

THE FEDERAL TRADE COMMISSION'S ACTIVITIES IN THE
AREA OF DECEPTIVE TRADE PRACTICES

By

JANE SHELLY CROMARTIE

A DISSERTATION PRESENTED TO THE GRADUATE COUNCIL OF
THE UNIVERSITY OF FLORIDA
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE
DEGREE OF DOCTOR OF PHILOSOPHY

UNIVERSITY OF FLORIDA

1974

UNIVERSITY OF FLORIDA



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To Bill, who understands.

ACKNOWLEDGEMENTS

It is with deep appreciation that I acknowledge the patient advice and encouragement provided by my Chairman, Dr. Ralph B. Thompson, throughout the writing of this dissertation.

I would also like to thank Dr. J. Donald Butterworth for the direction he has provided during my entire graduate program and Dr. Jordan B. Ray and Dr. John Vernon for their critical reading of the manuscript.

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By

Jane Shelly Cromartie

March, 1974

Chairman: Ralph B. Thompson
Co-chairman: J. Donald Butterworth
Major Department: Marketing

The study tests the thesis that the deceptive practices litigation role of the Federal Trade Commission has changed during the period 1938-1970.

Chapter One focuses attention on conditions which make an analysis of the regulation of consumer goods markets both necessary and important. It discusses some of the reasons for consumer frustrations and examines the manner in which the Federal Government has responded to consumer pressures for legislation. This response and continued consumer frustration indicates the need for research concerning the manner of operation of current deceptive practices regulations.

Chapter Two surveys the literature concerning the structural operation of markets, especially with regard to the impact of product differentiation and promotion, as the economic models of these relationships provide the basis for government regulation of business conduct, including the deceptive trade practices. This chapter provides information concerning those economic variables which should relate to conditions favorable to increased deception in promotion, and therefore affect the need for the regulation of deceptive trade practices.

Chapter Three examines the evolution of the Federal Trade Commission's (FTC) authority over deceptive practices and the operations internal to the Commission used in regulation.

Chapter Four describes the methods used to isolate deceptive practices complaint data from the complete Federal Trade Commission Docket of Complaints published in the Commerce Clearing House Trade Regulation Reporter. This data is broken down into four categories: the number of deceptive practices complaints docketed yearly; the disposition of these complaints by the FTC; the number of these complaints appealed either by the firm involved or the Commission; the results of the Circuit Courts' review of these cases, and the age of complaints at the time of initial disposition by the Commission.

The various categories of complaint data are then regressed against three sets of variables presented in the preceding chapters: factors internal to the Commission, external economic variables, and external political variables.

Internal factors include the deceptive practices litigation budget in constant dollars, the Commission's anti-trust caseload, the number of complaints filed under other statutes enforced by the FTC, and a measure of the complexity of the deceptive practices complaints filed yearly.

External economic variables include advertising expenditures expressed as a percentage of retail sales, the yearly percentage change in the consumer price index, and changes in the level of market concentration.

The external political variables tested included the number of Democrats in Congress and changes in the political party of the President.

The study concludes that the deceptive practices litigation role of the FTC has changed substantially during the period under study. Although the Commission's deceptive practices litigation budget increased substantially, the level of deceptive practices complaints docketed has declined. Those complaints filed, however, are handled more efficiently: they are handled more rapidly, with fewer complaints being dropped or closed.

In addition, the percentage of complaints settled by constant decree, rather than the more time-consuming cease and desist order has increased substantially.

Although a higher percentage of the Commission's judgments are being appealed to the Circuit Courts, the courts have continued to uphold the Commission in the vast majority of cases.

The Commission's deceptive practices litigation activities were shown to have no significant relation to any of the external economic variables under consideration, however the impact of changes in the political party of the President was substantial. In Democratic administrations, there was a steady decline of complaint activity, while in Republican years, complaint activity rose steadily.

CHAPTER I

INTRODUCTION

The Scope and Purpose of the Study

The growth of consumerism in the last decade has resulted in a great deal of debate concerning those rights which the consumer has or should have in the marketplace.

As the debate spilled over into the political arena, seekers of political office at all levels of government began to realize the vote-getting appeal of advocating increased legislation which would establish, insure, and protect the rights of the consumer in business transactions. The result has been a plethora of pro-consumer bills flooding the legislative agendas, particularly in election years. Many, if not most, of these bills have been introduced without the benefit of serious study to support their need. In some cases this has resulted in the passage of legislation which has diminished, rather than improved, the consumer's position. This trend has particular significance in light of the lack of study of the judicial history of the Wheeler-Lea amendment to the Federal Trade Commission Act, signed into law March 22, 1938. For many years this has been the

consumer's primary legal protection against deception in the marketplace, particularly with regard to promotional practices.

This study will concern itself with Wheeler-Lea, its interpretations and objectives, and is based on the assumption that before additional consumer legislation is passed, economic objectives and the performance of the existing body of law should be closely examined to determine those areas which are adequately covered, and those which are in need of improvement. If improvements are deemed necessary, the study of the failures of the existing authority to meet intended goals should be the best source of information regarding specific types of improvement needed.

- The Wheeler-Lea Act amended the Federal Trade Commission Act by expanding the FTCA's condemnation of "unfair methods of competition" to also cover "unfair or deceptive acts or practices," and added a direct prohibition against the false advertisement of food, drugs, devices, and cosmetics. The net effect of Wheeler-Lea was not only to forbid practices which are harmful to competitors, but also those which harm the consuming public, and thereby for the first time, made "...the consumer, who may be injured by an unfair trade practice, of equal concern, before the law, with the merchant

or manufacturer injured by the unfair methods of a dishonest competitor."¹

As neither the terms "unfair" or "deceptive" were defined in the act, the result was "...perhaps the broadest of the prohibitions contained in the federal antitrust and trade regulation laws."²

By these means, the law was made purely a passive instrument whose role would be left to the interpretation of the Commission under the watchful eye of the courts, and its application was to be modified according to structural shifts in consumer goods markets.

It is the purpose of this dissertation to examine the Wheeler-Lea Amendment to the Federal Trade Commission Act in order to:

1. Show by example that it is both possible and valuable to collect and analyze statistical data concerning the implementation of a piece of legislation.
2. Set forth as much of this data as can be gathered in a simple form.
3. Examine the goals of regulation of promotional activity.
4. Compare the case data with variables both internal

¹House of Representatives Reports No.1613, August 19, 1937, concerning Senate Bill 1077, as quoted in Commerce Clearing House, Trade Regulation Reports (Commerce Clearing House, 1965), Section 805.29, p. 1648.

²Commerce Clearing House, op. cit., p. 108.

and external to the Federal Trade Commission which relate to these goals.

5. Explore the implications of this data and these comparisons.
6. Make suggestions for future research in this area.

In this way the author hopes to determine whether: the Federal Trade Commission's litigation role in the area of deceptive trade practices enforcement under Section 5 of the Federal Trade Commission Act has changed in the years 1938-1970.

The Failure of Competition and the Need for Regulation

Although the U. S. is a "mixed economy" rather than the perfectly competitive system that Adam Smith envisioned, our ideology still asserts that in order to maximize satisfaction and community utility, we must vigilantly protect the largely mythical but nevertheless sacred market mechanism from regulatory adulteration.³ In theory we hold fast to the idea that we must not interfere, through any type of regulation, with the "invisible hand" that guides businessmen to act in such a way that will ultimately benefit them most, through survival. Theory explains that this same mechanism, if allowed to operate unmolested, will protect the interests of consumers

³Robert L. Birmingham, "The Consumer As King: The Economics of Precarious Sovereignty," Case Western Reserve Law Review, XX (1969), p. 355.

in the long run, by driving those firms which are least efficient in meeting their requirements from the marketplace.

The Operation of the
"Invisible Hand"

Underlying this competitive system are several assumptions concerning the way in which the economy will decide what things are produced, how they are produced, and for whom: What things are determined by the dollar votes of consumers, cast for those products which they feel best meet their needs. How things are produced is determined by competition among the various methods of production--those methods which are least costly replacing the more costly means. For whom things are produced is determined by the bidding for scarce resources and the forces of supply and demand--those persons who place the highest value on those things which can be derived from the inputs of production are supplied.⁴ Therefore, if consumers are dissatisfied with the goods or services of a manufacturer, in the long run, they will drive this firm out of business by casting their "dollar votes" for his competitors who have found a better way to meet their needs, and no regulatory means of ridding the market of these inefficient producers is necessary.

⁴Paul A. Samuelson, Economics (8th ed.; New York: McGraw-Hill Company, 1970), p. 37-41, passim.

The Problems with the System

The Role of Information.--For such a system to work, the consumer must be capable of making an informed choice. According to D. F. Turner, former Assistant Attorney General in charge of the Antitrust Division of the Justice Department, informed choice requires three things: the consumer must be aware of the existence of the product; the consumer must know how the product performs; and the consumer must know how the product's performance compares with that of other products.⁵ In other words, if the market mechanism is to perform correctly, the consumer must have sufficient alternatives so that he can select those products and services which best meet his needs⁶ and he must have information.⁷

Yet, technological change in many areas has become "...so rapid that the consumer who bothers to learn about a commodity or a service soon finds his knowledge obsolete. In addition, many improvements in quality and performance are

⁵Donald F. Turner, Speech before Nineth Annual American Federation of Advertising, Conference on Government Relations, Washington, D. C., February, 1967, as quoted in Raymond A. Bauer and Stephen A. Greyser, "The Dialogue That Never Happens," Harvard Business Review, Vol. 45, No. 6 (November-December, 1967), p. 2-3.

⁶Harper W. Boyd, Jr. and Henry J. Claycamp, "Industrial Self-Regulation and the Public Interest," Michigan Law Review, Vol. 64 (May, 1966), p. 1239.

⁷David A. Aaker and George S. Day, "A Guide to Consumerism," Journal of Marketing, Vol. 34 (July, 1970), p. 13.

below the threshold of perception, and imaginative marketing often makes rational choice even more of a problem."⁸ Further, "...rising incomes and a cornucopia of new products have multiplied the number, value, and variety of consumers' market transactions,"⁹ leaving precious little time to carefully analyze each decision. In the case of established products, new materials, new operating principles, new functions, new designs, and new packaging have further increased the difficulty of choosing one brand over another.¹⁰ Although John Floberg, Firestone's General Counsel, has somewhat unrealistically argued that consumers can easily discriminate among 1,000 different brands of tires,¹¹ the consumer finds himself confused. The market has become so complex that it has "...rendered the unaided individual almost defenseless against modern marketing techniques."¹²

⁸ Consumer Issues '66, A Report prepared by the Consumer Advisory Council (Washington, D. C.: U.S. Government Printing Office, 1966), p. 6, as quoted in Dorothy Cohen, "The Federal Trade Commission and the Regulation of Advertising in the Consumer Interest," Journal of Marketing, Vol. 33 (January, 1969), p. 40.

⁹ Stern, op. cit., p. 49.

¹⁰ Louis L. Stern, "Consumer Protection Via Increased Information," Journal of Marketing, Vol. 31 (April, 1967), p. 49.

¹¹ Ralph Nader, "The Great American Gyp," The New York Review of Books, Vol. 11 (November 21, 1968), p. 27.

¹² Birmingham, op. cit., p. 356.

R. H. Holton suggests that the best way to improve the situation and maximize welfare in many consumer markets is to provide a more efficient information system.¹³ Stigler, however, points to the tendency to forget that information, like anything else that is scarce, is a valuable resource, the search for which consumes time, and therefore has a cost. Information is not free.¹⁴

In fact, in the current marketplace, "...the consumer finds the increased cost of search relatively high, as he expends it among competing sellers, compared with the yield of additional information that the increased search provides."¹⁵ Complete knowledge is seldom possessed, for the simple reason that it costs more to learn of alternatives than this information is worth at the margin.¹⁶ "If the information system were more efficient, however, increased search should yield more knowledge, and consumers would make fewer purchase errors."¹⁷ In his article, "The Economics of Information,"

¹³Richard H. Holton, "Forward," Consumerism: Search for the Consumer Interest, ed. D. A. Aaker and G. S. Day (New York: The Free Press, 1971), p. xx.

¹⁴George J. Stigler, "The Economics of Information in the Labor Market," Journal of Political Economy, LXX, No. 5, Part 2 (October, 1962), p. 94.

¹⁵Holton, op. cit., p. xx.

¹⁶George J. Stigler, "The Economics of Information," Journal of Political Economy, LXIX, No. 3 (June, 1961), p. 224.

¹⁷Holton, op. cit., p. xx.

Stigler analyzes the cost of search for information concerning market price. Although he avoids any consideration of search for information on the quality of goods, which like price, must be considered information extremely necessary for informed purchase decisions, he concludes that "when economists deplore the reliance of consumers on reputation, they implicitly assume that the consumer has a large laboratory, ready to deliver current information quickly and gratuitously."¹⁸

The Adequacy of Available Information.--Then there is the question of the value of the information which is provided the consumer by producers to aid him in his search: "When every detergent gets clothes whiter, brighter, cleaner, sweeter-smelling than any other; when every brand of beer 'brings a smile every time' (particularly when you're having more than one); when every toothpaste is better than every other in preventing tooth decay; when every gasoline makes your car run better than any other--what is the poor consumer to believe?"¹⁹

Magazine writer and critic Marya Mannes, testifying before the Senate, summed up the frustrations of many consumers

¹⁸ Stigler, "The Economics of Information," p. 224.

¹⁹ Clarence E. Eldridge, in a Speech before the Association of National Advertisers, May 11, 1964, as quoted in E. B. Weiss, "Advertising's Crisis of Confidence," Advertising Age (June 26, 1967), p. 140.

as follows: "Most of us are simply too busy or too tired or too harassed to take a computer, a slide rule, and an M.I.T. graduate to market to figure out what we're buying."²⁰

The Problem of Long-run Efficiency.--Finally, we are operating with a system which tends toward long-run efficiency, which raises the question of how much social cost we are willing to allow while waiting for the market mechanism to adjust. In the short run, even theory allows that it is quite likely that deception will occur because of "temporary" market failures.²¹ Bator cites a variety of "market failures" which he defines as "...the failure of a more or less idealized system of price-market institutions to sustain 'desirable' activities (desirable in a maximum welfare sense) or to estop 'undesirable' activities."²²

Business, Competition, and Regulation

This all brings us to the problem of corporate concern. As Boyd and Claycamp point out, businessmen have always

²⁰Jeremy Main, "Industry Still Has Something to Learn from Congress," Fortune (February, 1967), p. 129.

²¹For a detailed discussion of the costs inherent in the market mechanism see Francis M. Bator, "The Anatomy of Market Failure," The Quarterly Journal of Economics (August, 1958), p. 351-379.

²²Francis M. Bator, "The Anatomy of Market Failure," The Quarterly Journal of Economics (August, 1958), p. 351.

argued that competition is the best protector of the consumer interest,²³ but as Bauer and Greyser explain, the businessman does not view competition in the same way that the consumer does.²⁴ He sees competition as working whenever sellers are clearly fighting for a leading place in the market. "But this does not necessarily mean that this intensive competition leads to contentment among buyers. Competition among retailers in the market for automobile tires is famous for being as intense as in any product market, yet the complaints about the nature of the competition in the market from the consumer's point of view have led to the promulgation of tire standards. Thus we see that intensive competition among sellers does not, in and of itself, assure market conditions which are satisfactory to consumers."²⁵

The notion of "consumer sovereignty held by some businessmen and academicians is highly flattering to consumers, in that it assumes they are able to choose competently under what have become exceedingly complex circumstances."²⁶ Stern has examined the mounting variety of consumer products, and finds it staggering²⁷ to the extent that the myth of the

²³Boyd and Claycamp, op. cit., p. 1239.

²⁴Bauer and Greyser, op. cit., p. 3-4.

²⁵Holton, op. cit., p. xix.

²⁶Bauer and Greyser, op. cit., p. 4.

²⁷Stern, op. cit., p. 49.

omniscient consumer, who is so discerning he is capable of being the brutal taskmaster for any firm, has become almost ludicrous.²⁸

Consider an advertising campaign which was run by Scott Paper Company. It described the American housewife as the "Original Computer":

...a strange change comes over a woman in the store. The soft glow in the eye is replaced by a steely financial glint; the graceful walk becomes a panther's stride among the bargains. A woman in a store is a mechanism, a prowling computer...Jungle-trained, her bargain-hunter senses razor sharp for the sound of a dropping price...²⁹

Holton argues that competition will do quite well unaided to protect the consumer interest only if products are bought frequently, have characteristics which are readily comparable either before purchase or immediately afterward, or are subject to a rate of technological change which is slow relative to the frequency of purchase.³⁰

At the other end of the spectrum, however, he sees "a multitude of products": major appliances, automobiles, casualty and life insurance, repair services, pharmaceuticals, etc., which fail to meet either one or more of these

²⁸Nader, op. cit., p. 27.

²⁹Ibid., p. 27.

³⁰Holton, op. cit., p. xix.

criteria, and thus make markets quite imperfect, and impair the consumer's ability for reasoned choice.³¹

According to Weiss, there is little doubt that large American corporations are not responsive to their customers.³² He sees both manufacturers and retailers as "turning a deaf ear" while consumers demand more personal relationships and security in their purchases. He finds that businessmen have made the intervention of government inevitable. Business claims to measure its performance according to its ability to meet "competition," yet businessmen are unwilling to compete in the areas about which consumers are dissatisfied--service, personal relationships, quality--the ability to be heard by corporate decision-makers.³³ They choose rather to "...expect the identical policies that led to public confrontation to become accepted by the public through the magic of public relations!"³⁴

Despite obvious imperfections in the mechanism which would enable normal market operations to protect consumers the sanctity of competition has been proclaimed for some years now by businessmen whenever government has tried to

³¹ Ibid., p. xix.

³² E. B. Weiss, "The Corporate Deaf Ear," Business Horizons (December, 1968), p. 5.

³³ Ibid., p. 12-13.

³⁴ Ibid., p. 12.

intervene on the behalf of the consumer. Recent National Association of Manufacturers literature defended their position calling for no regulation of advertising practices whatever so that "...a free choice marketing system, working fairly and efficiently in full protection of the consuming public..."³⁵ will be allowed to operate.

President Johnson, in his message to Congress, February 5, 1964, recognized that the market alone may not provide sufficient protection for consumers: "...for far too long, the consumer has had too little voice and too little weight in government. As a worker, as a businessman, as a farmer, as a lawyer or doctor, the citizen has been well represented. But as a consumer, he has had to take a back seat."³⁶

The Response of Government

On March 15, 1962, President John F. Kennedy sent to the Congress the first Presidential message on the plight of the consumer. In his message, the President pointed out to Congress the importance of the consumer in the American economy and described some of the difficulties which they face:

³⁵National Association of Manufacturers, Should Congress Federalize Consumerism? reprint of testimony before the Subcommittee on Legislation and Military Operations, April 28, 1971, p. 23.

³⁶Address by President Johnson, H. R. Doc. No. 220, 88th Congress, 2nd Session, p. 1 (1964 as quoted in Birmingham, op. cit., p. 356).

The march of technology--affecting, for example, the foods we eat, the medicines we take, and the many appliances we use in our homes--has increased the difficulties of the consumer along with his opportunities;...the typical supermarket before World War II stocked about 1,500 separate food items--an impressive number by any standard. But today it carries over 6,000. Ninety percent of the prescriptions written today are for drugs that were unknown 20 years ago. Many of the new products used every day in the home are highly complex. The housewife is called upon to be an amateur electrician, mechanic, chemist, toxocologist, dietician, and mathematician--but she rarely is furnished the information she needs to perform these tasks proficiently.

