
INTRODUCING
THE FEDERAL TRADE COMMISSION

by

HONORABLE ROBERT E. FREER, *Chairman,*
FEDERAL TRADE COMMISSION

AS INTERVIEWED BY

RICHARD EATON

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- MR. EATON: Perhaps, Chairman Freer, you first should tell us the make-up of the Federal Trade Commission.
- MR. FREER: Established in 1914, the Commission has continued as an independent, bi-partisan board consisting of five members, appointed by the President and confirmed by the Senate. No two of their seven-year terms of office expire in the same year. Including everyone from Commissioners to messengers, the staff in normal times numbers around 600. Today we have about 475, the greater part of whom are lawyers, accountants, economists and statisticians.
- MR. EATON: How has the war affected the nature of the Commission's work?
- MR. FREER: It has broadened it. For example, we have made hundreds of investigations and studies, nationwide in scope, for the War Production Board, to ascertain whether producers and processors are complying with priority regulations.
- MR. EATON: Mr. Freer, I know that the Federal Trade Commission administers various laws pertaining to unfair methods of competition and to practices which deceive the public. Do the laws which our Congress has passed specifically define those unfair methods or practices?
- MR. FREER: No, Mr. Eaton, the Federal Trade Commission Act, as passed in 1914, deals in broad principles of business conduct -- what lawyers often call an expression of general policy. Unfair methods and practices in commerce are declared to be unlawful and the Commission is directed to prevent their use. Such acts and practices are unfair plays in the game for business profits and consumer good will. The Commission is the umpire in the game. Its job is to keep the game fair and honest for consumers, as well as for the conscientious elements of business. Unfair trade practices can take many forms, and Congress wisely did not attempt to enumerate. It delegated responsibility to the Commission to order a cessation of each form as it arose, with an unrestricted right of appeal to the courts for a review of the Commission's orders to cease and desist.
- MR. EATON: What other laws does the Commission administer?

MR. FREER: The Wool Products Labeling Act, popularly known as the "Truth in Fabrics Law," as the name implies, sets up standards for labeling products which contain or purport to contain wool, and requires revelation of the presence of substitute fibers. The Clayton Act makes illegal price discriminations and tying contracts where they tend to lessen competition or create a monopoly. The Export Trade Act permits businessmen engaged solely in foreign trade to form associations for selling their product abroad. Under the provisions of this law they file appropriate reports regarding their organization and operations, and the Commission exercises continuing supervision to make certain that trade is not restrained or prices artificially enhanced in our own country.

MR. EATON: Won't you name some of the practices which in the Commission's decisions have been held to violate the laws which it administers?

MR. FREER: Well, false advertising is the most usual -- by far the most common -- but included in the roll call are conspiracies and combinations to fix prices or control production, commercial bribery, disparagement through false statements respecting a competitor's product or business, boycotts to prevent classes of dealers or wholesalers from procuring goods, operation of crooked prize contests, to name a few. False or deceptive advertising embraces any material misrepresentation concerning the quality, origin, purity, or the attributes or effectiveness claimed for any article which your household or mine may buy, including such important commodities as food, drugs and cosmetics.

MR. EATON: Will you cite an example or two?

MR. FREER: A few years ago a moving picture was advertised as "an authentic incontestible celluloid document showing the sacrifice of a living woman to gorilla hordes"; as "an authentic record of African adventure"; "the spectacular sensational real adventure film made with untold difficulties in the heart of equatorial Africa"; and "a production of actual experiences photographed under the most unbelievable difficulties and danger." Headlined also was a strange new beast called a "tortadillo."

We found that the picture had been filmed in Hollywood; that the African wild women and children were "civilized" Los Angeles movie extras; and that the "tortadillo" was only a turtle to which had been glued wings, scales and a long tail, photographed to appear large and dangerous.

Of course, this case isn't exactly typical any more than one involving a perfume for men, called "Oriental Love Drops," advertised as guaranteed to make a man irresistible to his lady love.

MR. EATON: But you say those cases are not typical?

MR. FREER: They merely illustrate the range, Mr. Eaton. You must remember that almost every untruthful statement, whether baldly false or only subtly misleading, for which an advertiser bears the expense of dissemination is intended to influence you and me to choose his goods. More often than not he alone has the true facts. Where, for example, a few decades ago cornmeal, rolled oats and middlings were sold in bulk and the purchaser had an opportunity to inspect the goods and to thus supplement the vendor's representations as to quality, such commodities today are sold so packaged that neither the consumer nor the storekeeper can make physical comparison without breaking the seal. Gone, too, are the days when fabrics were definitely and perceptibly either silk, wool, cotton or linen.

MR. EATON: You mentioned the advertising of drugs. I take it that means medicines and home treatments?

MR. FREER: Yes. Under an amendment to the Federal Trade Commission Act, not only is it unlawful to falsely represent the efficacy or other properties of foods, drugs, therapeutic devices and cosmetics but it is made mandatory for the advertiser to affirmatively warn that use of the preparation or device, under those conditions which are customary or usual, may be injurious, if such is the case.

MR. EATON: To me it is apparent that the Commission's function and purpose is to preserve business itself from that minority of predatory interests under its own roof as well as to protect the public health and public purse.

MR. FREER: The Commission is keenly alive to its obligation to industry and consumers. "An ounce of prevention is worth a pound of cure." Insofar as the Commission's powers are preventive, remedial action "nips in the bud" such unfair acts and practices as may promote monopoly or lessen competition.

MR. EATON: How does the Commission go about its work?

MR. FREER: Most of our cases originate upon application of a consumer or a competitor, usually by letter. The identity of the complainant is not made public in the ensuing investigation or even in the formal case which may result. Other applications may arise out of the continual survey of advertising maintained by the Commission. A sample of newspaper and

magazine advertisements and of radio commercials is scrutinized and questionable items are separated by "readers" for review by attorneys. If there is reason to believe that they may be misleading or false, the advertiser is invited to submit support for his claims. If the advertising statements are warranted by the facts, the matter is closed. If either field or office investigation discloses that statements are not true, corrective action is instituted.

MR. EATON: When the Commission issues one of such cease and desist orders declaring an act or practice "out of bounds" does the Commission also punish the offender by imposing a fine or penalty too?

MR. FREER: Absolutely not! The Commission's order to cease and desist is directed to future conduct. If such order is obeyed that is the end of the matter. Such an order becomes final either if not appealed or if it is affirmed by the court on review. Civil penalties may be imposed only by a district court and only if a final order is violated subsequent to its becoming "final." Lawyers term our orders "injunctive," in contrast to the courts' orders imposing penalties, which are "penal."

MR. EATON: The theme of keeping interstate commerce fair runs through all your cases doesn't it?

MR. FREER: Yes, and through another important phase of the Commission's work too, that of general economic investigations. At the direction of Congress or the President, we have made more than a hundred searching investigations into electric and gas utilities, chain stores, agricultural income, farm machinery, steel, cement, and scores of other industries and phases of industrial life. These general investigations have placed the spotlight of publicity on many questionable activities and have assisted the Congress and State legislatures in framing legislation.