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# Annual Report of the

# FEDERAL TRADE

# COMMISSION

# 1978

FEDERAL TRADE

COMMISSION

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# Annual Report of the FEDERAL TRADE COMMISSION

For the Fiscal Year Ended

September 30, 1978

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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-fourth Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended September 30, 1978.

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 GOAL: A Vigorous and Honest Free Market

The FTC's congressional mandate - a legacy from Theodore Roosevelt, Woodrow Wilson and Louis Brandeis, among other great Americans - is to root out abuses of market power and enhance the role of competition and the sovereign informed consumer as regulators of the marketplace. This mandate embodies a strong faith in the ability of the marketplace to allocate goods and services efficiently, and a determination that the market mechanism must not be distorted by those who would prefer to control markets to their own ends, whether under the protective umbrella of government regulation or by private regulation through price-fixing, collusion, or other anticompetitive restraints.

Today, as inflation takes an increasingly heavy toll on our economy, this mandate acquires renewed force. The Commission has thus concentrated its activities on those sectors where consumer sovereignty has been most frustrated, where inflation has done the most damage to the consumer's pocketbook. In each area, the FTC's objective is the same: to arm the consumer with the knowledge and the ability to command the lowest price and highest quality goods and services which a competitive marketplace can produce.

**Fighting inflation.** As President Carter told the nation, "of all the weapons against inflation, competition is the most powerful." As inflation erodes consumer's dollars, the FTC seeks to enhance consumer purchasing power - by making sure that consumers don't pay monopoly prices and that they have the information they need to avoid costly purchasing mistakes.

**Fighting over-regulation.** The FTC seeks to enhance the free market, not supplant it. It consistently challenges regulations that stifle competition by protecting industries and professions from market forces. And rather than protect consumers by making purchasing decisions for them, the FTC empowers them to make comparative choices for themselves, by ensuring that they get the product information they need. Competition and product information help restore consumer sovereignty, and eliminate much of the need for direct regulation of the market.

## THE STRATEGY: Keeping Down Costs in Critical Consumer Sectors

While the Commission's operations are structured around its three principal missions (competition, economics, and consumer protection), our strategies have been integrated to focus on the consumer sections most affected by inflation: health care, food, housing, transportation, energy, and clothing. The activities described below are just some examples of recent FTC actions; they were all initiated or carried on in Fiscal Year 1978 unless otherwise noted. (The Appendix provides a more detailed description of each FTC action taken in FY 1978.)

A. **Health Care** takes 14 cents of every consumer dollar. Key FTC initiatives in this area:

- issuance of a rule removing restrictions on price advertising of eyeglasses, contact lenses, and eye exams and requiring that eye doctors provide consumers with prescriptions (thereby letting consumers comparison shop).
- issuance of a consent order barring publication of relative value scales (which may tend to decrease competition and facilitate price fixing) by the Minnesota State Medical Association.
- issuance of a consent order barring the American Society of Anesthesiologists from prohibiting members from accepting salaried, rather than potentially higher-cost fee-for-service, employment.
- issuance of a consent order barring Damon Corporation, a medical testing laboratory company, from giving kickbacks to physicians.

- issuance of a consent order barring the Indiana Dental Association from inducing its members not to cooperate with health insurers' cost containment programs.

These health care matters are still in progress:

- an investigation of physician control of Blue Shield plans, which may tend to increase physician fee levels.
- a rulemaking proceeding to determine whether manufacturers of hearing aids should provide more information to consumers.
- litigation in which an FTC administrative law judge's initial decision - which is subject to full Commission review - held that the American Medical Association has unlawfully limited advertising by physicians (Nov. 1978).
- a rulemaking proceeding to determine whether advertising aimed at children is unfair, and whether it adversely affects their health.

B. Food takes 20 cents of every consumer dollar. Key FTC initiatives:

- hearings on a proposed rule which the Commission's staff contends would eliminate false or deceptive advertised claims for energy, natural/organic, health, fat and cholesterol attributes of food products.
- final staff recommendations on a proposed rule which would, if adopted by the Commission, require that protein supplement products carry disclosures concerning normal dietary need for such products.
- continuation of litigation against major cereal manufacturers, involving monopolization issues.
- issuance of final orders to end exclusive territorial franchises for soft drink distribution (Coca Cola and Pepsico, Inc.).

C. **Housing** takes 29 cents of every consumer dollar. Key FTC initiatives:

- issuance of decisions and orders barring anticompetitive acquisitions involving asphalt and tar roofing Jim Walter Corporation) and fiberglass-reinforced plastic panels (Reichhold Chemicals).
- issuance of a decision and order barring anticompetitive pricing practices in the plywood industry (Boise Cascade).
- acceptance of a consent agreement requiring divestiture by the Louisiana-Pacific Corporation of an acquired plant that manufacturers medium density fiberboard.
- acceptance of a consent agreement providing for payment of $7 million to redress the injury suffered by consumers who invested in Western Australian land alleged to be nearly worthless.

- acceptance of a consent agreement requiring Kaufman and Broad (the fifth largest U.S. homebuilder) to warrant and repair structural defects in its homes.

These housing matters are still in progress:

- an investigation of the Portland cement industry, focusing on pricing systems in this major construction industry.
- an investigation of competition in the real estate brokerage market.
- litigation of a complaint alleging that E.I. duPont de Nemours and Co. has attempted to monopolize the market in titanium dioxide, a pigment for whitening of paints and other products.
- consideration of a proposed rule that would, if adopted, require disclosure of the "R" value of insulation efficacy. The Commission's staff alleges this would enhance the ability of consumers to comparison shop for insulation.
- hearings on a proposed rule that would, if adopted, set standards for warranties and dispute settlement procedures in the sale of mobile homes.

- an investigation of alleged discriminatory "redlining" by home mortgage lenders.
- an investigation of competition in the manufacture of home insulation.

D. **Transportation** takes 18 cents of every consumer dollar. Key FTC initiatives:

- issuance of an order against Fruehauf Corp. requiring divestiture of an acquisition which resulted in injury to competition in the markets for heavy duty wheels, heavy duty anti-skid braking devices, and truck trailers.
- issuance of a consent order against Standard Oil of Ohio, prohibiting short-term dealer lease contracts which may have induced dealers to carry specific lines of tires, batteries, and accessories sold by Sohio.

These transportation matters are still in progress:

- a major investigation of the structure, conduct and performance of the automobile industry (the first since the Depression era),.
- hearings on a proposed rule that would, if adopted, require disclosure on used cars of the condition of major components.
- litigation against General Motors and Ford alleging unlawful payment of advertising allowances to major truck and car rental firms.
- litigation alleging that Ford misrepresented that certain auto parts were free from latent defects.

E. **Energy.** Major FTC initiatives now in progress:

- litigation against the eight major oil companies alleging a joint monopoly over the refining of crude oil and the maintenance of artificial price levels in the southeastern and eastern United States.
- litigation challenging the merger of Atlantic Richfield and Anaconda.

- hearings on a proposed rule that would, if adopted, require energy efficiency labels on major appliances and residential furnaces, showing average yearly energy costs of operation.
- a publication of the final staff report on a rule that would, if adopted, require gas stations to post octane levels.

F. **Clothing** is another important consumer sector. Major FTC initiatives:

- issuance of consent orders barring resale price maintenance by Levi-Strauss (jeans) and Interco (Florsheim shoes, London Fog coats, and other apparel).
- issuance of orders against five importers barring them from misrepresenting the wool content of their products.

Still in progress:

- rulemaking involving a proposal which would, if adopted by the Commission, require disclosure of laundering and cleaning requirements for various fabrics used in clothing and home furnishing.
- a investigation of possible resale price maintenance practices in the women's and children's apparel industries.

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PART III

## REMEDIES

With direction and encouragement from Congress (as exemplified by the Magnuson-Moss Act), the FTC has evolved a range of strategies within each critical consumer sector. While the traditional administrative complaint remains an important weapon in the Commission's arsenal, it is augmented by other techniques.

A. **Reports and Counsel.** In Section 6 of the FTC Act, Congress authorized the agency to compile information about business structure and practices, make the information public, and advise Congress. In 1978 the Commission issued several key Commission and staff reports and provided valuable independent counsel to Congress, the states, and sister agencies:

1. **Independent counsel to Congress**.

- Individual Retirement Accounts. A report was published analyzing sales practices in this rapidly growing industry and providing information consumers need to make informed purchases.
- Solar energy. A symposium was held and a published report issued analyzing consumer and competitive issues in this new and rapidly growing industry.
- Health Maintenance Organizations. A report was transmitted to Congress showing pro-competitive effects of HMO'S.
- Cargo preference. A report was transmitted to Congress showing the costs (likely to be passed on to consumers) of cargo preference legislation then being considered.

