

IN THE MATTER OF
**WILLIAM J. COOKSEY (ALSO KNOWN AS ROSS DYAR),
OPERATING UNDER THE TRADE NAME OF WORLD'S
MEDICINE COMPANY.**

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4847. Complaint, Oct. 14, 1942—Decision, Oct. 27, 1943

Where an individual engaged in interstate sale and distribution of his "World's Tonic" medicinal preparation, made up of some 25 ingredients, principal of which were the cathartics cascara, buckthorn, senna and aloes, and including also other bitter tasting ingredients tending to impart the properties of an appetiser, stomachic, or "bitter tonic"; by means of newspaper advertisements, radio broadcasts, circulars and other advertising media—

- (a) Represented, directly and by implication, that his said preparation constituted a remedy and effective treatment for pains in the back, side, or limbs, for premature aging, anemia, spots before the eyes, sallow skin, skin blemishes, night risings, loss of weight, gastritis, dizziness, mucous conditions, swollen joints, shortness of breath, kidney disorders, or sore or stiff muscles, and that said conditions were caused by constipation;

The facts being none of the aforesaid conditions are attributable to constipation, and his said preparation possessed no therapeutic value in the treatment thereof;

- (b) Represented, as aforesaid, that said preparation was a remedy and effective treatment for billiousness, headaches, gas bloating, sour stomach, indigestion, heartburn, fatigue, loss of appetite, bad breath, coated fuzzy tongue, nervousness, nausea, or stomach cramps, and that said disorders also were brought about by constipation;

The facts being that while such conditions might in some cases be due to constipation they are frequently due to systemic disorders not connected therewith, in which event the preparation in question would have no therapeutic value; while in those conditions caused by constipation, its therapeutic effect would be limited to such temporary relief as might be afforded through the partial evacuation of the intestinal tract, except that the preparation might, by reason of its bitter properties, afford a temporary stimulus in case of loss of appetite;

- (c) Falsely represented, as aforesaid, that his said preparation prevented colds, alkalinized the system, restored the activity of the liver, toned and stimulated the bowel muscles, and aided digestion; kept the stomach, liver, kidneys, bladder, and bowels operating properly; regulated the bowels and cleansed, soothed, and strengthened the stomach; enabled one to gain and retain health; provided the maximum of nourishment and strength from food, and supplied pep and energy;

- (d) Falsely represented that constipation causes an accumulation of poisons, of which its preparation would rid the system;

- (e) Represented through use of word "tonic" in designation "World's Tonic," that its said preparation was a general tonic, i. e., one serving to restore the normal tone of the body; the facts being that while it possessed to some

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extent the properties of a bitters or bitter tonic, it was without therapeutic value with respect to restoring the normal tone of the body generally; and

- (f) Failed to reveal facts material in the light of the representations contained in his advertisements and with respect to consequences which might result from the use of said preparation under usual or prescribed conditions, in that the preparation, an irritant laxative, possessed harmful potentialities if used in the presence of abdominal pains or other symptoms of appendicitis, making in said advertisements no reference to such fact nor to the cautionary statement on the label of the preparation;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that his preparation possessed certain therapeutic properties and was in all cases safe for use, and to cause such public to purchase substantial quantities of the preparation as a result of such mistaken belief:

Held, That said acts and practices, under the circumstances set forth, were all to the prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. J. E. Cox*, trial examiner.

Mr. William L. Taggart for the Commission.

Jacobi & Jacobi, of Washington, D. C., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that William J. Cooksey, an individual, also known as Ross Dyar, operating under the trade name of World's Medicine Co., hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, William J. Cooksey, also known as Ross Dyar, is an individual, trading and doing business as World's Medicine Co., with his principal place of business located in the city of Indianapolis, State of Indiana. The post-office address of respondent is P. O. Box 291, Indianapolis, Ind.

PAR. 2. Respondent is now, and for more than 1 year last past, has been, engaged in the sale and distribution of a medicinal preparation designated "World's Tonic." Respondent causes his product, when sold, to be transported from his place of business in the State of Indiana to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in his products in commerce among and between the various States of the United States and in the District of Columbia.

