

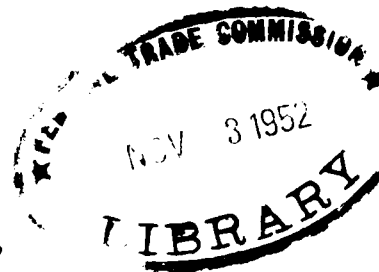
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Address by

Honorable James M. Mead
Chairman of the
Federal Trade Commission

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Our American economy is founded upon the idea of private enterprise operating under the principle of free and fair competition. From time immemorial we in this country have recognized that the best economic system for industry and commerce is the competitive system, a system in which the door is kept open to all to engage in business and to use their ingenuity, their skills, and their spirit of enterprise in competing freely and fully, one with another.

Under such free competitive enterprise economy, our Nation has achieved the greatest productive capacity in the world. Under it the highest standard of living found anywhere has been brought to our people. In recognition of the great boon of such economy the subject of fostering and preserving it has been dealt with under our laws for many generations. In 1890 Congress passed the Sherman Antitrust Law to prohibit monopolies and agreements in restraint of trade. However, it was soon found that this was not enough to protect competition as the ruling factor of free enterprise. And so, in 1914 Congress placed on the statute books another corner post for the protection of competition in free enterprise. It provided that the use of unfair methods of competition in commerce shall be unlawful, and it set up the Federal Trade Commission as a specialized independent Federal agency and clothed it with authority to apply this basic declaration of law, to hear complaints, to make investigations and to stop persons and corporations from using those practices which it found to be of a type constituting unfair methods of competition in the transaction of business in interstate commerce.

While remaining as a basic provision for the government of free competitive enterprise, this organic statute by which the Federal Trade Commission was created was only one step, and in a sense it was a forerunner of much subsequent legislation which Congress has passed in the intervening years, all directed to preserving the freedom of competition and protecting it against the growth or operation of monopolistic combinations and business methods or practices which restrain or render it unfair or deceptive.

After passing the Federal Trade Commission Act, Congress followed in 1914 with the Clayton Act, in which it struck at practices that substantially lessened competition by such methods as using contracting to sew up trade outlets to the exclusion of competitors; discriminating in price; consolidating competing corporations through stock purchase, and setting up interlocking directorates among large corporations. In 1918, the Webb-Pomerene Trade Act was added, permitting the organization of export trade associations under supervision of the Commission with restrictions designed to protect American competition. In 1936 Congress greatly enlarged the provisions against discriminatory practices detrimental to competition by passing the Robinson-Patman Act. It followed in 1938 with the Wheeler-Lea Act to strengthen enforcement of the law against unfair methods of competition, and specifically to include unfair or deceptive acts and practices in commerce, also to provide stronger controls over the advertising of foods, drugs, cosmetics and curative devices. In 1940 the Wool Products Labeling Act and in 1951 the Fur Products Labeling Act were put on the books as further weapons to protect the integrity of business competition from misbranding and

deceptive sales practices. The more recent Oleomargarine Act imposed increased penalties against violators, and Public Law No. 15 brought the insurance business within the scope of the Trade Commission's work in coordination with State regulation. Then in the closing days of 1950 Congress added the Anti-merger law designed to keep competition alive by prohibiting certain mergers of competing corporations, irrespective of whether the consolidation was effected by acquisition of capital stock or of corporate assets.

All these statutes enlarging the functions of the Commission form an extensive series of legislative action taken in recognition of the need to protect our free enterprise system.

The responsibility resting upon the Federal Trade Commission under these laws is that of taking action to keep the channels of competition open, to keep them free, to keep them fair as between trade rivals and fair to the public. In this task the Commission operates in relation to interstate commerce and directs its enforcement powers toward excluding the trade evils in question from the industrial and commercial life of the Nation.

The job thus given to the Commission is not a small one. It is concerned with almost every segment of the American economy which is delivering annually a gross national product of the unprecedented total of over three hundred and twenty-five billion dollars.

The Commission's work in the task of keeping competition free and fair falls into quite a number of categories. Time will not permit of an effort to cover them all, but I should like to refer to a few of the major ones.

Advertising

First, the field of advertising is one with which we are rather extensively concerned. Advertising, we might say, is the great American means for marketing commodities. It is the medium that brings seller and buyer together. It prepares the soil from which spring the sales transactions that move goods from producer, through the channels of trade, and on to the ultimate consumer. A tremendous impact is exercised by advertising upon the economic life of the nation. Advertising expenditures have grown by leaps and bounds. In 1900 they approximated 95 million dollars. By 1951 advertising expenditures rose to 6½ billion dollars.

