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Address by Edward F. Howrey, Chairman of the Federal Trade Commission, to American Trade Association Executives, at a luncheon meeting November 10, 1954, Statler Hotel, Los Angeles, California.

The post-war sellers' market that could wink at inefficiency and make a fortune on a shoe-string has about come to an end. It is being replaced by an era of vigorous competition that will strengthen the sinews of American business and offer the consumer more for his dollar. It is an era that is certain to challenge the inventiveness, the daring, and the capacity of those who sell goods and services.

With such a speed-up in the competitive game, the rules of fair play become increasingly important. The pressure will be on to cut corners -- to take advantage of every means to cut costs and increase business volume. The temptation will exist to take unfair advantage of competitors, and there always will be a few who will try. Some will be guilty of unintentional abuses; others will know perfectly well they are violating the rules. In either case, honest business and the public need protection.

This need emphasizes the role of government agencies which interpret and enforce the rules. The Federal Trade Commission is one of the most important of these agencies and one that has been very much in the spotlight in the past few months. Even so, its role is not as fully understood and appreciated by business and the public as the value of its work warrants. It is a better friend of honest business and the consumer than either realizes.

The character of the Federal Trade Commission refutes the widely held idea that all important Washington agencies are big ones --- that mere size is a measure of importance. We have a comparatively small staff --- about 600. It is significant, however, that more than half of these have earned professional status, and many enjoy national prestige. They are acknowledged experts, not simply by the government yardstick, but by the professions themselves.

This small organization has a tremendous assignment, the supervision of the competitive practices of most of our multibillion dollar economy. Obviously, the Federal Trade Commission must employ its small force intelligently in order to achieve a maximum effect. A simple policing job, for example, would be a poor utilization of this force. It would be like trying to dam a mile-wide river with a three-foot section of dam. Nevertheless, that same three-foot section could be very effective if placed near the headwaters where the current could be directed into the proper channel. The same is true of the FTC. Its greatest good can be accomplished by guidance, by assuring that the tremendous force of the American competitive system follows the channel of fair play.

The intelligent application of the Commission's force also calls for concentration on the objectives which Congress has set for us. Obviously, we cannot indulge in time-consuming formalism if adequate and practical short-cuts can achieve the same results. With so small a staff and so great a

responsibility, we can hardly afford to explore too many legalistic back roads in search of fringe violations. Far more can be accomplished by concentrating on those evils which are of wide concern both to business and to the greatest number of consumers. And, of course, the Congressional intent is most satisfactorily accomplished if violations can be avoided in the first place, or at least killed a-borning.

That is why we have concentrated on preventive law to the maximum extent possible. We are developing in cooperation with industry, good and understandable rules, and our interpretations are being put in language any businessman can understand. As a result, we are encouraging a faster and better competitive game both for business and consumers. The Federal Trade Commission, in its role of umpire, is not so often required to interfere with the game by calling fouls.

It is this objective --- to interfere as little as possible yet accomplish the Congressional objective of assuring fair competition --- that has led to two principal shortcuts. One of these is to encourage business to adopt and abide by its own trade practice rules and to assure that these rules afford adequate protection both to business and to the consumer. The other is to facilitate the acceptance of consent orders to cease and desist from illegal practices. These time savers make possible the better use of our small force for the protection of honest business and the public.

At the same time, we will be increasingly on guard to assure that willingness to adopt self imposed rules is borne out by actual compliance with them. Lip service, no matter how pious sounding, is no substitute for performance. I can assure you we are alert to the danger of honeyed words covering up practices injurious to fair competition and to the consuming public. We favor short cuts to fair business practice, but we do not favor short-changing the consumer.

We can anticipate that a small residue of cases will be left that will require adversary proceedings. For these we are prepared, and we will move promptly and effectively against offenders.

We are less concerned with whether we are being "harder" or "softer" than previous Commissions than with the need for being stable, clear-cut and effective. The Commission wants to be sure that it gathers facts and data carefully and appraises them properly.