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PAR. 3. In the course and conduct of his aforesaid business, respondent has disseminated, and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating and has caused and is now causing the dissemination of false advertisements concerning his said product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated, as hereinabove set forth, by the United States mails, by advertisements inserted in newspapers and periodicals, by radio continuities, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

That respondent's said preparation is a cure and remedy of and constitutes a competent and effective treatment for billousness, headaches, pains in the back, side and limbs, gas bloating, belching, sour stomach, indigestion, heartburn, premature aging, anemia, spots before the eyes, gastritis, sallow skin, fatigue and all-in feeling, skin blemishes, night risings, loss of appetite, loss of weight, dizziness, mucous conditions, swollen joints, drowsiness after meals, bad breath, coated fuzzy tongue, shortness of breath, kidney disorders, nervousness and irritability, sore and stiff muscles, nausea and stomach cramps and that all of said conditions and disorders are brought about or arise by reason of constipation; that the use of said preparation prevents the oncoming of colds, alkalizes the system, restores the activity of the liver, tones and stimulates the bowel muscles, aids digestion and assists nature to counteract poisons in the red blood cells; that it keeps the stomach, liver, kidneys, bladder and bowels operating properly; that it regulates the bowels and cleanses, soothes and strengthens the stomach; that it enables one to gain and retain health; that it induces a healthy flow of digestive juices in the stomach and provides the maximum of nourishment and strength from food; that it provides pep and energy; that constipation causes the accumulation of poisons in the system and that respondent's preparation will rid the system of such poisons; that respondent's product is an efficient diuretic.

PAR. 4. The foregoing claims, statements, and representations are grossly exaggerated, false, and misleading. In truth and in fact respondent's said preparation is not a cure or remedy for and has no therapeutic value in the treatment of such symptoms and conditions as pains in the back, side and limbs, premature aging, anemia, spots before the eyes, sallow skin, skin blemishes, night risings, loss of weight, gastritis, dizziness, mucous condition, swollen joints, drowsiness after meals, shortness of breath, kidney disorders, and sore or

stiff muscles. The use of said preparation will not relieve constipation. It will not prevent the oncoming of colds. Its use will not alkalize the system, restore the activity of the liver, tone or stimulate the bowel muscles, nor will it aid digestion or assist nature to counteract poisons in the red blood cells. Its use will not keep the stomach, liver, kidneys, bladder, or bowels operating properly nor will it regulate the bowels and cleanse, soothe or strengthen the stomach. It will not enable one to gain or retain health. It will not induce a significant flow of digestive juices in the stomach and will have no material value in providing the maximum of nourishment and strength from food. It will not provide pep and energy. Constipation does not cause the accumulation of poisons in the system and respondent's preparation will not be effective in removing poison which may have accumulated in the system. Respondent's preparation will not be effective as a diuretic.

The disorders and conditions of pains in the back, side and limbs, premature aging, anemia, spots before the eyes, gastritis, sallow skin, skin blemishes, night risings, loss of weight, dizziness, mucous conditions, swollen joints, drowsiness after meals, shortness of breath, kidney disorders, and sore and stiff muscles are not symptomatic of or caused by constipation.

Such disorders and conditions as biliousness, headaches, gas bloating, sour stomach, indigestion, heartburn, fatigue and all-in feeling, loss of appetite, bad breath, coated fuzzy tongue, nervousness and irritability, nausea and stomach cramps may or may not be caused by constipation but are not usually symptomatic of, or caused by, constipation and are often caused by other systemic disorders.

When such conditions or disorders are due to causes other than constipation the use of respondent's preparation will have no therapeutic value whatsoever. Respondent's product is essentially a laxative and in those cases of the aforesaid conditions in which constipation is a contributing factor to, or the basic cause of, the therapeutic value of respondent's product is limited to such temporary relief as may be afforded by a partial evacuation of the intestinal tract.