• Steel imports. A report was sent to Congress showing the likely costs of the steel import restrictions then being considered.

• National Commission for Reform of Antitrust Laws and Procedures. The FTC proposed legislation that would permit a finding of monopolization in a government law enforcement suit on the basis of substantial, persistent monopoly power, without a requirement that anticompetitive conduct be shown. The legislation would focus on the problem of remedying anticompetitive industry structure.

• Milk marketing orders. A report was issued showing the distribution of the financial benefits of Federal programs to
operators of various sizes and various geographic regions.

2. **Support to the states.**

• Generic drug substitution. A model act, designed to save consumers money by allowing pharmacists to substitute lower-priced generic drugs, was proposed by the Commission and the Department of HEW for adoption by the states.

• Life insurance cost disclosure. The Commission's staff is developing a model cost index, permitting consumers to make price comparisons among life insurance policies, which many states are considering adopting.

• Medicare supplement insurance ("Medigap"). A report has been issued discussing reported marketing abuses and consumer deception in this $1 billion industry, and analyzing various public policy options for Congress, the states, and the Commission.

3. **Support and advice to other agencies.**

Medical accreditation. Comments were filed by the Commission's staff with HEW, emphasizing the need for considering competitive factors in the medical school accreditation process (FY 1979).

• Railroads and trucks. The Commission and its staff participated in ICC proceedings, urging an end to antitrust immunities and more rate and entry flexibility, in order to lower prices.

- Airlines. The Commission and its staff participated in CAB proceedings, urging more rate and entry flexibility.
- Equal Credit Opportunity Act. Comments were filed urging the Federal Reserve Board to clarify that the Act covers real estate agencies and prohibits certain discriminatory practices.
- Department of Energy. Comments were filed by the Commission urging the Department to apply a "competitive impact analysis" to its major rules and regulations.
- Alcoholic beverages. The Commission has urged the Bureau of Alcohol, Tobacco, and Firearms to permit comparative advertising of alcoholic beverages.

B. **Injunctions.** In Section 13(b) of the FTC Act, Congress authorized the Commission to seek injunctions in Federal court when it has reason to believe that such a remedy for a law violation would be in the public interest. During FY 1978 the Commission used this important tool in support of both its competition and consumer protection missions. For example:

- the Commission prepared (and, a few weeks into FY 1979, won) a preliminary injunction suit against the planned acquisition by Rhinechem Corporation of the pigments division of a competitor.
- a maker of an acne preparation, Karr Preventive Medical Products, Inc., agreed to stop certain allegedly deceptive advertising after the Commission filed for an injunction.
- a manufacturer of cellulose insulation, ATI Manufacturing, agreed to a permanent injunction to prevent the installation of hazardously flammable insulation.

C. **Innovative Remedies.** An order to "cease and desist" may not always be the most effective way to ensure protection of the public interest. In 1978 the Commission applied several new and frequently innovative remedies.

- in the largest false advertisement settlement on record, the STP Corporation paid a civil penalty of half a million dollars and agreed to spend an additional $200,000 publishing notices in

newspapers and magazines explaining its prior unsubstantiated claims.

- as a result of the Supreme Court's ruling upholding a 1975 Commission order against Warner-Lambert, that company began in the fall of 1978 a $10 million corrective advertising campaign. The corrective advertisements must inform consumers that Listerine, a mouthwash, offers no protection or relief from colds or sore throats.
- in the first order ever concluded between the FTC and a major home builder, Kaufman and Broad, Inc. agreed to repair structural defects in houses purchased by consumers after Jan. 1, 1972. the Commission implemented the Hart-Scott-Rodino Act, which requires the reporting of information concerning proposed mergers and acquisitions and enables FTC staff to assess the likely competitive effects of such mergers and acquisitions before they occur.
- the Commission petitioned the U.S. Patent and Trademark Office for cancellation of the Formica trademark, on the ground that it has become generic.
- marking the first time that a product endorser had been held personally responsible for his advertised representations, one celebrity agreed to pay a percentage of any restitution that may be ordered against the manufacturer of an acne cream he endorsed, and to make a reasonable inquiry into the basis for advertising claims before making any such endorsements in the future.

D. **Market-Incentive Rules.** The Commission is mindful that it should advance the marketplace cure which involves the least disruptive intervention by government necessary to protect the public interest, and that it should take full advantage of whatever incentives lie within the market to remedy a problem. Thus, in 1978 the Commission promulgated final rules only where market failures or abuses were industy-wide, and only in the simplest, least burdensome, and most market-oriented fashion.

- Eyeglasses. The Commission's rule, lifting restrictions on price advertising of eyeglasses and contact lenses and requiring eye examiners to give consumers a copy of their prescriptions,

helps assure that consumers can comparison shop for low-cost eyeglasses.

- Vocational schools. The Commission required vocational schools to refund pro rata portions of tuition to students who drop out, to disclose the school's records of drop-out and, where it has made jobs or earnings claims, to disclose records of job placement. This rule enables students to make informed comparisons among vocational schools. The refund provision gives an incentive to the schools to provide quality services.

In several instances the Commission decided that rulemaking was unnecessary, although there was some evidence of a consumer problem. Strategies other than rulemaking were thought to be able to achieve appropriate objectives at a lower cost and with less disruption of the market. For example, the Commission:

- declined to begin at this time its own rulemaking concerning the travel industry, and instead supported the CAB's rulemaking dealing with abuses of package tour charter plans;
- decided not to propose a rule requiring labeling of houseplants for toxicity, opting instead for a consumer and industry education effort;
- closed a rulemaking proceeding involving anticompetitive restrictions on advertising of prescription drugs after a Supreme Court ruling struck down such restrictions.

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## EFFECTIVENESS

The FTC's effectiveness is demonstrated by both the direct dollar savings its actions have brought consumers and by reported indirect effects on the marketplace.

A. **Direct savings.** While precise savings are difficult to determine, some estimates of economic impact are available. For example:

- Eyeglasses. Consumers pay $4 billion a year for eyeglasses and eye examinations. In states where advertising was restricted, prices ranged 25 to 40 percent higher than where advertising was permitted. Thus the FTC rule lifting restrictions on price advertising could save consumers as much as $500 million a year.
- Formica. The FTC recently petitioned for cancellation of the Formica trademark on the grounds that the trademark has become generic. It is estimated that cancellation could save consumers over 35 million.
- Jeans. The day the FTC sued Levi Strauss for allegedly fixing the retail price of its blue jeans, Levi's were selling from $15 to $17. Today, with vigorous price competition, the price ranges from $10 to $14. The Commission's staff calculates that this development can save consumers $50 million annually.
- Audio equipment. It is estimated that FTC orders barring resale price maintenance in audio equipment have saved consumers $15 million a year.
- Redress. Various companies were required by Commission order to pay out a total of over $10 million to redress consumer losses resulting from unfair or deceptive practices.

B. **Indirect effects.** Often times preliminary actions taken by the Commission, such as the initiation of investigations, the issuance of policy statements, and the commencement of rulemaking and adjudicative proceedings, prompt voluntary responses by concerned parties. Such voluntary action, taken without the compulsion of a final order or rule, may have far-ranging therapeutic effects in the marketplace. Following are some examples that observers have cited, although it should be cautioned that in the underlying Commission action mentioned, no final determinations have been made by the Commission as to what the proper disposition should be:

- The Philadelphia Inquirer reports that Commission concern about the possible anticompetitive implications of physician dominance of Blue Shield plans helped prompt the Pennsylvania Medical Society to drop its opposition to proposed state legislation requiring non-physician control of such plans.
- The Washington Post reports that "the ABC television network is cutting back 20 percent of the advertising aimed at children. The move is an obvious response to an [FTC staff] proposal to ban or limit television advertising aimed at children."
- Immediately after the Commission announced an investigation of alleged "redlining" by auto insurance companies in East Los Angeles, the nation's largest auto insurance company reduced its insurance rates 37% in the area; one month later another major firm reduced its rates 36% in the area.
- Soon after the Commission announced it would be looking carefully at "R" value (insulating ability) claims for home insulation products and at safety disclosures on home insulation, a major manufacturer reportedly reduced its claimed "R" value from 7.0 to 3.8, and the entire mineral wool insulation industry agreed to voluntary health hazard disclosures on its packages.
- After the Commission announced its investigation into restrictions on advertising of veterinary goods and services, the American Veterinary Medical Association substantially relaxed its strictures against advertising and advised state veterinary licensing boards to liberalize their advertising regulations.

