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STATEMENT OF CHARLES H. MARCH, CHAIRMAN OF THE FEDERAL TRADE
COMMISSION, BEFORE SENATE COMMITTEE ON INTERSTATE COMMERCE
re S. 4055.

Mr. Chairman and Members of the Committee:

I appear in response to a request from your Chairman. I shall present certain facts and conclusions bearing upon the subject matter of the bill developed by the Commission through various investigations, mostly made at the direction of the Congress.

Among the more important basic industries which have been investigated are steel, pig iron, cement, lumber and sugar. In other industries the Commission has noted the existence of similar conditions which it is the evident purpose of this bill to correct. Among them may be mentioned range boilers, bolts, nuts and rivets, cast iron soil pipe, asphalt roofing, power cable, linseed oil, denatured alcohol, and corn derivatives. In the case of steel, pig iron, cement, and lumber, the Commission has published reports.* These are available to all. The Commission sees no reason for modifying these reports.

The bill is evidently directed toward an ending of the common practice of refusing to sell except at delivered prices. Delivery service is ordinarily rendered by public carriers. Even though an occasional buyer provides his own carriage facilities he still is required to buy at a delivered price. Under the full functioning of the delivered price system the buyers must forego any advantage to themselves which they might obtain if they were free to buy at the place of production or shipment and to control the delivery.

Delivered price systems involve a departure from the f.o.b. mill or open market method and the substitution of a formula method of combining two monetary factors into a delivered price at any destination regardless of the place of actual shipment and therefore regardless of the actual transportation cost.

One element of such combination is termed a "base price" which is quoted as in effect at a basing point, which may or may not be a point of production. These features of the system have led to characterization of the freight factor as "fictitious" or "phantom" freight. In other cases the delivered price is arrived at through a system of price zones within which the price is the same at all points.

*"Practices of the Steel Industry under the Code." submitted under Senate Resolution 166 (document 159, 73d Cong., 2d sess.); "Report to the President with respect to the basing system in the iron and steel industry." Report, 1934; "price bases inquiry - the basing-point formula and cement prices", March 1932; "Cement Industry" submitted under Senate Resolution 443 (document 71, 73d Cong., 1st sess.); Report on Western Pine Manufacturers Association, Feb. 15, 1922; Report on Northern Hemlock & Hardware Manufacturers Association, May 7, 1923.

Upon buyers located at some places the seller (unless located at a basing point) imposes a delivery charge greater than the actual cost of transportation. In such cases it is obvious that he obtains a margin over transportation cost which increases his price realization. To buyers located at other places the seller (unless located at a basing point) makes a charge for delivery that is less than the actual cost of transportation which he defrays. In such cases he incurs a deficit in the transportation charge which reduces his price realization. In effect buyers who are charged more than the actual delivery cost are helping to pay the freight of buyers who are charged less than the actual delivery cost. And the striking thing is that the customers having the greatest natural advantage in cost of delivery are often forced to contribute the highest price realization to the seller.

The question of discrimination can only be gauged by the treatment the seller accords to buyers in terms of what he has left after paying any sums actually defrayed by him for transportation. If, after subtracting from each delivered price the sum actually defrayed by the seller for freight, the net results are not identical, there is price discrimination. The price of the commodity is one thing, and the price of the transportation thereof is another. Such was the principle underlying the Commission's decision in the Pittsburgh Plus case (3 F.T.C. 1).

Such discrimination is inherent in delivered price systems.

There is propaganda that by increasing the number of basing points there is a tendency to eliminate the legal and economic objections to these systems. The addition of new basing points may lessen the discrimination among buyers of diverse sections. But so long as the system requires each producer when selling in a territory governed by a basing point other than his own to add the freight from such other basing point rather than from his own, it is obvious that the situation as to price competition has not been altered. Obviously there can be only one basing point applicable in a given case; otherwise the delivered prices would not be identical as they are. Since each basing point reciprocally governs the delivered price at all places of delivery to which it is the nearest basing point freight-wise, the delivered prices of each producer will be identical at any given place of delivery.

Moreover, members of the industry can retaliate against anyone who may violate the system, by making genuinely competitive prices, more readily than before. Retaliatory base prices can be made at the basing point or points where the concern deviating from the system chiefly operates, without causing price cuts elsewhere.

Hence, the multiplication of basing points does not strike at the root of the evil. It leaves the effect on price competition precisely as before the number of basing points had been increased.

*Emphasis is sometimes placed on the fact that the steel industry has a large number of basing points. The fact is that (excluding the Gulf and Pacific Coast ports which are not producing points) there are relatively few basing points for the heavier and more important products. As to products forming an overwhelming percentage of total production the facts are as follows:

	Number Basing Points	Producing Points Which Are Not Basing Points	Total
Sheet steel	3	29	32
Strip steel (hot rolled)	3	25	28
Strip steel (cold rolled)	3	25	28
Wire and wire products (except spring and tele- phone wire)	7	51	58
Merchant bars (new billet steel)	7	72	79
Structural shapes	6	18	24
Plates	7	20	27

The question at once arises as to what ends are served by this system of calculating and collecting freight which is not actual freight and of collecting a higher price from customers who would normally receive a lower price based on lower transportation costs. Obviously such a method of pricing is arbitrary and artificial. It could not exist without the consent and active cooperation of all important units in a given industry. The reason that such a method is used, is that it affords the most effective way for the elimination of price competition.