PAR. 5. The use by the respondent of the trade name "World's Tonic" for his preparation is false, misleading and deceptive in that it serves as a representation that his said preparation is a general tonic and will have the effect, when taken, of a general tonic upon the system. In truth and in fact said preparation does not possess significant tonic properties and cannot be properly designated as a general tonic.

PAR. 6. The respondent's advertisements, disseminated as aforesaid, constitute false advertisements for the further reason that they fail to

reveal facts material in the light of such representations and material with respect to consequences which may result from the use of the preparation to which the advertisements relate, under the conditions prescribed in said advertisements and under such conditions as are customary and usual. Respondent's said preparation is an irritant laxative and is potentially dangerous when taken by one suffering from abdominal pains, stomach ache, colic, cramps, nausea, vomiting or other symptoms of appendicitis. Its frequent or continued use may result in dependence on laxatives. Furthermore, the continued administration of this irritant cathartic as recommended in respondent's advertising may cause severe gastrointestinal irritation.

PAR. 7. The use by the respondent of the foregoing false, deceptive and misleading statements and representations with respect to its said product has the tendency and capacity to, and does, mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true and that said preparation is entirely harmless and safe in use and into the purchase of substantial quantities of said preparation as a result of such erroneous and mistaken belief, so engendered.

PAR. 8. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on October 14, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, William J. Cooksey (also known as Ross Dyar), an individual, operating under the trade name of World's Medicine Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. After the filing of respondent's answer, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before a trial examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, the answer thereto, testimony and other evidence, report of the trial examiner upon the evidence and the exceptions to such report, briefs in support of and in opposition to the complaint, and oral argument; and the Commission, having duly considered the matter and being

now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, William J. Cooksey (also known as Ross Dyar), is an individual, trading and doing business under the name World's Medicine Co., with his principal place of business located in the city of Columbus, Ohio, his mailing address in that city being Post Office Box 573. Respondent also maintains a mailing address at Post Office Box 291, Indianapolis, Ind. Respondent is now and for a number of years last past has been engaged in the sale and distribution of a medicinal preparation designated by him as "World's Tonic" and intended for use in the treatment of various ailments and disorders of the human body.

PAR. 2. Respondent causes and has caused his preparation, when sold, to be transported from his place of business in the State of Ohio to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and has maintained a course of trade in his preparation in commerce among and between various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his business and for the purpose of inducing the purchase of his preparation, respondent has disseminated, and is now disseminating, and has caused and is now causing the dissemination of, advertisements concerning his preparation by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, advertisements concerning his preparation by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Through such advertisements, disseminated by means of newspapers, radio broadcasts, circulars, and other advertising media, respondent has represented, directly or by implication, that his preparation constitutes a cure or remedy and a competent and effective treatment for biliousness, headaches, pains in the back, side, and limbs, gas bloating, sour stomach, indigestion, heartburn, premature aging, anemia, spots before the eyes, gastritis, sallow skin, fatigue, skin blemishes, night risings, loss of appetite, loss of weight, dizziness, mucous conditions,

swollen joints, bad breath, coated, fuzzy tongue, shortness of breath, kidney disorders, nervousness, sore and stiff muscles, nausea, and stomach cramps; that all of such conditions and disorders are brought about or caused by constipation; that the preparation prevents colds, alkalizes the system, restores the activity of the liver, tones and stimulates the bowel muscles, and aids digestion; that it keeps the stomach, liver, kidneys, bladder, and bowels operating properly; that it regulates the bowels and cleanses, soothes, and strengthens the stomach; that it enables one to gain and retain health; that it provides the maximum of nourishment and strength from food; that it supplies pep and energy; that constipation causes an accumulation of poisons in the system, and that respondent's preparation will rid the system of such poisons.