Marketing is increasingly impersonal. Consumer choice is influenced by mass advertising utilizing highly developed arts of persuasion. The consumer typically cannot know whether drug preparations meet minimum standards of safety, quality, and efficiency. He usually does not know how much he pays for consumer credit; whether one prepared food has more nutritional value than another; whether the performance of a product will in fact meet his needs; or whether the "large economy size" is really a bargain.³⁷

For several reasons the Federal Government has shown itself quite willing to sympathize with consumers of late. The experience of the tobacco companies and the broadcasting industry with anti-smoking have taught us that business lobbyists do not have as much power as was originally feared, and we may be witnessing the emergence of new legal concepts which tend to side more with the individual than with

³⁷ Consumer Advisory Council, First Report, U. S. Executive Office of the President (Washington, D. C.: U. S. Government Printing Office, October 1963), p. 5-6.

industry.³⁸ Also, the vote-getting appeal of pro-consumer legislation can't be denied, "With every voter also a consumer, talk or action on high prices, shoddy merchandise, misleading advertising (is) certain to be received sympathetically. Furthermore, the topic (can) be worked nicely into discussions of the problems of poverty. With the Viet Nam war, the space program and other high priority demands on Federal funds generating such enormous demands, consumer issues were especially appealing since the remedies, e.g., the introduction of Federal standards for automobile tires, were, for the most part, cheap."³⁹ As a result, more consumers have begun to see the government as a more sympathetic, if not more helpful institution, therefore the prospect for government-directed arbitration procedures to settle complaints is increased.⁴⁰

This situation has caused a great deal of concern among businessmen and caused one alarmed food maker to exclaim publicly that "consumerism is rampant!"⁴¹ His statement is not as exaggerated as it may first appear. Business Week

³⁸Stanley E. Cohen, "'Giant Killers' Upset Notions That Business 'Clout' Runs Government," Advertising Age, Vol. 41 (July 14, 1969), p. 73.

³⁹Holton, op. cit., p. xviii.

⁴⁰Weiss, "The Corporate Deaf Ear," p. 15.

⁴¹Main, op. cit., p. 128.

estimated that over 400 pieces of consumer legislation were pending in Congressional committees at the end of 1969,⁴² and as long as politicians remain vote conscious and voters remain consumer conscious, there is no reason to believe this activity will cease.

The Adequacy of Government's Response

There has been, however, some argument that the consumer legislation turned out over the past few years is not of any great quality. "For example, there is evidence that the truth-in-lending bill will not achieve its original goals, partly because of lack of understanding of the problem and partly because of inadequacies and confusion in the enacted legislation."⁴³ Similarly it is dismaying that after two years experience with the truth-in-packaging bill, it is being referred to as "one of the best non-laws in the book."⁴⁴

Kripke states that recent Federal effort in the area of consumer credit reform, at least, has, because of lack of understanding of the problem on the part of Congress,

⁴²"Nixon Shops for Consumer Protection," Business Week (November 1, 1969), p. 32.

⁴³"A Foggy First Week for the Lending Law," Business Week (July 5, 1969), p. 13, cited by Aaker and Day, op. cit., p. 18.

⁴⁴Stanley E. Cohen, "Packaging Law is on Books, But Ills It Aimed to Cure are Still Troublesome," Advertising Age, Vol. 41 (September 1, 1969), p. 10.

accomplished very little compared to what could have been done with the energy expended,⁴⁵ and Betty Furness, consumer advisor to President Johnson, has charged that some of the laws enacted by Congress under promising consumer-protection titles come close to being "name-only" bills.⁴⁶ She adds significantly that "such laws deceive consumers into believing they have been given more protection than they actually have. The industry intended for regulation may have gained more protection than the consumer. With a law on the books, there will be less public pressure on the Congress, and it will be quite some time before Congress can get up the steam to amend and strengthen the law."⁴⁷

Holton charges that:

...policy solutions may come tumbling out of the legislative mill before the researcher has had time to do his homework....The researcher alone cannot be held responsible for this. Even if he were interested before the problem surfaced as a major public issue, his possible sources of research funding might not be moved until the topic appeared in the policy spotlight. If we do the basic research needed for optimum policy design in the social sciences with the same care that the basic R & D precedes a manned lunar

⁴⁵ Homer Kripke, "Gesture and Reality in Consumer Credit Reform," New York University Law Review, Vol. 44 (March, 1969), p. 51.

⁴⁶ Betty Furness, "The Time is Now," Trial Magazine (August-September, 1968), p. 17, as quoted in Kripke, op. cit., p. 51.

⁴⁷ Ibid., p. 52.

flight, Congress might be more pleased with the results of its legislative handiwork in the field of social policy, including the general field of 'consumerism'.⁴⁸

There can be little doubt that a problem exists, and that neither business nor government has provided any real solutions. According to a confidential nationwide survey by the Opinion Research Corporation, seven out of ten Americans think that the present federal legislation is inadequate to protect even their health and safety; the majority also believe that additional laws are needed to give shoppers full value for their money.⁴⁹

Businessmen have finally recognized the fact that Washington will not go away,⁵⁰ so the question now becomes how to improve the quality of regulation. As shown above, the role of information is crucial. It appears that if the consumer were presented with a full disclosure of pertinent facts concerning products, it would be a major step in enabling him to protect himself⁵¹ and come much closer to maximizing his utility.⁵²

⁴⁸Holton, op. cit., p. xviii.

⁴⁹Nader, op. cit., p. 27.

⁵⁰Editorial, Advertising Age, May 1, 1967, p. 16.

⁵¹Dorothy Cohen, "The Federal Trade Commission and the Regulation of Advertising in the Consumer Interest," Journal of Marketing, Vol. 33 (January, 1969), p. 40.

⁵²Birmingham, op. cit., p. 357.

This writer will now proceed on the assumption that government regulation to ensure full disclosure of facts which are pertinent to making a free choice among alternatives in the marketplace will not impede the workings of the market, or harm business, but as Birmingham found, will "...increase welfare by tending to correct imperfections in the market mechanism,"⁵³ which, as it currently operates, are resulting in a "...needless sacrifice of welfare."⁵⁴

Justification for the Research

It is important to emphasize at this point that the goal, from this writer's standpoint, is to ensure that the consumer is supplied with sufficient and accurate information to make purchase decisions. The question of whether his decisions are "rational" or wise once given this information is beyond the scope of this discussion.

If the government is to act, the problem becomes how? The literature has established that in at least two cases, Truth-in-Lending and Truth-in-Packaging, the legislative response to the problem has been a questionable one, and that there is a great possibility that Congress had not done sufficient legislative research in order to rush passage of

⁵³ Ibid., p. 377.

⁵⁴ Ibid., p. 365.

certain legislation in order to calm consumer groups and gain votes.

It would seem, then, that before any additional consumer legislation is enacted or any new agencies are created, government must examine why those agencies which are currently entrusted with protection of the consumer interest have failed. If the shortcomings of current regulation are exposed in a specific manner, then, and only then can Congress correct their deficiencies.

The federal government has an agency whose role it is to deal with deceptive practices in the consumer field.⁵⁵ The Federal Trade Commission (FTC) receives its authority from a series of laws passed from 1914 to the present, and "...operates under the legally and economically acceptable premise that the consumer is to be assured full and accurate information which will permit him to make a reasoned choice in the marketplace."⁵⁶

Critics, beginning with Gerard Henderson in 1924,⁵⁷ and including more recently a commission of the American Bar

⁵⁵Kripke, op. cit., p. 10.

⁵⁶Dorothy Cohen, op. cit., p. 40.

⁵⁷Gorard Carl Henderson, The Federal Trade Commission (New Haven: Yale University Press, 1924).

Association (1969),⁵⁸ Ralph Nader (1969),⁵⁹ and Wagner of Hofstra University (1970),⁶⁰ have exhaustively examined the FTC from an administrative point of view and found it severely lacking. None of these critics, however, have examined the Commission with regard to its legal capacity to protect the consumer interest. This paper will not seek to evaluate the financial or personnel status of the FTC, as those aspects have already been amply investigated. It will seek to examine the interpretation and enforcement of the law.

As the Commission can go no farther in protecting the consumer's welfare than its statutory tools will allow, it seems that a determination of the adequacy of the present law which the Commission administers must be the first step in evaluating the Commission. Only then can we really know if the need exists for new laws or a new Commission. Charles Sweeny, Chief of the FTC's Bureau of deceptive practices, has said that "the present Commission is more deeply determined

⁵⁸ American Bar Association, Report of the ABA Commission to Study the Federal Trade Commission, September 15, 1969 (Chicago, Ill.: American Bar Association, 1969).

⁵⁹ Edward F. Cox, Robert C. Fellmeth, and John E. Schultz, Naders Raiders Report on the Federal Trade Commission (New York: Grove Press, Inc., 1969), p. 215.

⁶⁰ Susan Wagner, The Federal Trade Commission (New York: Praeger, 1971).

to combat consumer deception than any Commission I have known in my 30 years of service."⁶¹ Now the question is, do they have the authority?

✓The major law under which the FTC operates is the Federal Trade Commission Act passed by Congress in 1914. The consumer protection section was added to that law in 1938 through passage of the Wheeler-Lea Act which made "unfair and deceptive trade practices...unlawful."

This introduction has focused attention on the conditions which have made it both necessary and important to analyze the regulation of consumer goods markets. It has cited examples of the impulsive manner in which the federal government has responded to consumer frustrations, indicating the need for research concerning the manner of operation of current deceptive practices regulation.

Chapter Two contains a survey of the literature concerning the structural operation of markets, especially with regard to the impact of product differentiation and promotion. The economic models of these relationships provide the basis for government regulation of business conduct, including the deceptive trade practices. It is this chapter which provides information concerning those economic variables which should relate to conditions favorable to increased deception in

⁶¹"Druggist May be Liable for Brand Copy in his Ads," Advertising Age, Vol. 36 (June 7, 1965), p. 1.

promotion, and therefore affect the need for the regulation of deceptive trade practices.

Chapter Three examines the development of the Federal Trade Commission (FTC) and traces the evolution of its authority and the operations internal to the Commission used to regulate deceptive trade practices under Section 5 of the Federal Trade Commission Act.

Chapter Four begins with a description of the methodology used to collect the FTC's deceptive practices complaint data and the procedure used to analyze fluctuations in this data through comparison with the political influence suggested in Chapter One, the economic factors suggested in Chapter Two, and the internal operation of the Commission outlined in Chapter Three.

Chapter Five contains the analysis of the data and conclusions drawn from the analysis.

Chapter Six relates the results of this study to the needs of marketing students and practitioners and makes suggestions for future research which would further clarify the relationships suggested in Chapter Five.

CHAPTER II

THE PURPOSE OF REGULATION

Market Structure and the Law

Economists are quite clear in their explanation of the importance of the study of market structure to the attainment of a nation's major economic goals: The structure of an industry determines behavior of firms within that industry which in turn determines whether that industry performs well or poorly with regard to the nation's goals. If those features of market structure which regularly cause poor market performance can be isolated, public policy (or legislative policy) can be used to correct these structural problems and thereby improve the level of performance.¹

The study of industrial organization centers around the structure of markets and the effects of certain market structures on the conduct and ultimately the performance of some group of firms comprising an industry. The purpose of market structure analysis as explained by Caves is to spot some

¹Richard Caves, American Industry: Structure, Conduct, Performance (2nd ed.; Englewood Cliffs, New Jersey: Prentice Hall, Inc., 1967), p. 17.

feature of market structure which regularly causes poor market performance, and find the key to designing policies to change the environment (structure) which will raise the level of performance.²

Bain defines market structure as "...those characteristics of the organization of a market which seem to influence strategically the nature of competition and pricing within the market."³ It consists of those "economically significant features of a market," primarily:

1. Degree of seller concentration.
2. Degree of buyer concentration.
3. Degree of product differentiation.
4. The condition of entry to the market.

Although students of industrial organization caution that to end the list with these four aspects of market structure is somewhat arbitrary, it is the consensus that if these four elements are not the only elements, they are at least the most important elements of market structure.

The federal anti-trust legislation is an excellent example of the implementation of market structure concepts. As a matter of national economic policy, monopolies are

²Caves, op. cit., p. 17.

³Joe P. Bain, Industrial Organization (New York: John Wiley & Sons, Inc., 1959), p. 7.

generally unacceptable. Competition is said to be the goal, and "the primary tool employed to analyze and evaluate competition in any industry is the price theory which arose from the norm of perfect competition."⁴

The government perspective has been summed up by Colwell in his discussion of the relationship between economic theory and the Supreme Court's interpretations of anti-trust legislation:

A decentralized market structure, characterized by many participants, will induce competitive conduct, and this in turn will yield the best market performance.⁵

Clearly government officials as well have accepted the causal relationship between market structure, conduct, and performance. The merger guidelines issued by the Department of Justice, May 30, 1968, stress that market structure is the focus of the Department's merger policy because markets which have a small number of large sellers tend:

...to discourage vigorous price competition by the firms in the market and to encourage other kinds of conduct, such as the use of inefficient methods of producing or excessive promotional expenditures, of an economically undesirable nature.⁶

⁴Lewis W. Stern and John R. Grabner, Jr., Competition in the Marketplace (Glenview, Illinois: Scott, Foresman and Company, 1970), p. 6.

⁵B. Joe Colwell, "One of the Congeries of Anticompetitive Practices...," The Southern Economic Journal, Vol. 33, No. 4 (April, 1967), p. 546-547.

⁶U.S. Department of Justice, Merger Guidelines (Washington, D.C.: U.S. Government Printing Office, May 30, 1968), p. 2.

This position was further stressed by a former Director of the Bureau of Economics for the FTC, Willard F. Mueller:

...available empirical evidence indicates that such structural characteristics as the height of entry barriers facing potential competitors, the degree of product differentiation and the level of market concentration always are of some importance and often are of decisive importance in determining industry's performance.⁷

It can be assumed, therefore, that the thrust of Federal anti-trust and trade regulation, both in its inception and application has been to correct certain "structural deficiencies" within industries which have led them to perform in such a way that economic efficiency was no longer assured by a laissez faire governmental posture.⁸

In the case of the Sherman Act, the Clayton Act, the original FTC Act, and the Cellar-Kefauver Act, the structural target has been to prevent excessive market concentration or barriers to entry through merger, collusion, tying arrangements and those acts and practices which serve to damage competition and/or competitors. The Robinson-Patman Act seeks

⁷"The FTC and Current Marketing Interfaces," American Marketing Association, 1967 Winter Conference Proceedings, Series No. 26 (Washington, D. C.: Decembor 27-29, 1967), p. 32.

⁸An exception to this rule has been the Robinson-Patman Act, which in a number of instances has been interpreted by the courts and enforced by the FTC in such a way as to be clearly anti-competition. See Marshall C. Howard, Legal Aspect. of Marketing (New York: McGraw-Hill, Inc., 1964), Chapter 3, passim.

essentially to prevent price-fixing and discriminatory discount practices within channels of distribution to competing firms, and thereby discourages pricing tactics which would also provide barriers to entry into a market or allow some firms to gain excessive market power and size through superior bargaining position.

The Wheeler-Lea Act, while it is very firmly based on market structure theory, is not an anti-trust statute in the same sense as are the aforementioned pieces of legislation. The Sherman Act, Clayton Act, Robinson-Patman Act, and Cellar-Kefauver Act are directed toward combination and price competition, or structural and conduct variables on the supply side of the market. The Wheeler-Lea amendment, on the other hand, is directed toward a class of conduct, specifically promotion, as a means of product differentiation, which is both a cause and effect of both certain structural characteristics, as well as certain imperfections on the demand side of the market for goods and services. While other anti-trust legislation is aimed at combination and unacceptable methods of price competition, the Wheeler-Lea Act is directed at nonprice competition, specifically product differentiation through promotion.

Product Differentiation and Market Structure

Product differentiation, an "...imperfection in the substitutability--to buyer--of the outputs of competing

sellers in an industry..."⁹ is one of the major elements of market structure. In the case of an industry whose market structure is purely competitive, by definition, the products of firms within that industry will not be differentiated at all and will have cross elasticities of demand¹⁰ which are extremely large. In other words, an increase in the price of one product in such an industry will result in a total loss of sales of that product as all buyers shift to one of its perfect substitutes.

This results in a situation which, to the businessman, is highly unacceptable. It means that he has no control over his price variable, but is left to the mercy of the supply and demand situation of his industry, which he cannot affect, to determine what price he may charge for his product. To remove himself from this type of market, the businessman seeks to "differentiate" his product. According to Chamberlin:

A general class of product is differentiated if any significant basis exists for distinguishing

⁹Bain, op. cit., p. 211.

¹⁰The cross elasticity of demand for two or more products describes the responsiveness of the sales volume of one product to a change in the price of another product. If the price of product A drops significantly and the volume of product B remains essentially unchanged, this would indicate that in the eyes of the markets for those products, they are poor substitutes for one another, and that the degree of differentiation between the products is great.

the goods (or services) of one seller from those of another. Such a basis may be real or fancied, so long as it is of any importance whatever to buyers and leads to a preference for one variety of the product over another. Where such differentiation exists, even though it be slight, buyers will be paired with sellers, not by chance and at random (as under pure competition) but according to their preferences.¹¹

As this preference builds, other goods become less perfect substitutes for the businessman's good, rendering the relevant range of his demand curve less and less responsive to his own price changes, and less responsive to the price changes of others in his industry allowing him greater control over price variable, his profits, and his destiny. As Alderson points out:

No one enters business except in the expectation of some degree of differential advantage in serving his customers, and competition consists of the constant struggle to develop, maintain, or increase such advantages.¹²

Methods of Differentiation

Product differentiation may be achieved through a number of non-price means, which can be described according to McCarthy's marketing mix concept.¹³

¹¹Edward Chamberlin, The Theory of Monopolistic Competition (1st ed.; Cambridge, Massachusetts: Harvard University Press, 1933), p. 56.

¹²Wroe Alderson, Marketing Behavior and Executive Action (Chicago: Richard D. Irwin, Inc., 1957), p. 106.

¹³E. Jerome McCarthy, Basic Marketing (4th ed.; Homewood, Illinois: Richard D. Irwin, Inc., 1971), passim.

Differentiation Through the Product Variable.--This type of differentiation may be achieved through modifications in the good or service itself or through variations in the "total product" concept.¹⁴ Modifications of the good or service itself may take the form of packaging changes (i.e., the aerosal container) or branding changes¹⁵ (i.e., General Electric's usage of both the GE and Hotpoint brands) or an actual design change (i.e., Ford's Pinto as opposed to the Torino line) or any combination of these. In the case of changes in the "total product," these become more difficult to enumerate, as they may be highly subjective on part of the consumer, and may include aspects of the other variables mentioned in this section; but for the purpose of illustration we may include here such things as guarantees and warranties, service facilities, a return policy, etc.

Differentiation Through the Place or Distribution Variable.--This type of differentiation may be achieved through the number and kind of retail outlets which make the product available, the hours which they remain open, the quality of the sales personnel, the location of the outlets with regard

¹⁴For a detailed explanation of the "total product" concept, see E. Jerome McCarthy, Basic Marketing (4th ed.; Homewood, Illinois: Richard D. Irwin, Inc., 1971), p. 250-253.

