

REMARKS OF COMMISSIONER ROBERT E. FREER

OPENING TRADE PRACTICE CONFERENCE FOR THE WOOL INDUSTRY,

TUESDAY, MARCH 8, 1938, 10 A. M.,

WASHINGTON, D. C.

Ladies and gentlemen:

I wish to extend you the greetings of the Federal Trade Commission. I am pleased to have been designated to preside at this conference, and assure you that the Commission desires to cooperate with you to the end that the practices of the entire industry may be raised to the level of the high standards of business conduct which characterize a large part of your industry today.

Most of you are attending a Trade Practice Conference for the first time. To avoid confusion and misunderstanding concerning your privileges and responsibilities, it would perhaps be well for me to explain the nature, purpose and limitation of the trade practice conference procedure.

Section 5 of the Federal Trade Commission Act declares unfair methods of competition in interstate commerce to be illegal and directs the Commission to prevent their use. The enforcement procedure outlined in the Act comprehends a formal complaint and answer, public hearings, findings of fact, published orders, and court review.

However, it is both expensive and time consuming for the Commission to proceed formally against each individual concern in a large and important industry for employment of some widely used unfair method of competition. On the other hand it would be unfair to single out only a few industry members for complaint procedure and to fail to take similar action against all others.

Nearly every important industry marked by sharp competition tends to develop certain customs or practices harmful both to the consumer and to the scrupulously candid members of the industry because tinged with misrepresentation or unfairness -- practices which would be difficult to completely eliminate unless all members voluntarily acted at the same time. The chief value of the Trade Practice Conference procedure is to provide machinery for voluntarily and simultaneously abandoning unfair practices, many of which are distasteful to most industry members who resort to them only because of competitive necessity or expediency.

The language of the statute is general; the act does not enumerate the specific practices to be stopped. But there are hundreds of business practices which have been held by the Commission and the courts to be unlawful under this general language. As to these practices which are clearly illegal, the Commission will assist in the formulation of rules which catalog in simple language the practices to be avoided. For instance, rules are generally adopted to prohibit misrepresentation, disparagement, inducing breach of contract, commercial bribery, etc. These practices and many others have all been judicially declared to be "unfair methods of competition." Rules condemning such practices are classified in Group I, and the Commission will

proceed against all parties employing such methods in interstate commerce for a violation of the law of the land.

There are sharp practices, however, which do not fall within the formal category of "unfair methods of competition", and at such a conference at this an industry may express its condemnation of these or it may record its approval of the ethical converse of such sharp practices. These condemnations or approvals, if they relate to matters upon which such an agreement is lawful and in the public interest, will be received by the Commission as expressions of industry policy. These expressions of policy are separately classified as Group II rules to distinguish them from the Group I rules, as the latter paraphrase decisions that proscribe practices which are violations of law.

The purpose of this conference is to enable you to suggest to the Commission what illegal or unethical practices exist in the industry, to the end that they may be voluntarily and simultaneously discontinued, and also to suggest ethical practices to be encouraged. Anyone in the industry may participate and no one is legally obligated by anything that is done here today. You are not under formal charges, but are meeting here to help formulate a constructive policy for the future conduct of the wool business.

Following the conference, the proceedings will be reported to the Commission by the Trade Practice Board. After consideration by the Commission, such rules as are approved and such expressions of policy as are acceptable will be tentatively approved and published with notice to all interested parties of a fifteen-day period during which any suggestions or objections may be made. Thereafter a hearing for the voicing of these matters will be had, and all objections and suggestions will be considered by the Commission before the rules are finally approved. A copy of all rules thus finally approved is furnished to every member of the industry, accompanied by a form providing for individual acceptance.

No "big stick" will be wielded. You are perfectly free to participate or not, as you desire. However, after promulgation of the finally approved and accepted rules, the Commission retains its interest in their observance by the industry, and it will act promptly to investigate and stop the use of unfair methods of competition in interstate commerce coming to its attention. The proceeding will not be one to stop the violation of the rules as such, but to prevent the violation of law inherent in a violation of any Group I rule.

The full purpose of the Federal Trade Commission Act can best be achieved through voluntary cooperation of those for whom its benefits were intended. As the Supreme Court said in the fairly recent Sugar Institute case:

"Voluntary action to end abuses and to foster fair competitive opportunities in the public interest may be more effective than legal processes. And cooperative endeavor may appropriately have wider objectives than merely the removal of evils which are infractions of positive law."

It is my sincere hope that when the deliberations of this conference are at an end, there will have been formulated a set of rules and standards of conduct which will reflect the same sort of credit to yourselves that the public commonly associates with the expression "all wool and a yard wide."

Cervantes in the sixteenth century said that, "Many go out for wool, and come home shorn themselves." The consumer is entitled to come home with wool, when it is wool that he goes out to buy, and you will undoubtedly find much of benefit to your industry, as well as to the public, in this cooperative effort to see that it is wool that he gets. And although great emphasis is usually laid on the interests of the consuming public in considering competitive practices, the Commission's experience has been that consumer protection and the maintenance of the highest sort of business standards inevitably redounds materially to the benefit of the industry.

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