifications to the plan and assure that the organization remains within its ceiling and budget. New position descriptions were developed which were much more useful in identifying work to be done, establishing objectives, and reviewing progress against work expectations. A classification handbook for supervisors was prepared and distributed to agency managers and supervisors.

Staffing

During fiscal 1977, 154 offers were made for attorney and law clerk positions. Approximately 45 law schools were visited during the September-October-November Attorney Recruitment Program. The staff expended increased work-hours in EEO-related counseling, data gathering and monitoring/analysis of the agency's Affirmative Action Plan. Technical assistance was provided to managers and supervisors on a continuing basis, covering such topics as adverse actions and disciplinary procedures, merit promotion regulations, and screening and selection process.

Administrative Services

The administrative systems address the needs of the Commission's support functions. The systems generally support recordkeeping and reporting functions dealing with Commission resources and property, and are characterized by relatively high record volumes. The systems are typical of the traditional types of automated systems and presently include a Personnel System, Locator System, Property Management, Library Serials Routing, Stock Ordering, and a series of smaller systems to maintain records of compliance inspections, information requests, mailing lists, and assignments.

The major accomplishments in these services during fiscal 1977 included the implementation of the Correspondence Control System in the Office of the Secretary, implementation of the basic Personnel Modeling System, and finalized specifications for the Library Acquisition System and the Administrative Procurement System.

Budget and Finance

Financial Management System

The Financial Management System (FMS) provides the capability of reporting expenditures by organization, object code and program to reflect the priorities and financial resources of the Commission. Summary reports are made available to management to assist in the decisionmaking process. Additionally, the system has a budget formulation and control capability that permits a comparison between the past year's actual expenditures, the current year's operating budget, and next year's operating needs.

The major tasks accomplished in fiscal 1977 were the development and implementation of FMS in the area of an improved financial accounting package. This forms the core system for the recording and reporting of all accounting, payroll, and budgetary data. A second, but related development was the automated budget formulation capability. The capability has been implemented and is currently being utilized for future budget preparation process.

Office Automation

In support of its activities, each year the FTC generates in excess of 2 million pages of text and analyzed large amounts of economic and business data. Additionally the Commission responds to over 100,000 consumer complaint letters each year. In recognition of the need for timely production of legal documents and textual information, the FTC has implemented word proces-

sing equipment to meet various improvement objections. A major accomplishment in fiscal 1977 was the installation of word processing equipment in each of the eleven FTC regional offices and eleven systems installed in the FTC Washington headquarters. Testing of communication and data entry software was also completed and pilot sites were established.

Management Information System

The Commission's MIS continued to expand to provide necessary support to the overall management process. Expansion in fiscal 1977 included a new financial management component and an innovative word processing component which fully utilized available data communications technology. Other major accomplishments with the MIS were enhancements to the Weekly Activity Report System to reallocate non-programmatic time to programs; implementation of an automated indexing system for Commission Minutes which allows direct capture of critical events resulting from Commission action; the development of improved report formats for the Commissioners' Monthly Status Report; the development of a new report for Division and Bureau managers which provides the capabilities to enter and display deadlining information and to annotate status and deadline changes; and the entry of historical data for all FTC consent and litigated orders and formal investigations.

Legal Search

In the normal course of business of creating work products, the legal staff of the FTC expends approximately 30% of its time researching FTC statutes and decisions, internal legal memoranda and work products. To reduce staff time required in the legal search effort, the FTC is in the process of collecting past and present work products and developing a legal search system which will provide terminal access to FTC law and work products using the research system. The professional staff will be provided with the capability to retrieve information using critical indexing

points, key words or key phrases. Plans were completed to initiate the collection and keying of past work products during fiscal 1977.

Litigation Support

In support of investigation, rulemaking, and litigation matters the Commission has a need to identify and collect large numbers of evidentiary documents. The Litigation Support System provides the attorney/economist staff with the tools necessary to index and analyze evidentiary documents. Litigation support in fiscal 1977 was provided to the Automobile Industry, Kellogg, General Foods, GMAC, Ford, Potato Processors, and Exxon cases. Support was also provided to the following rulemaking efforts: Funeral Rule, Eyeglass Rule, and Credit Practices Rule.