The various investigations made by the Federal Trade Commission have demonstrated the correctness of that statement. They have demonstrated that the common basing point or delivered price system in numerous industries is a price-fixing device under which those operating it nullify the effect of geographical advantages and disadvantages in order that all members may be relieved of competition in price. Purchasers are correspondingly deprived of their natural geographic advantages or protected against the effect of their natural disadvantages. Price competition is destroyed not only among the original sellers who support the system but inability to buy at a competitive price removes from re-sellers and fabricators of a commodity one of their strongest incentives to price competition.

A necessary incident to basing point systems is that delivered prices are calculated, not only from a common point -- regardless of whether it be the actual shipping point -- but according to a common method of transportation --

* See Appendix D of the report of the F. T. C. to the President November 1934.

regardless of whether it be the method actually used. Otherwise differences in transportation cost by different modes of delivery would cause the delivered price to vary. Ordinarily the cost by all rail shipment is taken as the method. This leads to some curious but important consequences. The purchaser is thereby required to pay as much for the commodity delivered by cheaper agencies of transportation as though it were shipped all rail. In effect the sellers have monopolized the benefits of huge governmental expenditures to improve waterways and highways.

Another necessary incident is that, having equalized the natural advantages and disadvantages of location by the fiction that all shipments are made from a common point by a common method of transportation, most of the natural handicaps of distance and cost are also removed. All producers are enabled to reach any destination at the same delivered price. But a higher price level inevitably results in order to defray the enhanced cost of transportation. The gravitational effect of cost and distance are so nullified that an industry having a basing point system may engage constantly in the economic absurdity of "carrying coals to Newcastle". This involves a vast amount of unnecessary cross hauling of commodities.

Effect Upon the Public.

Price competition is abolished in industries having basing point systems. All manufacturers make the same delivered price on any given commodity at the same destination.

Price-fixing and monopoly normally accord "protection" to concerns not fitted to survive under healthy competitive conditions. These concerns sometimes have obsolescent equipment, are over-burdened with debt, are no longer well located as to their sources of raw material and their markets, or are otherwise inefficient. They are not always the small units. Several studies by the Commission and others show that medium sized units, in certain industries at least, have lower unit costs than the largest concerns. Units not efficient enough to secure low costs are often strong enough, however, to break any concerted price level which would fail to "protect" them sufficiently to afford them at least a "paper profit".

The result of these systems in "protecting" the inefficient is to raise general price levels far above those which would result from price competition; to give to those engaged in the industry, something like a franchise to sell at prices not governed by the law of supply and demand; and to prevent more efficient concerns from engaging in the industry through fear of retaliation.

Delivered price systems present more than the usual results of monopoly. They are predicated upon price levels such that manufacturing units can and actually do invade the territories of far distant competitors without encountering price competition, and yet defray actual transportation charges, huge in the aggregate, in obtaining wide, often nation-wide distribution.

Again, the charging of railroad freight rates, although the manufacturers often in practice deliver by truck or by waterway at their option, gives advantages entirely to the manufacturers which should accrue to the public. Under

competitive pricing the buyer could secure delivery in the way most advantageous to himself and these advantages naturally would be passed to the ultimate consumer.

It is thus evident that the basing point and zone price systems result in enhancing prices paid by buyers who re-manufacture or sell at wholesale or at retail to the public.

Since these systems divide available business largely irrespective of efficiency, even the efficient units are weakened in their competition, in domestic markets, with foreign competitors. Industries protected from domestic competitors, tend to seek more and more protection against foreign rivals in domestic markets.

The price increases above described, when occurring in basic industries, are frequently made in sales to re-manufacturers who often resell to other re-manufacturers. Thereafter sales are made to wholesalers and then to retailers. Each successive price contains an increased amount of basing point loading, in the proverbial "snowball" manner, until the entire burden ultimately is borne by the consumer.

These formula pricing systems have been a major factor in preventing the buying power of the nation from keeping pace with its producing power; and in plunging the country into depression. In earlier depressions, with the dropping off of sales volume, prices have fallen, whereas in the recent depression, prices, largely through basing point collusion, have been more generally maintained. As a result the country has never before in its history been so slow in emerging from a depression.

The Commission believes that these systems tend directly to price maintenance, not only collusive but also dangerous to national prosperity, and that these systems tend also to an early return of depression.

A public suffering from the evils of private and collusive price-fixing tends to demand relief through governmental interference with and supervision over prices. Such interference and supervision are incompatible not only with our present private business structure, but also with free and representative political institutions.

It is a matter of policy for Congress to determine whether the employment of the basing point systems shall be specifically banned by statute. However, it may be said that such enactment would avoid the delay, expense and uncertainty of protracted and expensive litigation in each individual case in numerous industries. It would inform all members of each industry as to precisely what rule of law is to be applied.

We believe that S. 4055 is drafted in proper form to attain that end.

Respectfully submitted,

Charles H. March,
Chairman.