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TO TELL THE TRUTH

Statement by Earl W. Kintner
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That you should have invited the Chairman of the Federal Trade Commission to address you on the eve of the Washington Birthday Sale here in Washington showed real audacity.

For most certainly scores of firms are advertising sensational bargains to be had tomorrow. And, as you well know, that word, "sensational," is to the FTC what the smell of smoke is to a fire insurance adjuster; we both want to make sure that any claim is supported by the facts.

However, George Washington was truthful about having cut down the cherry tree, and his birthday tomorrow doubtlessly will inspire this city's merchants to the same kind of veracity, so I suspect the FTC won't have too much to worry about. We will assume that the dealer who offers a Cadillac for 98 cents is engaging only in bait advertising of a most benign sort, and we will look the other way.

Tomorrow will be the one day in the year when Washington shoppers and merchants can tackle each other with unrestrained enthusiasm. The bargain hunters who queue up for an all night vigil--with blankets and sandwiches--are under no illusion that the bargains they want are in adequate supply.

In short, may the Washington Birthday sale tomorrow be a festive occasion with the word "sensational" flown from every store and shop. And may the real bargains bring satisfaction to their buyers.

What the Commission has been fighting is not the eye-twinkling "sensational" merchandising that has become traditional on Washington's birthday but the slick selling methods used by an unscrupulous few during the other 364 days in the year. Here tolerance drains away, and the advertised sensational bargains had better be more than spurious "come-ons." They had better be bona fide, not only because the Commission forbids bait advertising, but because reputable merchants don't want to lose customers to sucker bait. Nor do reputable merchants want their advertising dollars devaluated by consumer skepticism brought on by the shyster tricks of others.

Here in Washington, we have both a solemn challenge and a real opportunity to clean up false advertising. In fact, the District of Columbia offers a proving ground for

the best anti-deceptive weapons in our arsenal. For one thing--and a most important one--the Federal Trade Commission has unquestioned jurisdiction in the District and is not encumbered with the need to prove that sellers are engaged in interstate commerce. Another factor is the increased awareness by the District Commissioners of the need for positive steps to halt flim-flam selling schemes, such as have been employed to sell used cars. Still another factor--and a vital one--is the fact that the news media have undertaken to ferret out and attack unscrupulous selling methods, even at the risk of antagonizing potential advertisers. I think these newspapers and broadcasting stations deserve great credit for this. It is one thing to preach virtue in the abstract, and quite another to sacrifice hard revenue for the same privilege and duty. Of course, in the long run, reputable advertisers who comprise the overwhelming majority will favor using those media that disdain sleezy advertising.

Still other anti-deceptive weapons in the District of Columbia's arsenal are the Better Business Bureau, the Washington Advertising Club, and such business organizations as you have here in the Rotary Club.

Being perhaps overly frank, I am under no illusions that business groups relish the idea of becoming cozy partners with any government policing agency. I am sure

most organizations of businessmen instinctively shy away from too close an association with the FTC or any other agency of government. The business attitude, I suspect, is that if the partner is too big and too powerful and too headstrong, the partnership will get out of hand--like the rooster that was locked in a stall with a horse and said: "Let's be partners and not step on each other." So, I can appreciate that any single business group is reluctant to get in the same stall with the government.

Nevertheless, common goals are possible and certainly desirable. Just as Washington businessmen need the help of legal authority to restrain misrepresentations by cut-throat competitors, so does the Federal Trade Commission need a very large measure of cooperation from business in the matter of self policing. There is an apt parallel to what I'm saying in the policing of traffic: were it not for the fact that virtually all motorists obey the traffic laws out of respect for the law (and their own fenders), traffic would become hopelessly snarled--even without one of our snowstorms. On the other hand, only traffic cops are able to chase down and deal effectively with defiant and reckless drivers. Carrying the analogy further, motorists quite rightly would resent the expense and annoyance of having motorcycle policemen dictate their every move.

In short, what we want and need is governmental policing for the defiant, and self-policing for the responsible. The important thing is for the traffic to keep moving in the public interest--whether the traffic be automobiles or business.

I think you will agree that, in the policing and regulation of business in Washington, we have the needed instruments--governmental and private. The policing capacity is potentially available. Whether it is actually available is another matter. No instrument is effective without the will to use it. Indeed, the instrument becomes worse than useless because its very potential has a lulling effect--for it is very easy to say: "If things get bad enough, we can do something about it. But let's not be in any hurry." All too comfortable is the philosophy that it is better to endure the evils we know than to risk new ones. In other words, let there be no hysteria. "If things get bad enough, we can do something about it." Thus goes the argument for inaction, and thus are the doors left open for the predatory. That some businesses may suffer is regrettable. That some of our citizens are victimized--also regrettable. But--"if things get bad enough we can do something about it." Personally, I don't hold with this comfortable philosophy. I think we've got the capacity to cull the bad apples out of the Washington business barrel,

and the sooner and the more vigorously the job is completed, the better.

What we've been doing at the Federal Trade Commission is a good start--but only a start. Here are some of the highlights:

During the past year and a half, my tenure as Chairman of the Federal Trade Commission, the Commission has made an unprecedented effort to make the Federal City a showplace of fair business competition. During this period the Commission has initiated more than 50 investigations or formal actions involving deceptive trade practices in the metropolitan area. The matters covered range the whole gamut of deception condemned by the Commission in the past, including fictitious pricing, bait advertising, not-so-unconditional guarantees, misrepresentations of quality and unfair disparagement of competitors.