¹⁵It should be pointed out here that in some instances, branding must be considered promotion. See subsequent section.

to the location of persons in the market, a free delivery of goods, catalogue sales, telephone ordering, etc.

Differentiation Through the Promotional Variable.--Promotion relates the product differentiation in two ways, one of which is direct and one of which is indirect. The indirect relationship comes about through promotion's informative role: it is the role of promotion to inform the market of the advent or existence of the product differentiations which have been made through the product and place variables. The direct relationship of promotion to product differentiation comes about through the use of promotion itself as a means of setting a product apart, through persuasion that the product is different in some way, or the use of promotion to create some "image" for the product, which in turn is related to the people who buy the product (i.e., the English Leather ad in which a voluptuous lady says, "All my men use English Leather. All of them.").

Branding may fall into this category as well, especially when a single product is sold under one name to one group or market, and under another name to another market as in the case of unscented hairspray for men and women.

Advertising and Product Differentiation

Advertising,¹⁶ like personal selling and sales promotion, is a type of promotion. As the Wheeler-Lea amendment has come

¹⁶Advertising is defined as any paid form of nonpersonal presentation of goods, services, or ideas to a group by an

to be used primarily as a promotion-regulating statute, and advertising is the most visible type of promotion in consumer goods markets, the remainder of this study will focus on advertising as a prototype of the promotion area.

Advertising theoretically may perform two separate tasks: it may provide information about the existence of products and their usage, and it may serve as a means of product differentiation. Economists consider the informative role of advertising to be distinct from its role as a means of product differentiation. They see informative advertising as necessary even in purely competitive markets, as pure competition, by definition, assumes that buyers have perfect information regarding product alternatives, especially with regard to the homogeneity of products within an industry.

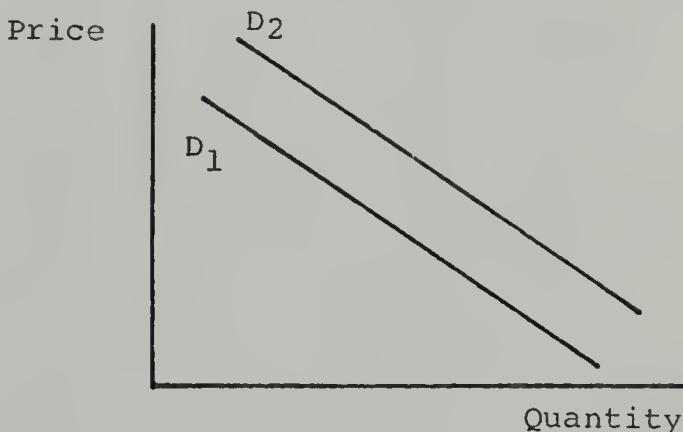
Economists accept as necessary to efficient market operations in all markets that advertising which supplies purchasers with basic product information, information which cannot be supplied in other ways, and information which gives instructions for the use of products.¹⁷

identified sponsor. See Beckman and Davidson, Marketing (8th ed.; New York: The Ronald Press Company, 1967), p. 566.

¹⁷ See Telsor, "Advertising and Competition," The Journal of Political Economy, December, 1964, for discussion on why advertising is not contradictory to competition. See Stern and Grabner, Competition in the Marketplace (Glenview, Illinois: Scott, Foresman and Company, 1970), p. 61-63, for discussion on the difference between the economic and marketing view of advertising.

Generally this is the type of advertising which Borden¹⁸ describes as that which influences "primary demand" or the demand for the product class (or industry output) as a whole. This type of advertising seeks to shift the industry's entire demand curve to the right, allowing all firms in the industry to sell more at all prices, with the result that each firm gets a share of the greater demand.

FIGURE 2.1



D_1 = Initial demand

D_2 = Increased demand

However, advertising may be, and is, also used to affect the demand curve of an individual firm within an industry (selective demand) without affecting the industry's demand. It is this type of advertising that economists deem wasteful. The rational is that as this type of advertising merely re-allocates demand shares among firms in an industry, and costs

¹⁸Neil H. Borden, The Economic Effects of Advertising (Chicago: Richard D. Irwin, 1947), Chapter 16 passim.

in the industry are increased without producing a corresponding increase in the industry's output, creating waste.

Further, economists feel that this "persuasive" advertising interferes with consumers' ability to exercise freedom of choice, and only serves to confuse them.

It is this kind of advertising which becomes a form of product differentiation, in a direct sense, and it is this type of advertising which is by far most prevalent.

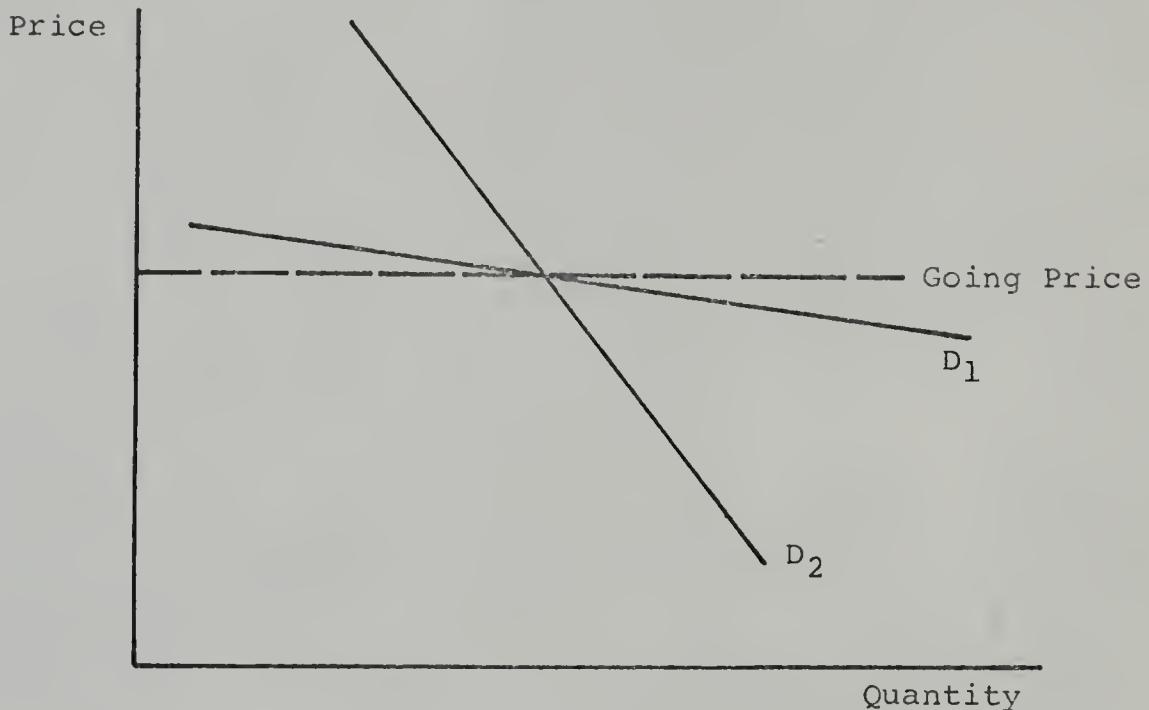
As Telsor points out, in the case of homogeneous products or poorly differentiated products, when advertising will increase the industry's demand rather than that of a single firm, there is very little incentive for a firm to advertise in any great amount unless they have some degree of monopoly power. "...A sponsor of advertising would expect to obtain only a fraction of the fruits of his advertising,"¹⁹ and the remainder of the "fruits" would be distributed, at his expense, among the competitors.

If it pays for a producer to advertise, then it is very likely that he sells a differentiated product. This holds true almost by definition, since an undifferentiated product is one whose consumers cannot perceive any differences among brands. Growers of many kinds of fruits find it does not pay to advertise the product of their own orchard under a brand name. But they often do band together and advertise their crop cooperatively. They may be able to swing consumers'

¹⁹Lester D. Telsor, "Advertising and Competition," The Journal of Political Economy, LXXII, No. 6 (December, 1964), p. 537.

preferences away from grapefruit to lemons, but one lemon continues to look like another, no matter what anybody says.

FIGURE 2.2



D_1 = Demand curve facing the seller of an undifferentiated product.

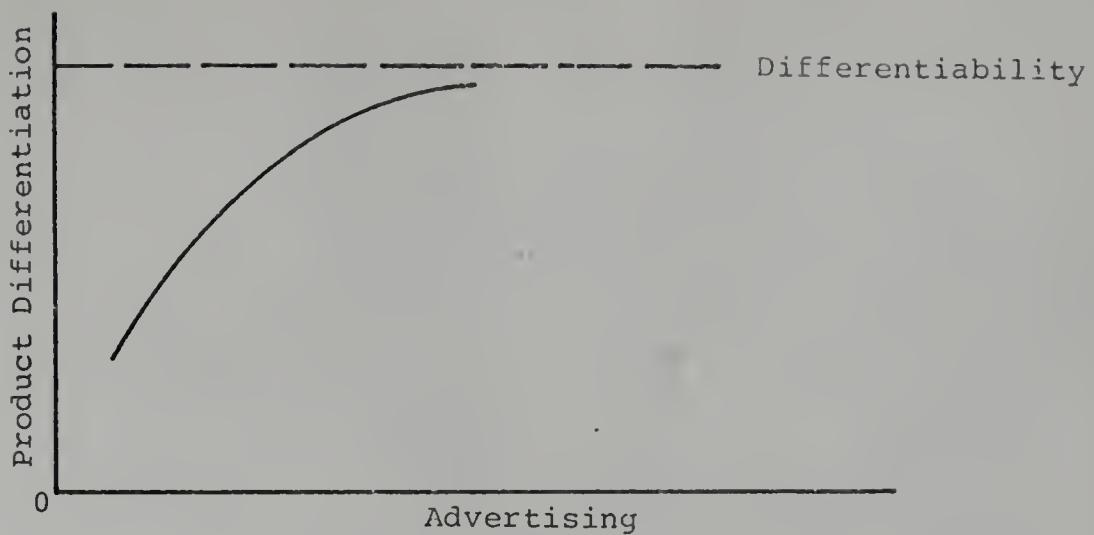
D_2 = Demand curve facing the seller of a differentiated product.²⁰

As Vernon put it:

The degree of product differentiation achieved depends on both the inherent differentiability of the product and the actions of the sellers. At the risk of oversimplifying, we can show the conceptual relationship between differentiability and differentiation graphically using advertising (which is only one way to achieve differentiation):

²⁰Caves, op. cit., p. 20.

FIGURE 2.3



The curve reflects the view that there are probably diminishing returns to advertising in creating product differentiation. At higher levels of advertising, the degree of differentiation approaches the horizontal line labeled "differentiability." The greater the differentiability of a product, the higher the horizontal line will be above the horizontal axis.²¹

Bain stressed that without product differentiation, advertising is ineffective, and therefore he stresses that where advertising is effective, it is a sure sign that product differentiation has occurred.²² He goes on to state that because of the nature of buyers, product differentiation is

²¹John M. Vernon, Market Structure and Industrial Performance: A Review of Statistical Findings (Boston: Allyn and Bacon, Inc., 1972), p. 68-69.

²²Bain, op. cit., p. 216.

more likely to develop in consumer goods industries²³ and will tend to increase in volume as consumer goods become more intricate and complex, thus making buyers more poorly informed.²⁴

He further pointed out that the strong product differentiation in consumer goods industries "...is largely created by advertising, the opportunities for physical product differentiation (design and quality) being rather limited."²⁵

Further, Bain felt that the persuasive role of advertising was dominant and growing:

...a substantial portion of observed promotional activities and costs have, to all appearances, a dominantly persuasive orientation, and this relative emphasis is generally greater as selling costs are larger in proportion to sales.²⁶

Table 2.1, which compares the conditions for pure competition with Bains' "sources of product differentiation" and Borden's "conditions favorable to effective advertising" illustrates the relationship of effective advertising to successful product differentiation and shows which competitive conditions are effected by these requirements.

²³A study administered by Bain showed that "...practically all industries with any high advertising costs (5% or more of sales revenue) are industries producing consumer goods."

²⁴Ibid., p. 219.

²⁵Ibid., p. 391.

²⁶Ibid., p. 389.

TABLE 2.1

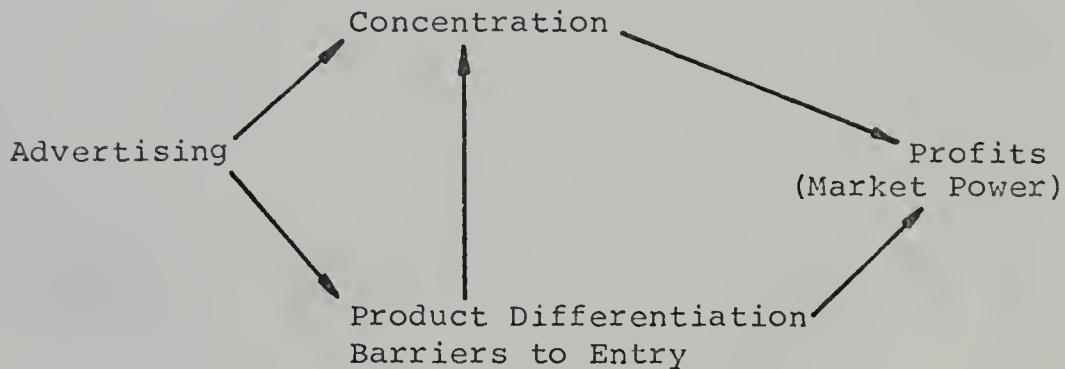
Conditions Necessary to Pure Competition	Sources of Product Differentiation ^a	Conditions Favorable to Effective Advertising ^b
Very large number of sellers	Buyers' preferences for certain products developed or shaped by persuasive sales-promotion of sellers, and particularly by advertising	Expansion period for entire industry's sales
Very large number of buyers		Large opportunities for product differentiation
Homogeneous product	Real difference in quality or design	Relative importance to consumers of "hidden qualities" of the product as opposed to external qualities
Perfect information		Size of firm's advertising fund
Exit of entry and exit from the market	Ignorance of buyers regarding essential characteristics and qualities of goods	

^aBain, op. cit., pp. 214-215.^bBorden, op. cit., pp. 424-427.

Advertising and Market Structure

Theory states, and some empirical evidence indicates, that advertising effects market structure in the following ways:²⁷

FIGURE 2.4



These relationships are developed as follows:

Industrial organization economists agree, as discussed earlier in this chapter, that advertising is a method of product differentiation. A number of economists hypothesize in turn, as did Bain, that product differentiation is a significant barrier to entry:

Product differentiation advantages of established firms loom larger than any other source of barriers to entry, and especially large as a source of high and very high barriers.²⁸

²⁷Vernon, op. cit., p. 76.

²⁸Bain, op. cit., p. 250.

In keeping with Bains' analysis, Comanor and Wilson list three ways by which "product differentiation via advertising" affects entry barriers:

1. High prevailing levels of advertising create additional costs for new entrants which exist at all levels of output.

Costs of penetration are likely to increase as output expands and customers more inert or loyal need to be reached. This effect of advertising creates an absolute cost advantage for established producers, since they need not incur penetration costs.

2. Economies of scale in advertising also result when the cost per advertising message declines as the number of messages supplied increases.

If advertising in a particular industry is characterized by economies of scale...an entrant will suffer an additional cost disadvantage if he enters at a relatively small scale.

3. If economies of scale exist...in advertising, the need to obtain funds for advertising will give rise to capital requirements over and above those needed for physical plant and equipment. Furthermore, this investment in market penetration will involve a particularly risky use of funds since it does not generally create tangible assets which can be resold in the event of failure. The required rate of capital will therefore be high. In an empirical study described in the same article, they present data supporting their hypothesis that these barriers actually exist.²⁹

Kaldor supports Comanor and Wilson in their contention that increasing returns to advertising lead directly to

²⁹William S. Comanor and Thomas A. Wilson, "Advertising, Market Structure, and Performance," The Review of Economics and Statistics, XLIX, No. 4 (November, 1967), p. 425-426.

increasing concentration and points out that according to market structure theory, increasing concentration will result in increased market power.³⁰

Therefore, if governmental agencies accept the theoretical framework of market structure, and market structure analysis indicates that advertising increases should bring about unfavorable changes in market conduct and structure, then there should be some relationship between advertising volume shifts and the activities of the Federal Trade Commission.

The obvious limitations to this relationship would be the legislative jurisdiction, intent, and the financial capabilities of the Commission itself. This question will be treated in Chapter Three, The Role of the Federal Trade Commission.

³⁰Nicholas Kaldor, "The Economic Aspects of Advertising," The Review of Economic Studies, Vol. 18, 1950-51, passim. In contrast, Telsor, in an empirical study (op. cit., passim) found no significant inverse relationship between advertising and competition. Comanor and Wilson, however, refute his findings using the same data, but different conceptual and statistical approaches (Comanor and Wilson, Ibid., passim).

CHAPTER III

THE ROLE OF THE FEDERAL TRADE COMMISSION IN THE REGULATION OF DECEPTIVE TRADE PRACTICES

The Establishment of the Commission

The Federal Trade Commission (FTC) was organized in 1915 under the authority established by the passage of the Federal Trade Commission Act of 1914. The Federal Trade Commission Act, along with the Clayton Act, both organized in President Wilson's Message to Congress of January 20, 1914, and were the direct result of the Sherman Act's inability "...to cope with the problem of increased private concentration of economic power, and the rise of what has been called 'Progressivism'--in the Republican Party under the leadership of Theodore Roosevelt and in the Democratic Party under that of Woodrow Wilson..."¹

The "Rule of Reason" and the apparent hostility of the courts to the Sherman Act led the government to seek a new

¹H. H. Liebfafsky, American Government and Business (New York: John Wiley and Sons, Inc., 1971), p. 214.

approach to the enforcement of antitrust laws.² This search resulted in an attempt at the commission approach to regulation, and the FTC.

The FTC Act set up the Commission as a separate, specialized agency which would participate full-time in the prevention of "unfair methods of competition."³ It was "...presumably a body of specialists who might best be able to handle the economic and technical questions in antitrust matters."⁴ The opinion of Congress was that "...the anti-trust laws lacked 'certainty,' a deficiency that the FTC could remedy by advising businessmen on the legality of proposed business activities, as well as (handling) enforcement."⁵

Because the FTC Act not only refined the Sherman Act, but also established a commission of "experts" to decide which business practices should be considered "unfair," the prohibitions of the FTC Act were deliberately aimed against a class of conduct, rather than specific acts or practices

²Earl W. Kintner, A Primer on the Law of Deceptive Practices (New York: The Macmillan Company, 1971), p. 15.

³Federal Trade Commission Act of 1914, in U.S., United States Code Annotated, Title 15, Section 45, p. 465; 486.

⁴Marshall C. Howard, Legal Aspects of Marketing (New York: McGraw-Hill Book Company, 1964), p. 6.

⁵Edward F. Cox, Robert C. Fellmeth, and John E. Schulz, Naders Raiders Report on the Federal Trade Commission (New York: Grove Press, Inc., 1969), p. 215.

as were written into the Clayton Act, which was before Congress at the same time.

According to Justice Brandeis:

Instead of undertaking to define what practices should be deemed unfair as had been done in earlier legislation, the act left the determination to the commission. Experience with existing laws had taught that definition, being necessarily rigid, would prove embarrassing, and, if rigorously applied, might involve great hardship. Methods of competition which would be unfair in one industry, under certain circumstances, might, when adopted in another industry, or even in the same industry under certain circumstances, be entirely unobjectionable.

