

For Release on Delivery, at 10 a.m., C.S.T., Wednesday, October 13, 1937.

ADDRESS BY  
HON. ROBERT E. FREER, MEMBER OF THE FEDERAL TRADE COMMISSION,  
OPENING THE TRADE PRACTICE CONFERENCE FOR  
THE OLEOMARGARINE MANUFACTURING INDUSTRY  
CONGRESS HOTEL, CHICAGO  
WEDNESDAY, OCTOBER 13, 1937, at 10 a.m., C.S.T.

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Ladies and Gentlemen of the Oleomargarine Industry;

The Federal Trade Commission was very pleased to authorize this trade practice conference. An application for a trade practice conference is always most welcome at the Commission. It indicates a desire on the part of the industry making the application to cooperate with the Commission in stamping out unfair methods of competition and in improving the standards upon which business is conducted.

Most of you are attending a trade practice conference for the first time. To avoid confusion and misunderstanding concerning your privileges and responsibilities, it would perhaps be well for me to explain the nature, purpose and limitations of the trade practice conference procedure.

The trade practice conference is the logical development of the efforts of the Federal Trade Commission in cooperation with industry to protect the public from unfair methods of competition and to raise the standards of business practices. It affords a means whereby representatives of an industry may voluntarily assemble and under the auspices of the Federal Trade Commission, consider prevailing unfair trade practices and collectively agree upon and provide for their abandonment, thus placing all members of the industry concerned on an equally fair competitive basis insofar as unfair trade practices are concerned. Under this procedure, a business or industry takes the initiative in establishing self-government by adopting its own rules of business conduct, subject to approval by the Commission.

Through these conferences the same results are to be achieved as by issuance of formal complaints by the Commission, but without bringing charges or employing any compulsory process. The procedure is predicated on the theory that the primary concern of the Federal Trade Commission is free and fair competition in the public interest. Its importance to the public consists in bringing widespread relief from the harmful effects of unfair methods of competition which otherwise might not be accomplished in years, and in the saving of public funds which otherwise would be spent in conducting the trials of many cases.

After a trade practice conference has been held, the Commission retains an active interest in the observance of such rules adopted by the industry as are approved by the Commission.

The purpose of this conference is for you to decide among yourselves the illegal or unethical practices to be voluntarily and simultaneously discontinued

and the ethical practices to be encouraged. Any one in the industry may participate in this conference and no one is legally obligated by anything that occurs here today. You are not under indictment; you are meeting here to formulate a constructive policy for the future conduct of your business.

Rules which are adopted are classified as Group I and Group II. Rules approvable by the Commission which relate to practices violative of the law are designated as Group I rules. Other resolutions adopted by the industry, and received by the Commission as expressions of the industry on the subjects covered, are placed in Group II.

The unfair trade practices condemned in Group I rules are considered to be unfair methods of competition or illegal competitive methods within the federal statutes as interpreted by decisions of the Federal Trade Commission and the federal courts, and appropriate proceedings in the public interest will be undertaken by the Commission to prevent the use of such unlawful practices in interstate commerce.

The trade practices condemned in Group II rules do not per se constitute violations of law. Such rules condemn practices considered by the industry either to be unethical, uneconomical or otherwise objectionable or encourage others deemed to be conducive to the sound business methods which an industry desires to promote. Such rules, when they conform to the foregoing specifications and are considered consonant with the law, will be received by the Commission, but the observance of said rules generally must depend upon and be accomplished through the good faith of the members of the industry concerned. Wherever, however, such practices are used in such manner as to amount to unfair methods of competition in commerce or in violation of any law over which the Commission has jurisdiction, appropriate proceedings will be instituted by the Commission as in the case of violation of Group I rules.

The Sherman law is in full force and effect. It prohibits concerted action in restraint of trade. Obviously your action here is concerted and anything you do must conform to the requirements of the antitrust laws as interpreted by the federal courts. It is not the purpose nor is it within the power of the Federal Trade Commission to grant you immunity therefrom. The Commission will not accept or approve any rule nor condone any action which in any way transgresses the letter or spirit of the antitrust laws.

I am not entirely familiar with the situation in your particular industry, but from reading over your application for a conference and the rules which you have tentatively proposed, I gather that you are most anxious to put a stop to misrepresentation of your product. The evil in misrepresentation is two-fold; it is a fraud upon the purchaser, thereby reflecting upon the reputation of the product, and it enables an unethical competitor to take business away from an honest competitor unfairly.

In view of the good intentions expressed in your application and in your tentatively proposed rules. I am confident that you will confine yourselves to the consideration of such rules as are in the public interest and that, therefore, this conference will produce substantial benefits both to you as competitors in the production and marketing of oleomargarine and to the general public as the consumers of your product.