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REMARKS OF HON. R. E. FREER, MEMBER,
FEDERAL TRADE COMMISSION,
OPENING THE TRADE PRACTICE CONFERENCE FOR
THE BEAUTY AND BARBER EQUIPMENT AND SUPPLY INDUSTRY,
CHICAGO, ILLINOIS,
SEPTEMBER 20, 1940, 9:30 a.m. (C.S.T.)

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Ladies and Gentlemen of the Beauty and Barber Equipment and Supply Industry:

I wish to extend to you the greetings of the Federal Trade Commission. I am very pleased to have been designated by the Commission to preside over this trade practice conference.

For those of you who are attending a trade practice conference for the first time today, it is appropriate, here, to outline briefly the objectives and procedure of the trade practice conference.

The Federal Trade Commission is directed and empowered by Section 5 of the Federal Trade Commission Act to prevent the use of unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce; by the Wheeler-Lea Act Amendments to the Federal Trade Commission Act to prevent false advertising in commerce of foods, drugs, cosmetics, and devices; and by the so-called Robinson-Patman Act to prevent discriminatory refunds, rebates, discounts, and services in interstate commerce. The enforcement procedure provided in these acts comprehends a formal complaint and answer, public hearings, oral arguments, findings of fact, published orders, and court review.

The language of these statutes is general — in most instances the forbidden practices are not specifically enumerated. There are many business practices which have been held by the Commission and the courts to be unlawful under this general language. While it is impracticable to list every act or practice which has been proscribed, it has been found helpful in the case of many industries to set forth in trade practice rules, and in relatively simple language, those illegal practices with which the industry is most likely to be confronted.

For instance, rules are generally adopted to prohibit misrepresentation, inducing breach of contract, imitation of trade-marks, false invoicing, defamation of competitors, and many others, all of which have been judicially declared to be in violation of one of the several acts which the Commission enforces. Rules condemning such methods or practices are classified in Group I and the Commission will proceed against all parties employing them in interstate commerce for a violation of the law of the land. All trade practice conference rules include Group I rules.

On occasion the Commission has approved Group II rules in which an industry either condemns practices which, while not unlawful, are considered harmful or unethical, or encourages practices considered ethical and desirable although not necessarily required by law. It is not necessary that any Group II rules be included in an approved set of trade practice conference rules and the Commission has promulgated rules for many industries which contain Group I rules only. Such Group II rules are received and published by the Commission as expressions of industry policy rather than as the requirements of law. Under certain conditions, however, a violation of a Group II rule might be carried on in such a way as to constitute a violation of law, and, in such cases, enforcement proceedings can and may be instituted.

The Commission a number of years ago initiated these conferences as a means whereby the ethical forces working for an elevation of the plane of competition in an industry might be effectively organized and directed to the end that unfair practices employed in that industry might be eliminated without resort to the formal legal proceedings which the law empowers and directs the Commission to use in preventing such practices. This procedure by the Commission is based upon the theory that a voluntary elimination of unfair competition and unfair practices in an industry leads not only to fair competition in that industry but is also to the interest of the public.

If, by this procedure, all unfair competitive practices in an industry are eliminated voluntarily and without the delay and expense incident to the investigation and trial of many cases against numerous individual members of that industry, it appears to the Commission that such procedure exemplifies the old adage about an ounce of prevention being worth more than a pound of cure.

It should be understood that the purpose of this meeting today is to give an opportunity to members of your industry to consider any unfair trade practices which may exist in the industry and to propose for submission to and consideration by the Federal Trade Commission, rules designed to eliminate such practices.

It should, of course, be remembered that the anti-trust laws prohibit any concerted action looking toward fixing prices or restraint of trade or the creation of a monopoly. It is the duty of the Commission to proceed against any members of industry who so misuse trade practice rules as to accomplish objectives contrary to the antitrust laws.

After consideration and study in the Commission of the suggestions and proposals made in this meeting, a draft of the proposed rules in appropriate form will be made available to all members of the industry and other interested parties, upon public notice affording them opportunity to study the proposed rules and to submit suggestions and objections in writing or orally at a hearing.

Following such hearing, the Commission proceeds to final consideration and action on the rules, and, as and when approved and accepted, they are promulgated by the Commission as official trade practice rules for the industry. Copies are supplied to each member of the industry and they are afforded opportunity to record their intention to cooperate by observing the rules in the conduct of their business.

The Commission retains a cooperative interest in the observance of trade practice rules after their final approval. Complaints of violation of Group I rules or of the use of other unfair practices which violate the law, whether or not such practices are covered by either Group I or Group II rules, will receive prompt attention.

It is hoped that the rules you may adopt at this conference will meet with approval and will go a long way toward enabling your industry to maintain its business on a high plane of fair and ethical competition, and that from this meeting not only dealers and manufacturers but also your customers and the public may derive great benefit.

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