Furthermore, an enumeration, however comprehensive, of existing methods of unfair competition must necessarily soon prove incomplete, as with new conditions constantly arising novel unfair methods would be devised and developed.⁶

Hence the five Commissioners were assigned the task of presiding over an agency which would prevent "unfair methods of competition" and would serve as investigator, prosecutor, and judge, subject to the review of the Federal courts. The courts found this a satisfactory means of regulation, and explained the workings of the Commission as follows:

With the increasing complexity of human activities many situations arise where governmental control can be secured only by the "board" or "commission" form of legislation. In such instances Congress declares the public policy, fixes the general principles that are to control, and charges an administrative body with the duty of ascertaining within particular fields from time to time the facts which bring into play the principles established by Congress. Though the

⁶Kintner, op. cit., p. 16.

action of the commission in finding the facts and declaring them to be specific offences of the character embraced within the general definition by Congress may be deemed to be quasi legislative, it is so only in the sense that it converts the actual legislation from a static into a dynamic condition. But the converter is not the electricity. And though the action of the commission in ordering desistance may be counted quasi judicial on account of its form, with respect to power it is not judicial, because a judicial determination is only that which is embodied in a judgement or decree of a court and enforceable by execution of other writ of the court.⁷

The constitutionality of the commission method of regulation was handled by the courts as well:

The authority given the commission to determine what methods of competition a given trader employs, and, provisionally, to determine whether such methods are unfair, subject to right of review by the courts, does not confer on the commission judicial powers, or invalid executive or administrative authority, contrary to U.S.C.A. Constitution Articles 1, 2, 3, in view of the fact that the commission's determination is not only subject to review, but is enforceable only by the courts.⁸

Though the sponsors of the original act foresaw a trust-busting agency, and intended the public interest to be protected through the indirect means of protection of competition, the Commission as early as its Second Annual Report stated: "Unfair competition, like 'fraud,' 'due care,' 'unjust discrimination,' and many other familiar

⁷Sears, Roebuck and Company vs. FTC, 258 F. 307 (1919).

⁸National Harness Manufacturers Association vs. FTC, 268 F. 705 (1920).

concepts in the law, is incapable of exact definition, but its underlying principle is clear--a principle sufficiently elastic to cover all future unconscionable competitive practices in whatever form they may appear, provided they sufficiently affect the public interest.⁹ They went on to assert that in some cases they felt justified in going beyond the strict requirement of damage to competition, "...as in certain cases of misbranding and falsely advertising the character of goods where the public was particularly liable to be misled...."¹⁰ In fact, the first two cease and desist orders issued by the Commission attacked false and misleading advertising practices.

The Commission's Frustration with Anti-Trust

Early in its history, however, the Commission became frustrated in its attempt to fulfill its primary function of supplementing the Sherman Act. In 1920, in its first case before the Supreme Court, the FTC vs. Gratz, the Commission tried to apply its authority to a company which was requiring purchasers of one of their products to also purchase a proportionate amount of another of their goods. It was a classic case of a tying arrangement. The Supreme Court determined, however, that with regard to anti-trust, the words "unfair methods of competition" could not be defined

⁹Federal Trade Commission, Annual Report, 1916, p. 6.

¹⁰Ibid., p. 6.

by the Commission as Congress had intended; this chore must rather fall to the courts. The charges had been brought under both Section 3 of the Clayton Act and Section 5 of the FTC Act. The Clayton charge was thrown out on a lack of evidence, and of the "unfair competition" charge, the Supreme Court said:

This section does not apply to practices never heretofore regarded as opposed to good morals, because characterized by deception, bad faith, fraud, or oppression, or as against public policy, because of their dangerous tendency unduly to hinder competition or create monopoly.¹¹

This decision temporarily curtailed the activity of the FTC, because, in effect, the Court had ruled that they had jurisdiction only over questions of monopoly or combination --the same charges handled by the Justice Department under the Sherman Act. The case of the FTC vs. Paramount Famous-Lasky Corporation in 1932 shows just how literal this doctrine became:

Standard applicable to determine whether given acts amount to "unfair methods of competition" is standard established by Sherman Anti-Trust Act, sections 1-7 of this title, and by courts in construing such Act.¹²

As early as 1922, however, the Supreme Court had approved a Commission order to cease and desist from

¹¹FTC vs. Gratz, 40 S. Ct. 572 (1920).

¹²FTC vs. Paramount Famous-Lasky Corporation, 57 F. 2d 152 (1932).

deceptive advertising in the Royal Baking Company case.¹³

The Commission's frustrations with anti-trust, as illustrated by first the Gratz case and subsequent decisions, and their apparent success with deceptive advertising cases, encouraged them to channel their efforts in a more productive direction, away from anti-trust, and it has been estimated that as early as 1925, 75 percent of all cease and desist orders issued by the Commission each year were directed against false and misleading advertising.¹⁴

By 1931, the Commission had issued 82 orders of which only 43 were upheld either entirely or substantially by the courts, whereas of the 29 orders involving false advertising, 22 were upheld,¹⁵ and the Commission's jurisdiction over false advertising seemed to be established beyond a doubt.

It is important to note that this was not the function which the proponents of a trade commission had envisioned for the FTC, but rather a circumstance brought about by the continued hostility of the courts toward the FTC developing an independent and viable role in anti-monopoly cases.

¹³Royal Baking Company vs. FTC, 281 F. 744 (1922).

¹⁴Kintner, op. cit., p. 17.

¹⁵Susan Wagner, The Federal Trade Commission (New York: Preager, 1971), p. 30.

The Raladam Decision and Wheeler-Lea:
The Authority over Deception

However, although the Commission had taken jurisdiction over advertising practices more with regard to protecting the public interest than competition or competitors, and had been upheld in 22 advertising cases before 1931, none of which was grounded specifically on damaged competition, in 1931, the Supreme Court squarely faced the issue of competition in the Raladam Case. The FTC Act read that the Commission had the authority to declare "unfair methods of competition" to be unlawful and that the Commission should act when "...a proceeding by it in respect thereof would be to the interest of the public...", and in the Raladam case, the Supreme Court chose finally to take the statute literally. They ruled that the FTC had no jurisdiction over false advertising unless they could first prove that that advertising damaged competition or a competitor, and only then did the public interest become an issue.

It is obvious that the word "competition" imports the existence of present or potential competitors, and the unfair methods must be such as injuriously affect or tend thus to affect the business of these competitors--that is to say, the trader whose methods are assailed as unfair must have present or potential rivals in trade whose business will be, or is likely to be, lessened or otherwise injured. It is that condition of affairs which the Commission is given power to correct, and it is against that condition of affairs, and not some other, that the

Commission is authorized to protect the public. Official powers cannot be extended beyond the terms and necessary implications of the grant.¹⁶

In other words, the Commission could protect the public interest from false and deceptive practices only if these practices also damaged competition. "Consequently if a person had a monopoly in a certain field, so that there was no competition, his acts, no matter how deceptive or misleading and unfair to the consuming public, could not be restrained. Similarly, if all competitors were participating in the same unfair method, the Commission was powerless to act for the consumer's protection."¹⁷ Raladam left the consumer "...virtually unprotected by weakening if not actually nullifying the powers expressly delegated to the Commission for the protection of the public and the consumer."¹⁸

As a portion of their ruling in the Raladam case, the Supreme Court had suggested that "if broader powers be desirable they must be conferred by Congress. They cannot be merely assumed by administrative officers; nor can they be

¹⁶FTC vs. Raladam Company, 51 S. Ct. 587 (1931), as in Commerce Clearing House, Trade Regulation Reports (Commerce Clearing House, 1942), Section 6125.181, p. 6139.

¹⁷Commerce Clearing House, Trade Regulation Reports, Section 7000, December 5, 1966, p. 11011.

¹⁸Commerce Clearing House, Trade Regulation Reports (Commerce Clearing House, 1965), Section 805.29, p. 1640.

created by the courts in the proper exercise of their judicial functions,"¹⁹¹⁵ so the Commission appealed to Congress, as the Court had recommended.

By August, 1937, a Committee in the House of Representatives issued the following report on an amendment to the FTC Act which would rectify the situation:

The words "unfair methods of competition" in section 5 have been construed by the Supreme Court as leaving the Commission without jurisdiction to issue cease and desist orders where the Commission has failed to establish the existence of competition. In other words, the act is construed as if its purpose were to protect competitors only and to afford no protection to the consumer without showing injury to a competitor...

By the proposed amendment to section 5, the Commission can prevent such acts or practices which injuriously affect the general public as well as those which are unfair to competitors. In other words, this amendment makes the consumer, who may be injured by an unfair trade practice, of equal concern, before the law, with the merchant or manufacturer injured by the unfair methods of a dishonest competitor.

This amendment will also enable the Commission to act more expeditiously and save time and money now required to show actual competition and the injurious effect thereon of the unfair methods in question.²⁰ ¹⁶

President Roosevelt responded in the following speech to Congress in January, 1938, regarding the situation as it existed following Raladam:

¹⁹Raladam, op. cit., p. 6139.

²⁰House of Representatives Report No. 1613, August 19, 1937, concerning Senate Bill 1077, as quoted in Commerce Clearing House, 1965, op. cit., Section 805.29, p. 1648.

The overwhelming majority of businessmen and bankers intend to be good citizens. Only a small minority have displayed poor citizenship by engaging in practices which are dishonest or definitely harmful to society.

If attention is called to or attack made on certain wrongful business practices, there are those who are eager to call it "an attack on all business." That, too, is willful deception that will not long deceive.

Let us consider certain facts:

There are practices which most people believe should be ended: They include...price-rigging and collusive bidding in defiance of the spirit of the anti-trust laws by methods which baffle prosecution under present statutes.

They include high-pressure salesmanship..., the use of patent laws to enable larger corporations to maintain high prices and withhold from the public the advantages of the progress of science....

Another group of problems affecting business, which cannot be termed specific abuses, gives us food for grave thought about the future. Generally such problems arise out of the concentration of economic control to the detriment of the body politic....

In many instances such concentrations cannot be justified on the ground of operating efficiency, but have been created for the sake of securities profits, financial control, the suppression of competition and the ambition for power over others.

Government has a final responsibility for the well-being of its citizenship. If private co-operative endeavor fails to provide...relief for the unfortunate, those suffering hardship from no fault of their own have a right to call upon the government for aid; and a government worthy of its name must make fitting response.²¹

On March 22, 1938, President Roosevelt signed the Wheeler-Lea Bill, making "unfair methods of competition and unfair or

²¹Franklin D. Roosevelt, in a Speech before Congress, January 3, 1938, as quoted in the New York Times, January 4, 1938, p. 16.

deceptive acts or practices in commerce" unlawful. (My emphasis) On May 21, 1938, it became law.

In an interview with the New York Times, Gilbert H. Montague, chairman of the committee on the FTC and anti-trust laws of the Merchants Association of New York questioned the latitude that the Commission would have in interpreting the new law, and pointed out that the Supreme Court must play a major role as they had in the past, however, "...the task of establishing in the first instance a common-sense administration of these amendments rests squarely on the Commission."²² The National Retail Dry Goods Association commented that "...it will probably be some time before sufficient administrative law will be developed to finally determine the line of demarcation between false advertising and 'imaginative' or so-called 'glamour advertising'."²³

Businessmen were right. The value of the new law did depend on the interpretations of the courts, as had the old law, but this time the Commission was more successful. In 1941, for example, the Third Circuit Court of Appeals stated:

...wherein the court recognized the Commission's jurisdiction in cases of unfair trading regardless

²²"News and Notes of the Advertising World," New York Times, March 24, 1938, p. 39.

²³"Stores Warned on Ads," New York Times, March 15, 1938, p. 37.

or whether or not it is the public in general or a particular class of competitors whose interest demands the suppression of the practice complained of. This recognition of public interest was approved by Congress in 1938 with the enactment of the Wheeler-Lea Act.²³

.
The failure to mention competition (in the phrase unfair or deceptive acts or practices in commerce) shows a legislative intent to remove the procedural requirement set up in the Raladam case and the Commission can now center its attention on the direct protection of the consumer where formerly it could protect him only indirectly through the protection of the competitor.²⁴

The Judicial Evolution of the Authority over Deceptive Practices

Consistently the courts upheld the Commission's authority under the amended Section 5 to protect the public interest without the requirement of any damage to competition. The Supreme Court had already, in the FTC vs. Klessner, held that "In determining whether a proposed proceeding will be in the public interest the Commission exercises a broad discretion,"²⁵ and now they proved quite willing to let the Commission, rather than the courts, determine just what kind of practices would damage it:

After giving weight as is to be accorded the experience of the Commission, the Court finds

²⁴ Pep Boys--Manny, Moe and Jack, Inc., vs. FTC, 122 F. 2d 158 (1941), as cited in Commerce Clearing House, op. cit., 1965, Section 805.291, p. 1648-1649.

²⁵ FTC vs. Klessner, 280 U.S. 19 (1929).

that the Commission's conclusions of law as to unfairness of practices cannot be said to be unsound.²⁶ ¹⁹

The courts also specified the authority of the FTC in consumer protection under the amended Act by establishing some basic rules:

1. It is not necessary for actual deception to take place before the FTC has jurisdiction:

Bockenstette vs. FTC

It is unnecessary for Commission to find that actual deception resulted....²⁷

Charles of the Ritz Distributors Corporation vs. FTC

...actual deception of the public was not required to be shown.²⁸

Vacu-Matic Carburetor Company vs. FTC

...cease and desist order was predicated on a finding that representations merely had the tendency and capacity to deceive.²⁹

2. It is not necessary that the Commission prove knowledge of deception on the part of the businessman:

²⁶Hastings Manufacturing Company vs. FTC, 153 F. 2d 253, (1946), certiorari denied 328 U.S. 358.

²⁷Bockenstette vs. FTC, 134 F. 2d 369 (1943).

²⁸Charles of the Ritz Distributors Corporation vs. FTC, 143 F. 2d 676 (1944).

²⁹Vacu-Matic Carburetor Company vs. FTC, 157 F. 2d (1946).

L & C Mayers Company vs. FTC

A trader's representation may be unlawful under this section although made innocently.³⁰

Koch vs. FTC

...misrepresentation...does not depend upon good or bad faith of advertiser.³¹

3. The intent of a businessman in deceiving the public is immaterial:

Gimbel Brothers vs. FTC

...deliberate effort to deceive is not necessary to make out a case....³²

Ford Motor Company vs. FTC

...the question does not depend upon the purpose of the advertisement nor upon the good faith or bad faith of the advertiser.³³

4. Nothing less than the most literal truthfulness is sufficient, and this truth must be clear enough so that "wayfaring men though fools shall not enter therein."³⁴

Charles of the Ritz Distributors Corporation vs. FTC

(Act was not)...made for the protection of experts, but for the public--that vast multitude which includes the ignorant, the unthinking and the credulous.

• •

³⁰L & C Mayers Company vs. FTC, 97 F. 2d 365 (1938).

³¹Koch vs. FTC, 206 F. 2d 311 (1953).

³²Gimbel Brothers vs. FTC, 116 F. 2d 578 (1941).

³³Ford Motor Company vs. FTC, 120 F. 2d 175, certiorari denied, 62 S. Ct. 130.

³⁴Charles of the Ritz, op. cit.

(the)...fact that a false statement may not be false to those who are trained and experienced does not change its character, nor take away its power to deceive others less experienced.³⁵

Parker Pen Company vs. FTC

Commission must protect casual or negligent reader as well as vigilant and more intelligent and discerning public.³⁶

5. Even the literal truth may in some cases be insufficient to protect the public from deception:

P. Lorillard Company vs. FTC

To tell less than the whole truth in an advertisement is a well-known method of deception, and he who deceives by resorting to such methods can not excuse the deception by relying upon the truthfulness per se of the partial truth by which the deception has been accomplished.³⁷

Bennett vs. FTC

...deception may result from use of statements which are not technically false or which may be literally true, and words will be taken to mean what they are intended and understood to mean.³⁸

Kalwajty vs. FTC

A statement may be deceptive within meaning of this section, even if constituent words thereof may be literally or technically construed so as not to constitute a misrepresentation.³⁹

³⁵Ibid.

³⁶Parker Pen Company vs. FTC, 159 F. 2d 509 (1947).

³⁷P. Lorillard Company vs. FTC, 186 F. 2d 52 (1950).

³⁸Bennett vs. FTC, 200 F. 2d 362 (1952).

³⁹Kalwajty vs. FTC, 237 F. 2d 654 (1956), certiorari denied, 77 S. Ct. 591.

6. If an advertisement can be read to have two meanings, and one of them is false, and misleading, this ad has the capacity to deceive and is unlawful:

General Motors Corporation vs. FTC

...advertising tended to mislead and deceive substantial part of purchasing public into belief that defendant's "six per cent" finance plan contemplated simple interest charge of six per cent, per annum on unpaid balances....⁴⁰

A. P. W. Paper Company vs. FTC

That more careful observers were not misled by use of words "Red Cross" and Greek red cross emblem on toilet tissues and paper towels is immaterial in determining violation of this section....⁴¹

From the above, it becomes easy to see the tremendous impact of the courts in defining and broadening the role of the FTC with regard to the protection of the public interest.

✓ Just as they had effectively prohibited the FTC's becoming a powerful trust-busting agency, they strongly reinforced the Commission's ability to protect the public interest from unfair or deceptive trade practices. The Commission's role was finally determined not, by its early proponents, or even by Congress, but rather by the Courts. Now, otherwise, when the Commission's role was legislatively established by

⁴⁰ General Motors Corporation vs. FTC, 114 F 2d 33 (1940), certiorari denied, 311 S. Ct. 550.

