

---

REMARKS

*of*

HONORABLE ROBERT E. FREER

CHAIRMAN OF THE FEDERAL TRADE COMMISSION

OPENING THE TRADE PRACTICE CONFERENCE

*for the*

GAS-FIRED WATER HEATER INDUSTRY

HOTEL MORRISON, CHICAGO, ILLINOIS

MAY 10, 1944

10:30 A.M.

(CENTRAL WAR TIME)

---

TRADE PRACTICE CONFERENCE  
FOR  
GAS-FIRED WATER HEATER INDUSTRY

It is indeed a pleasure for me to be with you today on the occasion of this trade practice conference for the Gas-Fired Water Heater Industry. A good omen portending of success in our cooperative deliberations here perhaps lies in the fact that in seeking this conference you have indicated a desire to pause long enough from your efforts to supply ample hot water for the grimy hands and greasy overalls of Mr. and Mrs. American war worker to explore the possibilities of elevating the plane of competitive selling in your industry.

On behalf of the Federal Trade Commission it is a privilege and a pleasure for me as its chairman to welcome you to this conference. Here we may all figuratively at least sit down around one table, and here you may all literally discuss all the problems of your industry and propose appropriate rules looking to such solution thereof as resides in the elimination or prevention of unfair trade practices.

The Federal Trade Commission's purpose is to assist your industry, and all industry, in maintaining business on a high plane of fair and ethical conduct, to protect the freedom of business to expand and develop, and to safeguard the rights of the public upon whose good-will all industry depends for prosperity and progress.

Many years ago the Commission recognizing the desirability of utilizing the voluntary cooperation of industry members in the elimination and prevention of unfair practices on a wholesale scale, inaugurated the trade practice conference procedure.

Through these conferences unfair practices may be prevented without the necessity of resorting to the formal legal proceedings which the law empowers the Commission to use in eliminating such practices.

A trade practice conference for an industry looks toward the promulgation by the Commission of rules of fair competition designed to protect both industry and the public. The conference procedure leading up to the adoption and promulgation of rules utilizes the cooperative effort of industry members and other interested parties to aid the Commission in its duty, under the statute, and in the public interest, to prevent the use of all unfair methods of competition and all unfair or deceptive acts and practices in interstate commerce.

This procedure of the Commission seeks to accomplish the prevention of unfair competition and unfair practices that the freedom of fair competition and its wholesome effects may be more fully enjoyed by all concerned. It seeks these ends through utilization of cooperative effort to the fullest extent possible, leaving the mandatory remedies for use in those instances where voluntary restraint has failed or proves inadequate. "An ounce of prevention is worth a pound

of cure," and constructive trade practice rules provide wholesale relief from the harmful effects of unfair competitive methods without incurring the expenditure of time and money incident to the formal trial of cases against individual offenders.

All members of the industry are afforded opportunity to consider any unfair trade practices applicable to their industry and to propose for consideration by the Federal Trade Commission rules designed to eliminate or prevent such practices.

Fair trade practice rules are classified into two groups -- Group I and Group II. The rules in Group I condemn, as unfair or unlawful, practices which are deemed to be violative of the laws administered by the Federal Trade Commission, as interpreted by the Commission and the courts. When it is considered to be in the public interest proceedings may be instituted by the Commission against those who use such unlawful practices in interstate commerce.

Practices which are the subject of Group II rules are not usually in and of themselves violations of law. In general, they condemn practices which the industry considers harmful or unethical although not per se illegal; some Group II rules also may encourage practices which the industry considers beneficial to itself and the public. Business standards and practices on a higher ethical plane than required by law, thus may be adopted and employed voluntarily in the public interest.

Since Group II rules do not prohibit practices generally held to be violative of law the failure to observe them may not result in action by the Commission. However, failure to observe such rules under certain conditions may constitute an unfair practice contrary to law, and in such instances the same corrective action will be instituted as in the case of violation of a Group I rule.

Following the conference a draft of proposed rules and expressions of policy will be published with notice to all interested parties of a 15-day period during which any suggestions or objections may be made. Thereafter a hearing for the voicing of these matters will be had and all suggestions and objections will be considered by the Commission before the rules are promulgated and approved. A copy of all rules thus finally promulgated is furnished each member of the industry accompanied by a form inviting his acceptance thereof and his adherence hereto.

The Commission retains a cooperative interest in the observance of trade practice rules after their final approval. Complaints of violation of Group I rules or of the use of unfair practices which violate the law, whether covered by Group I or Group II rules or by neither, will receive prompt attention.

Proceedings by the Commission are not based directly upon a violation of the rules but upon a violation of the law itself in relation to which fair trade practice rules in Group I supply a concreteness not available in the more general language of the statute.

Upon complaint of a violation, careful investigation is made and, if the facts warrant further action, proceedings are then instituted to stop unfair practices by members of the industry whether or not such members take part in the conference or accept such rules for the industry as may be approved by the Commission.

An important industrial group, after adopting a set of trade practice conference rules, advised the Commission of a double effect observed:

"In the first place, it gives an industry a set of regulations to guide them in their business activities. In the second place, it causes the companies in an industry to scrutinize their practices more carefully."

The Commission's twenty years of experience in the promulgation and enforcement of trade practice rules in many industries has convinced it of their constructive and wholesome effect upon the country's business structure and of the possibilities of further usefulness of this voluntary method of implementing industrial self-regulation for the general benefit of our national economic life.

The cooperative procedure of the Commission is particularly valuable as a pleasant and inexpensive method of enforcing the law for the benefit of industry and the consumer. The businessmen of our country are inherently honest, and it is the Commission's general observation that the voluntary and simultaneous action induced by a trade practice conference frequently has accomplished a more wholesale elimination of unfair trade practices than would have resulted in the aggregate from a series of formal proceedings.

A prime objective of Congress in empowering the Federal Trade Commission to prevent or eliminate artificial restraints upon or unfairness in commerce was to preserve and foster free and fair competition. In my opinion, great progress toward this objective can be made through the employment of the voluntary cooperation of industry members to aid the Commission in enumerating and classifying as unfair all practices unduly interfering with or unjustly handicapping the honest and ethical in their efforts to achieve success under the free enterprise system.

I trust that this meeting may result in great good to your industry as well as to the public, and I assure you now of the Commission's desire to cooperate with you in the achievement of such result.