- Shortly after the Commission announced its industry-wide investigation of down-filled products, a $700 million a year retail chain voluntarily ran a newspaper ad acknowledging that its garments were not 100% down-filled as previously advertised.
- Corporate Financing Week reports that the recent FTC complaint "seeking to force Grand Union Corp. to divest itself of Colonial Stores, Inc. may cool off the pace of acquisitions in general, according to investment bankers, corporate officers and securities lawyers .... [K]nowledgeable sources say in many instances corporations will be more cautious in proceeding with acquisitions for fear of regulatory objection and that targets of unfriendly takeovers are likely to use the complaint to bolster their defenses." (November 1978.)
- The Washington Post reports that "[Under] threat of possible legal action from the Federal Trade Commission, the Ford Motor Co. announced that it would voluntarily contact the owners of some 1.8 million cars and inform them that they have prematurely worn engine parts. In addition, Ford said that the parts in question would be replaced at the company's expense if found to be worn."

C. **Other measures of effectiveness.** Beyond such case-by-case evidence of effectiveness, the Commission has undertaken a major effort to evaluate systematically the economic effects of its activities. Information is now being gathered on the impact of the Commission's rules on the availability of advertised specials and eyeglass advertising. Data are being collected before possible issuance of proposed rules on over-the-counter drug advertising, warranties, and used cars.

In FY 78, the Commission spent $526,000 to study the impact of other proposed rules or enforcement efforts, including those governing corrective advertising, energy efficiency labeling, insurance cost disclosure, and funerals. Results of all these studies should be available within the year.

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## SIMPLIFYING, SPEEDING AND IMPROVING THE ADMINISTRATIVE PROCESS

The FTC seeks to make its administrative process more efficient and less burdensome, without sacrificing fairness, openness, or accuracy. The Commission also attempts to maximize coordination with other government entities. In 1978 we took major steps toward improving our administrative process:

A. **Eliminating unnecessary regulations.** The Commission completed its review of 152 pre-Magnuson-Moss Trade Practice Rules (each affecting a major manufacturing or retailing industry) and eliminated all but 7; the remainder were simplified.

B. **Cutting down on reporting requirements.** The Commission eliminated 3,100 smaller firms from the sample used to compile the Quarterly Financial Report and it consolidated financial reports of 600 firms so that they no longer must report the same data separately to both the FTC and the SEC.

C. **Speeding up the rulemaking process.** Through expedited procedures, hearings on the proposed "R" value insulation disclosure rule were completed within four months of its proposal, compared to a previous average of 18 months. Hearings on the proposed Children's Advertising Rule will confine cross-examination to particular issues remaining in dispute after the legislative phase of the hearing is complete, thus streamlining that proceeding.

D. **Speeding up administrative litigation.** The Commission issued revised discovery rules, giving administrative law judges more control over ongoing litigation and imposing disincentives to delay by parties. It also established a working group which prepared recommendations for simplifying and speeding complex litigation.

E. **Avoiding the "revolving door".** The Commission proposed changes to tighten and clarify its clearance rules governing practices before the agency by former employees. It also sought comment on a one-year flat ban on contacts with the agency by former Commissioners and senior staff.

F. **Ensuring public participation.** Under the statutory authority granted by the Magnuson-Moss Act, the Commission attempted to ensure that all views could be presented at its rulemaking proceedings by providing funding to many organizations which might otherwise have been unable to participate. The recipients included small businesses affected by proposed rules.

G. **Coordinating with sister agencies.** The FTC began monthly meetings with the Antitrust Division of the Department of Justice to ensure coordination of competition investigations. In addition, a working group was created to coordinate health and nutrition initiatives, with membership representing the Food and Drug Administration, the Department of Agriculture, and HEW's Assistant Secretary for Health, as well as FTC staff. There are many other examples of interagency coordination.

H. **Coordinating with the states.** The Commission authorized bureau and regional directors to refer consumer complaints directly to state agencies; established, in cooperation with the State of Colorado and the Justice Department's Antitrust Division, an antitrust "hotline" in Denver to receive complaints; and worked closely with the National Association of Insurance Commissioners in the "Medigap" area.

I. **Announcing upcoming rules and reports.** In July 1978, the Commission was the first federal agency to publish in the Federal Register its semi-annual agenda of activities for the following six months.

J. **Improving readability of rules.** The FTC continued its program of reviewing proposed rules to ensure that they are understandable to the public.

## FTC MANAGEMENT IMPROVEMENTS

During FY 78, the Federal Trade Commission significantly improved its internal management effectiveness.

A. **Stronger Policy Planning.** The Office of Policy Planning has been strengthened and its role in planning the efficient use of the Commission's resources has been clarified. The Bureaus of Consumer Protection and Competition have also formed planning units. Staff task forces have been used to develop coordinated approaches to key problem areas and to promote effective resources use. In addition, the Commission has held monthly policy planning sessions in key areas of Commission concern to provide guidance to staff.

B. **Cooperation within the agency.** Cooperation between various Commission units has been improved as a result of the work of staff task forces and the recruitment of outstanding managers. The regional offices, in particular, have been more fully integrated into the activities of the Commission, and have been given responsibilities for important initiatives.

C. **Audits.** A comprehensive management audit process was begun and audits of six operating units were conducted to evaluate the effectiveness of resource use and productivity. These audits have helped establish performance standards for managers, provided essential feedback to managers, and increased accountability. They have resulted in the establishment of new work control processes and organizational restructuring.

## INJUNCTIONS

### Consumer Protection Mission

1. ATI Manufacturing Inc., and ATI Northwest Inc., manufacturers and installers of cellulose insulation, agreed to a permanent injunction requiring them to establish a quality control system to ensure that their insulation meets federal flammability standards, to test installed insulation to ensure that the products meet the flammability standards, and to remove and replace cellulose insulation that does not meet these standards.
2. Kettle Moraine Electric, Inc. The Commission obtained an injunction requiring that flammability tests be conducted on the company's insulation products and that previously installed insulation be replaced if it is found hazardous.
3. Las Animas Ranch, Inc. The Commission was successful in obtaining an injunction barring assignment of consumer contracts and precluding forfeiture of defaulting consumers' investments pending the resolution of the Commission's suit for consumer redress. The firm was the subject of a 1977 Commission order halting allegedly deceptive land sales activities in Colorado.
4. Karr Preventive Medical Products, Inc. The Commission obtained an injunction prohibiting deceptive advertising claims about the performance of an acne prevention product.

**Competition Mission**

1. Beatrice Foods Co. The Commission was unsuccessful in seeking a preliminary injunction to block the acquisition of Tropicana Products. The Commission issued an administrative complaint alleging that the acquisition is anticompetitive.
2. Rhinechem Corp. The Commission obtained a preliminary injunction preventing Rhinechem from acquiring the pigments division of Chemetron Corp.

## FINAL LITIGATED ORDERS

### Consumer Protection Mission

1. Trans World Accounts, Inc. Ordered to stop using unfair and deceptive debt collection practices. For example, the company was ordered to stop using envelopes and forms (marked "TELEGRAM") that mislead recipients as to their nature, import and urgency.
2. Grolier, Inc., a publisher and distributor of encyclopedias and other reference works. Ordered to stop using unfair and
deceptive practices in recruiting personnel, in selling its products and services, and in collecting debts. The company was also ordered to take certain affirmative actions, including affirmative disclosure that the purpose of the salesperson's visit is to sell encyclopedias (or other applicable products).
3. Verrazzano Trading Corporation. Ordered to stop misrepresenting the fiber content of wool and other textile fiber products, and to post a bond with the Treasury Department for double the amount of future imports. The bond will be forfeited in the event of further violations of the Wool Products Labeling Act or the Textile Fiber Products Identification Act.
4. Capax, Inc., a New Jersey debt collection agency. Ordered to stop using unfair and deceptive tactics in the collection of alleged delinquent debts.
5. Jay Norris Corp., a mail-order seller of a wide range of generally low cost consumer products. Ordered to make refunds and deliveries within the time claimed in advertising or in accordance with the FTC's Mail Order Merchandise Rule, and to have full and complete substantiation before making a safety or performance claim for any product.
6. U.S. Life Credit Corp., a loan company operating in 20 states. Ordered to make clear to borrowers that credit insurance on loans is optional and not mandatory. The failure to make such disclosures is a violation of the Truth-in-Lending Act.