Telecommunications Systems

The FTC Telecommunications System is being implemented to facilitate the flow of documentary information among the various FTC organizations. Utilizing existing word processing/data entry equipment, the FTC's central processing service bureau and the associated communications network, and data communications software, it is possible to implement a number of automated capabilities which will significantly improve the FTC's internal communications. The major accomplishments during fiscal 1977 in this area were the design, programming, and testing of communications software and procedures; and the design of a Document Indexing and Dissemination System for key documents issued by the Commission.

Library

Because of the delay in the Commission's planned consolidation, the Library has begun developing alternate plans that will include adequate research facilities for staff members located in other buildings.

Reader's Services

The Library has obtained access to two scientific data bases from the National Library of Medicine; staff members are currently being trained in their use.

A systematic Library orientation program for new professionals, including specialized Library tours, has been developed.

Legislative Histories

The Library has begun using the CRECORD on-line data base as an additional tool for following current legislation and for compiling legislative histories relevant to the FTCs mission. It is especially useful for compiling a chronology of a particular piece of legislation and can also be used to identify related documents.

Operating Manual Revision

Drafts of all Operating Manual chapters were assembled and preliminarily reviewed for consistency of organization, terminology and level of treatment. Necessary modifications are being coordinated with members of the Operating Manual Revision Committee.

Microfilm Study

A review was conducted and a draft report prepared recommending changes in the Commission's use of microfilm for document storage and retrieval.

Cigarette Testing Laboratory Study

A review of the Commission's Cigarette Testing Laboratory was initiated to develop a profile of the function and associated costs, evaluate alternatives, and recommend any changes necessary to improve the efficiency and effectiveness of the cigarette testing operation.

FUNDS AVAILABLE TO THE COMMISSION DURING FISCAL 1977

For fiscal year 1977, funds of $54,680,000 were appropriated for the Commission. Actual expenditures for the year were $54,640,000. These expenditures are detailed below by activity.

Obligations by Activities for Fiscal Year 1977

1. Maintaining Competition	$26,802,000
Investigation and Litigation	26,802,000
2. Consumer Protection	23,327,000
Investigation and Litigation	18,942,000
Consumer Credit Enforcement	1,604,000
Fair Packaging and Labeling	139,000
Flammable Fabrics, Textile, Fur and Wool Enforcement	420,000
Energy Policy & Conservation Act	496,000
Other Special Statutes	478,000
3. Economic Activities	4,511,000
Investigation and Litigation	20,000
Economic and Financial Reports	4,491,000
Total Obligations-Fiscal Year 1977	$54,640,000

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Appendix

FISCAL YEAR 1977

COURT CASES
(Oct. 1, 1976 - Sept. 31, 1977)

Raymond Lee, D. 9045, suit seeking injunction against the Commission proceeding until plaintiff's FOIA request with Patent Office has been resolved. On October 15, 1976, the District Court for the District of Columbia dismissed complaint.

Patricia Kennedy, D. 9033, FOIA request. On October 20, 1976, the District Court for the District of Columbia granted plaintiff's motion for summary judgment.

Atlantic Richfield Co., D. 9089, preliminary injunction action filed by Commission. The United States District Court for the Eastern District of Virginia, on November 2, 1976, denied application for. injunction against merger pending completion of administrative proceeding. (Appeal pending).

Welcome Aboard Vacation Center, Inc., File 99-329, petition to review order denying motion to quash subpoena. On November 8, 1976, the Court of Appeals for the District of Columbia Circuit dismissed petition on motion of Commission.

American Motors, File 99-377, subpoena enforcement. On November 11, 1976, the District Court for the Northern District of Ohio issued an order enforcing the subpoenas.

Americana Corp., D. 5085, civil penalty suit. On November 11, 1976, the District Court for the Northern District of New Jersey dismissed suit.

