

REMARKS OF COMMISSIONER ROBERT E. FREER,
FEDERAL TRADE COMMISSION
OPENING THE TRADE PRACTICE CONFERENCE FOR
THE INFANTS' AND CHILDREN'S KNITTED OUTERWEAR INDUSTRY
MARCH 21, 1938, 2 P.M., HOTEL NEW YORKER
NEW YORK, N. Y.

Ladies and gentlemen of the Infants' and Children's

Knitted Outerwear Industry:

I wish to extend you the greetings of the Federal Trade Commission. I am pleased to be here as the Commissioner designated to preside over your conference, and I assure you that the Commission desires to cooperate with you in the elimination of any unfair practices in your industry.

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 limitation of the trade practice conference procedure.

Section 5 of the Federal Trade Commission Act declares unfair methods of competition in interstate commerce to be illegal and directs the Commission to prevent their use. The enforcement procedure outlined in the Act comprehends a formal complaint and answer, public hearings, findings of fact, published orders, and court review.

Nearly every important industry marked by sharp competition tends to develop certain unfair practices that are harmful both to the consumer and to the scrupulously honest and candid members of the industry, but that are difficult to completely eliminate unless all members engaging in them can be stopped at the same time.

However, where an unfair method of competition is widely used in a large and important industry, it would be both expensive and time consuming for the Commission to proceed formally against each individual competitor. On the other hand it would be considered a hardship by any small group of industry members against whom complaint were issued if the Commission failed to take similar action against all others engaging in similar practices.

The chief value of the Trade Practice Conference procedure is to provide machinery for simultaneously abandoning unfair practices, many of which are distasteful to most industry members, who resort to them only because of competitive necessity or expediency.

The language of the statute is general; the act does not enumerate the specific practices to be stopped. But there are scores of business practices which have been held by the Commission and the courts to be unlawful under this general language. As to these practices which are clearly illegal, the Commission will assist in the formulation of rules which catalog in simple language the practices to be avoided.

For instance, rules are generally adopted to prohibit misrepresentation, disparagement, inducing breach of contract, commercial bribery, etc. These practices and many others have all been judicially declared to be "unfair methods of competition". Rules condemning such practices are classified in Group I, and the Commission will proceed against all parties employing such methods in interstate commerce for a violation of the law of the land.

There are sharp practices, however, which do not fall within the formal category of "unfair methods of competition", and at such a conference as this an industry may express its condemnation of these, or it may record its approval of the ethical converse of such sharp practices. These condemnations or approvals, if they relate to matters upon which such an agreement is lawful and in the public interest, will be received by the Commission as expressions of industry policy.

Such expressions of policy are separately classified as Group II rules to distinguish them from the Group I rules which condemn practices clearly violative of law.

The purpose of this conference is to enable you to suggest to the Commission what illegal or unethical practices exist in the industry, to the end that they may be simultaneously discontinued, and also to suggest ethical practices to be encouraged. Anyone in the industry may participate and no one is legally obligated by anything that is done here today. You are not under formal charges, but are meeting here voluntarily to help formulate a constructive policy for the future conduct of the infants' and children's knitted outerwear business.

Following the conference, the proceedings will be reported to the Commission by the Trade Practice Board. After consideration by the Commission, such rules as are approved and such expressions of policy as are acceptable will be tentatively approved and published with notice to all interested parties of a fifteen-day period during which any suggestions or objections may be made.

Thereafter a hearing for the voicing of these suggestions and objections will be had, and all written or oral objections and suggestions will be considered by the Commission before the rules are finally approved. A copy of all rules thus finally approved is furnished to every member of the industry, accompanied by a form providing for individual acceptance.

No "big stick" will be wielded. You are perfectly free to participate or not, as you desire. However, after promulgation of the finally approved and accepted rules, the Commission retains its interest in their observance by the industry, and it will act promptly to investigate and stop the use of unfair methods of competition in interstate commerce coming to its attention. The proceeding will not be one to stop the violation of the rules as such, but to prevent the violation of law inherent in a violation of any Group I rule.

And in conclusion may I say to you that although great emphasis is usually laid on the interests of the consuming public in considering competitive practices, the Commission's experience has been that consumer protection and the maintenance of the highest sort of business standards inevitably redounds materially to the benefit of the industry.

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