7. Gold Bullion International Ltd. Ordered to stop distributing imitation numismatic items not marked with the word "COPY," as required by the Hobby Protection Act.
8. Porter and Dietsch. Ordered to disclose in its advertising for X-11 diet pills that a highly restricted diet is part of its weight loss plan.
9. Emdeko International, Inc., and National Housewares. Ordered to stop using "package" sales technique in which customers are brought to the sales office by being told that their opinions are being polled and that they are eligible for a free gift. The Commission ordered the company to disclose to consumers that the purpose of telephone contacts is to solicit sales, and to allow a cooling-off period in its sales program.
10. Block Drug Company, Inc. Ordered to stop making false and unsubstantiated performance claims for its denture products.
11. Warner-Lambert Company. As a result of the Supreme Court's ruling that let stand the 1975 order against this company, it began a $10 million corrective ad campaign during the fall of 1978. The corrective advertisements must tell consumers that the mouthwash Listerine offers no protection or relief from colds or sore throats.

**Competition Mission**

1. Coca-Cola Company. Ordered to end exclusive to territorial franchises for soft drink distribution.
2. Pepsico, Inc. Ordered to end exclusive territorial franchises for soft drink distribution.
3. Fruehauf Corp. The Commission found that Fruehauf's acquisition of Kelsey-Hayes Co. resulted in injury to competition in the markets for heavy wheels, heavy duty anti-skid braking devices, and truck trailers, and ordered Fruehauf to divest most assets of Kelsey-Hayes.
4. Perpetual Federal Savings and Loan Association. Ordered to end interlocking directorates between competing banks and savings and loan associations.

5. Reichhold Chemicals, Inc. Ordered to divest unlawful acquisition in the fiberglass-reinforced plastic panel industry.
6. Jim Walter Corporation. Ordered to divest unlawful acquisition in the asphalt and tar roofing industry.
7. Boise Cascade Corp. Ordered to end anticompetitive pricing practices in the plywood industry.
8. Retail Credit Corp. Ordered to divest several local credit reporting firms, with which it had competed prior to the acquisition.

## PART II (Investigative Stage) CONSENT ORDERS ISSUED IN FINAL FORM

### Consumer Protection Mission

1. Frankart Distributors, Inc., et al. Ordered to stop violating the FTC's guide for the household furniture industry.
2. Dayco Corporation. Ordered to stop using deceptive means to market safety equipment.
3. East Providence Credit Union. Ordered to stop violating the Truth-in-Lending Act.
4. Zayre Corporation. Ordered to have advertised items readily available at or below the advertised prices.
5. City Stores Co. Ordered to stop imposing unauthorized collection fees and to refund such fees received since February 4, 1974.
6. Provident Credit Corp. of Pennsylvania. violating the Truth-in-Lending Act.
7. Food Fair Stores, Inc. Ordered to have readily available at or below advertised prices.
8. Shop Rite Foods, Inc. Ordered to have readily available at or below advertised prices.
9. Security Pacific Mortgage Corp. Ordered the Truth-in-Lending Act.
10. Ferrara imports, Ltd. Ordered to stop misbranding its wool products.
11. Insilco Corporation. Prohibited from misrepresenting the ease with which its pre-cut, build-it-yourself houses can be constructed. The order requires the company to inform purchasers that they may need the help of persons experienced in the building trade and that some localities require licensed tradesmen to perform certain home building work. Insilco was also ordered to provide each purchaser with a three-day period in which to

cancel the transaction, and to comply with the Truth-in-Lending Act.
12. Firestone Photographs, Inc. Ordered to disclose material facts about its photographic franchises, to cease misrepresenting earnings claims, and to provide a 10-day cooling-off period for a franchisee to cancel the contract.
13. Hiken Furniture Company. Ordered to stop using unfair and deceptive sales and collection practices, and to cease violating the Truth-in-Lending Act.
14. Mego International, Inc., et al. Prohibited in any advertisement from showing children using electric hairdryers or other electrical personal grooming appliances without the close and watchful supervision of an adult.
15. Charles E. "Pat" Boone, and Cooga Mooga, Inc. For the first time in the FTC's history, a product endorser agreed to be personally accountable for representations made in advertising. The FTC accepted a consent settlement agreement with "Pat" Boone and Cooga Mooga, Inc., requiring them to pay part of any restitution that may be ordered.
16. American Service Bureau. Ordered to stop violating the Fair Credit Reporting Act. The complaint that led to the consent agreement alleged that the company was requiring individuals seeking to correct their credit record to divulge additional information about themselves.
17. Public Service Company of Colorado. This consent order, the first involving a utility company under the Truth-in-Lending Act, requires the inclusion of all required credit terms in advertisements of non-utility products and services.
18. Australian Land Title, Ltd., et al. The consent agreement provides at least $7 million in redress for consumers who purchased shares in Australian land, requires respondents to stop collecting contract payments, and to resell the land and distribute the proceeds to eligible consumers.
19. Grand Spaulding Dodge, Inc. Ordered to furnish Spanish speaking customers with Spanish language translations of financing documents.

20. Townsman-Cenco International, Ltd. Prohibited from misrepresenting the fiber content of its products.

**Competition Mission**

1. Public Relations Society of America, Inc. Prohibited from interfering, through its code of professional ethics, in members' use of contingent fee arrangements or solicitation of other members' clients.
2. Minnesota State Medical Association. Prohibited from publishing "relative value scales" for use in setting fees for professional services. (Relative value scales set out fixed ratios among fees for various services.)
3. Damon Corp. Prohibited further acquisitions and payments to physicians to obtain medical laboratory testing business.
4. Performance Sailcraft, Inc. Prohibited from maintaining resale prices on sales of pleasure craft, and from imposing territorial restrictions on its dealers.
5. Interco, Inc. Prohibited from, among other things, maintaining retail prices of independent dealers of Florsheim Shoes, London Fog outer-wear and other clothing.
6. John Hancock Mutual Life Insurance Company.
7. New England Mutual Life Insurance Company of America.
8. Liberty Mutual Insurance Company.
9. State Mutual Life Insurance Company. Orders would bar interlocking directorates between competing insurance companies.

## PART II (Investigative Stage) CONSENT ORDERS ACCEPTED AND PUBLISHED FOR COMMENT

### Consumer Protection Mission

1. Norris Industries. The order would require the manufacturer of Waste King dishwashers to have a reasonable basis for making performance claims for any major home product.
2. Bede Aircraft, Inc. The consent order would require the company to place itself under the control of a trustee to serve the two-fold purpose of protecting consumers as well as preserving the options for the continued viability of this small business. The Commission's order may ultimately bring consumer redress valued at about $9 million.
3. Nursery Barn et al. The consent order would require the operators of this mail-order nursery business to make refunds to customers whose purchases since July 1, 1975 died or were not received.
4. Nelson Brothers Furniture Corporation. The order would prohibit the company from using false pricing and savings claims in selling furniture, and would require that customers be given the option to submit to arbitration, at no cost, any unresolved dispute over the quality, condition or failure to replace or make refunds
for damaged or defective merchandise.
5. Art Instruction School. The order would require partial tuition refunds.
6. Kaufman and Broad. This consent agreement, with one of the nation's largest home building firms, would require the company to repair major construction defects in houses it build since 1972.
7. General Mills Fun Group. One of the nation's largest toymakers would be required to stop using any film or camera technique that misrepresents to children a toy's size, appearance or performance.
8. The Hertz Corporation. The nation's largest car-rental company would be required to notify customers of credit balances and to refund unclaimed money automatically after seven months.

9. Aldens, Inc. The order would require Aldens to contact all waitresses who were denied credit from October 28, 1975 until March 22, 1977 and invite them to reapply, and to consider the new applications without regard to sex. The consent agreement which the firm signed is the first accepted by the Commission under the Equal Credit Opportunity Act.

10. Kelcor Corp. The agreement would require the company to stop violating the Truth-in-Lending Act, and to tell borrowers that credit insurance may result in interest charged at higher annual percentage rates.

11. S. Klein, Inc. The Commission accepted a consent order which would require the firm to make refunds to all layaway customers who had contracts unfairly canceled from August 1, 1976 to the date the order becomes final. The proposed complaint alleges that the layaway contracts contain a provision that unfairly requires layaway customers who are unable to continue payments on their layaway purchases to forfeit all payments they previously made.

12. Credit Bureau Associates. The consent agreement would require the company to stop violating the Fair Credit Reporting Act, to promptly reinvestigate disputed information in consumer reports, and to notify the consumer of the results.

13. Moore and Associates. The order would require that the company comply with the Fair Credit Reporting Act by preventing the improper use of obsolete information. Through this accepted consent agreement, the FTC warned the growing check guarantee and rent guarantee industry that it believes the information the industry gives subscribers must comply with the Fair Credit Reporting Act.

14. Corning Glass Works and Owens-Illinois, Inc. The consent orders would require these two manufacturers of disposable glass culture tubes to make refunds to certain end-use purchasers as compensation for short count packages they may have bought in the past.