The Pillsbury Company, D. 9091, injunction suit against merger. On November 12, 1976, the District Court for the Northern District of Illinois issued a temporary restraining order and on November 15, 1976, entered a hold-separate order stipulated by the parties.

Horizon Corp., D. 9017, injunction suit against Commission. On November 18, 1976, the District Court for the District of Columbia issued an injunction against an FTC Administrative Law Judge from turning over subpoena documents to complaint counsel.

Kenneth Ogle, D. 6611, civil penalty suit. On November 25, 1976, the District Court for the Southern District of Ohio entered consent judgment in the amount of $5,000.

Top Value Meats, Inc., File 99-232-37. On November 27, 1976, the District Court for the Western District of Missouri dismissed pre-enforcement complaints and granted the Commission's counterclaim by ordering enforcement of the Commission's section 6(b) orders and payment of civil penalties.

Guaranteed Quality Meats, Inc., File 99-252, enforcement of compulsory process. On November 27, 1976, the District Court for the Western District of Missouri entered an order of enforcement and decreed civil penalties.

Michael N. Mervin, File 75-606. FOIA request, Privacy Act, and wrongful discharge suit. On December 1, 1976, the District Court for the District of Columbia granted the Commission's motion for summary judgment.

Hartnack, File 99-326, subpoena enforcement. On December 2, 1976, the District Court for the District of Columbia enforced the subpoenas ad testificandum.

Associated Warehouse, File 99-311, subpoena enforcement. On December 7, 1976, the District Court for the Western District of Missouri enforced the subpoena duces tecum.

Southwest Sunsites, Inc. (Edwin Kritzier), File 99-328, subpoena enforcement. On December 8, 1976, the District Court for the Central District of California issued an order enforcing the subpoena.

Kenneth Swanson, File 99-325, subpoena enforcement. On December 23, 1976, the District Court for Massachusetts enforced the subpoenas.

Bristol-Myers Co., D. 8916, FOIA request. On December 28, 1976, the District Court for the District of Columbia entered summary judgment in favor of the Commission.

Bristol-Myers Co., D. 8917. Suit to enjoin administrative proceeding alleging interference with witnesses. On December 30, 1976, the District Court for the Southern District of New York entered judgment for the Commission.

Thrifty Drug Stores Co., Inc., File 99-334. On December 17 1976, the District Court for District of Columbia issued preliminary injunction prohibiting the Commission from disclosing certain documents pursuant to FOIA request.

Terra Investment Corp., File 99-324. Injunction suit against Commission seeking preenforcement review of subpoenas. On December 30, 1976, the District Court for the Southern District of Florida dismissed the complaint.

Florida Development & Sales Corp., File 99-332, subpoena enforcement. On December 30, 1976, the District Court for the Southern]District of Florida enforced subpoenas.

Bristol.-Myers & Company, D. 8917. Suit seeking to compel discovery. On January 3, 1977, the District Court for the Southern District of New York denied Bristol-Myers' motion to compel discovery on the grounds that it was prematurely asserted and that it had failed to exhaust its administrative remedies.

Food Town Stores et al., D. 9087. Petition for a preliminary injunction to prevent a merger. On January 4, 1977, the Court of Appeals for the Fourth Circuit on the Commission's motion vacated the order of the district court which had denied the Commission's application for a preliminary injunction.

Atlantic Richfield Company and the Anaconda Company, D. 9089. Petition for a preliminary injunction to prevent a merger. On January 12, 1977, the Court of Appeals for the Fourth Circuit affirmed the district court's decision that the Commission had failed to show a substantial likelihood that the Commission would prevail on the merits of the underlying administrative challenge to the merger.

Safeway Stores, FTC File No. 99-321. FOIA request. Judgment for the Commission was entered by the District Court for the District of Columbia on January 12, 1977.

American Bankers Club Inc. v. American Express Co., et al., FTC File No. 99-331. Action for damages for inter alia, alleged failure on the part of the Commission to enforce the antitrust laws. The District Court for the District of Columbia on January 18, 1977, granted the Commission's motion to dismiss.

