

REMARKS OF

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OPENING THE TRADE PRACTICE CONFERENCE  
OF  
THE WINE INDUSTRY  
PALACE HOTEL, SAN FRANCISCO  
SEPTEMBER 9, 1938, 10 a.m., PACIFIC TIME

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Ladies and Gentlemen:

It is with genuine pleasure that I meet with the members of your industry here today. It seems to me that the time and place of this conference are significant. On September 9, 1850, the vast territory of California became an integral part of our Federal Union. Exactly eighty-eight years later, under the auspices of the Federal Trade Commission, the members of one of that State's most important industries are meeting here in San Francisco with the representatives of that industry from other sections of the United States in a trade practice conference intended to stamp out unfair trade practices in the industry.

That the Commission is willing to meet industry more than half way in this sort of endeavor is evidenced by the fact that members and representatives of the staff of the Commission have twice within the last six months travelled across the continent to hold trade practice conferences in this city.

Inasmuch as the most of you are attending a trade practice conference for the first time, it would be well for me to explain briefly the nature of the trade practice conference procedure.

This procedure has for its purpose the establishment, by the Commission, of trade practice rules for the protection of industry and the purchasing public against unfair competitive practices. Under this procedure, effective means are made available for the voluntary participation and cooperation, with the Commission, of industry groups and other interested or affected parties in the establishment and observance of such rules. Through such cooperative action among competitors as may be taken to end trade abuses, within the law and under Commission supervision, the forces for good in an industry may properly be more effectively organized and directed.

Among the beneficial results achieved under this procedure are the wholesale elimination and abandonment of unfair and unlawful competitive practices, thereby bringing to ethical business and the consuming public relief and protection from the waste of harmful exploitation. Voluntary cooperation in the elimination of harmful practices also effects a substantial saving to the Government and to business in the expense which otherwise would be incurred in a multiplicity of compulsory legal proceedings against individual offenders to require abandonment of the practices in question.

At this conference, all members of the industry will be given an opportunity to present suggested trade practice rules for consideration by the Commission.

Rules which may receive the Commission's approval or sanction may include not only provisions for the prevention of practices which are unlawful or are contrary to the general public interest, but also provisions for fostering and promoting practices which are designed to aid the maintenance of fair competitive conditions and to elevate the standards of business ethics in harmony with public policy.

For convenience, these rules are classified in two different types, those of the first type being designated as Group I rules and those of the second, Group II rules. Unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition or unfair or deceptive acts or practices, or other practices prohibited under laws administered by the Federal Trade Commission, as construed in the decisions of the Commission or the courts. Appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

Trade practices made the subject of Group II rules are considered to be conducive to sound business methods and are to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Non-observance of such rules does not, always or even generally, constitute violation of law. However, the failure to observe them under certain circumstances may amount to an unfair practice contrary to law. In such event, a corrective proceeding may be instituted by the Commission as in the case of a violation of Group I rules.

In this connection, you are all no doubt familiar to some extent with the anti-trust laws, including the Sherman Act which prohibits combinations in restraint of trade. Any concerted action, whether to fix prices or for other purposes, which has the effect of substantially lessening competition comes within the prohibition of this law. It is not the purpose, nor indeed is it within the powers of the Federal Trade Commission, to grant the members of an industry immunity from this or any other law. Therefore, the Commission will not approve any trade practice conference rule which is designed to accomplish a purpose contrary to any of such laws. On the contrary, the Commission will proceed promptly and energetically against any industry members believed to be making use of any trade practice conference rule to accomplish such an unlawful purpose.

It is also the policy of the Commission to treat all members of an industry alike and to show no preference to any particular member, group of members or geographical section of an industry. The Commission will not, therefore, look with favor on any attempt to cause a discrimination to be made between any such members, groups or sections.

The above comment is made as a general statement and I wish to assure you that no reference to any particular person or persons, either living or dead, was intended. As far as your particular industry is concerned, had not the Commission believed it to be sincerely desirous of adopting proper rules for the elimination of unfair trade practices and for the elevation of business standards, it would not have sent us here today.

Before any final action is taken by the Commission on the rules adopted at this conference, said rules, with such revision as the Commission shall deem desirable, will be made public and opportunity afforded all interested persons to present their comments and suggestions with reference thereto, either in writing or by personal appearance at a hearing held for that purpose. After giving careful consideration to all of the comments and suggestions thus presented, the Commission will proceed to take final action on the proposed rules.

It is my sincere belief that out of this conference there will develop trade practice rules which will be of great benefit not only to the industry but to the wine buying public as well.

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