15. Marathon Oil Company. This consent order would prohibit retail credit collection lawsuits in counties other than where the

defendant currently resides or resided at the time the credit contract was signed.
16. National Indemnity Company. This consent older would prohibit the company from violating the Fair Credit Reporting Act's prenotification requirement when it seeks an investigative consumer report on insurance applicants.

**Competition Mission**

1. California Medical Association. Prohibited from publishing relative value scales for use in setting fees for professional services. (Relative value scales set out fixed ratios among fees for various services.)
2. American Society of Anesthesiologists. Barred from prohibiting its members from accepting salaried, rather than fee-for-service, employment.
3. Louisiana Pacific Corporation. Required to divest an acquired plant that manufactures medium density fiberboard.
4. National Fire Hose. Prohibited from imposing territorial and customer restrictions on distributors of fire hose.
5. New Jersey Pest Control Association. Prohibited from engaging in alleged practices of barring membership to discounters and conspiring to maintain a minimum price floor.
6. Zayre Corporation. Prohibited from requiring its suppliers to participate in trade shows and from soliciting preferential advertising and promotional allowances.
7. Lockheed Aircraft Corporation.
8. Boeing.
9. McDonnell-Douglas. Prohibited from giving preferential payments to foreign parties to secure aircraft sales.
10. Advertising Checking Bureau, Inc. Barred from using cooperative advertising programs that tend to discourage discounting.
11. International Brotherhood of Teamsters, Local 959. An Alaska labor union agreed not to engage in agreements that require general contractors to boycott non-union subcontractors.

TEXT MISSING FROM ORIGINAL

## PART III (Litigation Stage) CONSENT AGREEMENTS

### Consumer Protection Mission

1. Jetma Technical Institute, et al. Ordered to stop using deceptive sales tactics.
2. Gateway Overseas, Inc., et al. Ordered to stop representing the nature and effectiveness of employment services programs.
3. Fisher Foods. Ordered to have advertised items available at or below the advertised prices.
4. The Kroger Company. Ordered to have advertised items readily available at or below the advertised prices.
5. Safeway Stores, Inc. Ordered to sell advertised items at or below the advertised prices.
6. Driver Training Institute, Inc. This truck and tractor trailer driver training school was ordered to establish a restitution fund of $50,000 to make pro-rata refunds to eligible former students, and to allow all enrollees a 7-day cooling-off period to cancel their contracts.
7. Capital Builders, Inc. Home improvement firm ordered to provide credit customers whose homes are taken as security, proper notice concerning their right to rescind under the Truth-in-Lending Act. Additionally, the firm was ordered to make other required credit cost disclosures as well as to make refunds to certain customers and to notify those customers of their eligibility for such refunds.
8. United Builders, Inc. Home improvement firm ordered to provide credit customers whose homes are taken as security, proper notice concerning their right to rescind under the Truth-in-Lending Act, to make other required credit cost disclosures, to make refunds to certain customers, and to notify those customers of their eligibility for such refunds.
9. Royal Furniture Company, Inc. The consent order would require this furniture retailer to provide appropriate Truth-in-Lending disclosures in consumer credit transactions, to stop using harassing debt collection practices, and to establish a procedure

for handling consumer complaints regarding defective or damaged merchandise.
10. Coventry Builders, Inc. This consent order would prohibit this home improvement company from failing to provide credit cost disclosures required by the Truth-in-Lending Act.
11. Vital-E, also known as Mail Order Services. This firm would be required to stop making false claims about its vitamin products and weight loss devices, to disclose any health or cosmetic risks their products pose, and to offer full refunds to purchasers of such products.
12. Grey Advertising, Inc. The order would bar the agency from making false and unsubstantiated advertising claims for dental products.

**Competition Mission**

1. Standard Oil Company of Ohio. Prohibited from using short-term dealer lease contracts that could induce compliance with requirements of sales of designated merchandise.
2. Levi Strauss. Prohibited from setting suggested resale prices and from terminating dealers who discount.
3. Harnischfeger Corporation. A consent agreement was accepted by which Harnischfeger terminated a merger agreement that would have combined manufacturers of lattice boom cranes.
4. Harper Sales, Inc.
5. McLeod Mobile Homes
6. Mobile Homes Multiplex Corp. Prohibited from conditioning the rental of space in mobile home parks on the purchase of a home from the park's operator.

COMPLAINTS ISSUED IN FISCAL YEAR 1978

**Consumer Protection Mission**

1. Sears, Roebuck and Company. The complaint alleges that Sears has made deceptive and unsubstantiated claims for the cleaning performance of its Lady Kenmore dishwashers. The complaint alleges the advertising misrepresents that the dishwasher will completely remove, without prior rinsing or scraping, all residue and film from all dishes and pots and pans used in normal cooking and baking, and that the "Sani-Wash" cycle destroys all harmful bacteria on the dishes. The complaint also alleges that the firm has no reasonable basis for these claims.
2. Karr Preventive Medical Products, Inc. The FTC used its injunctive and administrative complaint powers to challenge alleged unfair or deceptive practices used in marketing an acne preparation sold through the mail for nearly $10 a bottle.
3. Ford Motor Company. The FTC issued a complaint alleging that Ford sold consumers automobiles with defects (including "piston scuffing") without disclosing to prospective buyers or current owners the existence of the defect or the existence of Ford's compensation programs. Failure to disclose such information, the complaint alleges, may cause consumers substantial economic harm due to their inability to avoid or prevent substantial damage to the engine of their vehicles.
4. Universal Training Service, Inc., et al. The complaint alleges the schools exaggerated to prospective students the job opportunities that would be available at the end of the courses. The complaint also alleges that the schools failed to disclose important facts such as the percentage of graduates who found jobs in the positions for which they were trained and the starting salary for those who did find jobs. The notice of contemplated relief accompanying the complaint advises that if the facts are found to be as alleged in the complaint, the Commission may seek restitution or refunds to redress injury to customers.

5. MacMillan, Inc., and its subsidiary LaSalle Extension University. The complaint alleges that the correspondence school and its parent deceptively claim that its students won't need further training, can expect "high wages or salaries," and that there is a substantial demand in job markets for its graduates. The Commission also served notice that if the administrative trial confirms the charges it may seek tuition refunds for those students who enrolled.
6. George's Radio and Television Company, Inc. The complaint alleges violations of the Magnuson-Moss Warranty Act and Rules promulgated under the Act. The complaint alleges that the company failed to clearly title its warranties as "full" or "limited," and failed to make warranties available prior to sale.
7. Montgomery Ward and Co., Inc. The complaint alleges that Wards has failed to make the terms of written warranties available to consumers prior to sale, as required by the Magnuson-Moss Warranty Act and the Commission rule concerning Pre-Sale
Availability of warranties.
8. Household Finance Corporation. The complaint alleges that the company has violated the Truth-in-Lending Act by entering into new loan agreements with bankrupt consumers which reaffirm debts that have been eliminated in bankruptcy proceedings. The Commission served notice that if the facts alleged in the complaint are found to be true it may seek restitution for all consumers injured by the company's practices.

**Competition Mission**

1. Beatrice Foods Company, et al. The complaint alleges anticompetitive consequences of Beatrice Foods' acquisition of Tropicana Products.
2. Ford Motor Company.
3. General Motors Corporation. The complaints allege that Ford and General Motors have given unlawful advertising allowances to major car and truck rental firms.
4. E. I. du Pont de Nemours and Co. The complaint alleges that du Pont has attempted to monopolize the titanium dioxide in-

dustry. Titanium dioxide is a pigment used to whiten paints, paper and other products.
5. Rhinechem Corp. The complaint alleges that the firm's proposed acquisition of the Pigments Division of Chemetron Corp. would substantially lessen competition in the manufacture and sale of organic pigments used in a wide variety of products.