Ralph H. Miller, FTC File No. 99-242. Subpoena enforcement. January 24, 1977, the Court of Appeals for the Seventh Circuit reversed an order of the district court and denied enforcement of the Commission's subpoena on the ground that the respondent, a common carrier, was immune from investigation under the FTC Act.

Western General Dairies, FTC File No. 99-333. Subpoena enforcement. The District Court for the Northern District of California declined on January 26, 1977, to enforce the Commission's subpoena duces tecum on grounds that it lacked jurisdiction to enforce it. On subsequent refiling of the enforcement action in the District Court for the District of Utah, the subpoena was ordered enforced on September 1, 1977.

Arthur H. Courshon et al., FTC File No. 99-339. Injunction against FTC. On January 28, 1977, the District Court for the District of Columbia held that judicial review of the Commission's policy statement on interlocking directorates was inappropriate at this time. It denied plaintiff's motion for a preliminary injunction and dismissed the complaint.

Atlantic Richfield, D. 9089. Injunction against the FTC. On February 4, 1977, the Court of Appeals for the Fifth Circuit affirmed an order of the district court denying a preenforcement challenge to the Commission's subpoenas.

Eli Lilly and Company, FTC File No. 99-338. Subpoena enforcement. On February 14, 1977, the District Court for the District of Columbia issued an order enforcing the subpoena.

Johnson Products Company, D. C-2788. Petition for review of a consent order. On February 16, 1977, the Court of Appeals for the Seventh Circuit stayed enforcement of a cease-and-desist order pending the conclusion of a reopening proceeding before the Commission to determine whether the order should be modified, and, accordingly, reserved the question whether the order should be set aside as an abuse of discretion.

Texaco, Inc., FTC Files Nos. 99-152-56, 99-158-59. Subpoena enforcement. On February 23, 1977, the Court of Appeals for the District of Columbia Circuit in an en banc decision reversed an earlier panel decision affirming that of the district court which had granted limited enforcement. With minor exceptions, the en banc court ordered enforcement of the Commission's investigative subpoenas as issued.

State of California ex rel. C.B. Christensen, D. 8988. Injunction against the FTC. On March 3, 1977, the Court of Appeals for the Ninth Circuit vacated an order of the district court directing the Commission to terminate an administrative proceeding challenging alleged deceptive advertising practices. The court held that under the exhaustion doctrine judicial review had been premature. A petition for certiorari was denied by the Supreme Court on October 3, 1977.

Golden Fifty Pharmaceutical, Inc., D. 8792. Action to recover civil penalties for violation of a Commission order. The District Court for the Northern District of Illinois on March 17, 1977, entered a judgment in favor of the government in the sum of $147,500.

William H. Pendleton, FTC File No. 99-312. Mandamus action against the Commission. Motion to dismiss for lack of subject matter jurisdiction by FTC granted by the District Court for the Eastern District of Pennsylvania on March 22, 1977. The court held that it has no authority to issue a writ of mandamus to compel the FTC to enforce the provisions of the Consumer Credit Protection Act.

Sid Cockrell, Executive Director, and Bexar County Medical Society, FTC File No. 99-349. Subpoena enforcement. On March 29, 1977, the District Court for the District of Columbia ordered enforcement of the Commission's subpoena.

Exxon Corp., Occidental Petroleum, Union Carbide and KerrMcGee Corp., FTC File No. 99-315. Injunction suits against the FTC. In proceedings to enjoin the Commission's transmission of alleged confidential and commercial information to Congress without affording ten days' prior notice to the party supplying such information to the Commission, the District Court for the District of Columbia on March 29, 1977, granted the Commission's motion to dismiss. Appeal pending in Exxon, Union Carbide and Kerr-McGee.

Eli Lilly and Company, FTC File No. 99-330. Suit challenging Commission subpoena. On March 29, 1977, the District Court for the Southern District of Indiana held that inasmuch as Eli Lilly had been given the opportunity to litigate the issue in an enforcement proceeding in the District Court of District of Columbia, the Commission's motion to dismiss should be granted.

