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Remarks of  
HONORABLE EDWARD T. TAIT  
FEDERAL TRADE COMMISSIONER

Before the  
INSURANCE ADVERTISING CONFERENCE

June 25, 1957

Spring Lake, New Jersey

Your invitation presented a real challenge to me. As a member of a regulatory agency, I wondered how I could say anything that would excite your interest and at the same time correctly reflect my policies.

As a matter of fact, I think you're going to agree with much that I shall say. In essence I'm going to tell you why I think insurance sales are at the threshold of an unparalleled increase.

First, however, I would like to answer one question which I suspect is in your minds. Undoubtedly you want to know how I fit into the Federal Trade Commission's recent activity in the field of health and accident insurance.

The Commission's complaints against 41 companies selling health and accident insurance already had been issued when I became a Commissioner in November 1956. The Commission also had ruled by a 3-to-2 vote that it has jurisdiction over insurance advertising in interstate commerce. I do not agree with the Commission majority in this ruling. I have so stated in a dissenting opinion filed in the North American Accident Insurance case.

My exact words in that dissent were these:

"Unless sanctioned by Congress, joint or concurrent regulation is repugnant to our federal-state governmental philosophy because of the tremendous burden imposed upon those subject to dual regulation. On this theory state statutes have been struck down. Conversely, when Congress in effect says to the states, 'It is in the public interest that you should regulate this industry,' it is unsound to presume that Congress intended joint or concurrent federal and state regulation. In the McCarran-Ferguson Act it is clear that the states can regulate insurance advertising. It is not clear that both the federal government and the states can jointly regulate. Because of the unnecessary burden imposed on those regulated, a clearer expression of Congressional intent should be required to hold that there is joint federal-state regulation, which seems to be the Commission's majority view. Here we have no indication of such an intent. In fact, the Act itself refutes any such contention."

Of course, the issues in the case are many and complex, but I've quoted enough to let you know my viewpoint, Besides, simple humanitarianism would forbid a more extensive legal opinion after such a pleasant dinner.

It might profit us this evening to put aside legalism in this discussion of insurance--to examine the forest of opportunity rather than the trees of controversy.

There can be little doubt that the actions of the Federal Trade Commission have alerted the insurance companies, the state authorities, and the public to the obligation that health and accident insurance be advertised truthfully. This state of alert applies with equal force to the advertising of half truths whose effect is to mislead. And, regardless of where the jurisdiction lies in the policing of insurance advertising, the greater awareness of the requirements for honest advertising in this field is a healthy thing. Ultimately, it will generate greater public confidence in the value of insurance and in the integrity of the insurer. This confidence will return far more to the insurance industry than the perilous profits gained from too much zeal in advertising certain benefits.

Nearly 43 years ago, Congress created the Federal Trade Commission and gave it a number of jobs. One of these was the duty to police the advertising of thousands of products and services sold in commerce in this country. As cases were brought and tried during these years, the courts judicially hammered out the Commission's powers and limitations.

In 1941 the Sixth Circuit Court of Appeals discussed the problem of the public understanding of an advertisement in these words: 1/

"The average individual does not make, and often is incapable of making, minute calculations to determine the cost of property purchased on the deferred payment plan. Mechanization, industrialization, and urbanization have transformed the structure of our society and raised to the proportions of a major social problem, the protection of the installment purchaser against his own ignorance and the pressure of his need.

1/ Ford Motor Co. v. F.T.C., 120 F. 2d 175; cert. denied, 314 U.S. 668.

"The present advertisement must be considered from the view of the prospective purchasers of petitioner's cars and, in determining its capacity or tendency to mislead, must be judged from its general fabric, not its single threads."

That was sixteen years ago. I think you will agree our economic life has not, to say the least, become less complicated.

Four years ago, the Commission undertook to make a thorough study of advertising used in promoting health and accident insurance. It was a study that revealed the "general fabric" as well as the "individual threads" of this advertising. The fabric was distinctive due to the unique and vital role which insurance plays in our economy.