Our laws are concerned with this great medium of marketing not only for the protection of the integrity of advertising itself but also for the protection of the buying public. The law administered by the Commission requires truth in advertising. It requires the literal truth; and further, it requires the avoidance of half-truths and of a capacity and tendency to deceive directly or by implication.

Enforcement work of the Commission against deceptive advertising has got to spread its coverage over a vast expanse of industries and trades. In some of these industries and trades it seems that the

temptation to indulge in questionable advertising is far greater than in others, and we are under the necessity of keeping constantly on guard in respect to new outbreaks of advertising fads that sweep the country.

Monopoly Work

Price fixing agreements and combinations of competitors in restraint of trade constitute another large segment of our work. We have a Bureau of Antimonopoly which has to give its time almost exclusively to complaints about discriminations and business combinations and practices which are destructive of the competitive system through the operation of control on competitive pricing or of some form of restriction upon the distribution of goods in trade.

Closely allied to this phase of the work is that involved in the enforcement of the new anti-merger law as a means of checking undue economic concentration and the destruction of the freedom of competition.

In the last three decades before Congress plugged the loophole in the law through which corporate mergers by purchase of physical assets escaped, more than 12,000 such mergers have taken place, indicating a tremendous trend toward concentration of economic and monopoly power.

In the period from 1940 to 1947, in manufacturing and mining industries alone, approximately 2,500 independent companies disappeared as a result of mergers and acquisitions by competitors. At the end of that period mergers were occurring at the rate of about 500 a year. More recent figures increased this to approximately 750 a year. In more than half of the mergers examined by us during 1951 the acquiring company had assets in excess of 10 million dollars and about a quarter of them individually had assets of more than fifty million dollars. The recent rise of the rate of corporate merging before the new law became operative was doubtless generated by an effort to "beat the gun"--to effect the consolidation and present a fait accompli before the new law passed and was implemented with appropriations to bring it into play.

Dangers to American business inherent in the merger movement are serious. The future welfare of free enterprise and of our Nation as a whole depends in very substantial degree upon our ability to prevent illegal corporate consolidations. It is a job for business as well as Government. The Federal Trade Commission, as the primary enforcing agency, is applying its powers to the fullest extent of its resources toward meeting this problem and preventing the consummation of mergers of competing corporations

having the illegal tendencies and effects of suppressing competition, as specified in the statute. We must do this to keep competition free and active. If our system of free enterprise does not remain competitive, it will not long remain free.

Trade Practice Conference Rules

By way of disciplinary or corrective action in the case of specific violation of a law administered by the Commission the offender may be subjected to a stipulation whereby he agrees to stop, or to an order to cease and desist which the Commission may enter against him. The legal enforcement machinery is brought into play after a violation of an order has taken place.

It is not, however, the only method for reaching the final goal of these laws which is to have business pursued by methods that are in harmony with the legal requirements. Something more needs to be done than merely taking action against offenders after a violation has occurred. A positive approach as well is needed to "prevent" or head off violations. In other words, there is a place for something that helps business help itself in keeping its own house in order. A substantial part of the Commission's operations is devoted to this purpose. We call it our trade practice conference procedure. Conferences are held of the members of entire industries in joint effort between the Commission and the industry itself to work out a set of fair trade practice rules and to undertake, by voluntary and cooperative effort in the industry, to have those rules followed in the course of the business. The purpose is that of keeping the standards of competitive practices in the industry on a high plane, free from those business methods which are harmful to competition and contrary to law.

These trade practice conferences are cooperative undertakings. They are called usually at the request of the particular industry concerned, and are conducted on a basis of voluntary participation by all the members of the industry. Competitive problems affecting the business are freely discussed. There is full collaboration between the industry's representatives and those of the Government. Practices deemed objectionable as applied to the particular trade in question are defined and cataloged in a set of industry rules. After these rules thus worked out through conferences and hearings have been carefully checked in their relation to the law and in respect of the question of their inherent fairness to all members of the industry and to the public, they are approved by the Commission, and thereupon they become an officially approved set of trade practice rules to guide those in the business concerned.

About 180 industries have thus far availed themselves of this voluntary cooperative procedure in the Commission and have had trade practice rules established for their industry with the guidance and aid of the Commission. So well has this joint collaboration between Government and business proved itself that in many industry-wide situations, from a chaotic condition permeated with unfair and unlawful practices, competition has been elevated to a plane upon which ethical and lawful practices have become the rule.