⁴¹ A. P. W. Paper Company vs. FTC, 142 F. 2d 427 (1945), affirmed 66 S. Ct. 932.

what has been called a law whose provisions are "broad,
(and) constitutionlike."⁴²

The Internal Operation of the Federal Trade Commission

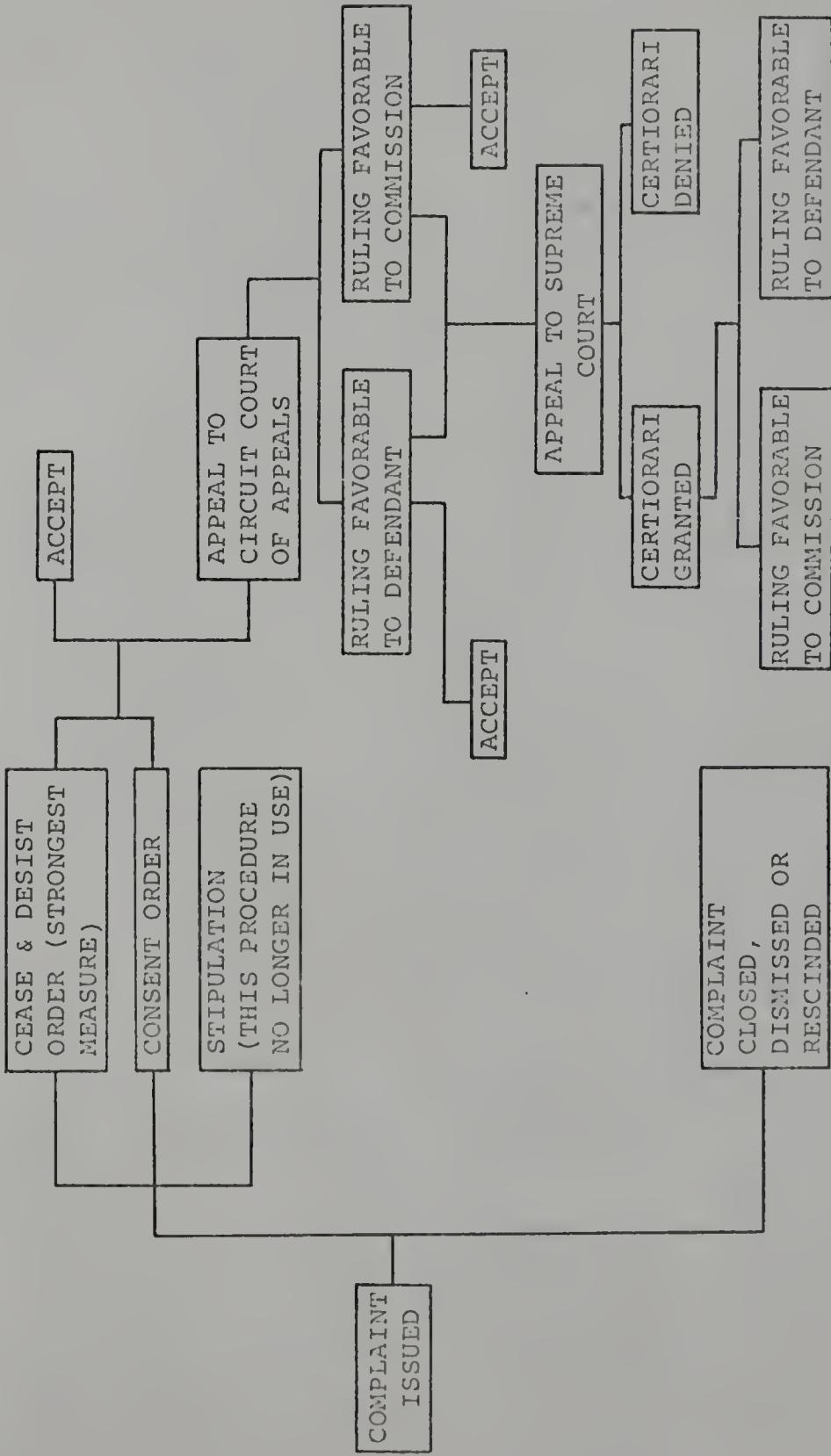
As shown in Diagram 3.1, once the FTC issues a formal complaint charging violation of some statute, it may be disposed of in one of three ways:

- ✓ 1. The complaint may be dropped, closed, or rescinded.
- 2. The complaint may result in the signing of a consent order, in which the company charged agrees to stop the practice complained against, without admitting guilt.
- 3. The complaint may result in the issuance of a cease and desist order, the Commission's strongest ruling, equivalent to trial and conviction on the charge, which carries with it a maximum civil penalty of \$5,000 per day for each day that the practice continues beyond the judgement.

Not all of the applications for complaint received by the Commission reach the formal complaint stage, however. At present, the Federal Trade Commission has legislative jurisdiction over three types of activity: that which violates anti-trust statutes under the Commission's control, that which violates the deceptive trade practices provisions of the Federal Trade Commission Act as amended by Wheeler-Lea, and that which violates any of the other individual statutes which the FTC is charged with enforcing, including the Wool, Fur,

⁴² Littell, op. cit., p. 215.

DIAGRAM 3.1
COMPLAINT DISPOSITION



and Textile Labeling Acts, the Truth-in-Lending Act, and the Truth-in-Packaging Act.

Due to this broad responsibility, the Commission yearly receives large numbers of applications for complaint from business, consumers, and the Commission staff. Those which result in formal action, therefore, must be selected, not only on the basis of legal constraints and the size of the litigation budget allotted yearly by Congress, but also at the discretion of the Commission. The impact of these factors will be analyzed in Chapter Five. ¹⁰

CHAPTER IV

METHODOLOGY AND PRESENTATION OF CASE DATA

Methodology

Before attempting an analysis of the application of the Federal Trade Commission Act, it is first necessary to determine what the Federal Trade Commission's activities in the deceptive practices area have been. The law is passive, requiring action by the Federal Trade Commission for both interpretation and enforcement, and only after this action has occurred does the federal court system come into play to evaluate and examine the Commission's actions under the Federal Trade Commission Act. It is at this point that the adequacy of the legislation is tested. For these reasons, the primary source for any examination of deceptive practices enforcement under Wheeler-Lea are the records of the Federal Trade Commission and the appellate responses to the Federal Trade Commission's activities.

Information Needed on Federal Trade Commission Activities

For the purpose of this study, it was necessary to develop several types of information concerning the deceptive

practices activities of the Commission:

1. A complete listing of all complaints filed by the Federal Trade Commission.
2. Some means by which those complaints handled under the deceptive practices provision of the Federal Trade Commission Act could be distinguished from the anti-trust activities of the Federal Trade Commission.
3. The response of the Federal Trade Commission to these complaints.
4. Some means of "aging" these deceptive practices complaints, since the Commission has very limited injunctive powers, and deceptive practices are allowed to continue until some ruling is made. This factor is also important, as the age of the complaint may bear on the circuit courts' handling of appeals.
5. An appeals record of Federal Trade Commission deceptive practices cases to determine how Federal Trade Commission jurisdiction and interpretations under Wheeler-Lea have held up in the federal courts.¹

Sources of Case Data

Upon examination of the literature, it was determined that there are essentially five public sources of Federal Trade Commission case information:

1. The Federal Trade Commission Annual Report, especially the more complete Documents Edition which is sent to those libraries which serve as federal government depositories.
2. Federal Trade Commission Decisions, the official report of the Commission's litigation, which is

¹Diagram 3.1 shows the relationship of Federal Trade Commission decisions to the federal court system, and the ways in which cases move to ultimate resolution.

published by the U. S. Government Printing Office, in cooperation with the Federal Trade Commission.

3. Federal Trade Commission Statutes and Decisions, a somewhat less complete record of the Commission's activities, which is bound together with the complete text of the statutes under which the Commission operates. This too is published by the U. S. Government Printing Office in cooperation with the Federal Trade Commission.
4. The Commerce Clearing House publication, Trade Regulation Reporter, Volume III; section entitled, "Federal Trade Commission Docket of Complaints."
5. United States Code, Annotated, Title 15, Section 45. This source contains brief excerpts from certain "landmark" decisions of Commission cases which have served to clarify the terms of the legislation under which they were rendered, gave judicial interpretation of the role of the Commission, and set precedent for later decisions.

Of the above sources, the one which was most usable and best met the informational requirements of this study was the "Federal Trade Commission Docket of Complaints" as published in the Commerce Clearing House Trade Regulation Reporter. This source contains a chronological listing of all complaints docketed under all statutes enforced by the Federal Trade Commission, the statute under which the complaint was made, the type of charge,² the date of issuance of the complaint, the Federal Trade Commission's method of resolving the complaint, date of resolution, and the appellate record, if any.

²Due to the fact that the Federal Trade Commission publishes no separate record of unfair and deceptive practices

Procedure for Gathering
Case Data

Upon securing the Docket of Complaints, the deceptive practices cases were separated from the rest.

First, all cases brought under statutes other than the Federal Trade Commission Act were listed by docket number and removed from the cases under study.

Next, those cases listed as violations of the Federal Trade Commission Act were broken down into three categories --Restraint of Competition, Deceptive Practices, and "Other", in the following manner:

Restraint of Competition cases include complaints charging:

1. Combination
2. Conspiracy to monopolize
3. Price fixing
4. Tying agreements
5. Illegal payment, or solicitation of brokerage fees

cases, this feature was particularly valuable. This designation made it possible, though time-consuming, to separate the cases into three categories:

- a) Deceptive practices cases prosecuted under Wheeler-Lea.
- b) "Special" deceptive practices cases brought under the Wool, Fur and Textile Labeling Acts, the Flammable Fabrics Act, Truth in Lending, and Truth in Packaging.
- c) Anti-trust cases.

Thus, it was possible for the author to separate the cases without any need on her part to make interpretive judgements of legal terminology.

6. Payola
7. Price discrimination
8. Illegal acquisitions

Deceptive practices cases include complaints charged under the Federal Trade Commission Act, and charging any form of false advertising and/or misrepresentation. A listing of the docket numbers of all deceptive practices cases can be found in Appendix A of this study.

The "Other" category consists of a separate listing of cases docketed in later years under the Wool Labeling Act, Fur Labeling Act, Textile Labeling Act, Flammable Fabrics Act, and Truth in Lending Act. This category is necessary for the purpose of comparison, as these laws protect against deceptive practices in particular industries which were previously included among the general prosecutions of deceptive practices under the Federal Trade Commission Act. During the time period under study, 1938-1970, no cases were docketed under the Truth in Packaging Act.

Once the docket numbers of the deceptive practices cases were determined, each case was "aged", by determining the passage of time between issuance of the complaint and the Commission's initial disposition, and the types of disposition were tabulated. Next, the appellate record of each case was also examined and tabulated. The result is the following group of tables and graphs which describe the Federal Trade

Commission's deceptive practices activities for the first thirty-three years of Wheeler-Lea.

Means of Analysis

In Chapter Five these fluctuations will be analyzed in the following manner:

The case data, as presented in Chapter Four, is divided into four categories:

1. The number of deceptive trade practices complaints docketed yearly.
2. The initial disposition of these complaints by the Commission.
3. The appellate record of the Commission's judgements of these complaints in the Federal courts.
4. The length of time required by the Commission to dispose of deceptive practices complaints internally.

The analysis will consist of an explanation of the fluctuation of activity in these categories through their associations with three sets of factors, internal, external economic, and external political, which Chapters One-Three have suggested ought to be important.

Factors internal to the Commission include:

1. The FTC's Deceptive Trade Practices Litigation Budget, deflated by the Consumer Price Index, and expressed in constant, 1967 dollars.
2. The FTC's Anti-trust Caseload. It is suggested that in years when there is a heavy emphasis on anti-trust, less of the Commission's scarce resources, time, personnel, etc. would be available to combat deceptive practices.

3. The Commission's "Other" Caseload, which is composed of complaints alleging violation of the Wool, Fur, or Textile Labeling Acts, the Flammable Fabrics Act, or the Truth in Lending Act. This factor may be important for the same reasons as the Anti-trust caseload.
4. The complexity of the complaints in the deceptive practices area which the Commission has filed in a given year. As a proxy for this variable, this study will use the percent of complaints from a given year which went on into the appellate courts.

In addition to these internal factors, Chapter Three suggests some external economic variables which might effect deceptive practices activity:

1. Advertising expenditures expressed as a percentage of retail sales. Comanor and Wilson, and Bain, among others, suggest that as advertising expense increases in proportion to sales, the amount of persuasive advertising increases, thus they feel that the probability of deceptive advertising also increases.
2. The yearly percentage change in the Consumer Price Index. This is used as a reflector of increasing or decreasing prices for consumer goods.
3. The level of unemployment. This is used as a proxy for changes in market concentration, as in periods of rising unemployment, we would expect smaller firms to fail, thereby increasing concentration within industries.

Beyond these two groups of factors, it has been suggested that the FTC responds to political pressure, so two political variables have been introduced:

1. The number of Democrats in Congress. It was thought that this factor might effect the Commission directly through their budget, and indirectly through philosophical atmosphere, since the Democratic party claims to be more friendly to consumers, and less friendly to big business than the Republican party.

2. The party of the President.

Presentation of Case Data

Total Commission Complaint Activity

The yearly breakdown of the Federal Trade Commission's Docket of Complaints from 1938-1970 (Appendix C) shows that in the first years of the Federal Trade Commission's deceptive practices authority, the number of deceptive practices complaints filed by the Commission was relatively large, and composed quite a significant majority of the Commission's activities, fluctuating at a rate which closely paralleled fluctuations in total complaint issuance. In the 1940's, when the Commission's total complaint activities dropped sharply due to its additional war-related responsibilities, the number of deceptive practices cases dropped proportionally, but as the total number of complaints recovered slowly into the mid-1950's, deceptive practices did not keep pace. Beginning in 1954, the Commission's total complaint activities began a significant yearly increase culminating at an all-time high in 1960. This burst of activity was not sustained, however, and with the exception of a brief surge in 1962-1963, the total number of complaints dropped off, and has continued to fluctuate around a level approximately equal to one third that of their peak 1960 activity.

The yearly distribution of complaints docketed, when expressed on a percentage basis (Appendix D) shows how deceptive practices activity fared proportionately as total complaints fluctuated. After maintaining a fairly steady rate of about 80 percent from 1938 until 1946, in the late 1940's the level of deceptive practices complaints dropped rather substantially to a low of 46.7 percent in 1947, as the Commission shifted a greater portion of its efforts into the restraint of competition area. This trend did not continue, however, and from 1948 throughout the early 1950's, the issuance of deceptive practices complaints revived somewhat, and sustained a level well in excess of 50 percent of total complaints, though this level was not as high as it had been in the initial years. Entering the second half of the decade, however, deceptive practices activity decreased again and since 1955, with the exception of one year, continued at a rate less than 50 percent of the Commission's complaints, fluctuating between a low of 27 percent in 1965 and a high of 47.2 percent in 1957, with an average rate of activity in the 1960's of between 35-40 percent. In contrast with the period of the late 1940's, when deceptive practices complaints were replaced by the Commission's increased interest in restraint of trade cases, from 1953-1970, the Commission showed a rising interest in cases in the "Other" category, thus detracting their efforts away from deceptive practices.

This "Other" category is composed of Wool and Fur Labeling cases, with a small group of Textile and Flammable Fabrics cases, and a sprinkling of Truth in Lending cases (less than ten in total). The Wool, Fur, and Textile Labeling cases, forming the great bulk of this group, are violations of statutes which, like Wheeler-Lea, deal with misrepresentation and false advertising. They are spinoffs of Wheeler-Lea, dealing with specific industries, and they are related to the statute under study in that cases of this type, prior to the passage of specific legislation, were prosecuted in what seemed to be a very successful manner under the Federal Trade Commission Act, although not in the same large numbers.

Disposition of Deceptive Practices Complaints

Numerical data concerning the initial disposition of deceptive practices complaints by the Commission (Appendix E) do not indicate that any difficulty was encountered in resolving complaints once issued. Both the number and rate of complaints closed or dropped is much lower in more recent years. This same data expressed as percentages (Appendix F) do indicate, however, a dramatic drop in the usage of cease and desist orders, accompanied by a proportional increase in the consent procedure as a means of disposing of deceptive practices complaints. This is most probably an efficiency

measure on the part of the Commission staff, as a consent order has the same force under law, once it is accepted by the defendant, as a cease and desist order, yet the procedure for reaching a consent order is much less time-consuming than that necessary to hand down a cease and desist. For example, in the case of those complaints listed in Appendix B, the Consent Docket, the date of issuance of the complaint, and the date on which the consent decree was accepted, is one and the same.

The fact that consent orders require voluntary acceptance by the defendant in deceptive practices cases raises the possibility that the tremendous increase in the use of consent orders indicates the increased, rather than diminished, recognition by the business community of the Federal Trade Commission's authority under Wheeler-Lea to regulate deceptive practices.

The Appellate Record of Deceptive Practices Complaints

On the basis of Appellate Court data (Appendix G), the Commission's record on review of deceptive practices cases looks extremely good, and shows no lack of ability on the part of the Commission to sustain its deceptive practices rulings in the Federal Courts. In fact, though the data show a slight increase in the percent of deceptive practices cases

which were appealed, they do not indicate any drop in the percentage of favorable rulings (Appendix H).

Age of Complaints at
Initial Disposition

According to a distribution of the age of deceptive practices complaints at the time of the Commission's initial decree (Appendix I and J), the majority of cases are processed much more rapidly in later years than in earlier years. Therefore, if the length of time needed to process a complaint is any indication of difficulty under the statute, this difficulty more likely occurred in the early years of use, while the courts were clarifying the terms and interpretations of the statute. This possibility is also borne out by the decrease in complaints dropped or closed in recent years.

CHAPTER V

ANALYSIS AND CONCLUSIONS

Thesis Re-Statement

The Federal Trade Commission's litigation role in the area of deceptive trade practices enforcement under Section 5 of the Federal Trade Commission Act has changed in the years 1938-1970.

Analysis of the Dependent Variables

Deceptive Practices Complaints

The presentation of case data in Chapter Four illustrates a sizable amount of fluctuation in the Federal Trade Commission's (FTC) handling of anti-deceptive practices litigation throughout the period 1938-1970. These fluctuations are compared below with variations in the internal, external economic, and political factors.

The first dependent variable under consideration is the number of deceptive practices complaints issued by the FTC. When compared with the three categories of independent variables, the following associations are shown to exist: The number of deceptive practices complaints filed yearly is

shown to vary directly with the level of Anti-trust complaints, and the level of "Other" complaints, while it varies inversely with the level of difficulty. In the case of the remaining internal factor, the deceptive practices litigation budget, the relationship is also inverse, or negative, rather than positive as has been suggested in the literature, indicating that on the whole, as the deceptive practices litigation budget increased, the number of deceptive practices complaints docketed went down. These four variables, when regressed against the number of deceptive practices complaints, generate an R^2 of .8777.

It appears that the level of deceptive practices complaints filed fluctuates independently of any of the external economic variables under consideration: advertising as a percent of retail sales, the change in the consumer price index, and the level of industry concentration.

TABLE 5.1

REGRESSION COEFFICIENTS OF THE RELATIONSHIPS
BETWEEN THE NUMBER OF DECEPTIVE PRACTICES
COMPLAINTS AND THE INDEPENDENT VARIABLES

	AT Com- Year	Budget	Other Com- plaints	Number APS	Percent CPI	Ap- peals	Ap- pealed
D.P. Com- plaints	.038	-.279	.720	.498	.410	-.214	.449

On the basis of analysis of fluctuations in the number of deceptive practices complaints issued by the Commission in a given year, there are several contradictions with what the literature indicated might be expected. For example, consumerists and the FTC have indicated that in the area of deceptive practices enforcement, the FTC's budget is inadequate to the task. However, the small relationship shown between deceptive practices litigation budget and the level of deceptive practices complaints filed is a negative rather than a positive one. In addition, writers in the history of consumer movements have indicated that consumer complaints become more numerous in periods of rising prices. Yet the FTC's activity shows no relation to changes in the Consumer Price Index.

The industrial organization economists quoted in Chapter Two argue, both on the basis of theoretical manipulations and empirical data, that the level of persuasive advertising, and therefore the level of deceptive advertising, fluctuate in conjunction with changes in market structure variables. If this is in fact true, the FTC's enforcement record does not reflect it, since no relationship between trends in the FTC's level of deceptive practices complaints and the market structure indicators used was evident.

Figures 5.1, 5.2, and 5.3 reveal the impact of the external political situation on the activities of the FTC.