PAR. 4. Respondent's preparation is a mixture or compound containing some twenty-five ingredients. The preparation is manufactured for respondent by a commercial laboratory in Columbus, Ohio, according to a formula supplied by respondent. While certain changes in the formula have been made from time to time, such changes have been of a minor nature and have not affected the essential nature of the preparation. Some of the ingredients used are merely for flavoring and coloring purposes, and a number of the other ingredients are present in such small quantities as to be without therapeutic value. The principal ingredients in the preparation are cascara, buckthorn, senna, and aloes, all of which are cathartics. The preparation, therefore, is essentially a cathartic or laxative, although there are present in the preparation in small quantities certain other ingredients, such as gentian root, prickly ash bark, and nux vomica, which, by reason of their bitter taste, tend to give the preparation the properties of an appetizer, stomachic, or "bitter tonic." The cascara, buckthorn, senna, and aloes also have a bitter taste and therefore serve, along with the other ingredients mentioned, to enhance the bitter properties of the preparation. Aside from its value as a laxative and a bitters, the preparation is without therapeutic value.

The preparation is not a cure or remedy for nor does it possess any therapeutic value in the treatment of pains in the back, side, or limbs, premature aging, anemia, spots before the eyes, sallow skin, skin blemishes, night risings, loss of weight, gastritis, dizziness, mucous conditions, swollen joints, shortness of breath, kidney disorders, or sore or stiff muscles. None of these conditions is attributable to or symptomatic of constipation. Neither is the preparation a cure or remedy for biliousness, headaches, gas bloating, sour stomach, indigestion, heartburn, fatigue, loss of appetite, bad breath, coated, fuzzy tongue, nervousness, nausea, or stomach cramps. While these latter

conditions may in some cases be due to constipation, they are frequently due to systemic disorders not connected with constipation, and in such cases respondent's preparation would have no therapeutic value. In those cases where the conditions are caused by constipation, the therapeutic effect of the preparation would be limited to such temporary relief as might be afforded through the partial evacuation of the intestinal tract, except that in the case of loss of appetite the preparation might, by reason of its bitter properties, afford a temporary stimulus to the appetite.

The preparation is incapable of preventing colds, alkalizing the system, restoring the activity of the liver, toning or stimulating the bowel muscles, or aiding digestion. It is likewise incapable of keeping the stomach, liver, kidneys, bladder, or bowels operating properly. It does not regulate the bowels or cleanse, soothe, or strengthen the stomach, nor can it enable one to gain or retain health. It does not provide nourishment or strength from food. It is likewise incapable of supplying pep or energy. Constipation does not cause an accumulation of poisons in the system, and respondent's preparation will not rid the system of poisons.

PAR. 5. The Commission therefore finds that the representations made by respondent with respect to his preparation, as set forth in paragraph 3 hereof, are erroneous and misleading and constitute false advertisements.

PAR. 6. The name "World's Tonic," used by respondent to designate his preparation, is also misleading in that it represents or implies that the preparation is a general tonic—that is, that it serves to restore the normal tone of the body. As set forth above, the preparation possesses to some extent the properties of a bitters or bitter tonic, but it is without therapeutic value with respect to restoring the normal tone of the body generally.

PAR. 7. Respondent's preparation, being essentially an irritant laxative, possesses harmful potentialities if used in the presence of abdominal pains, nausea, vomiting, or other symptoms of appendicitis. Respondent's advertisements, however, make no reference to this fact nor to the cautionary statement which appears on the label of the preparation, and the Commission therefore finds that the advertisements are false for the further reason that they fail to reveal facts material in the light of representations contained in the advertisements and material with respect to consequences which may result from the use of the preparation under the conditions prescribed in the advertisements or under such conditions as are customary or usual.

PAR. 8. The Commission finds further that the use by respondent of these false advertisements has the tendency and capacity to mislead

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and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondent's preparation possesses therapeutic properties which it does not in fact possess, and that the preparation is in all cases safe for use; and the tendency and capacity to cause such portion of the public to purchase substantial quantities of the preparation as a result of such erroneous and mistaken belief.

