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**STATEMENT OF HONORABLE R. E. FREER,
COMMISSIONER, FEDERAL TRADE COMMISSION,
BEFORE FIELD OFFICES OF THE CONSUMER DIVISION,
OFFICE OF PRICE ADMINISTRATION AND
CIVILIAN SUPPLY**

Washington, D. C., July 10, 1941, 3:45 p.m.

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I have been asked to speak to you on the manner in which the Federal Trade Commission acts to ~~protect~~ the consumer. This amounts to talking to you about the whole subject of the work of the Federal Trade Commission since all of its activities have direct or indirect effect upon the consumer, and the Commission takes no action which does not take into account the interests of consumers. This is true even though the Federal Trade Commission Act does not mention the consumer as such and merely directs the Commission to prevent unfair methods of competition and unfair or deceptive acts or practices in commerce.

On this question of consumer protection through elimination of unfair competitive practices a little historical background may be of interest to you.

From the beginning the Commission considered that the statutory provision against unfair methods of competition covered those business practices which were primarily unfair to the consuming public. It was on this basis that numerous proceedings were initiated and particularly a proceeding against a marketer of a reducing compound which contained a dangerous drug. The case against the marketer of the reducing preparation finally reached the Supreme Court of the United States which held, in effect, that the Commission must show that an unfair practice is detrimental to competitors, irrespective of injury to the public, in order to assert its jurisdiction, and set aside the Commission's order.

On June 30, 1941, the United States Circuit Court of Appeals for the Third Circuit handed down a decision

commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful'. The failure to mention competition in the later phrase shows a legislative intent to remove the procedural requirement set up in the Kaladani case and the Commission can now center its attention on the direct protection of the consumer where formerly it could protect him only indirectly through the protection of the competitor.

"The logic of the present trend of the law is apparent when we realize how helpless the Commission would be under the rule of the Kaladani case where all the competitors in the industry were using the same practice or where the offender had a monopoly in a field which did not compete with any other field."

As mentioned by the Court, the Wheeler-Lea Act removed any doubt which might have existed as to the Commission's right to protect the consumer irrespective of competition. The Wheeler-Lea Act also contained several entirely new sections of law which directed the Commission to prevent the dissemination of any false advertisement of food, drug and cosmetic products and devices. Power is specifically granted to proceed against dissemination of such advertising as is false because of omission of material facts, as well as that which is false by direct statement. Authority is given the Commission to apply to the United States District Courts for temporary restraining orders and injunctions to prevent the dissemination of advertising during the pendency of a proceeding against the advertiser by the Commission. As a result of this, the public may be protected during, as well as following, litigation.

To give you some idea of the subject matter of the cases the Commission handles under Section 5 of its Act, I will mention briefly a few of those dealt with during the past few months. The Commission ordered the largest manufacturer of automobiles to cease picturing an expensive model of its automobiles with many accessories and extra equipment and quoting in connection therewith an f.o.b. price for a cheaper model of car, not including the extras and accessories pictured; a number of manufacturers of hats and other articles made from used or renovated materials were ordered to cease from failing to disclose in a conspicuous manner the true composition

of their goods; several concerns were ordered to cease advertisement of drug products which failed to reveal harmful results which might follow their use by the public; a concern engaged in ordinary commercial photography was ordered to cease representing itself as a news service interested only in securing photographs of members of the public for newspaper files; an individual conducting a so-called consumers' bureau was ordered to cease representing that reports published by him had been prepared under the direction of an organization for testing the comparative values of consumer products or services, that he represents a consumers' research movement with a staff and facilities for determining the comparative value of merchandise, and further from threatening manufacturers who failed to subscribe to his service with unfavorable notices in his publications; a prominent publisher of magazines was ordered to cease representing that all claims for commodities advertised in its publications are true, or using or authorizing use of seals indicating that the products have been tested and approved unless actual testing and investigation has been sufficiently thorough as to reasonably assure that the product will be adequate for its intended use at the time it reaches the consuming public and will justify the claims represented by the insignia, and further from representing that any merchandise or service is guaranteed unless any and all limitations to the terms of the guarantee are set forth conspicuously and in immediate conjunction therewith; a group of manufacturers of lecithin, an important article of commerce, were ordered to cease from combining and conspiring to restrain trade and eliminate competition; a group of producers of vitrified sewer pipe were ordered to cease from combining and conspiring to restrain trade and fix prices; and a trade association and its members engaged in the distribution of automobile parts and accessories was likewise ordered to cease from combining and conspiring to restrain trade and fix prices in automobile parts.