We also want to make certain that what we say to business and industry is easily understood. The laws we administer express quite clearly the intent of Congress, but their detailed application calls for administrative interpretation by the FTC and, where necessary, the added interpretations given by the courts. The resulting definition of Congressional intent can be and has been fairly complicated. The small business man, particularly, has been hard put to keep informed on what these interpretations are. Because of this, we recently adopted a new policy whereby the Commission will issue its opinions in language that a layman can understand without a lawyer at his elbow. It seems an obvious thing to have done; yet, for years the barrier of legalistic phraseology had hampered a proper public understanding not only of the Commission's decisions, but even its functions.

It should be part of elementary business education to understand why the Commission was established and what its duties are. The Federal Trade Commission was designed to supplement the work of the Department of Justice and the courts under the Sherman Act. The job of the Justice Department was to be primarily that of the prosecutor. The Commission, on the other hand, was meant to practice preventive law through administrative and regulatory activities as well as by initiating and conducting adversary proceedings. In simpler terms, the Commission's job is to protect the public and business, principally small business, against unfair methods of competition and deceptive acts and practices.

On learning of an offense, usually through complaints from the persons injured, the Commission investigates. If the facts substantiate that a wrong is being done, the Commission issues a formal complaint. The respondent is offered the opportunity to answer this complaint and to receive a hearing. A hearing examiner then makes an initial decision in the case. This decision may be appealed by the respondent. If not appealed, the decision will become final within thirty days. A final decision under the Federal Trade Commission Act has the effect of law, unless it is appealed to the courts. The Act provides for a civil penalty of \$5,000 per day for each violation.

The complaints the Commission receives cover a tremendous volume of business. There are some three million firms over which the Commission has jurisdiction. This volume becomes even more staggering in view of the Commission's responsibilities to administer not one but several Acts. The most important of these are the FTC Act dealing with "unfair methods of competition," the Clayton Act, dealing with price discrimination, tying contracts, and anti-merger legislation; and the Robinson-Patman Act which broadens the Commission's responsibility to assure that price and other differentials do not discriminate unfairly.

Despite the volume of this work, the Commission nevertheless is determined to go after the "hard core" violations of anti-trust laws, as well as to tackle those complaints that are invested with the widest public concern.

Recently, for example, the Commission launched a nation-wide investigation of the advertising claims made by concerns in the health, accident and hospitalization insurance field. Last month the FTC issued complaints against 17 of these companies, including the four largest in the field. The Commission limited its charges to one -- and only one facet of their business. This was the question of whether their advertising misleads purchasers into expecting wider and more generous coverage than the insurance policy offers. The complaints, in effect, were that the popular advertising of such insurance offered more benefits than did the fine print in the policies.

In addition to investigating and taking action on complaints made to the Commission, we have authority to initiate investigations we believe to be in the public interest. When the cost of coffee soared to unprecedented heights, the Commission launched an economic investigation that was one of the most thorough, objective and effective economic studies ever made by a government agency. It revealed that the coffee price spiral was due to a combination of forces: inadequate crop reporting, speculation, the raising of the minimum

export price by the Brazilian government, and a restrictive contract on the New York Coffee and Sugar Exchange. On the basis of this report, the Commission was able to recommend corrective legislation to the Congress. Incidentally, following the issuance of our 500-page report, the price of coffee has dropped substantially.

Today, another economic report is under way --- an investigation of the recent wave of mergers. In this undertaking the Commission is working in close cooperation with the Department of Justice. The Commission's concern is with "adverse changes in competitive patterns that may result from mergers, with the effects of acquisitions on the character or competition, and with the maintenance of competition in every market to the end that business rivalry may produce better products at lower cost."

The laws which Congress gave the Commission to administer are, for the most part, not a narrow set of rules but a declaration of Congressional purpose. Congress clearly intended that honest business and the consuming public be protected from actions contrary to those principals of free and fair competition basic to our private enterprise system. The Commission was created as the instrument to achieve that intent.

It is an instrument for which all of our people can be grateful.