TEXT MISSING FROM ORIGINAL

CIVIL PENALTY ACTIONS

**Consumer Protection Mission**

1. STP Corporation. In the largest false advertisement settlement on record, STP Corporation paid a half million dollar civil penalty and agreed to spend another $200,000 publishing notices in newspapers retracting previous claims that its oil treatment reduced oil consumption by up to 20 percent.
2. Merck and Company, Inc. The company agreed to a $100,000 settlement of a civil penalty action alleging violations of a 1966 FTC order prohibiting certain effectiveness claims for "Sucrets" throat lozenges.
3. Bridgestone Tire Company of America. $100,000 civil penalty settlement of a suit alleging violations of an FTC order prohibiting the company from making unsubstantiated claims for tires.
4. Hasbro Industries, Inc. $40,000 civil penalty settlement of a complaint alleging false and deceptive advertising of toys. The civil penalty complaint and consent judgment were based on Section 205 of the Federal Trade Commission Improvements Act.
5. Verlan Industries, Inc. The company entered into a consent judgment providing a $25,000 civil penalty for violation of the FTC's negative option rule, a permanent injunction prohibiting future violations of the rule, and a requirement that it must make certain disclosures to members of its book club.
6. Westinghouse Security Systems, Inc. A $10,000 civil penalty settled a suit charging the firm with violating the FTC's Door-to-Door Sales Rule. The rule requires door-to-door sellers to provide consumers with a three-day period in which they may elect to cancel their transaction without penalty of fee.
7. American Bridal Consultants. In this case the FTC served notice that its trade regulation rule for imposing a cooling-off period on door-to-door sales covers sales not only in the home, but in temporarily rented restaurant and motel rooms as well. The firm agreed (1) to pay a $3,000 civil penalty; (2) to be permanently enjoined from violating the rule in the future; and (3) to offer a

cancellation opportunity with full refunds to customers who had canceled or attempted to cancel their contracts in the past. The FTC staff estimates the potential restitution at $13,000.

8. Four States Builders and Remodelers, Inc. A $10,000 civil penalty settlement for alleged violations of a 1972 FTC order prohibiting certain sales practices in the selling or offering for sale of home remodeling products.

9. Book-of-the-Month Club, a subsidiary of Time, Inc. An $85,000 civil penalty in settlement of allegation that the firm violated the Negative Option Trade Regulation Rule by failing to tell new customers that they would be charged a shipping and handling charge for books mailed by the club. The company also agreed to rescind minimum purchase obligations for members who joined its book clubs in response to the challenged ads. These members will be notified by the company.

10. Federated Department Stores. A penalty of $50,000 was paid for alleged violations by Federated's subsidiary Bloomingdale's of the Equal Credit Opportunity Act, principally involving alleged failure to give credit for alimony income in evaluating the creditworthiness of women seeking charge accounts.

11. Auslander Decorator Furniture, Inc. The suit obtained a $50,000 civil penalty for violations of an order prohibiting the company from receiving money from customers for furniture that was never delivered, and for failing to refund within five business days of the agreed delivery dates all monies paid by those customers. The suit also established a $60,000 escrow fund for making cash refunds to past customers who had paid for undelivered merchandise.

12. City Sewing Machine Co. This mail-order marketer paid a $15,000 civil penalty in settlement of an action alleging violations of the FTC Trade Regulation Rule concerning Mail Order Merchandise.

13. Seligman and Associates, Inc. A $15,000 civil penalty settlement involving alleged Truth-in-Lending violations.

**Competition Mission**

1. ARA Services, Inc. The suit alleges that ARA, a wholesale distributor of periodicals and paperback books, made, acquisitions of four wholesale distributors of books and periodicals in violation of an FTC order requiring advance FTC approval of such acquisitions.
2. Phelps Dodge Industries, Inc. The suit alleges violations of an FTC order barring respondents from agreeing, combining, or conspiring to fix prices, or from engaging in related practices, in connection with the sale of impregnated paper cable and other products.

TEXT MISSING FROM ORIGINAL

**Consumer Protection Mission**

1. Howard Enterprises, Inc. The Administrative Law Judge dismissed a complaint alleging violations of the Fair Credit Reporting Act by concluding that the FTC does not have jurisdiction in the matter. The complaint alleged that the company compiles and distributes credit information subject to the Fair Credit Reporting Act, containing names of consumers who have issued checks returned because of insufficient funds.
2. Equifax, Inc. The Administrative Law Judge ruled that this company violated the Fair Credit Reporting Act in collecting and reporting information about consumers. Among other items, the ALJ found that the company failed to reinvestigate disputed information and furnished reports to persons who were not authorized to receive them. The company maintains files containing information on over 45 million persons.
3. American Home Products Corp. The Administrative Law Judge ruled that the manufacturer of Anacin and Arthritis Pain Formula should be required to inform consumers through advertising that "Anacin is not a tension reliever." He also found false the claim that Arthritis Pain Formula will cause gastric discomfort less frequently than any other non-prescription analgesic, and ordered the company to stop making false, misleading and unsubstantiated claims for non-prescription drug products.

**Competition Mission**

1. Pillsbury Company. The Administrative Law Judge dismissed a complaint alleging that Pillsbury had made an anticompetitive acquisition in the market for frozen pizza pies. The Judge ruled that the acquisition did not and probably will not have anti-competitive effects.
2. Coca-Cola of New York. The Administrative Law Judge dismissed a complaint alleging that Coca-Cola of New York

unlawfully acquired a competing wine manufacturer. The Judge ruled that the acquisition was not anti-competitive.

3. SKF Industries. The Administrative Law Judge ruled that a joint venture between SKF and Federal Mogul Corporation resulted in a conspiratorial scheme to allocate markets in the tapered roller bearing industry. The Judge ordered that the joint venture be terminated.

4. Amway Corp. The Administrative Law Judge ruled that Amway, a seller of various household and consumer products, fixed the resale prices charged by its 300,000 independent distributors. The Judge ordered Amway to cease fixing resale prices.

5. TRW Inc., and Horace A. Shepard. The Administrative Law Judge found TRW and Shepard had violated Section 8 of the Clayton Act and Section 5 of the FTC Act because of Shepard's simultaneous membership on the Boards of Directors of TRW and Addressograph-Multigraph. (Addressograph-Multigraph entered into a consent agreement in this matter in 1977.) The Judge ruled that a cease and desist order should issue to prohibit Shepard from simultaneously serving on boards of competing firms. However, the Judge ruled that an order against TRW was not warranted.

## FISCAL 1978 APPELLATE COURT DECISIONS

1. National Commission on Egg Nutrition, et al. Petition to review final order. On November 29, 1977, the Court of Appeals for the Seventh Circuit upheld the Commission's decision that respondent engaged in deceptive advertising and, with the exception of one provision, affirmed and enforced the order. On January 23, 1978, the Court of Appeals for the Seventh Circuit issued a supplemental opinion granting the Commission's motion to amend judgment and enforcing the Commission's order in accordance with the Court's earlier opinion of November 29, 1977. On October 2, 1978, the Supreme Court denied the National Commission on Egg Nutrition's petition for a writ of certiorari.
2. SCM Corp. Petition for review of final order. On December 23, 1977, the Court of Appeals for the Second Circuit upheld the Commission's determination that the corporation violated Section 8 of the Clayton Act but remanded the case on the question of the need for issuance of an order with prospective effect.
3. Liggett & Myers, Inc. Petition to review divestiture order. On December 29, 1977, the Court of Appeals for the Fourth Circuit upheld the Commission's finding that the respondent's acquisition in the dog food industry violated Section 7 of the Clayton Act.
4. Warner-Lambert Co. Review of final Commission order. On April 4, 1978, the Supreme Court denied Warner-Lambert's petition for certiorari and the Commission's conditional cross-petition for certiorari, thus letting stand the decision of the Court of Appeals for the District of Columbia affirming and modifying the Commission's order requiring corrective advertising in future advertising of Listerine mouthwash.
5. Rubbermaid, Inc. Petition for review of final order. On May 4, 1978, the Court of Appeals for the Sixth Circuit upheld the Commission's decision that Rubbermaid had entered into unlawful price maintenance agreements with wholesalers, rejecting the company's argument that the agreements were exempt from the general antitrust laws under the fair trade provisions of

the McGuire Act. The court further rejected Rubbermaid's arguments that the case was moot in light of the repeal of the McGuire Act and the company's discontinuance of the products in question. The Commission's order was affirmed.

6. Ash Grove Cement Co. Petition for review of final order. On May 23, 1978, the Court of Appeals for the Ninth Circuit upheld the Commission's divestiture order based on a determination that the company's acquisition of two ready-mix concrete companies violated Section 7 of the Clayton Act. The court rejected arguments that there was insufficient evidence supporting the Commission's order and that the issues had been prejudged against Ash Grove in ultra vires non-adjudicative proceedings. On November 11, 1978, the Supreme Court denied Ash Grove's petition for a writ of certiorari.

7. Standard Oil of California. Petition on review of final orders. On July 3, 1978, the Court of Appeals for the Ninth Circuit upheld the Commission's determination that Standard Oil and its advertising agency had engaged in false and deceptive advertising of Standard Oil's gasoline additive known as F-310. The Court modified the orders however, holding them to be too broad.

8. Glenn W. Turner. Petition for review of final order. On July 7, 1978, the Court of Appeals for the District of Columbia Circuit affirmed without opinion the Commission's order to cease and desist.