I have mentioned briefly a few of the more interesting orders to cease and desist. This, of course, by no means covers the whole field nor does it take into account the many stipulations, or formal agreements, by which the Commission secured abandonment of unfair commercial practices without the necessity of a formal proceeding.

Still another highly important part of the Commission's work, and one that is of particular interest to consumers is carried on by the Commission's Trade Practice Conference Division. Early in its career the Commission learned that in many instances more of real benefit may be accomplished by a conference with an entire industry for the purpose of eliminating trade abuses than by litigation against each of the members. So a procedure has been developed by which any industry group may meet with members of the Commission's staff for the purpose of working out trade practice rules to eliminate unfair competitive practices and encourage the most ethical sort of competition. Following the initial conferences with industry groups the Commission drafts tentative trade practice rules which are made public and distributed generally with an invitation to participate in a hearing on the tentative rules. At these hearings consumer groups usually take an active interest, as do the members of the industry involved. Following the hearings the Commission promulgates the final rules.

These trade practice rules are customarily divided into two groups--those in Group I relating to conduct which the Commission considers to violate existing law, and those in Group II relating to conduct which the industry and the Commission consider to be either desirable or undesirable but which may not necessarily involve a violation of law.

Under this procedure the Commission has promulgated rules which require the positive disclosure of the fibre content of textile fabrics, the weighting of silk, the positive disclosure of residual shrinkage of cotton yard goods represented to have been pre-shrunk; the minimum acceptable fruit content of preserves, and the proper grading of canned tuna, olives, and other food products. In all, more than 200 trade practice conferences have been conducted covering almost every industry field. While most of these conferences have been initiated by industry members themselves the final rules have been concerned primarily with consumer protection and with requiring as far as possible the disclosure of adequate consumer information. This has been done on the theory that what aids the consumer in wiser buying will in the long run benefit the industry.

Since the very beginning, one of the most important of the Commission's functions has been the gathering of general information for the President, for Congress and for the public. It maintains a large and well-equipped economic staff whose time is devoted to the conduct of general investigations. The Commission has recently completed and reported to the Congress an inquiry as to accounting methods and practices of industry. An inquiry into resale price maintenance and another into methods and costs of distribution are nearing completion. Perhaps the biggest single task of this sort was the Commission's investigation of public utilities covering a span of several years and building up a set of reports that numbers nearly a hundred volumes. The information brought to light by the Commission in its utility investigation contributed largely to the passage of the Public Utility Act of 1935 and made available to many state public utility commissions information upon which substantial reductions in utility rates were accomplished.

A large part of the Commission's work is concerned with trade restraints and other restrictions on competition having to do with prices and terms of sale. These cases originate on private complaints from injured competitors or consumers, on information supplied by other Government agencies and upon information coming to the attention of the Commission's staff in other ways. Such cases are investigated by the Chief Examiner's Division, which likewise investigates all legal matters requiring field work. The office of the Chief Counsel is the Trial Division of the Commission which handles the trial of all formal cases.

There is maintained a staff in the Radio and Periodical Division which currently examines radio continuities, newspapers and periodicals for the purpose of checking into false advertising. Several million pages of published advertising of this sort are examined each year, and hundreds of inquiries are initiated from which corrective action arises.

On October 23, 1940, the President approved the Wool Products Labeling Act, which by its terms becomes effective next Monday. This legislation is of real

significance to the consumer since it requires that all wool products, including articles which may contain no wool but which have the appearance of being composed of wool, must be tagged or marked to show the proportions of the component textile fibres. Enforcement of this Act is vested in the Federal Trade Commission, and we have already formulated rules and regulations designed to amplify and facilitate the enforcement of the Act. One of the most important provisions of the new Act is the requirement that re-used or reprocessed wool be designated as such to distinguish it from virgin wool. This Act establishes the right of the consumer to definite information about the contents of wool products, and is based upon the principle that non-disclosure of essential facts is deceptive of consumers, and it brings to real life the old slogan "Truth in Fabrics".

As you are no doubt aware, I have merely "hit the high spots". The limitations of time have made it necessary to skip over much of the procedure and machinery by which the Commission accomplishes the broad objectives touched upon. Several of the chiefs of the divisions of the Commission which are in charge of the work I have described have accompanied me here and I hope that a number of the phases of the work which I have overlooked may be developed by answers to questions you may ask me now, or by your informal questioning of any of these Division chiefs after the close of the formal question period.