FIGURE 5.1
YEAR VERSUS DECEPTIVE PRACTICES COMPLAINTS

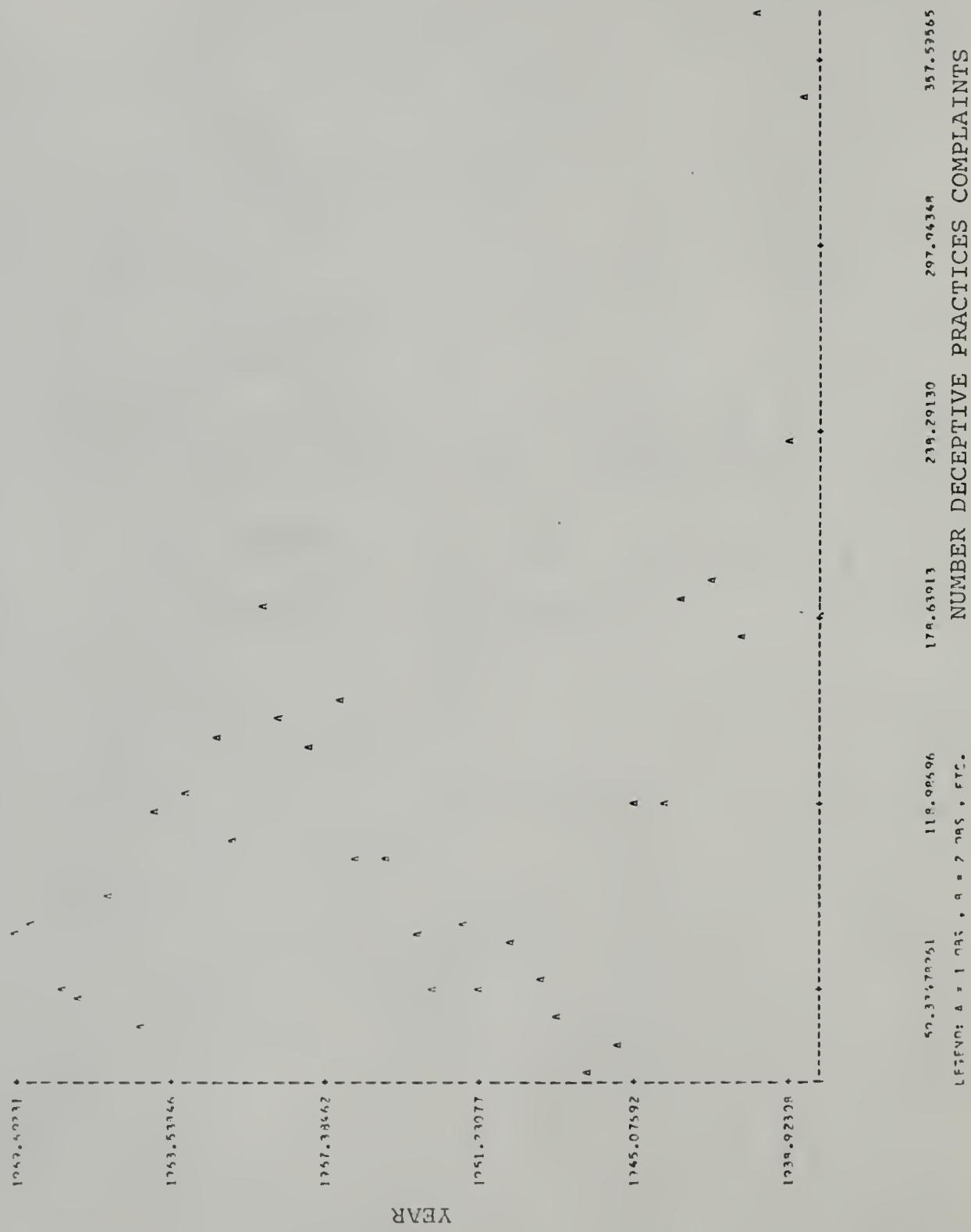


FIGURE 5.2
YEAR VERSUS ANTI-TRUST COMPLAINTS

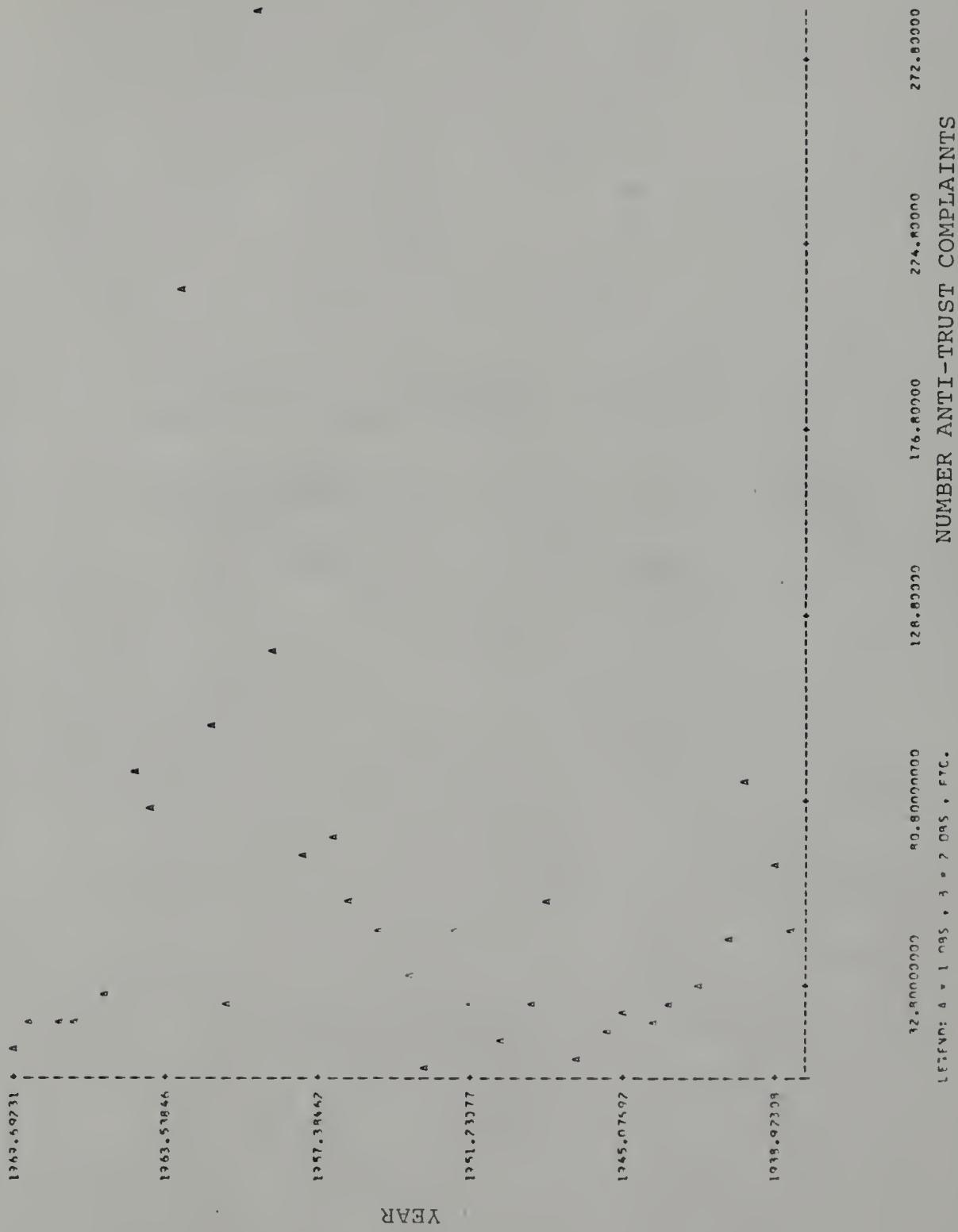
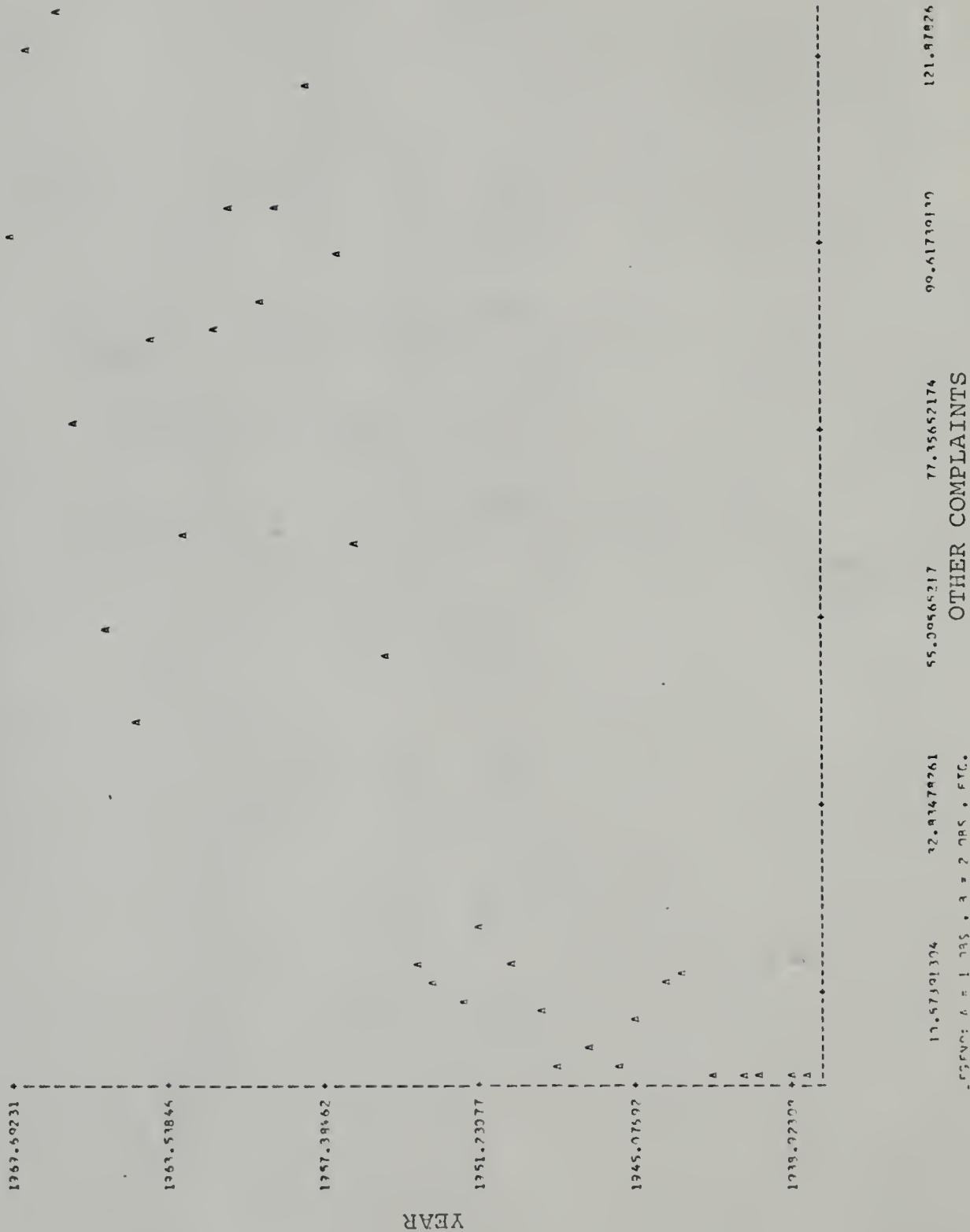


FIGURE 5.3
YEAR VERSUS "OTHER" COMPLAINTS



There is a distinct, linear, negative trend in the number of deceptive practices complaints from 1938 to the early 1950's, during the terms of Presidents Roosevelt and Truman, both Democrats. The association then stabilizes briefly in the early 1950's. However, from 1952 until 1960, throughout the term of President Eisenhower, Republican, there is once again a steady, linear increase, culminating in a peak of activity in 1960. The yearly number of complaints then begins a steady decline during and throughout the Democratic Administrations of Presidents Kennedy and Johnson. In 1968, it begins to climb again with the election of President Nixon, Republican.

The impact of this finding becomes more important when the anti-trust activity, and "Other" activity are examined in a similar manner. Anti-trust activity shows the same type of fluctuation. The number of complaints decreases from 1938 until the late 1940's, a period of relative stability until 1952, a steady increase until 1960, followed by an almost constant drop in activity until 1968, when it seems to stabilize at a low level.

"Other" complaints follow the same trend as anti-trust and deceptive practices activity. They decrease until the late 1940's, stabilize until 1952, increase from 1952 to a peak in 1960, decrease from 1960 to around 1968, and then begin to increase again. The sizable total increase in

"other" complaints in the mid-1950's may be explained by the addition of new, separate areas for complaint: Fur Labeling in 1954, Flammable Fabrics in 1955, and Textile Labeling in 1961.

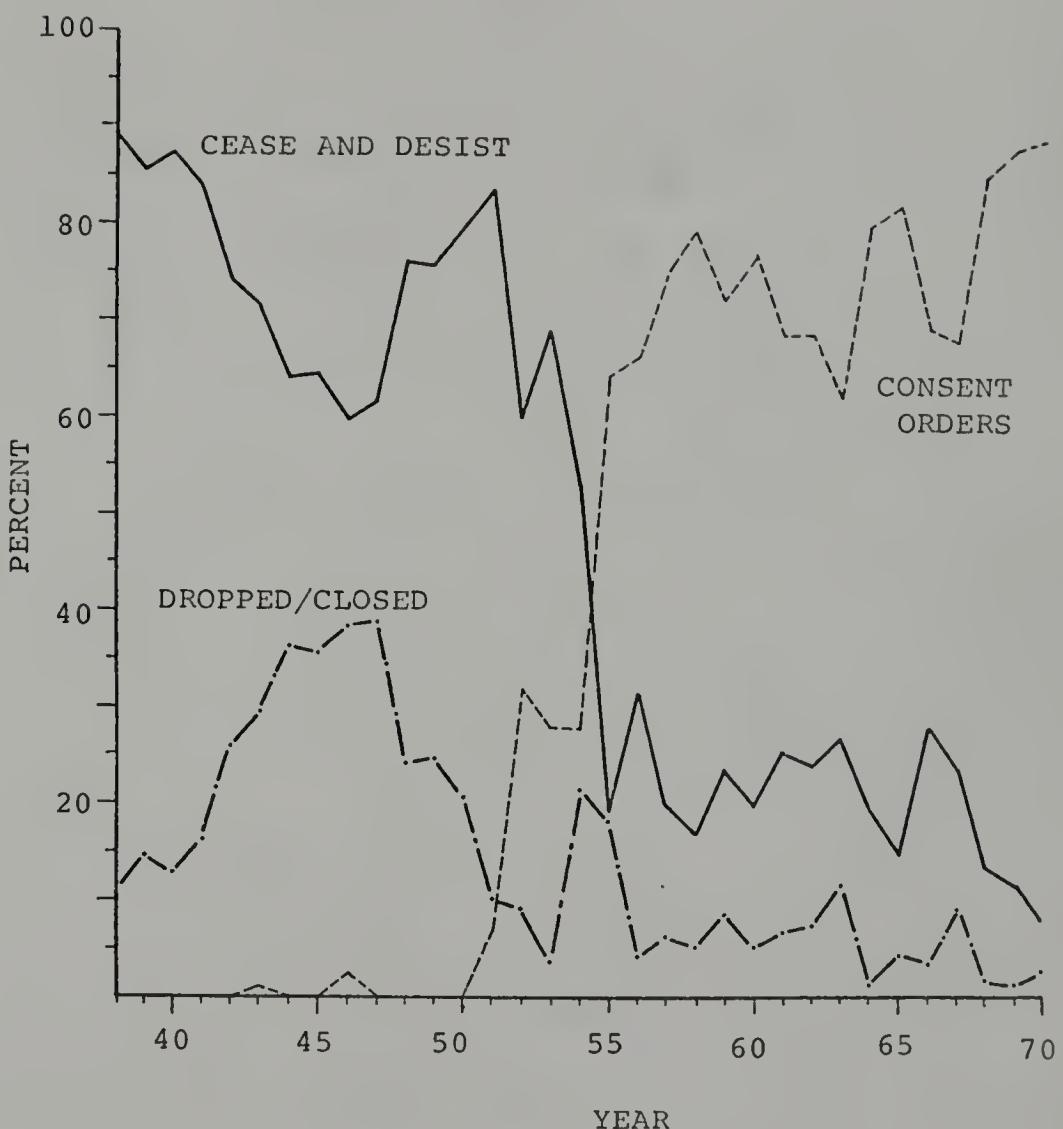
The fact that the FTC's work in anti-trust, "other", and deceptive practices increases and decreases almost simultaneously indicates rather clearly that activity in one area does not detract from activity in another area. Rather all activities of the Commission may be affected in a similar manner.

Disposition of Complaints

Figure 5.4 illustrates the Commission's shift in emphasis from the cease and desist order to the consent order. Whereas from 60-90 percent of all complaints issued before 1953 resulted in cease and desists, after 1956, from 65-88 percent of all complaints issued were resolved by consent order, indicating a clear shift in the Commission's enforcement policies.

This shift in policy reflects changes in both the attitude of the Commission and of business. First, this indicates that the Commission had begun to see its role as more interpretive than punitive, as the consent order, while it is as binding as a cease and desist order, carries no fine and requires no admission of guilt. In addition, the consent

FIGURE 5.4
INTERNAL COMPLAINT DISPOSITION
BY THE FEDERAL TRADE COMMISSION



order is voluntarily accepted by the firm in question, making it a time-saving measure, as the burden of proof placed upon the Commission staff is not as great as in the case of the cease and desist order. Finally, the apparent willingness of business to voluntarily accept consent orders indicates that firms have recognized the authority of the FTC to prohibit certain types of promotional activities.

The percentage of complaints dropped, rescinded or closed also is of importance, since these essentially represent the loss of cases decided internally. The only alternative to a case being dropped or closed is some type of "guilty" judgement, either a cease and desist, or consent order. ¹¹ Figure 5.5 shows that the percentage of cases dropped or closed increased from 1938 throughout the war years of the early 1940's as the Commission was called upon to perform additional defense-related activities. In 1947, it began to drop substantially, reaching an all-time low of 3.4 percent in 1953, followed by a period of increase in the second half of the 1950's, and then generally decreasing throughout the 1960's.