Peacock Buick, Inc., FTC Docket 8976. Petition to review final order. In a proceeding challenging certain unfair and deceptive practices in the sale of used cars, the Court of Appeals for the Fourth Circuit on April 1, 1977, affirmed and enforced the Commission's order to cease-and-desist.

ABC Fabrics, Inc., FTC Docket C-1806. In an action to recover civil penalties for violation of a Commission order, the District Court for the Middle District of Florida on April 26, 1977, entered a judgment in favor of the government in the sum of $14,000.

Dresser Industries, Inc., FTC Docket 9080. Subpoena enforcement. On April 26, 1977, the District Court for the District of Columbia ordered enforcement of the Commission's subpoena.

Universal Electronics, Inc., FTC Docket 8815. In an action to recover civil penalties for violation of a Commission order, the District Court for the Eastern District of Missouri on May 12, 1977, entered a judgment in favor of the government in the sum of $6,000.

BOC International Ltd., et al., FTC Docket 8955. Petition to review final order. The Court of Appeals for the Second Circuit on May 19, 1977, set aside the Commission's divestiture order and remanded part of the case for further consideration.

McSwiggen et al., FTC File No. 99-348. On May 20, 1977, the District Court for the Southern District of Florida declined to enforce a subpoena duces tecum.

Tenneco, Inc., et al., FTC Docket 9097. Preliminary Injunction. On May 23, 1977, the District Court for the District of Columbia denied the Commission's petition for a preliminary injunction to prevent a merger pending the conclusion of an administrative proceeding. A subsequent appeal by the Commission was withdrawn after the Court of Appeals for the District of Columbia Circuit denied an injunction pending appeal and the merger was consummated.

Sid Casey, et at., FTC File No. 99-363. Injunction suit against the FTC. In a pre-enforcement challenge to Commission subpoenas, the District Court for the Western District of Washington on May 24, 1977, denied plaintiff's motion for injunction and granted the Commission's motion for summary judgment. The court in a separate proceeding enforced the Commission's subpoena ad testificandum.

Pat Clark Pontiac, FTC File No. 99-358. Subpoena enforcement. On May 27, 1977, the District Court for the District of Columbia enforced the Commission's subpoena.

Safeway Stores, Inc., FTC Docket 7584. In an action to recover civil penalties for violation of a Commission order, the District Court for the District of Maryland on June 8, 1977, granted the government's motion for summary judgment in the sum of $120,000.

Kenneth C. Swanson, FTC File No. 99-325. In an action to enforce a Commission subpoena, the Court of Appeals for the First Circuit on June 9, 1977, affirmed on order of the district court enforcing the subpoena.

Portland Retail Druggist Association, Inc., FTC Files No. 99-305. FOIA request. On June 10, 1977, the District Court for the District of Oregon granted the Commission's motion for summary judgment and dismissed the action.

Stanley H. Kaplan Educational Center, et al., FTC File No. 99-347. Subpoena enforcement. On June 16, 1977, the District Court for the District of Massachusetts granted the Commission's petition for an order enforcing a Commission's subpoena.

The Great Atlantic & Pacific Tea Co., Inc., FTC Docket 8866. Petition to review a final order. In an administrative proceeding charging respondent with having induced and received discriminatory prices in violation of Section 2(f) of the Clayton Act, 15 U.S.C. section 13(f), the Court of Appeals for the Second Circuit on June 21, 1977, affirmed and enforced the Commission's order to cease and desist. A petition for certiorari filed by A&P is pending.

Top Value Meats, Inc., et al., FTC File No. 99-236. Injunction suit against the FTC. In plaintiffs' action challenging certain Section 6(b) orders requiring the filing of reports, the District Court for the Western District of Missouri on July 1, 1977, found no improper purpose in the Commission's investigation and denied plaintiffs' motion to set aside its order of November 21, 1976, dismissing the preenforcement actions and ordering enforcement of the Commission's Section 6(b) orders.