These actions cover virtually the whole range of products offered to consumers. The Commission has given particular emphasis to abuses in sales of used cars and to deceptive practices employed by home improvement contractors. All of you remember the outstanding used car expose in the Washington Star written by Miss Miriam Ottenberg. The Commission's recognition of the rank atmosphere which pervaded this segment of the local economy is evidenced by its 12 investigations and formal actions

involving Washington used car dealers. Recently the Commission has also moved vigorously against deceptive claims made by automobile seat cover sellers in the District.

The Commission has also moved hard against scurrilous practices in the local home improvement industry. Some practices employed to induce home owners to contract for services properly belong in the muckraking legends of the 19th Century. The Commission has instituted 9 investigations or formal actions in this area.

As part of its nationwide attack on the use of reconditioned television parts without disclosure of prior use, the Commission has also kept a close eye on the practices of local radio and television repairmen. Other inquiries ranged from drugs to automatic washers to gymnasium facilities to bed warmers.

Recognizing that when a whole industry is afflicted with given types of virulent business practices a real inequity is created by singling out one company to make an early payment for the sins of all, the Commission has

in appropriate instances attempted to secure industry-wide compliance with the law quickly and cheaply through the voluntary conference technique. This technique is particularly effective where honest businessmen feel compelled to engage in unlawful practices because all their competitors engage in the same practices and they do not wish to be left behind in the sales race. Here in Washington the Federal Trade Commission encountered a good example in the retail furniture business. The Commission's Bureau of Consultation moved quickly to conduct a conference for all the furniture stores in the area. At this meeting an agreement to eliminate fictitious pricing simultaneously throughout the area was reached. I feel that this technique has signal promise. It protects honest businessmen from competitive disadvantage. It protects the public purse by securing quick and cheap law enforcement. And it aids the cause of a free economy by encouraging compliance through voluntary action rather than through compulsory process in an appropriate instance.

With the whole country to police, it might seem that the nation's capital has been given more than its fair share of attention. If so, I'm glad to acknowledge a large share of the responsibility as Chairman of the Commission. It was last October in an address to the Advertising Club and the Better Business Bureau of Metropolitan Washington that I declared myself on this point. My speech was entitled: "Business Racketeering Must Be Eliminated from the Nation's Capitol."

I did not mean to imply then--nor do I now--that Washington's business practices are worse than in any other major city in the country. I have no reason to think so. But I think anybody will agree that Washington--like the capital of any other nation--is a symbol as well as a city. To foreign diplomats and visitors from afar (not to mention our own citizens!) Washington is a sort of showcase where the nation's culture is on display. To international visitors it is only logical that if we can't behave ourselves in our capital city, what must the rest of the country be like! To these influential people, Washington must certainly be the free enterprise system in its best dress, just as their own capitals--Paris, Rome, London, Moscow--are their principal showpieces.

Thus, to them, Washington illustrates our free enterprise system not as we preach it but as we practice it. We Americans know that any business chicanery in Washington is the rare exception, but to foreign eyes, any such instance is a revelation of national corruption--to think that even in the capital of the United States are shameful practices tolerated! You may smile at this lack of logic, yet Americans are guilty of the same shallow judgments. What American tourist, swindled in a foreign capital, would not grind his teeth and damn that country as a nation of swindlers?

The Federal Trade Commission cannot afford to spend an undue amount of its resources in policing business practices in Washington. Instead it must combat business evils vested with the greatest public interest, regardless of geography. On the other hand the commercial morality of Washington is very much a public concern for this is the political capital of our free competitive system.

As Chairman of the Commission, I have been able to call for investigations looking to the correction of business abuses here, but the days when I can direct the Commission's staff are nearly at an end. Soon, my efforts must be only those of a private citizen, but the efforts will continue. A writer for a national magazine

called me the other day with a strange request. "Now that you are leaving the Federal Trade Commission," he said, "I would like to interview you on what you really think about the Commission and its potential."

I was somewhat startled. I asked him if he thought I had been traveling from one end of the country to the other making speeches and saying things I didn't believe.

He was a little embarrassed but only for a moment. Then he said: "I'm sure you know what I mean. You're being paid by the government and you're under oath to administer the law--so you don't have the same freedom to express your real thoughts as you will when you become a private citizen."

He was right. The salary of the Chairman of the FTC is \$20,500 a year. The Chairman is sworn to enforce the Commission's laws. And certainly any Commissioner, while sitting in judgment on a particular case, is not privileged to discuss it. But except for these obvious facts, what I would say as a private citizen about the Commission's work and purposes is exactly what I have been saying as Chairman of the Commission.

As a private citizen, I will do whatever lies within my power to encourage voluntary compliance with the law, for I have been on the enforcement side of the picture long enough to know if we had enough government policemen to do the job, we would have too many policemen. We would have a police state. We don't want a police state.

As Chairman of the Federal Trade Commission now and as a private citizen in a very few days--my convictions are the same. If our trade regulation laws are to be enforced effectively, the main thrust of enforcement must come from business itself--with government as an alert and aggressive partner. It is a challenge awful in its enormity and its gravity, yet the alternative is the further erosion of freedom.

Let business know and live up to its responsibilities. Let government be the instrument of thoughtful men, not the master of fools.

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