



FEDERAL

TRADE

COMMISSION

WASHINGTON, D. C. 20580

FOR RELEASE

Friday, March 8, 1974

For further information call

OFFICE OF PUBLIC INFORMATION
(202) 962-7144

**FEDERAL-STATE COOPERATION
TO COMBAT UNFAIR TRADE PRACTICES:
A REVIEW**

Remarks

by

Honorable Paul Rand Dixon
Commissioner of the Federal Trade Commission

Before

Public Seminar

FLORIDA DEPARTMENT OF AGRICULTURE
and CONSUMER SERVICES

Sheraton Inn

Ft. Myers, Florida

7:00 p.m. - 9:00 p.m.
March 8, 1974

Great progress in consumer protection has been made since the Federal Trade Commission some eight years ago established an office for federal-state cooperation. My purpose here today will be to review briefly that progress, especially as it relates to the prevention of consumer deception and unfair trade practices.

The federal program to prevent unfair competitive practices was instituted with enactment of the Federal Trade Commission Act in 1914 and the Clayton Act of the same year. They supplemented the Sherman Antitrust Act of 1890 to free the channels of interstate trade from practices which tend to hinder competition or create monopoly.

These laws are predicated on the theory that free and fair competition will bring to consumers the best quality and greatest variety of goods and services at the most favorable prices. With a duty to enforce these laws, the primary function of the Federal Trade Commission was then, and is now, to preserve and strengthen the competitive free enterprise system, in the public interest.

The consumer's interest in free and fair competition was more directly recognized in 1938, when Congress enacted the Wheeler-Lea Amendments to the Federal Trade Commission Act. It was also in that year that I first came to work

as an attorney for the Federal Trade Commission, fresh out of the University of Florida Law School. My enthusiasm for the Commission's work was enhanced by the provision in the Wheeler-Lea Act that consumer deception became sufficient to warrant Commission action, without need to prove injury to competition. My enthusiasm for the Commission's work has increased every year since then.

Being against deceptive and unfair trade practices gives a person great satisfaction, because it is like being against sin. You hardly ever run into anybody who professes to be in favor of deceptive and unfair trade practices.

The only difficulty is that not everybody agrees on what should be considered "deceptive" or "unfair." Just as not everyone agrees on what constitutes sin. Consumers often complain that they have been victimized by practices which they consider to fall in one or the other of those categories of deception or unfairness, while businessmen will often disagree. They may call it "puffery" or "selling up" or just good salesmanship. The Federal Trade Commission is the arbiter of these disputes. The Commission under the law has an affirmative mandate to seek out and to prevent those acts and practices in interstate commerce which are unfair or deceptive to consumers.

The Commission's ability to deal promptly with deceptive and unfair practices was greatly improved by enactment of the Alaska Pipeline Bill, Public Law 93-153, approved November 16, 1973. This new law, among other things, gives the Commission power to obtain a temporary restraining order or a preliminary injunction to stop the use of deceptive and unfair trade practices; and the civil penalties for violation of a Commission order have been increased from \$5,000 to \$10,000. This new law will enable us to do a better job at the federal level, with respect to abuses occurring in the channels of interstate trade. It will also enable us to cooperate more effectively with state and local agencies engaged in similar efforts.

When I became Chairman of the Federal Trade Commission in 1961, it soon was apparent that many of the deceptive and unfair practices used to exploit consumers were occurring primarily in intrastate or local commerce, rather than in interstate commerce. That conclusion was reached by the late President John F. Kennedy's Consumer Advisory Council on which I served in 1962-63. The Council suggested that if consumers were to be given adequate protection, it was necessary to provide remedies at state and local levels.

Consumers had gotten short shrift in the state enactments which came into being about the time of the FTC Act. While Congress in 1914 was declaring that in interstate

commerce unfair and deceptive practices would be unlawful, the states were busy enacting so-called "Printer's Ink" statutes. The Printer's Ink statute declared false advertising to be a crime, a misdemeanor, subject to fine and imprisonment. Nearly everyone now agrees that the Printer's Ink statute is of little value toward preventing unfair trade practices. Such a statute is seldom enforced. It gives the consumer no protection, except in the most flagrant cases of fraud and misrepresentation.

One way of dealing with the emerging consumer problems of the 1960's would have been to expand the federal bureaucracy to reach down and serve the consumers at the local level. Another would be to encourage state and local initiative.

In April, 1965, when I announced the intention to create a small FTC office to cooperate with state and local governments in the establishment and development of consumer protection programs, the suggestion met with widespread approval. Senator Harrison A. Williams, then Chairman of the Subcommittee on Frauds and Misrepresentations Affecting the Elderly, lauded the prospect of state and local action, especially as it would deal with problems affecting older people. The late Everett McKinley Dirksen, then Minority Leader of the United States Senate, commended the proposal as an example of how the federal government should relate

to state and local agencies. Senator Edmund S. Muskie, Chairman of the Subcommittee on Intergovernmental Relations, expressed approval of the FTC's philosophy of cooperation, stating that it provided a bright spot in the dialog of what had come to be termed "big" government.

Those manifestations of hope and approval have been borne out in the ensuing years. When the FTC took that action, only three states were attempting to prevent unfair trade practices, and only seven more were doing anything about deceptive practices. Now thirteen states have adopted the "little FTC Act" to ban unfair trade practices; and thirty-one more, for a total of forty-four, have adopted modern legislation to deal at least with deceptive trade practices. I fully expect that the remaining six states will adopt such legislation in the next year or two.

This does not mean that we can now rest on our oars, or that the millenium has arrived. Some of the state laws are still inadequate as to breadth of coverage--they reach only specified deceptive practices without protecting against other acts and practices which are unfair or deceptive to the consumer. Some of the state laws require proof of "intent" to establish a violation, which is inappropriate when criminal penalties are not involved. Some of the state and local programs are, I suspect, inadequately funded; and the salary scales may not be

sufficiently high to attract personnel who can deal out justice both to the businessmen and to the consumers in a fair and equitable manner. But notwithstanding all of that, we have come a long way. We have made great progress.

And nowhere has that progress been greater than in Florida.

It is a great pleasure to be here today, sharing with the people of Florida and their elected and appointed officials, the recognition of advances made in consumer protection. Enactment of the "little FTC Act" in Florida came about through cooperative effort of citizens and private and governmental agencies throughout the state. The Governor, the Attorney General, the Commissioner of Agriculture the Comptroller, the State Attorneys, and a host of other individuals in public and private life could be singled out for commendation. And we should not forget that it was the Senators and Representatives in the Florida Legislature who enacted the law to protect Floridians against deceptive and unfair trade practices.

I am glad to join with you in praising them. I wish your public officials well in carrying out functions which may have been assigned to them in the new legislature. They can depend on us at the Federal Trade Commission for cooperation and support.