Regression analysis of the percent of complaints dropped or closed shows an overall negative trend, indicating that over time, the Commission's ability to lodge a "guilty" verdict of cease and desist or consent has increased relative to the number of complaints filed. Regression also shows an

FIGURE 5.5
YEAR VERSUS THE PERCENT OF COMPLAINTS DROPPED OR CLOSED

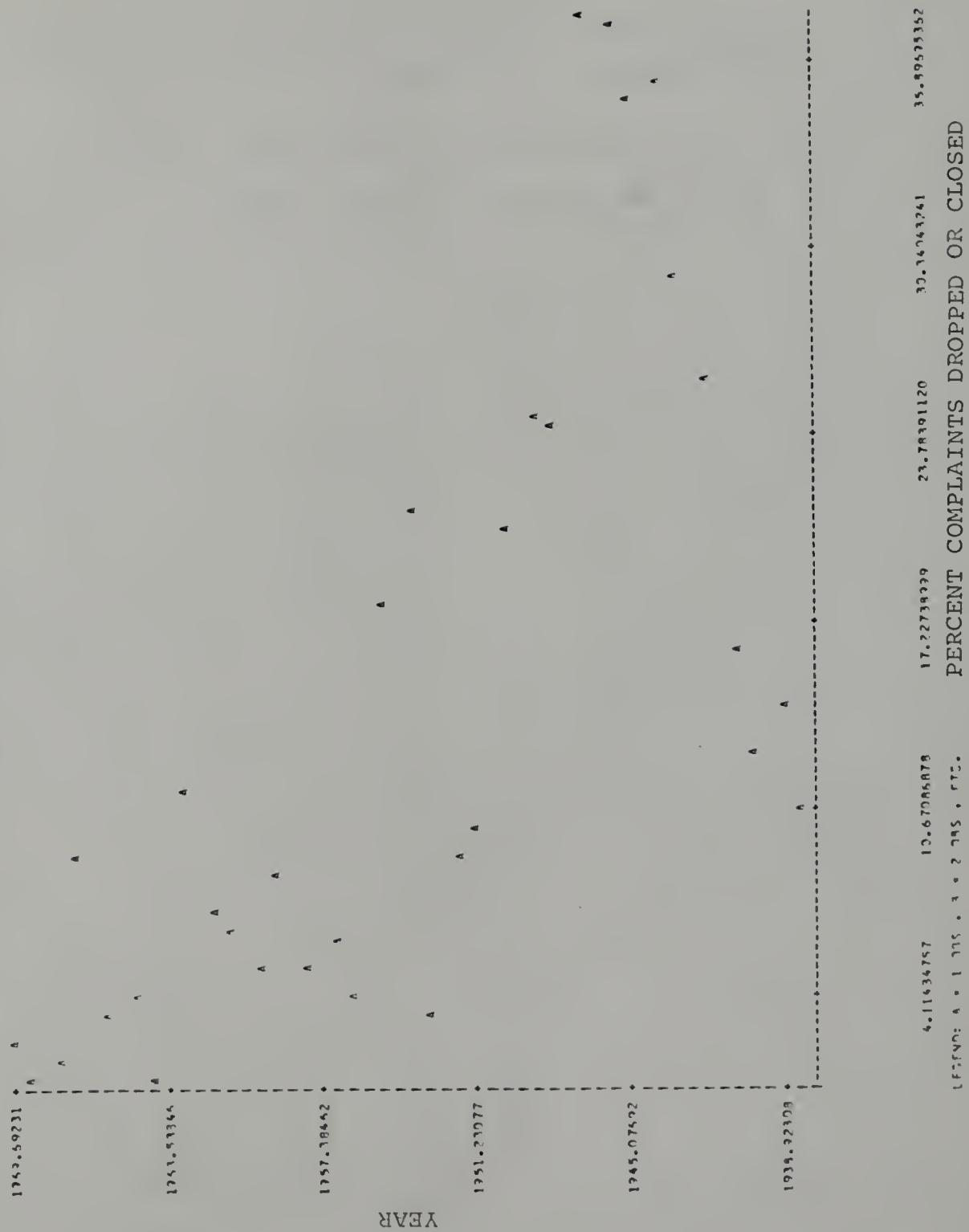


TABLE 5.2

RELATIONSHIPS BETWEEN THE NUMBER OF DECEPTIVE PRACTICES COMPLAINTS DROPPED OR CLOSED AND THE INDEPENDENT VARIABLES

	Year	Budget	Number Appealed	Percent Appeals	
Dropped/closed					
	Other Complaints	AT Complaints	DPS	DPN	Age
Dropped/closed					

inverse relationship ($r=-.6573$) between the percentage of cases dropped or closed and the budget. Finally, there is an inverse relationship between the percentage dropped or closed and the number of complaints filed each year.

The largest positive correlation shown ($r=.7453$) was between the percent of complaints dropped or closed, and the average age of complaints at the time the Commission handed down a ruling. This reveals that in the years during which the Commission handled complaints more rapidly, fewer resulted in being dropped or closed.

The remaining negative relationship, although very slight ($r=-.2311$), was between the percent of cases dropped or closed and the percent of cases which went on to be appealed. Thus it appears that, to a small extent, when fewer

complaints are dropped or closed by the Commission, more of the Commission's decisions are appealed into the Federal courts.

Appeals

Diagram 3.1 shows that if business is not satisfied with an FTC decision, they may seek redress through the U. S. Circuit Court of Appeals.

Percent of CasesAppealed.--The percentage of decisions appealed, as shown in Figure 5.6, generally shows what appears to be a fairly random scatter. The percent of cases appealed in most years range from 10-25 percent of all cease and desist and consent orders issued for that year. However, from 1965 to 1970, when the Commission's complaint load was lower than at any time since World War II, the average percent of judgements appealed is higher, on the average, than for any other period in the FTC's history. This change is also demonstrated by the 1965-1970 average, equaling 22.0 percent, while the average for all other years, excluding 1964, equals 12.27 percent.

To explain the activity in the percent of deceptive practices decisions appealed, this percentage was regressed against a number of factors, both internal and external economic, to determine which of these factors, if any, had any association with the percent appealed. The factors

FIGURE 5.6
YEAR VERSUS PERCENT OF DECISIONS APPEALED

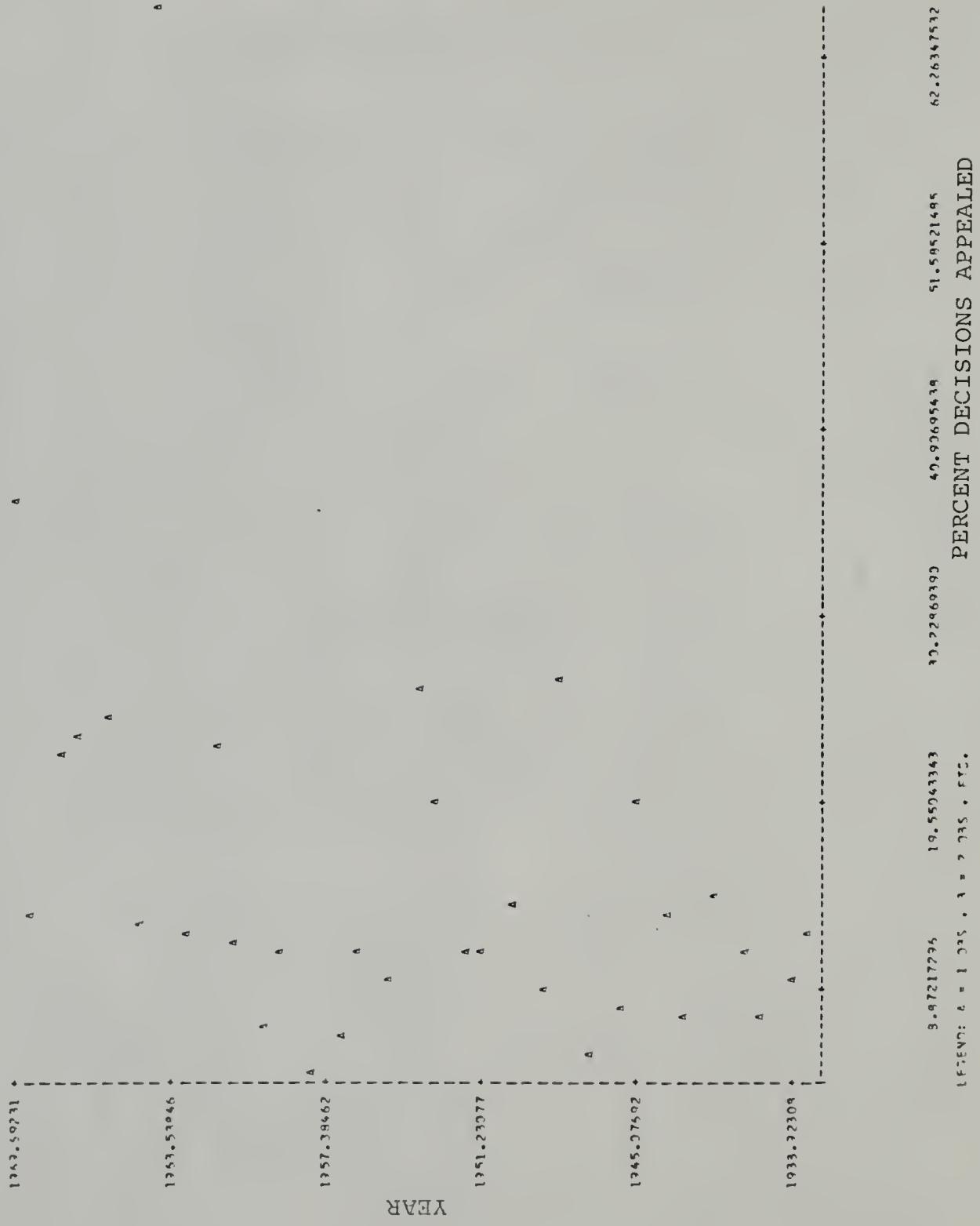


TABLE 5.3

RELATIONSHIPS BETWEEN THE PERCENTAGE OF DECEPTIVE PRACTICES COMPLAINTS APPEALED AND THE INDEPENDENT VARIABLES

	AT Com- Year	Bgt plaints	Other Com- plaints	Unemp	DP Com- APS	Years AP plaints	Last Wins	
Percent Appealed	.404	.456	-.181	.099	-.059	.246	-.145	-.352

analyzed include: the deceptive practices litigation budget, the Commission's anti-trust and "other" caseload, the number of deceptive practices cases, the previous year's appellate success record (a lag variable), the average age of cases when first decided by the Commission,* unemployment, and advertising expense as a percentage of retail sales. Although none of these factors correlated very highly with the percent appealed, the highest positive correlations were between percent appealed and deceptive practices litigation budget ($r=.456$), and between percent appealed and average age of complaints at the time of initial resolution ($r=.442$). The highest negative correlation was between the percent appealed and the previous year's appellate success record ($r=-.352$).

*This variable was previously treated as dependent.

Commission's Appellate Success.--As shown in Figure 5.7, the FTC's record on appeals in deceptive practices cases is extremely high. In no year does their percent of wins fall below 75 percent of those cases appealed and decided, and in 18 of the 33 years under study, it is 100 percent.

When the percent of wins is regressed against the percent of decisions appealed, a small negative relationship is shown to exist ($r=-.338$).

TABLE 5.4

RELATIONSHIPS BETWEEN THE PERCENT OF CASES WON
ON APPEAL AND THE INDEPENDENT VARIABLES

Year	Bgt	AT Com- plaints	Other Com- plaints	APS	DP Com- plaints	Number	Age Appeals	
<u>Percent</u>								
Won	.010	.129	-.410	.041	-.208	-.194	-.338	-.164

Average Age of Commission Cases
at the Time of Initial Decision

The aging of deceptive practices complaints (see Appendix I and J and Figure 5.8) shows an increasing tendency on the part of the FTC to decide cases more quickly than was their habit in the past. Between 1962 and 1970, the average age of cases on initial decision fluctuated between 2.3 months and 7.4 months. In the 1940's it ranged between 19.6

FIGURE 5.7
YEAR VERSUS THE PERCENT OF APPEALS RULED IN FAVOR OF THE FTC

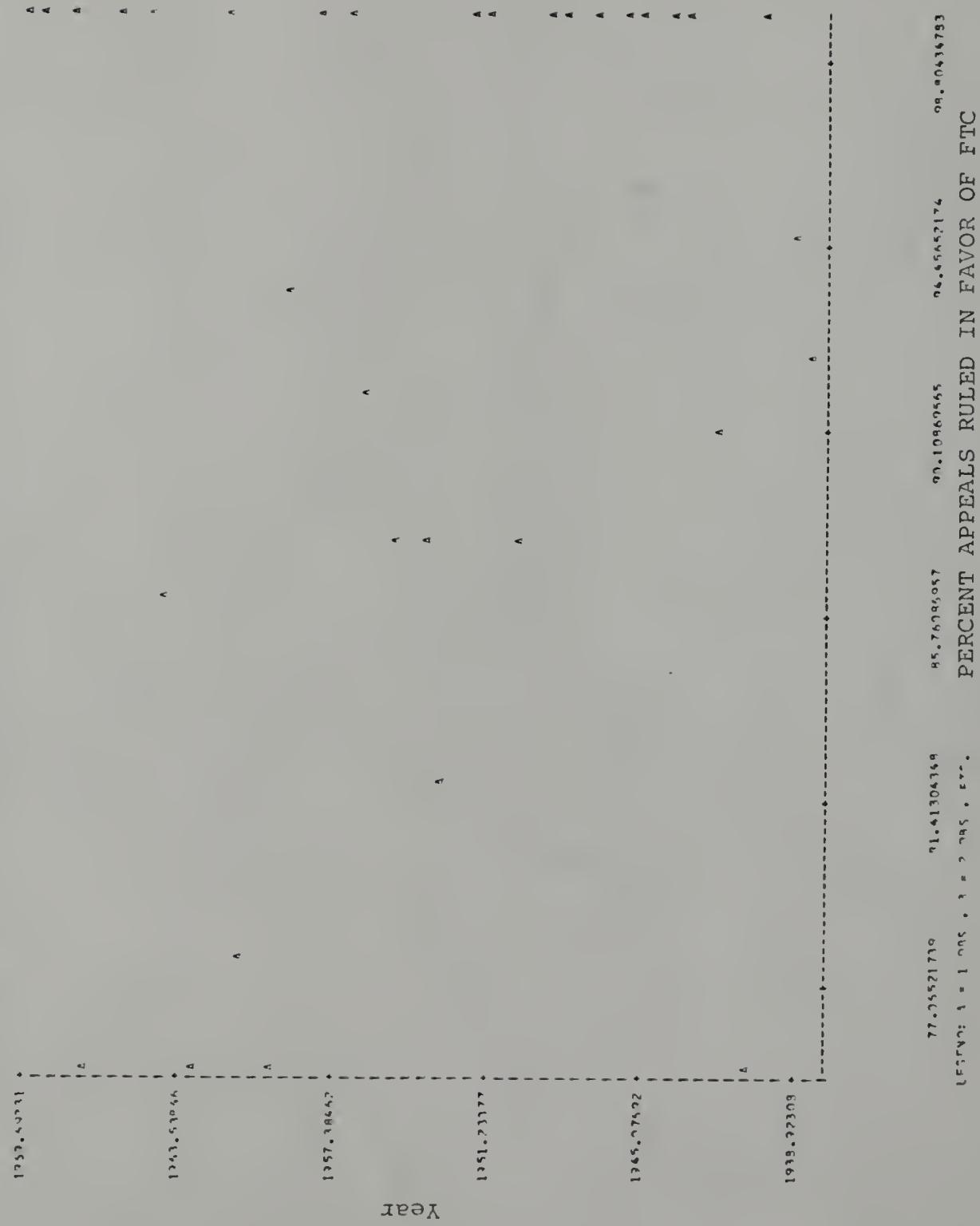
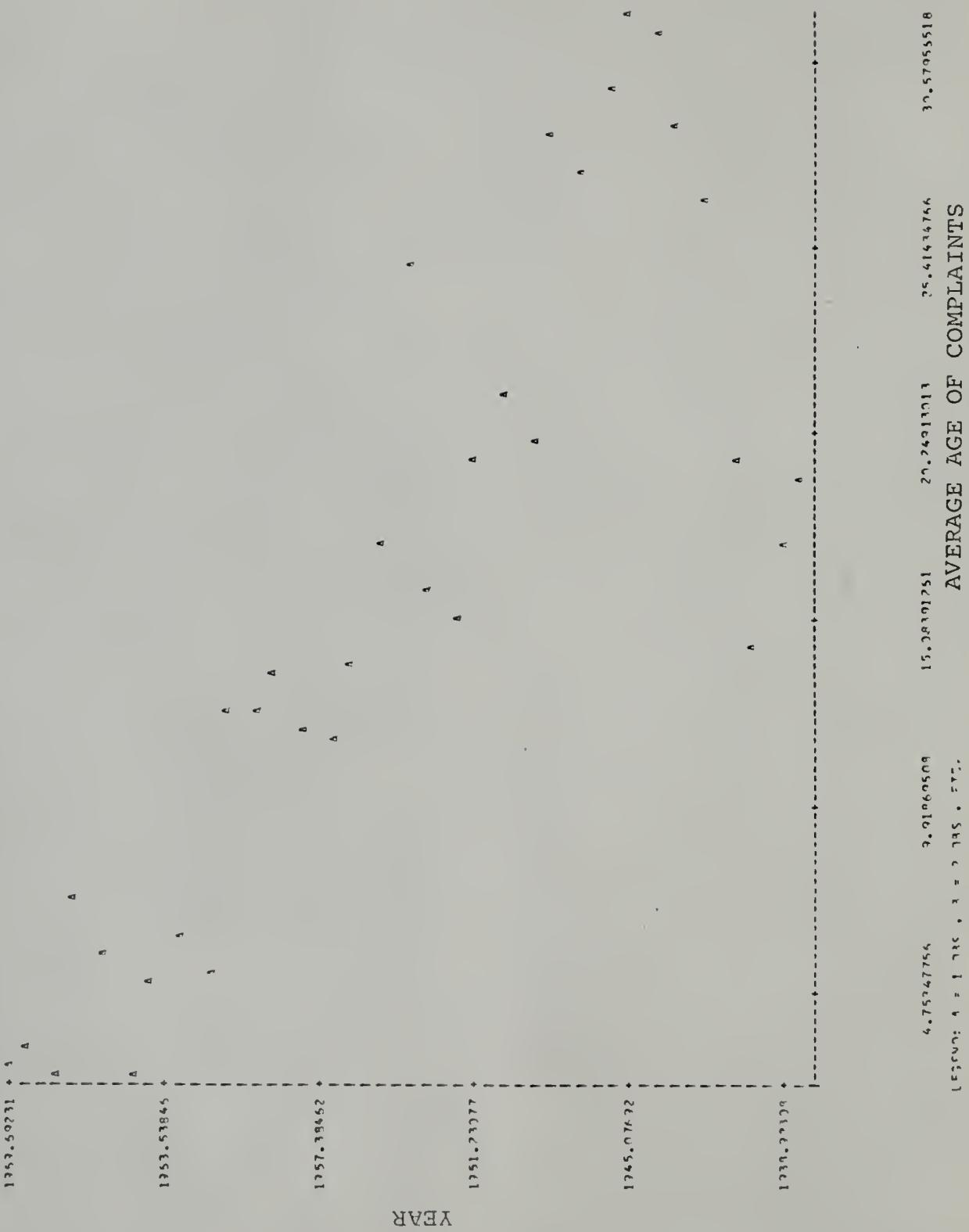


FIGURE 5.8
YEAR VERSUS THE AVERAGE AGE OF COMPLAINTS WHEN INITIALLY DECIDED BY THE FTC



months and 32.0 months, and in the 1950's, between 11.6 months and 24.8 months.

In an effort to explain this trend, the average age of cases at the time of initial decision was regressed against the following internal variables: the deceptive practices litigation budget, the number of appeals, the anti-trust and "other" caseload, the number of deceptive practices complaints docketed the same year, the number of deceptive practices complaints docketed the following year (a lag variable), the percent of complaints dropped or closed in each year, and finally, the percent of the Commission's decisions which took the form of consent decrees, rather than the more powerful cease and desist order. The analysis showed that three variables in the model explain, to a great extent, ($R^2=.9270$), the fluctuation in the average age of deceptive practices complaints. The decrease in the average age of deceptive practices complaints on decision correlates negatively with increases in the budget ($r=-.8527$), and the increased use by the Commission of the consent procedure ($r=-.7956$). Finally, the average age of complaints corresponds positively ($r=.7452$) with the percent of cases dropped or closed.

