
REMARKS

of

HONORABLE ROBERT E. FREER

CHAIRMAN OF THE FEDERAL TRADE COMMISSION
OPENING THE TRADE PRACTICE CONFERENCE

for the

HEARING AID INDUSTRY

HOTEL CLEVELAND, CLEVELAND, OHIO

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(EASTERN WARTIME)

TRADE PRACTICE CONFERENCE
FOR
HEARING AID INDUSTRY

It is indeed a sign of constructive thinking and high purpose in an industry when it comes together in a voluntary and united effort to maintain and promote fair competitive methods and high ethical standards of business practices. Your meeting here today has that high significance. It attains even higher importance in the light of the great boon to humanity which arises from the development and distribution of effective aids to the hard of hearing. While in general yours may be regarded as essentially an industry of small business, the aggregate 25 million annual sales and the importance of these products to the public are by no means small.

On behalf of the Federal Trade Commission it is a real pleasure for me as its chairman to welcome you to this conference, called for the purpose of letting us all sit down together in cooperative effort toward providing against unfair or harmful practices and consequently toward the better protection of the industry and the public.

Possibly some of you here today are attending a trade practice conference for the first time. I believe, therefore, it will be helpful at the outset if I explain briefly the procedure which will be followed.

A trade practice conference for an industry looks toward the promulgation by the Commission of rules of fair competition designed to protect both industry members and the consuming 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 commerce.

The Commission, a number of years ago, initiated the conference procedure as a means whereby the forces working for good in an industry might be effectively organized and directed, to the end that unfair practices existing in that industry might be eliminated "wholesale," and without resort to the formal legal proceedings against industry members which the law empowers and directs the Commission to employ in preventing, severally, their use of any such practices.

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 may also 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 may thus be adopted and employed voluntarily in the public interest.

Since Group II rules do not prohibit methods and 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 corrective action will be instituted as in the case of violation of a Group I rule.

Following the conference a draft of proposed rules 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 thereto.

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 any of the rules, 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.

Actual experience of the Commission in the formulation, adoption and promulgation of trade practice rules during a twenty-year period has shown conclusively their constructive and wholesome effect upon the country's whole business structure. The substantial good achieved by trade practice conference rules points to the possibilities of future growth of this method of industry self-policing and self-regulation for the benefit of our national economy.

The trade practice conference procedure is particularly valuable as a pleasant and inexpensive method of enforcing the law for the benefit of industry and the consumer, and the Commission has found generally that acceptance of sound rules resulting from a frank conference between representatives of an industry and the Commission's staff more often than not accomplishes more in a sweeping and wholesale elimination of trade abuses than would a series of formal proceedings against individual companies.

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."

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.