



ADDRESS BY CHAIRMAN CHARLES H. MARCH, OF THE FEDERAL TRADE COMMISSION, BEFORE PRESERVE MANUFACTURING INDUSTRY, OLYMPIC HOTEL, SEATTLE, WASHINGTON, WEDNESDAY, JUNE 24, 1936, 3 P.M., PACIFIC TIME.

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Members of the Preserve Manufacturing Industry:

This morning it was my privilege to address a gathering of another great industry - that of the Douglas Fir Plywood Manufacturing Industry. I assure you, as I assured them, that I shall be brief and to the point.

The good that we do at this conference, both from the standpoint of your industry as well as the consuming public, may well be but the beginning of a continuing job. What we do here today will have future results. If it is a good job, the results will be beneficial and far-reaching, not only to yourselves but to other lines of industry. We are, in a sense, breaking new ground, and the example we set will be productive or barren, depending upon ourselves.

Each member of your industry, whether or not in attendance here, must give cooperation and fair dealing if he is to enjoy cooperation and fair dealing. Life is a mirror; we see what we reflect; we receive what we give - no more and no less.

The Federal Trade Commission is your law enforcement officer in certain fields as surely as the policeman patrols his beat to guard your home or your business premises. The Commission frequently has been characterized as the "policeman of business". If one's purposes are lawful, he will find the Commission a helpful friend. If his purposes be bad, he will find the Commission is determined to do its duty, whether in this or any other industry.

The job before us today is primarily yours. The Federal Trade Commission cannot do more than lend its good offices to make that job a success, for the benefit of your industry and the public which buys your products and enables you to prosper. The Commission will help you to the limit of its power to attain all proper and lawful objectives, and that is the message I bring you as Chairman of that Commission.

The Federal Trade Commission, as one of the Government's oldest independent agencies, is an administrative body, exercising quasi-judicial functions.

While the Commission has certain other powers and duties, its principal functions are twofold:

1. To prevent unfair methods of competition in commerce;
2. To make investigations at the direction of the President, the Congress, upon the request of the Attorney General, and upon its own initiative. These

investigations generally have been powerful forces corrective of abuses which had been prevalent in the industries investigated. Legislation resulting directly or indirectly from these inquiries has included the Packers and Stockyards Act, the Truth-in-Securities Law, and the act for the regulation of stock exchanges, to mention a few.

Objectively, a principal purpose of the Commission is the protection of honest competitors and the consuming public from harmful or unfair practices in commerce. The Commission functions under a mandate from Congress to prevent those subject to its jurisdiction "from using unfair methods of competition in commerce".

Wisely, Congress did not attempt to define the meaning of the phrase "unfair methods of competition in commerce". One reason for this broad, open phrase was and is the fact that unfair competition is as infinite as human ingenuity; it may take any one of a thousand forms and shapes. The Supreme Court, considering the point and interpreting the intent of Congress in enacting the law, decided as follows:

"In the nature of things, it was impossible to describe and define in advance just what constituted unfair competition, and in the final analysis it became a question of law, after the facts were ascertained."

Therefore, every case must be considered on its own facts. Whatever the guise or raiment of the unfair practice, it is the substance or effect of the thing that counts, and we are concerned with both.

Generally, unfair trade practices fall within two broad classes: First, those which involve an element of fraud or dishonesty, and, second, those not inherently dishonest but which are restrictive of fair competition.

All of us know that no honest businessman ever feared fair competition, or asked for undue favor. The Commission takes a like position. It has for its purpose the aiding of legitimate business in the establishment of criteria of sound and honest business ethics and principles. This means, of course, that rules of conduct must be within the law. In the eyes of the Commission, all members of a given industry are on the same competitive basis. The role of the Commission is that of a disinterested and impartial umpire who sees that the game of competition is played fairly and within the boundaries of law and good conscience.

When unfair practices are thus eliminated from an industry by common agreement, dictated by good sense and an appreciation of the other fellow's rights, every honest member of that industry is benefited. The procedure which we are following today makes possible the forcing of unscrupulous interests to keep within the law, and to respect the rights of others.

By this conference method, the unfair and dishonest practices of an entire industry, perhaps the result of natural influences and forces of competition rather than deliberate design or unscrupulous scheming, often are

corrected at a single stroke - by a single conference. Where formerly it might have been necessary to take action against each individual offender, involving the institution of innumerable proceedings, the trade practice conference affords a wholesale means of eliminating existing bad practices or preventing their very beginning.