9. In re FTC Line of Business Report Litigation and FTC Corporate Patterns Report Litigation. Enforcement of special orders. On July 10, 1978, the Court of Appeals for the District of Columbia Circuit affirmed the district court's enforcement of outstanding orders in these statistical survey programs (1974 Line of Business and 1972 Corporate Pattern Survey). On November 11, 1978, the Supreme Court denied petitions for writs of certiorari.

10. Simeon Management Corp. Petition to review final order. On July 18, 1978, the Court of Appeals for the Ninth Circuit upheld the Commission's order requiring Simeon to disclose, inter alia, lack of FDA approval of drugs used in weight-loss treatments.

## INDUSTRY-WIDE INVESTIGATIONS

### Consumer Protection Mission

1. Fair Debt Collection Practices Act. This investigation is examining whether companies are complying with the requirements of the new law. Among other things, the law prohibits debt collection agencies from making harassing or abusive phone calls to debtors and bans collection calls before 8 a.m. or after 9 p.m.
2. Fur Products Labeling Act. This Section 205 compliance investigation is of the retail sales of fur products, a $700 million industry. Firms found to be violating the Act by misbranding, deceptively invoicing or falsely advertising furs face civil penalties of up to $10,000 per violation.
3. Truth-in-Lending Act. The purpose of this investigation is to determine whether creditors are charging interest correctly, and are providing accurate credit cost information so that consumers may comparison-shop for credit.
4. Automobile Rustproofing Companies. This investigation examines warranties used by automobile rustproofing companies and the handling of claims under these warranties, to determine whether these companies are complying with the Magnuson-Moss Warranty Act.
5. Redlining by Auto Insurers. This investigation is studying the alleged problem of unfair discrimination against minorities through the use of geographic location as a factor in determining eligibility for auto insurance.
6. Home Insulation Industry. The purpose of this Section 205 investigation is to prevent companies from making false or misleading energy savings claims, and from failing to disclose fire or safety risks associated with the use of certain insulation products.
7. Down Filled Products. This Section 205 investigation of the $500 million a year down products industry is aimed at insuring that consumers who pay for the added warmth of down-filled

garments actually receive such a product. The problem of mislabeled down products has escalated with the surge of interest in winter sports and is aggravated by the limited supply of down. Companies found to be mislabeling their garments could be subject to civil penalties of up to $10,000 per violation.

**Competition Mission**

1. Insulation Industry. The investigation of competition in this rapidly expanding industry is designed to ensure a procompetitive environment.
2. Tuna Industry. The Los Angeles Regional Office is investigating possible restraints of trade.
3. Apparel Industry. The New York Regional Office is continuing an investigation of alleged resale price maintenance in the women's and children's apparel industry.
4. Health Insurance. An industry-wide investigation is under way involving the issue of physician control of Blue Shield health insurance plans.
5. Entry into the Medical Care Profession. The Bureau of Competition is investigating the American Medical Association for alleged restrictions on the entry into medical care by new physicians and allied health professionals.
6. Automobile Industry. An investigation is ongoing into the structure, conduct and performance of the U.S. automobile industry, the first such broad inquiry since the 1930's.
7. Dry Cell Batteries. The Commission's staff is investigating the possible monopolization of dry cell batteries.
8. Health Maintenance Organizations. An investigation is being conducted regarding potential restrictions on the development of Health Maintenance Organizations (HMOs), which are prepaid health insurance plans using a closed panel of participating physicians.
9. Insulation Industry. The staff focus is on whether key patented technology and manufacturing know-how were available to potential new entrants only on discriminatory or otherwise illegal terms, and whether there may be other barriers to entry of new competition.

10. Cement Industry. In 1978, the Bureau of Competition began an investigation of delivered pricing in the portland cement industry.
11. Bail Bonds. The Commission's Dallas Regional Office is investigating possible collusion in the bail bond industry.

TEXT MISSING FROM ORIGINAL

## ECONOMIC REPORTS

1. Market Shares, Concentration and Competition in Manufacturing Industries.

   A study of the impact of intra-industry distributions of market shares on industry price-cost margins, across U.S. manufacturing industries for the year 1972.

2. Farm Size and Regional Distribution of the Benefit under Federal Milk Market Regulation.

   A study of distribution, by geographic region and farm size class, of the price enhancement effects of milk marketing orders.

3. The United States Steel Industry and its International Rivals: Trends and Factors Determining International Competitiveness.

   An exhaustive comparative study of the internationally competitive positions of important national steel industries, and the factors responsible for the pattern of comparative advantage. Includes an analysis of alternative possible U.S. policies for dealing with import trade matters with regard to steel.

4. Competition in the Health Care Sector. Past, Present and Future.

   Proceedings of a conference conducted by the Bureau of Economics, June 12, 1977. Includes papers on competition in selected sectors, insurance and alternative delivery systems, and regulation.

5. Quarterly Financial Reports.

   Four Quarterly reports on aggregate financial statistics for U.S. corporations.

6. Annual Report on Mergers and Acquisitions.

   Statistical report on merger activity in the U.S. economy.

TEXT MISSING FROM ORIGINAL

## SUMMARY OF SELECTED STATEMENTS BY COMMISSION WITNESSES BEFORE CONGRESSIONAL COMMITTEES

1. H.R. 7616, H.R. 7617 and H.R. 6098, identical bills, "Competition Review Act of 1977."

SUBCOMMITTEE ON MONOPOLIES AND COMMERCIAL LAW OF THE HOUSE JUDICIARY COMMITTEE - DECEMBER 6, 1977 - MICHAEL PERTSCHUK, CHAIRMAN.

The FTC generally endorsed the purpose of these bills as supporting the government's enforcement activities.

2. Steel Imports Policy.

SUBCOMMITTEE ON TRADE OF THE HOUSE WAYS AND MEANS COMMITTEE - JANUARY 25,1978 - JAMES F. FOLSOM, ACTING DIRECTOR, BUREAU OF ECONOMICS.

Mr. Folsom discussed the findings of the Bureau of Economics study of the international steel industry, and their relevance to import trade policy.

3. The State of Competition in the American Economy.

SENATE COMMITTEE ON SMALL BUSINESS - JANUARY 25,1978 - MICHAEL PERTSCHUK, CHAIRMAN.

An understanding of the state of competition is dependent upon programs for information gathering and analysis. Chairman Pertschuk discussed the Commission's Line of Business and Quarterly Financial Reports.

4. White House Conference on Families.

SUBCOMMITTEE ON CHILD AND HUMAN DEVELOPMENT OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR - FEBRUARY 3, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The statement discussed the impact of advertising, particularly by television, on the health and well-being of the family, especially children. The statement emphasizes the Commission's role to restrain fraud, deception, and over-reaching in the marketplace by advertisers, and indicated that the Commission can require that advertising disclose hazards latent in such products as cigarettes, drugs, food or cosmetics.

5. Home Insulation Industry.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE - FEBRUARY 21, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The severe winters over the past few years, the fuel shortage, and the emphasis which has been placed on the need for insulation have created a shortage of proper insulation and the marketing of cellulose and foam insulation materials which are potentially hazardous. Accordingly, the Commission has conducted a non-public antitrust investigation of the insulation industry and has proposed a trade regulation rule to require uniform disclosure of the R value of insulation and to prevent misleading statements in advertising of the energy-saving potential of various insulation products. The Commission is also conducting an industry-wide investigation of exaggerated claims for energy saving, R value claims that are not substantiated, and the failure to disclose fire or other safety risks attributable to particular types of insulation.

6. Individual Retirement Accounts.

SUBCOMMITTEE ON OVERSIGHT OF THE HOUSE COMMITTEE ON WAYS AND MEANS - FEBRUARY 24, 1978 - ALBERT H. KRAMER, DIRECTOR, BUREAU OF CONSUMER PROTECTION. (Individual Views)

The popularity and usefulness of the Commission's two IRA buyer's guides, the Commission's industry-wide investigation of IRA purchasers' attitudes, and the marketing practices of institutions selling IRA's were noted. The regulations of the Internal Revenue Service were criticized because of their failure to describe in plain language the essential features of different IRA plans so as to permit the proposed buyer to comparison-shop among the many different kinds of plans.

7. FTC Appropriations.

SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE, JUDICIARY AND RELATED AGENCIES OF THE HOUSE COMMITTEE ON APPROPRIATIONS - MARCH 13, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The testimony covered the principal areas of the Commission's accomplishments in the past year.

8. Physician Control of Blue Shield.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE - MARCH 21, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The testimony concerned the extent to which physicians control Blue Shield plans and the implications of such control.