The fabric revealed the degree of faith we Americans place in our insurance. We see in it the personal security it offers the individual. It is an index of economic well-being, a cementer of family and community security. Insurance is no fad of the hour, no shiny appliance to excite a neighbor's envy, no possession to exhibit success; insurance is, instead, protection against those personal storms which threaten our future.

The Commission's study revealed a distinctive characteristic of insurance buying. The usual family budget contains "must" items, such as food, rent, mortgage payments, clothing, medical and dental expenses, education, furniture, insurance and utilities. But consider this significant fact. The circumstances surrounding these "must" items reveal one that is unique. With one exception, the purchaser either sees, feels, hears, touches, tastes, or smells the product before he buys it. Not so with insurance. In each instance following the purchase, the consumer soon knows, by using it, whether the product has the quality or is capable of the performance he had been led to expect. Not so with insurance. This vital protection is the one item in the family budget that is purchased and renewed solely on faith--faith in the institution of insurance and faith in the integrity of the insurer.

Health and accident insurance has another essential aspect. Its limitations are not fully understood. The idea of securing protection against loss resulting from accident or sickness is, as you well know, relatively new. Some

twenty years ago, the public spent less than \$150 million for this type of protection. This year, it will spend more than \$4 billion. You also know that prior to the introduction of this type of coverage, the normal family bought only life insurance, fire insurance, and various types of automobile liability coverage. The singleness of the risk, death or fire, coupled with a fixed benefit, does not offer as broad an advertising target as the accident and sickness contract. However, when American families added this new kind of insurance--medical, surgical, hospitalization, and loss of income protection --to their budget, they derived the same comfort, the same specific confidence they had found in their other policies. To receive so much when death or fire occurred meant also to receive so much when sickness or accident struck. It was just that simple to them.

But you are aware of the underwriting problems involved in a contract reaching a variety of sickness or accident risks. You know the contract must be more complex. However, it is not necessary for our purposes here to list or justify the contractual reservations affecting the insurer's liability. What we must remember is that the public is not fully educated concerning the contractual differences between health and accident coverage and other forms of insurance. Certainly advertising must not misinform the reader as to the true nature of this protection. It must not exaggerate the scope of coverage nor hide limitations of the policies.

The final answer to the question of where jurisdictional lines should be drawn probably will be resolved by the Supreme Court. Two recent decisions by circuit courts of appeals held generally that regulation of the companies involved lies with the states.

But I think a practical result already has been achieved. Both the insurance companies and the state regulatory bodies have been alerted to the basic problem, the need for fair disclosure. This cannot help but have a salutary effect not only in the protection of the public but in building public confidence in the integrity of insurance advertising.

The accident and sickness insurance policy has in twenty years grown from an academic experiment to a real social need. When you compare the contract of 1937 with the contract of 1957, you can applaud the constructive

efforts made by your industry in extending the protective reach of this form of disability coverage. Just a week ago the insurer of my Bar Association Group sent us a 12-year summary of the increased benefits which have been extended under that policy. No additional premium was charged. The advance in this protection is reflected by the more than \$3 billion paid last year to policyholders for losses from accidental injury and sickness. The total national loss from such causes last year was \$12 billion, indicating that a vast area of risk remains to be explored by the underwriter. Furthermore, the enthusiastic acceptance by the public of this type of coverage promises a willingness to travel this area with you.

I said at the outset that sales of health and accident insurance are at the threshold of an unparalleled increase. The reason for my confidence is my conviction that such insurance is genuinely needed for the protection of the individual and the family. To this need can be added the intangible benefit of increased public confidence in the honesty of insurance advertising.

The storm over insurance in the past months has done much to clear away the fog of suspicion. Both you who advertise insurance and the public who needs it can welcome this cleaner atmosphere for doing business. Both will profit from the experience.