Not only does the Commission's trade practice conference procedure usually lead to prompt abandonment of unfair practices by an entire industry, but the industry itself grows into the habit of self-discipline. Honest members always constitute the overwhelming majority of an industry, and they should cooperate to bring about enforcement of the law and trade practice rules for the benefit of the industry and the consuming public.

It is the policy of our Commission that the competitive race shall be fairly run, without favoritism and without unfair obstacles. The law prohibits collusive price-fixing or monopolistic combination. The healthy growth and expansion of business and the public welfare alike demand that industry be protected from unlawful blighting effects. The Commission is the legislative expression of that public policy, dictated by Congress, which supports the competitive system, but it must be a competitive system governed by fair rules and not a brutal, unscrupulous warfare in which the powerful can destroy the weak.

More than one hundred and seventy-five trade practice conferences have been held under the Commission's auspices. These conferences have affected thousands of industry members and millions of consumers in all lines. Experience has shown that compliance with the rules established at these conferences is not difficult to achieve. Businessmen usually respect their agreements. But compulsory statutory processes are available for enforcement of Group I rules against an offender, even though such offender has never formally accepted the rules or had any part in the conference at which they were adopted. Practices prohibited by Group I rules constitute statutory offenses.

To give you some idea of practices that are prohibited by law, usually encompassed in Group I rules, I may mention misrepresentation and misbranding of products, defamation of a competitor and the disparagement of his products, illegal price discrimination, illegal selling below cost, commercial bribery, illegal use of loss leaders, illegal rebating, inducing breach of contract wilfully to injure a competitor, circulating threats of infringement suits in bad faith, full line forcing to suppress competition, passing off, imitation of trade marks, and many others.

The Commission welcomes the opportunity to serve and aid industry in its own efforts to foster more ethical competitive conditions through voluntary trade practice conferences and by the exercise of proper self-regulation under Group II rules. The means is provided; it needs only to be availed of.

I hope and expect you will have a harmonious and helpful conference. No charges are brought here against individuals or individual concerns. The subjects discussed are intended to relate to unfair practices or methods, not to persons or firms. This is a place where competitors may come together in a

spirit of cooperation for the benefit of the industry as a whole. Each individual participating in this conference should lay aside any personal grievances and assist in the effort to eliminate unfair trade practices and to condemn those trade evils or abuses which may be stifling your industry's improvement and progress. With this fair and friendly spirit prevailing among you, the rules which shall be adopted will bring new hope and inspiration for fairer and more enlightened competition in your industry.

It is my belief that the late severe economic depression can be traced in large degree to reprehensible practices of selfish interests, many of which were unsoundly and excessively capitalized. These practices were not properly controlled, because the country had become so blinded by temporary prosperity as to accept the theory that monopolies were beneficial rather than dangerous.

What happened? In their greed for profit, monopolistic enterprises charged more than the traffic could bear. They had no regard for ultimate consequences. By eliminating competition, they thought they were on their way to greater success and greater riches. Actually, however, as it turned out, fewer people were able to buy the products of the big business enterprises which had concentrated output in their own hands, for that very concentration deprived many of their means of livelihood and thus destroyed their purchasing power. The result, so often called over-production, would probably better be termed under-consumption.

It is my conviction that to allow great interests a free hand and permit them to destroy competition is not only disadvantageous to a principle on which our government was established, that is, equal opportunity for all who may be fitted to improve their position by reason of their own energy and initiative. By this I do not mean that it was ever intended to protect the lazy or incompetent. I do mean that the right of every man to use his brain and energy and gain a fair reward therefor should be preserved and protected.

If we are to accept the process of concentration of business in a few hands as beyond control, then it is time to admit that our foremost national aim, individual opportunity, has been lost, and that what we had believed was our outstanding national trait, individual initiative, either has failed or is no longer worth preserving.

I am afraid we have been taking the sturdiness of American individualism too much for granted. While we have been rendering lip service to the competitive system, the truth is we have been getting farther and farther away from it. It is time we examined again into this American characteristic and decided whether we are to adhere to it, or destroy it. If we are to abandon this trait, either we place ourselves at the mercy of selfish combinations, or we must stake more and more reliance on government.

For my part, I hold that through wise enactments, the rights of the individual should be protected, and that individual initiative and capacity should have a fair chance to assert themselves honestly and efficiently, and receive the just reward to which they are entitled.