9. Auto Repairs.

SUBCOMMITTEE ON CONSUMER OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION - MARCH 22,1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The Chairman's testimony covered the special problems posed by automobile repairs in administering the warranty provisions of the Magnuson-Moss Act. A full-scale investigation of auto defect problems, Federal and state programs dealing with auto repairs, and comprehensive measures to deal with the problems on a national and state level were recommended.

10. Appropriations Hearings.

SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES OF THE SENATE COMMITTEE ON APPROPRIATIONS - APRIL 26, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The accomplishments of the Commission over the past year were discussed. The Commission's program for the following year will emphasize activities which will discourage inflation by concentrating on the elimination of monopoly profits, and by making available to consumers information which will enable them to shop more effectively.

11. S. 2640, "Civil Service Reform Act of 1978.

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS - MAY 4, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The Commission supports both the Reorganization Plan and S. 2640, because the Civil Service system should be revised to permit the recruiting and retention of competent employees and the removal of those who are not competent.

12. S. 2755, the "Drug Regulation Reform Act.

SUBCOMMITTEE ON HEALTH AND SCIENTIFIC RESEARCH OF THE SENATE COMMITTEE ON HUMAN RESOURCES - MAY 17, 1978 -

ALBERT H. KRAMER, DIRECTOR, BUREAU OF CONSUMER PROTECTION.

The Commission strongly supports the basic thrust of this bill as striking a reasonable balance between public protection and a strong drug industry, even though the Commission opposed certain of its provisions.

13. The Federal Regulation of Ratemaking in the Motor Carrier Industry.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY OF THE SENATE COMMITTEE ON THE JUDICIARY - MAY 22, 1978 - ALFRED F. DOUGHERTY, JR., DIRECTOR, BUREAU OF COMPETITION.

The Commission enthusiastically endorsed deregulation of the trucking industry, because the rate bureaus which have been sanctioned under the motor carrier laws which were enacted in 1935 are mechanisms for price-fixing and sanction cartels insulated from the forces of free competition.

14. H.R. 1611, the "Drug Regulation Reform Act of 1978.

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE - JUNE 24, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The Chairman indicated general support by the Commission for this legislation, which was sponsored by HEW. The need for better information-gathering and subpoena-enforcement authority was stressed, and strong opposition to the provisions limiting the present strict criminal liability of corporations and their officials for violations of the Food, Drug and Cosmetic Act was expressed.

15. Vertical Integration of Oil Companies.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY OF THE SENATE COMMITTEE ON THE JUDICIARY - JUNE 28, 1978 - ALFRED F. DOUGHERTY, JR., DIRECTOR, BUREAU OF COMPETITION. (Individual Views)

Most of the large oil companies have integrated horizontally into gas as well as oil. Because of their huge cash reserves they have been in a position recently to acquire large holdings of both coal and uranium as well. Based on these Considerations, it was recommended that a ceiling be placed on the amount of coal or uranium reserves that may be held by any single oil company.

16. Medigap: Private Health Insurance Supplements to Medicare.

SENATE SPECIAL COMMITTEE ON AGING - JUNE 29, 1978 - ELIZABETH H. DOLE, COMMISSIONER.

Medigap insurance is offered by insurance companies to cover medical costs not provided by Medicare. Abuses and difficulties associated with Medigap insurance are significant. It was suggested that a joint federal-state effort, with participation by the National Association of Insurance Commissioners, the FTC, and HEW, would be an appropriate approach to study this problem. The need for a model state regulation for Medigap insurance policies should be explored in such an evaluation.

17. Oil company ownership of pipelines.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY OF THE SENATE COMMITTEE ON THE JUDICIARY - JULY 10, 1978 - ALFRED F. DOUGHERTY, JR., DIRECTOR, BUREAU OF COMPETITION. (Individual Views)

Independent oil companies and refiners are dependent upon oil pipelines both to and from refineries. As the 20 major oil companies control most of the pipelines, control over the refineries and independents is almost complete. As the only effective solution, it was recommended that oil companies be divested of ownership of all pipelines so that no pipeline is under the control of an owner-shipper.

18. Small Business Activities of the FTC.

SUBCOMMITTEE ON ANTITRUST, CONSUMERS AND EMPLOYMENT OF THE HOUSE COMMITTEE ON SMALL BUSINESS - JULY 25,1978 - ALFRED F. DOUGHERTY, JR.. DIRECTOR, BUREAU OF COMPETITION. (Individual Views)

The Commission is most concerned over the growing economic concentration of business and the difficulty of small business survival. Its efforts to increase competition are aimed at the prevention of market domination by large firms and focus on the structure and conduct of dominant firms. Other initiatives in the interest of small business also will be emphasized.

19. Conglomerate Mergers.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY OF THE SENATE COMMITTEE ON THE JUDICIARY - JULY 27, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

Current merger laws will not reach many of the "pure" conglomerate mergers even though unrestrained conglomeration can result in the concentration of enormous economic, social and political power in the hands of a few corporate leaders. Several remedial legislative options were suggested, such as a rebuttable presumption that conglomerate mergers are anticompetitive, or the banning of mergers involving firms larger than a defined size in oligopolistic industries.

20. H.R 1963, the "Generic Drug Substitution Act.

SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE - JULY 27, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The prescription drug industry is an eight billion dollar industry, and hundreds of millions of dollars could be saved by using lower cost equivalent drugs. Most physicians lack information about drug prices, and drug companies publicize brand name drugs, some spending as much as one-fifth of their total sales on such promotion; doctors therefore tend to use the better known brands. Although pharmacists are qualified to make equivalent substitutes when filling generic prescriptions, they are prevented from doing so in some states by anti-substitution laws. At this point the Commission does not recommend the enactment of preemptive legislation because of growing state interest in the problem, and because of the cost and difficulty of enforcement.

21. Life Insurance Cost Disclosure.

SUBCOMMITTEE ON OVERSIGHT OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE - AUGUST 7,1978 - ALBERT H. KRAMER, DIRECTOR, BUREAU OF CONSUMER PROTECTION. (Individual Views)

The consumer problems caused by inadequate life insurance cost disclosure, and the key elements needed for a good disclosure system were described. The lack of knowledge of the consumer about life insurance, particularly the relative merits of whole life

and term policies, was discussed. The shortcomings of the model disclosure regulation of the National Association of Insurance Commissioners were analyzed, and a draft model prepared by the Commission staff was appended to the testimony.

22. Food Labeling and Advertising.

SUBCOMMITTEE ON NUTRITION OF THE SENATE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY - AUGUST 10, 1978 - ALBERT H. KRAMER, DIRECTOR, BUREAU OF CONSUMER PROTECTION.

The Federal Trade Commission's coordination with the Food and Drug Administration and the Department of Agriculture has become closer over the past year in a combined effort to administer an effective program to develop adequate and accurate nutritional information disclosure in connection with the labeling and advertising of foods.

23. The Commission's experience with the Government in the Sunshine Act.

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT OF THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS - JULY 11, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The FTC is firmly committed to openness which goes beyond mere adherence to the requirements of the Sunshine Act, and makes particular effort to publicize its regulatory proposals to the widest range of interested persons, and to solicit their views. It has also adopted procedures limiting outside communication with Commissioners on matters involved in pending rulemaking proceedings.

24. Simplification of the Truth-in-Lending Act.

SUBCOMMITTEE ON CONSUMER AFFAIRS OF THE HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS - SEPTEMBER 6, 1978 - MICHAEL PERTSCHUK, CHAIRMAN.

The Commission's experience in enforcing the Truth-in-Lending Act indicates four areas which should be reexamined: (1) Require the disclosure of full credit costs for open-end credit, such as transactions utilizing credit cards; (2) address abusive insurance sales in connection with the extension of credit, and the need for better regulation in this area; (3) clarify the Commission's authority to enforce Regulation Z in the same man-

ner as the Commission's authority to enforce Regulation Z in the same manner as the Commission's trade regulation rules, and to order administratively restitution and other remedies without resort to the more cumbersome cease-and-desist procedures; (4) clarify civil liability under the Act so as to exclude private suits which are based on mere technicalities, but to broaden their range to cover a number of practices not presently subjected to civil liability.

25. Automobile Warranties and Repairs

SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE - SEPTEMBER 21, 1978 - ALBERT H. KRAMER, DIRECTOR, BUREAU OF CONSUMER PROTECTION.

The frequency of repairs and unsatisfactory warranty performance in automobiles is by far the major category of consumer repair problems. A number of changes were recommended in the Magnuson-Moss Warranty Act: mandatory, in lieu of discretionary attorney's fees in warranty actions should be provided; the one hundred plaintiff requirement for class actions should be removed; retention by the owner of a "lemon" car pending dispute resolution should be authorized; and mandatory simple dispute settling mechanisms should be created.