Chrysler Corp., FTC Docket 8995. Petition to review a final order. Reviewing a Commission order requiring respondent to cease and desist from engaging in certain false and deceptive advertising practices, the Court of Appeals for the District of Columbia Circuit on July 6, 1977, modified the order and affirmed and enforced the order as so modified.

Line of Business Litigation and Corporate Patterns Report Litigation. Preenforcement injunction suit and enforcement of Section 6(b) orders. After extensive litigation, including the transfer to the District Court for the District of Columbia of a number of preenforcement challenges to these programs, that court on July 15, 1977, granted the Commission's applications for enforcement. Appeals are presently pending in both proceedings.

Clearview Dodge, D. No. 9072. Subpoena enforcement. The District Court for the District of Columbia enforced the Commission's subpoena on July 21, 1977.

Horizon Corporation, FTC Docket 9017. Subpoena enforcement. On July 21, 1977, the District Court for the District of Columbia issued an opinion on remand, explaining its refusal to order Horizon to produce self-evaluative reports sought by the Commission. Appeal by the Commission is pending.

Blue Ribbon Quality Meats, Inc., et al., FTC File No. 99-231. Injunction suit against the FTC. In a preenforcement challenge to a Commission subpoena, the Court of Appeals for the Eight Circuit on July 21, 1977, affirmed the district court's order of dismissal of the suit.

Lancaster Colony Corp., Inc., et al., FTC File No. 99-362. Preliminary injunction suit by FTC. The District Court for the Southern District of New York on July 21, 1977, granted the Commission's application and enjoined consummation of an acquisition pending the conclusion of an administrative proceeding.

Atlantic Richfield Co., FTC File No. 99-259. Subpoena enforcement. In a proceeding to enforce Commission subpoenas, the Court of Appeals for the District of Columbia Circuit on July 28, 1977, remanded the matter to the Commission for a construction of the Commission's rules to determine whether complaint counsel in an adjudicative proceeding may have access to documents subpoenaed for energy study.

Top Value Meats, Inc., FTC File No. 99-251. In a proceeding to secure corporate records to ascertain the existence of assets upon which to satisfy a claim for civil penalties for respondent's failure to file completed special report forms pursuant to a Commission order, the District for the Western District of Missouri on August 15, 1977, granted the government's motion for an order to compel production by a non-party deponent.

Exxon Corp. et al., FTC Docket 8934. Injunction suit against the FTC. In a preenforcement action, respondents sought declaratory and injunctive relief with respect to Commission subpoenas issued in the course of an administrative proceeding. On August 19, 1977, the District Court for the District of Delaware granted the Commission's motion to dismiss. Two of the plaintiffs have appealed.

British Oxygen Co., Ltd., et al., FTC Docket 8955. In an application seeking dissolution of a preliminary injunction issued against respondents staying, inter alia, further acquisition of stock pending the conclusion of an administrative proceeding challenging the acquisition, the District Court for the District of Delaware on August 26, 1977, ordered that the preliminary injunction be dissolved in view of the Second Circuit's reversal and remand of the Commission's decision against the parties.

Packers Brand Meats, et al., FTC File No. 99-298. Appeal from a default judgment enforcing a Commission subpoena. The Court of Appeals for the Eight Circuit on September 9, 1977, affirmed the district court's enforcement order.

Warner-Lambert Co., FTC Docket 8891. Petition to review final order. The Court of Appeals for the District of Columbia Circuit on August 2, 1977, upheld with one modification the Commission's order requiring, inter alia, an affirmative disclosure in advertising that Listerine would not help prevent colds or sore throats or lessen their severity. Petition for certiorari filed by Warner-Lambert pending.

Mobil Oil Corp., et al., FTC Docket 8934. In an appeal from ruling by the District Court for the Southern District of New York that Commission complaint counsel in Exxon were required to file an environmental impact statement, the Court of Appeals for the Second Circuit on September 14, 1977, reversed the order of the district court with instructions to dismiss.

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