CONCLUSION

The acts and practices of the respondent as herein found are all to the prejudice of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence and the exceptions to such report, briefs in support of and in opposition to the complaint, and oral argument; and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent William J. Cooksey (also known as Ross Dyar), individually, and trading as World's Medicine Co., or trading under any other name, and his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of respondent's medicinal preparation designated "World's Tonic," or any other preparation of substantially similar composition or possessing substantially similar properties, under whatever name sold, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication—

- (a) That said preparation is a cure or remedy for or possesses any therapeutic value in the treatment of pains in the back, side, or limbs, premature aging, anemia, spots before the eyes, sallow skin, skin blemishes, night risings, loss of weight, gastritis, dizziness, mucous condition, swollen joints, shortness of breath, kidney disorders, or sore or stiff muscles, or that any of such conditions is caused by constipation.

(b) That said preparation is a cure or remedy for biliousness, headaches, gas bloating, sour stomach, indigestion, heartburn, fatigue; bad breath, coated, fuzzy tongue, nervousness, nausea, or stomach cramps, or that said preparation possesses any therapeutic value in the treatment of such conditions in excess of such temporary relief as may be afforded through the partial evacuation of the intestinal tract in those cases where the condition is due to constipation.

(c) That said preparation possesses any therapeutic value in the treatment of loss of appetite in excess of such relief as may be afforded through a temporary stimulus of the appetite, and through the partial evacuation of the intestinal tract in those cases where such condition is due to constipation.

(d) That said preparation prevents colds, alkalizes the system, restores the activity of the liver, tones or stimulates the bowel muscles, or aids digestion.

(e) That said preparation keeps the stomach, liver, kidneys, bladder, or bowels operating properly, or that it regulates the bowels or cleanses, soothes, or strengthens the stomach.

(f) That said preparation enables the user to gain or retain health.

(g) That said preparation provides nourishment or strength from food.

(h) That said preparation provides pep or energy.

(i) That constipation causes an accumulation of poisons in the system, or that said preparation will rid the system of poisons.

(j) That said preparation possesses any therapeutic properties other than those of a laxative and bitters, or which advertisement—

(k) Uses the word "tonic," or any other word of similar import, to designate or describe respondent's preparation, or otherwise represents that said preparation is a general tonic: *Provided, however*, That this order shall not be construed as prohibiting respondent from designating and describing said preparation as a "bitter tonic."

2. Disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement fails to reveal that said preparation should not be used in the presence of nausea, vomiting, abdominal pains, or other symptoms of appendicitis: *Provided, however*, That such advertisement need contain only the statement, "CAUTION: Use only as Directed," if and when the directions for use, wherever they appear, on the label, in the labeling, or both on the label and in the labeling, contain a warning to the above effect.

3. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce,

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directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any representation prohibited in paragraph 1 hereof, or which fails to comply with the affirmative requirements set forth in paragraph 2 hereof.

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

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IN THE MATTER OF
THE EMBALMERS' SUPPLY COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3936. Complaint, Oct. 27, 1939—Decision, Nov. 2, 1943*

Where a corporation engaged in the manufacture and interstate sale and distribution of embalming fluids and chemicals including its "San-Velno Spray," for use on the remains of deceased persons—

Represented, directly or by implication, through statements in advertising circulars, folders and circular letters and in advertisements in magazines, that the formula for the chemical preparation used in connection with the exhumation of the remains of American soldiers buried in France during the first World War, was originated and developed by the United States Army or War Department; that it obtained said formula from the War Department and that its said "San-Velno Spray" was the same as that preparation;

The facts being that while a substitute for the more costly proprietary preparation used in said exhumations was developed by the War Department, such substitute was, in fact, never used; and while, at said corporation's request, the War Department did supply it with a statement showing the various ingredients of said substitute and the proportions thereof, its efforts to duplicate the preparation were unsuccessful, the War Department withholding information as to the method of mixing certain ingredients, as involving a process being patented by the discoverer thereof; and its said "San-Velno Spray," in addition, departed to some extent from the proportions specified in the War Department's statement and included at least one other ingredient;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to said preparation, and to cause it to purchase substantial quantities thereof as a result of the mistaken belief so engendered:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. D. E. Hoopingarner and *Mr. R. P. Bellinger* for the Commission.

Mr. Earl H. Jagoe, of Westport, Conn., and *Tammany & Connery*, of South Norwalk, Conn., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal