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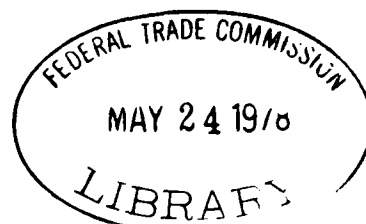
REMARKS OF

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BEFORE THE

NATIONAL ASSOCIATION OF CONSUMER AGENCY
ADMINISTRATORS ANNUAL MEETING

ATLANTA, GEORGIA



MAY 9, 1978

If there remains any lingering doubt about the strength and maturity of the consumer movement, this conference puts it to rest.

Perhaps I should start with a confession. I first began working on consumer legislation a decade ago for the Senate Commerce Committee. We were sorely afflicted by the then common disease known as Federal Omnipotence. We operated by a single rule of thumb: If it couldn't be solved by a Federal law, it wouldn't get solved. There was only a shadow of truth to the rule then; there is none today.

Although you may well harbor a healthy skepticism on this, I can report to you that to be a Federal consumer protection administrator in Washington today is to undergo a concentrated course in humility. First, there are things that Washington doesn't know; second, there are things that Washington can't do.

Much more to the point, no one who tends to view the national consumer protection scene at all globally can fail to cheer the renaissance of state and local initiative. Your organization is a testament to it, but every local consumer expose, every vigorous local action on behalf of

victimized consumers, and each vested pocket of privilege erased through reform of state and municipal laws bears witness to it.

Even more important, we have come to realize that the greatest benefit to consumers lies in joint venture with you.

Structurally, we have created a new Office of Federal/State and Consumer Relations led by Tony Creswell whom I hope you will have an opportunity to meet and work with during this meeting.

The Commission has formally taken several steps to enhance closer working relationships with state and local officials. We have directed staff to consult with potentially affected state and local officials in the process of developing proposed trade regulations rules. The Commission has delegated to its staff the authority to work with state or local government agencies to determine who is best able to handle complaints received by the FTC. Responding to concerns of local law enforcement officials at the difficulty of obtaining information in the files of the FTC, the Commission delegated to the General Counsel the authority to deal expeditiously with Freedom of Information Act requests from state and local officials.

As an example of the joint effort I'm talking about we established an antitrust hot line in Colorado operated jointly by the Attorney General of Colorado, the FTC and the Antitrust Division of Justice. We have also joined with the National Association of Attorneys General to support legislation to reverse the effect of the Supreme Court's ruling in the Illinois Brick case, which crippled the ability of the states to enforce antitrust laws on behalf of their own citizens. We also wrote to the President urging the addition of a state enforcement official to the President's National Commission on the Reform of Antitrust Laws and Procedure.

Traditionally, the Commission proceeded after identifying a problem through a case or more recently a proposed trade regulation rule. If we had jurisdiction, we moved; if not, we dropped the matter. Although there were some notable exceptions, the Commission generally downplayed its concurrent responsibility to investigate, study, and make public findings on the functioning of the marketplace.

Now we seek ways in which our resources can complement those of local and state consumer protection agencies. The support of investigations and analyses which can

strengthen and support ongoing state and local efforts are a part of our overall strategy and are built into our budget.

For example, in the effort to find ways to reduce auto repair fraud and negligence, the Commission is working on a major study designed to test the effectiveness of alternative state and local auto repair enforcement schemes. The objective is to identify for you those regulatory schemes and levels of enforcement which are making substantial inroads in the consumer loss caused by this mother lode of consumer complaints. If fully funded, the study will cost nearly \$2,000,000--a sum which no single state or local consumer protection agency can easily afford. We've taken this course because while we recognize that no single consumer transaction brings more grief than auto repairs, the Federal Government's capacity to reach small or locally owned garages and service stations is extremely limited.

In the area of life insurance cost disclosures, staff have met with 21 state insurance commissioners in an effort to share the benefits of our work in the development of a cost disclosure system that will truly enable consumers to make informed choices, suited to their needs. While many insurance companies remain hostile to the presence of the FTC in this field, most of the state insurance

commissioners that we have talked to welcome us as a source of information and insight independent of special pleaders on behalf of the insurance companies.

And we are working closely with state officials in seeking reform of state laws that prohibit substitution of lower-priced generic drugs. We are participating in the development of a model generic substitution law. We hope to be able to provide counsel and assistance to state officials seeking to remove needless burdens of drug costs, which fall especially on the elderly.

We are prepared to help in other ways when called upon. For example, the FTC has now had several years of experience in funding public participation by public interest and small business groups in our rulemaking procedures. We have been called upon by state and local officials to testify on the successes and pitfalls of our programs before state legislatures considering funding public participation in state proceedings. We are delighted to do so.

Perhaps our most ambitious effort to date at joint federal/state action has come in the effort to head off consumer abuses in home insulation. As the President's program went to Congress, we initiated a three-pronged effort. First, our Bureau of Competition began an antitrust

investigation to determine whether any illegal restraints existed in the insulation market (particularly fiberglass) to restrict expansion of production. We also began an investigation of the boric acid market to determine whether there are reasons for the shortage of borates, essential to proper fire treatment of cellulose insulation. Those investigations are still in process.

Second, the Commission proposed a trade regulation rule to require the uniform and fair disclosure of "R" values for insulation products on labels and in advertising. That rule would also establish standard methods of determining what energy savings claims, if any, can be made by sellers. The proposed rule was published in the Federal Register on November 18, 1977, and the hearings are now completed. The final recommendations should reach the Commission this summer.

This was the first rule proposed after our directive to the staff actively to seek the involvement of state officials, and a number of state consumer protection officials participated through testimony and written submissions. As a result of this intervention we will be examining the possibility of joint enforcement by state and local governments, perhaps through provisions in the rule itself.

The third Commission initiative was an industrywide investigation to determine whether manufacturers and sellers of insulation are living up to the requirements of existing Federal Trade Commission law. Under the Magnuson-Moss amendments to the FTC Act, the Commission can proceed directly into court for civil penalties of \$10,000 per day for activities engaged in by any company which knows that these acts or practices have been held to be unfair or deceptive by prior decisions of the Commission. The Commission notified all manufacturers of insulation and a number of major retailers of their obligations under the law, specifically the obligation to substantiate all energy savings claims and to disclose material facts, including any health hazards.

Recognizing that the Commission's ability to police this area was limited, the staff has held a series of law enforcement conferences at each of the Commission's regional offices. For example, last December, officials from Mississippi, North and South Carolina, Alabama, Georgia, Tennessee and Florida all met with the Commission's staff in Atlanta.

One benefit arising from these conferences has been the building of relationships between our regional staff

and state and local officials. In some cases, the conferences also served to bring together--for the first time--officials with common concerns from adjoining states and even the same state. At one conference, representatives of two agencies in the same state met for the first time and found they were investigating the same company.

The FTC is 1,700 persons strong. Before I joined the FTC, those numbers loomed like a vast army. Today I know we have the bare capacity to perform only the highest priority missions. Our limited resources enable us to tackle only those evils which are truly national in scope and susceptible to federally proscribed and implemented remedies. That leaves the lion's share for you.

The era of arrogant federalism of consumer protection is over. The eral of federal/local joint effort has just begun.

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