The spirit of fair play, when mobilized under approved rules worked out in cooperation with business groups, can be relied upon to bring about material improvement for the great benefit of the industry itself and for the advancement of the interest of the public. Business is aided in keeping its own house in order through self-regulation and voluntary action for the common good. The value of voluntary effort in the realm of competitive practices was well recognized by Chief Justice Hughes of our Supreme Court when, in the Sugar Institute Case, he said:

"Voluntary action to end abuses and to foster fair competitive opportunities in the public interest may be more effective than legal processes." (297 U. S. 553, 598.)

Economic Reports

In addition to all its other functions, the Commission is also empowered by law to conduct economic studies and to make reports thereon to the President and to Congress. Over the years the Commission has made many such studies. Reports of the studies, which have been published, constitute a reservoir of basic economic information. Out of them has grown much legislation of constructive and far-reaching effect in our national economy.

Recently the staff of our Bureau of Industrial Economics produced a report of its study on foreign petroleum operations. This report, as you doubtless have heard, was made public by the Select Committee on Small Business of the Senate under the title "The International Petroleum Cartel." It is one of seven international cartel reports which have been made by our Industrial Economic staff since the end of World War II. Other products covered are copper, sulphur, phosphate, electrical equipment, steel, fertilizer, and alkali.

The report of the petroleum study is a factual one. It is concerned largely with information respecting the degree of concentration of economic power, the international operations of seven large oil companies, and the position of dominance occupied in the international petroleum field by these companies, six of which are large petroleum operators in the United States as well. The report in its somewhat expurgated form published by the Senate Committee runs to 378 printed pages. It includes many charts and documented facts which are material to an enlightened understanding of world petroleum problems.

Among other economic studies is one which has recently been undertaken by the Commission at the request of the President to assemble the facts and report upon a breakdown of the consumer's dollar. "We need to

know," writes the President, "per unit of product, how much of the consumer's dollar goes for labor costs, material costs, distribution costs, profits, etc. We should have such information for all items important in the budgets of America's families."

This study for which we are now laying the groundwork will produce data that is badly needed by Government, labor and management, farmers and consumers. It will also be most useful to business firms, trade associations, credit institutions and private investors, as well as providing basic data for aiding in an enlightened treatment of our monopoly problems and our work directed to the safeguarding of free competitive enterprise.

Along this line I may say also that the Commission has for years carried on a financial reports program under which it has assembled and published statistical data as to income, expenditures and profits of corporate enterprises. These financial reports are in great demand by businessmen and have proved to be highly useful not only to Government but also to industry and commerce generally.

Small Business

Wrapped up in all of the many aspects of the Federal Trade Commission work is the question of preservation of small business as essential to the maintenance of a wholesome competitive economy.

The mobilization emergency adds a special significance to this phase of the work of safeguarding our free enterprise system. Competitive private enterprise is one of the fundamental expressions of our freedom. It is one of the fundamental supports as well. While we may differ among ourselves from time to time about whether a large company has acquired monopoly power that needs to be curbed, I think we can all agree that to keep our economic system fully and fairly competitive we must see to it that small business survives and has a chance to engage in the competitive battle on a free and fair basis.

A vast mobilization program for defense necessarily brings with it inherent tendencies toward economic concentration which operate to the disadvantage of small business. While there is need of big businesses, we must nevertheless see to it that small business is preserved. We must avoid a long-run trend toward greater concentration of economic power or we shall jeopardize the survival of our competitive system. We must use all our national strength, and small business is an important part of that national strength. It must have an equal opportunity to produce and expand. It must have an equitable share of the raw materials. It must be assured of the chance to survive and offer genuine competition.

A major support to achieving this assurance lies in a widespread observance of the laws administered by the Commission for the protection of our competitive system and in an effective enforcement of these laws against violators. It is not a task for Government alone, but for both Government and business. Working together, we must intelligently mobilize all our efforts and resources in order to adequately and effectively

meet the challenge and preserve our American way of free business enterprise.

Conclusion

This is a stimulating and inspiring field of work. Our enemies abroad count on a breakdown of our economic system. They count upon the element of greed and special interest taking possession of the minds and hearts of our business men to such extent as to bring about the abuses in a free economy that germinate the seeds of its own destruction. This is a challenge to all of us to mobilize the forces for good among business men, to see to it that, by the application of the principles of our laws and the American spirit of fair play, the defense of our free competitive enterprise system remains so strong that neither its enemies from without, nor those within, shall have any measure of success.

It has often been said, and truly, that competitive free enterprise has been demonstrated to be the best system created by man for the production of goods and services in highest quality, in largest volume, for the most people, at the lowest price. Let us look well to its protection.