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ADDRESS BY

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BEFORE THE
LIONS CLUB OF WASHINGTON, D. C.
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SOME OBSERVATIONS ON THE FUNCTIONS OF
THE FEDERAL TRADE COMMISSION

As the Federal Trade Commission administers a number of different laws and is charged with many and varied duties, in the space of ten minutes it will be impossible for me to do more than "hit the high spots."

Perhaps the main part of the Commission's work arises under Section 5 of the Federal Trade Commission Act. This Section as enacted in 1914 made unlawful unfair methods of competition. The courts have sustained the Commission in its decisions that a host of business practices, not specifically enumerated in the law, amount to unfair methods of competition.

The Commission's activities under Section 5 range from important cases involving entire industries to simple matters of false advertisement. They range from such cases as that which is now pending involving the entire Portland cement industry on a charge of restraining trade and suppressing competition to a case against an individual marketing what he called "Oriental Love Drops", a perfume guaranteed to make a man irresistible to his lady love. And some time ago we proceeded against a motion picture concern in Hollywood for advertising a picture as "an authentic, incontestable, celluloid document;" "an authentic record of African adventure;" "the spectacular, sensational, real adventure film made with untold difficulties in the heart of equatorial Africa;". Among the claims made by the film company was a statement that a strange new beast called a "Tortadillo" had been discovered.

The Commission found on investigation that the picture had been filmed in and around Hollywood, and that "the savage tribes" all lived in the vicinity of Los Angeles, California. The "Tortadillo" turned out to be a turtle to which had been glued wings, scales, and a long tail.

I hope you will not assume from this that much of the Commission's time is taken up with this latter type of case, as I have only cited it to you as an illustration of the extremes to which some advertisers will go.

Practices which have been held to be unfair methods of competition may be roughly classified into the following categories:

False and misleading advertising.

Combinations and conspiracies which restrict competition.

Monopolization of trade channels.

Resale price maintenance.

Boycotting.

Bribery of a competitor's employees.

Passing off or simulation of a competitor's goods.

Disparagement of competitors.

Inducing breach of contract.

Unfair use of patent rights.

Bribery of employees of a purchaser.

Use of lotteries to sell goods.

A number of years ago the Commission proceeded against a manufacturer of a patent medicine intended for reducing purposes. It was found that this medicine contained a dangerous drug which might, if used without full knowledge of all its properties, seriously impair the health of the purchaser. The Supreme Court held that, under the term "unfair method of competition" in Section 5, proof of injury to legitimate competition is essential to the Commission's jurisdiction irrespective of the harmful effect the falsely represented drug might have upon the consuming public, and vacated the Commission's order against this manufacturer.

Congress has but recently amended the Federal Trade Commission Act, for the first time since its passage in 1914, removing this defect by making unlawful "unfair or deceptive acts or practices" as well as "unfair methods of competition" in interstate commerce, and in addition generally strengthening the Commission's powers and procedure in a number of respects, particularly with reference to advertising of food, drugs, devices and cosmetics.

The Commission is also empowered by the Clayton Act, as amended, to prevent acquisitions of control of the capital stock of competitors where the effect is to lessen competition; and to proceed against parties who discriminate in price between different customers under certain circumstances. And under the Export Trade Act, the Commission has limited jurisdiction over activities of corporations engaged solely in export trade and organized pursuant to that Act.

General Investigations

Another principal function of the Commission is that of conducting general investigations. These investigations have been a very important factor in our Nation's legislation during the last twenty years. The Meat Packing Report, made during the World War, led directly to the passage of the Packers and Stockyard Act, as well as furnishing a basis for a decree in an anti-trust suit which, among other things, occasioned the withdrawal of the packers from the wholesale grocery trade. Similarly, the report of the Commission upon Corporations in Export Trade led to the passage of the

Webb-Pomerene Act. The recent chain store inquiry played an important part in the passage of the Robinson-Patman Act.

Beyond leading directly to corrective legislation, the Commission's inquiries have had a corrective influence on economic life. The value of publicity of this sort in improving our economic structure has been generally recognized. Long before the conclusion of the Commission's recent inquiry into power and gas utilities, numerous voluntary reductions of service charges, construction fees and the like were made by public utility holding companies. These resulted in reducing the cost of operating companies by millions of dollars, and large numbers of rate reductions to consumers were made effective by the operating companies. These results, as well as the Public Utility Act of 1935, may be attributed, directly or indirectly, to the Commission's investigations and reports.

Trade Practice Conferences

After a good many years' experience under its organic act, the Commission developed still another and informal and cooperative method of bringing to an end a great many unfair trade practices. The Commission's trade practice conference procedure affords a means by which industry members may voluntarily cooperate in the simultaneous elimination of unfair methods of competition and trade abuses.

Under this procedure, members of a given business or industry gather at a conference sponsored by the Commission, and, with members of the Commission's staff as advisors, consider the problems of their particular industry. The conferences result in proposed rules, in which unfair trade practices which may have been prevalent in the industry are described and defined. If the Commission finds that the proposed rules are in conformity with the law and in the public interest, they are approved, and become standards of ethical conduct for the industry.

The Commission has sponsored nearly 200 such conferences. Some of them have been held by very large industries, with capital and investments amounting to hundreds of millions of dollars, and employing a great many thousand workers. It is gratifying to report that where an industry holds such a conference and rules are approved and promulgated, their observance by an overwhelming majority of the members of the industry concerned is the rule rather than the exception. The spirit of cooperation and of willingness to play fair with one another displayed by members of business and industry at these conferences, has been most inspiring, and this, together with the moral effect of the promulgation of specific rules, has aided the Commission materially in its efforts to bring about general law observance.

Conclusion

In conclusion, let me say that it is a real pleasure for me to address the Lions Club. I am familiar with your activities as a service organization doing real good in every community in which you are active. Fundamentally your interests are similar to those of the Commission. Like the Commission

you are concerned with improving the standards of the business community, and it is upon your type of organization that the Commission leans for the cooperation and support necessary to make its work truly effective.

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