TABLE 5.5

RELATIONSHIPS BETWEEN THE AVERAGE AGE OF DECEPTIVE
PRACTICES COMPLAINTS AT THE TIME OF INITIAL
RESOLUTION AND THE INDEPENDENT VARIABLES

	Year	Budget	Number Appeals	AT Comp	Other Complaints
Average Age	-.910	-.853	.442	-.650	-.191
<hr/>					
Next Years					
<hr/>					
DP Complaints	DP Complaints		Dropped/ Closed	Percent Consent	
Average Age	-.096	.068	.745	-.796	
<hr/>					

Conclusions

From the above data, it is possible to make a number of conclusions regarding the FTC's regulatory role in the deceptive practices area. First, although the FTC's deceptive trade practices litigation budget increased several times, even in real terms during the period 1938-1970, the Commission has chosen to bring fewer complaints in the deceptive practices area. They have chosen instead to handle those complaints which are brought in a more efficient manner, as shown by the decrease in complaints which are dropped or closed, and the reduction in the average time involved in concluding internal action on complaints, once issued.

In addition, it appears that the FTC has been devoting its complaint activities to less clear-cut abuses, as the percentage of complaints resolved by the Commission by either a cease and desist or consent order which are then appealed by business to the federal courts has increased significantly. The federal courts of appeal have, however, continued to uphold the Commission's rulings in the vast majority of cases, indicating their continued support of the FTC's authority in the deceptive practices area.

It is further concluded that on the basis of this study, the FTC's deceptive practices activities cannot be shown to respond to changes in market structure. This may either be due to the inability to examine the data by industry, or by a learning factor not considered by the industrial organization literature cited. Perhaps the increase in advertising as a product differentiation device has brought about an increase in persuasive advertising as hypothesized, but at the same time, business has learned that the FTC is capable of embarrassing firms guilty of these activities, thus discouraging the amount of deceptive practices which would otherwise occur. In addition, it is possible that the FTC does not respond to an increased volume of deceptive promotion with a larger number of complaints, but rather by making "examples" of selected firms to deter others. The final possible explanation is that the

FTC does not respond to changes in the volume of deception in the marketplace at all, due to some form of bureaucratic inefficiency. It cannot be said, however, on the basis of this study, that the decrease in FTC complaint activity is due to a lack of authority, legislative mandate, or court cooperation.

It does appear, however, that the FTC is highly sensitive to political changes, particularly Presidential changes. This would be expected to a certain extent, as the five commissioners are Presidential appointees, and the Chairman serves at the pleasure of the President. What was not expected was the extent of influence shown to exist and the direction taken by the influence. It must be concluded from this data that Commission activities, in all areas, respond positively to the presence of a Republican president, while it decreases during the term of a Democratic president. This may be due either to changes in the conduct of business in response to perceived policies of the party in power, or political motivations of the Commission, or some combination of the two.

On the whole, the study shows rather clearly that the Commission is not lacking in legislative authority to protect consumers against deceptive acts and practices in commerce when it chooses to act. However, the forces which encourage

deceptive practices or cause consumer concern, and the forces which motivate the FTC to bring complaints against business are quite different.

Finally, the findings of this study suggest that it may be of interest to determine whether the size of a firm affects the probability of its being prosecuted by the Federal Trade Commission.

CHAPTER VI

IMPLICATIONS FOR MARKETING AND SUGGESTIONS FOR FUTURE RESEARCH

Implications for Marketing

The Federal Trade Commission undoubtedly provides a substantial portion of the uncontrollable environment within which marketers must work when designing the promotional portion of the marketing mix for their firm's products.

Chapter Three of this dissertation outlines the rather substantial jurisdiction over promotional practices that the courts have granted the Commission in their clarification of the deceptive practices provisions of the Federal Trade Commission Act. Yet Chapter Five shows that in recent years the volume of advertising has increased and the critics of advertising have become more vocal, even substantial budget increases have not stimulated the Commission to take more action. In fact, many of the things which the literature indicated should affect the level of deceptive advertising were found to have no significant influence on the volume of deceptive practices litigation initiated by the FTC. In some ways, then, it is this very unpredictability, in conjunction

with its powerful potential that makes the FTC an important subject for study.

The dissertation further indicates the importance of political influence on the Commission, and the data imply quite strongly that the changes in the conduct of the Commission correlate very highly with changes in the political party of the individual occupying the White House, underlining the importance of the link between the political environment and the legal environment in the regulation of business practices.

Another implication of this research concerns the conduct of regulatory agencies. It appears that any attempt to predict the behavior of the FTC should be founded on studies of its past activities, rather than its statements of policy.

Finally, the study shows that although the number of firms involved in litigation with the Commission has declined in recent years, those firms unfortunate enough to reach the complaint stage have a much greater probability of being found guilty, and any appeal that they might bring in the Circuit Courts will most likely fail.

Suggestions for Future Research

The first area for future research suggested by this study is the political influence on the regulation of business

conduct generally. More specifically, the study suggests that it may be important to determine whether business conduct varies with the presence of different political parties in the White House. Next it becomes of interest to determine whether during terms of Democratic Presidents the Commission focuses on different types of complaints than during the terms in office of Republican Presidents.

Another area suggested for future research would be to determine why the FTC's deceptive practices litigation activities have diminished in the face of rising consumerism. Perhaps consumerism has affected business conduct, thus limiting the need for deceptive practices litigation. Does deceptive advertising itself truly fluctuate with those variables and in the manner suggested by the literature presented in Chapter Two?

APPENDIX A

DOCKET NUMBERS OF FTC DECEPTIVE PRACTICES CASES 1938-1970

1938

3290	3331	3367	3411	3449	3485	3524	3571
3291	3332	3368	3413	3450	3486	3525	3572
3292	3333	3369	3414	3451	3487	3526	3573
3293	3334	3370	3415	3452	3488	3527	3574
3294	3335	3371	3416	3453	3489	3528	3575
3295	3336	3372	3417	3454	3490	3529	3576
3296	3337	3374	3419	3455	3492	3530	3577
3297	3338	3375	3420	3456	3493	3531	3578
3298	3339	3376	3421	3457	3494	3532	3579
3300	3340	3378	3422	3458	3495	3533	3580
3301	3341	3379	3423	3459	3496	3534	3581
3302	3342	3380	3424	3460	3497	3535	3582
3303	3343	3382	3425	3461	3499	3536	3583
3304	3345	3383	3426	3462	3500	3537	3584
3306	3346	3384	3427	3463	3501	3538	3585
3307	3347	3385	3428	3464	3502	3539	3586
3308	3348	3387	3429	3465	3503	3540	3587
3310	3349	3388	3430	3467	3504	3541	3588
3311	3350	3389	3431	3468	3505	3542	3589
3312	3351	3390	3432	3469	3506	3543	3590
3313	3352	3394	3433	3470	3507	3545	3592
3314	3353	3395	3435	3471	3508	3554	3593
3315	3354	3396	3436	3472	3509	3558	3594
3316	3355	3398	3437	3473	3510	3559	3595
3318	3356	3399	3438	3474	3512	3560	3596
3320	3357	3401	3439	3475	3513	3561	3597
3321	3358	3402	3440	3476	3514	3562	3598
3322	3359	3403	3441	3477	3515	3563	3599
3323	3360	3404	3442	3478	3516	3564	3600
3324	3361	3405	3443	3479	3517	3565	3601
3325	3362	3406	3444	3480	3518	3566	3602
3326	3363	3407	3445	3481	3520	3567	3603
3327	3364	3408	3446	3482	3521	3568	3605
3328	3365	3409	3447	3483	3522	3569	3606
3329	3366	3410	3448	3484	3523	3570	3608

3609	3663	3717	3779	3841	3901	3971	4022
3610	3664	3718	3780	3842	3902	3972	4023
3611	3665	3719	3781	3845	3904	3973	4024
3612	3666	3721	3782	3846	3905	3974	4025
3613	3667	3722	3784	3847	3906	3975	4026
3614	3668	3723	3785	3848	3907	3976	4027
3615	3671	3724	3786	3849	3909	3979	4028
3616	3672	3726	3787	3850	3910	3980	4029
3617	3673	3727	3788	3851	3917	3981	4031
3618	3674	3728	3789	3852	3918	3982	4032
3619	3675	3729	3790	3853	3920	<u>1940</u>	4033
3620	3676	3730	3791	3854	3923	<u>3983</u>	4035
3621	3677	3731	3792	3855	3924	3984	4037
3622	3678	3732	3793	3856	3925	3985	4038
3623	3679	3733	3794	3857	3928	3986	4039
3624	3680	3734	3795	3859	3930	3987	4040
3625	3681	3735	3796	3860	3931	3988	4041
3626	3682	3737	3797	3862	3932	3989	4042
3627	<u>1939</u>	3738	3806	3863	3933	3990	4043
3628	<u>3683</u>	3741	3807	3864	3934	3991	4044
3629	3684	3742	3808	3865	3935	3992	4045
3630	3686	3743	3809	3866	3936	3993	4046
3632	3687	3744	3810	3867	3938	3994	4047
3634	3691	3745	3811	3869	3939	3995	4049
3635	3692	3746	3812	3870	3940	3996	4050
3636	3693	3747	3813	3871	3941	3997	4051
3637	3694	3748	3814	3872	3942	3998	4052
3638	3695	3750	3815	3873	3943	4000	4053
3639	3696	3752	3816	3874	3944	4001	4054
3640	3697	3753	3817	3875	3945	4002	4055
3641	3698	3754	3819	3876	3947	4003	4056
3642	3699	3755	3821	3877	3948	4004	4057
3644	3700	3757	3822	3878	3949	4005	4058
3645	3701	3758	3823	3879	3950	4006	4059
3647	3702	3759	3824	3880	3951	4007	4060
3648	3703	3761	3825	3881	3952	4008	4061
3649	3704	3762	3826	3882	3953	4009	4062
3650	3705	3763	3827	3883	3954	4010	4063
3651	3706	3767	3828	3884	3956	4011	4064
3652	3707	3768	3829	3887	3959	4012	4065
3653	3708	3769	3830	3888	3960	4013	4066
3654	3709	3770	3831	3890	3961	4014	4067
3655	3710	3771	3832	3891	3963	4015	4068
3656	3711	3772	3833	3893	3964	4016	4069
3657	3712	3773	3835	3894	3966	4017	4070
3658	3713	3774	3836	3895	3967	4018	4072
3659	3714	3775	3837	3896	3968	4019	4073
3660	3715	3776	3838	3898	3969	4020	4074
3662	3716	3777	3839	3899	3970	4021	4075

4076	4131	4191	4245	4316	4381	4444	4499
4077	4133	4192	4246	4317	4382	4445	4500
4078	4134	4193	4247	4318	4383	4446	4501
4079	4135	4194	4248	4322	4384	4447	4502
4080	4137	4195	4250	4323	4385	4449	4503
4081	4138	4196	4251	4324	4386	4450	4504
4082	4141	4197	4252	4325	4387	4451	4505
4083	4144	4198	4253	4326	4393	4453	4507
4084	4146	4199	4254	4327	4394	4454	4508
4085	4147	4200	4255	4328	4395	4455	4509
4086	4148	4201	4256	4329	4396	4456	4510
4087	4150	4202	4258	4330	4397	4457	4511
4088	4151	4203	4260	4331	4398	4458	4512
4089	4152	4204	4261	4332	4399	4459	4513
4091	4153	4205	4262	4333	4400	4460	4514
4092	4154	4206	4263	4336	4401	4461	4515
4094	4155	4207	4264	4337	4402	4462	4516
4095	4156	4208	4265	4338	4403	4463	4518
4096	4157	4209	4266	4339	4404	4464	4520
4097	4158	4210	4267	4341	4406	4465	4521
4098	4159	4211	4268	4342	4407	4466	4522
4099	4160	4212	4269	4343	4408	4467	4523
4100	4161	4213	4270	4345	4409	4469	4524
4101	4162	4214	4271	4346	4415	4471	4525
4102	4163	4216	4272	4347	4416	4472	4527
4104	4164	4217	4273	4348	4417	4473	4528
4106	4165	4218	4274	4349	4418	4474	4529
4107	4166	4219	4278	4350	4419	4475	4530
4108	4167	4220	4287	4352	4420	4476	4531
4109	4169	4221	4288	4353	4421	4477	4532
4112	4171	4222	4289	4354	4422	4478	4533
4114	4174	4223	4291	4363	4423	4479	4534
4115	4175	4224	4293	4364	4424	4480	4536
4116	4176	4225	4295	4365	4425	4481	4537
4117	4177	4226	4296	4366	4426	4482	4539
4118	4178	4228	4297	4368	4427	4483	4540
4119	4179	4230	4300	4369	4428	4484	4541
4120	4180	4232	4301	4370	4429	4485	4542
4121	4181	4234	4302	4371	4430	4488	4543
4122	4182	4235	4305	4372	4431	4489	4544
4123	4183	4236	4306	4373	4432	4490	4545
4124	4184	4237	4309	4374	4434	4491	4546
4125	4185	4238	4310	4375	4438	4492	4549
4126	4186	4239	4311	4376	4439	4493	4552
4127	4187	4241	4312	4377	4440	4494	4553
4128	4188	4242	4313	4378	4441	4495	4554
4129	4189	4243	4314	4379	4442	4497	4555
4130	4190	4244	4315	4380	1941	4498	4557

4566	4629	4684	4738	4794	4858	4910	4973
4567	4630	4685	4739	4795	4859	4911	4974
4568	4631	4686	4741	4797	4860	4912	4975
4569	4632	4687	4742	4807	4861	4913	4976
4570	4633	4688	4743	4808	4862	4914	4977
4572	4634	4689	4745	4809	4863	4916	4978
4573	4635	4690	4746	4810	4864	4917	4979
4574	4638	4691	4747	4811	4865	4918	4980
4575	4639	4692	4748	4812	4866	4919	4981
4576	4640	4694	4749	4813	4867	4922	4982
4577	4641	4695	4750	4814	4868	4923	4983
4578	4642	4696	4752	4815	4869	4924	4984
4580	4644	4697	4753	4816	4870	4925	4985
4581	4645	4698	4754	4817	4871	4926	4986
4582	4646	4699	4755	4818	4872	4927	4988
4583	4648	4700	4756	4819	4873	4929	4989
4584	4649	4701	4757	4820	4874	4930	4990
4586	4650	4702	4758	4822	4875	4934	4991
4590	4651	4703	4759	4824	4876	4935	4992
4591	4652	4704	4760	4825	4877	4936	4993
4593	4653	4705	4761	4826	4879	4937	4994
4594	4654	4706	4762	4827	4880	4940	4995
4595	4655	4707	4763	4828	4881	4941	4996
4598	4656	4708	4764	4829	4882	4942	4997
4599	4657	4709	4765	4830	4884	4943	4998
4600	4658	4710	4766	4831	<u>1943</u>	4944	4999
4601	4659	4711	4767	4832	<u>4885</u>	4945	5000
4603	4660	4713	4768	4834	4886	4947	5001
4604	4661	4714	4769	4836	4887	4948	5002
4605	4662	4715	4770	4837	4888	4949	5003
4607	<u>1942</u>	4716	4771	4838	4889	4950	5004
4608	4663	4717	4772	4839	4890	4951	5005
4609	4664	4718	4774	4840	4891	4952	5006
4611	4665	4719	4775	4842	4893	4953	5007
4612	4666	4720	4778	4843	4894	4954	5008
4614	4667	4721	4779	4844	4895	4955	5009
4615	4668	4722	4780	4845	4896	4956	5010
4616	4669	4723	4781	4846	4897	4958	5011
4617	4670	4724	4782	4847	4898	4959	5012
4619	4671	4727	4783	4848	4899	4960	5014
4620	4672	4728	4784	4849	4901	4961	5015
4621	4674	4729	4785	4850	4902	4962	5016
4622	4676	4730	4786	4851	4903	4963	5018
4623	4678	4731	4787	4852	4904	4964	5019
4624	4679	4732	4788	4853	4905	4965	5021
4625	4680	4733	4789	4854	4906	4966	5023
4626	4681	4734	4790	4855	4907	4967	5024
4627	4682	4735	4791	4856	4908	4968	5028
4628	4683	4737	4793	4857	4909	4970	5029

5030	5092	5159	5216	5276	5342	5402	5473
5031	5093	5160	5219	5280	5343	5403	5474
5032	5094	5161	5220	5281	5346	5405	5475
5034	5095	5162	5221	5283	5347	5406	5476
5036	5096	5163	5222	5286	5348	5407	<u>1947</u>
5037	5097	5165	5223	5287	5349	5408	5477
5038	5099	5166	5224	5288	5351	5409	5478
5039	5100	5167	5225	5289	5353	5410	5479
5040	5101	5168	5227	5290	5354	5411	5480
5042	5102	5169	5229	5291	5355	5412	5481
5043	5103	5170	5230	5292	5357	<u>1946</u>	5485
5044	5104	5171	5231	5293	5358	<u>5413</u>	5486
5045	5106	5173	5232	5294	5360	5414	5487
5046	5107	5174	5233	5298	5361	5415	5488
5050	5108	5176	5234	5299	5362	5417	5490
5051	5109	5178	5235	5300	5363	5419	5491
5052	<u>1944</u>	5179	5236	5301	5364	5422	5492
5053	5110	5180	5237	5302	5366	5424	5493
5054	5111	5181	5238	5304	5367	5425	5499
5056	5112	5182	5239	5305	5368	5426	5500
5057	5113	5183	5240	5306	5369	5427	5503
5058	5114	5184	5241	5307	5371	5429	5504
5060	5117	5185	5244	5308	5372	5430	5505
5061	5118	5186	5245	5309	5373	5431	5507
5062	5119	5188	5246	5310	5374	5434	5509
5063	5120	5190	5247	5312	5375	5435	5511
5064	5122	5191	5248	5313	5376	5437	5512
5067	5123	5192	5249	5314	5377	5439	5513
5069	5124	5193	5250	5316	5379	5440	5514
5070	5126	5194	5251	5317	5380	5441	5515
5071	5127	5195	5252	5318	5381	5442	5519
5072	5128	5196	5255	5319	5382	5443	5520
5073	5132	5199	5256	5320	5384	5444	5521
5075	5133	5200	5257	5321	5385	5445	5522
5076	5134	5201	5258	5323	5386	5447	5523
5077	5135	5202	5259	5326	5387	5450	5524
5078	5136	5203	5260	5327	5388	5451	<u>1948</u>
5079	5139	5204	5262	5328	5389	5452	5525
5080	5141	5205	<u>1945</u>	5329	5390	5453	5530
5081	5142	5206	5263	5330	5391	5454	5533
5082	5145	5207	5264	5331	5392	5455	5535
5083	5146	5208	5265	5332	5393	5458	5536
5084	5147	5209	5266	5334	5394	5459	5537
5085	5148	5210	5268	5335	5395	5461	5538
5086	5150	5211	5269	5336	5397	5463	5539
5087	5153	5212	5271	5337	5398	5464	5540
5089	5154	5213	5272	5339	5399	5465	5541
5090	5156	5214	5274	5340	5400	5466	5542
5091	5158	5215	5275	5341	5401	5472	5554

5555	5653	5727	5793	5886	5953	6033	6118
5556	5654	5729	5795	5887	5954	6034	6119
5557	5656	<u>1950</u>	5796	5888	5956	6035	6121
5558	5660	5730	5798	5889	5957	6036	6122
5559	5661	5731	5799	5890	5958	6037	6125
5560	5662	5732	5800	5891	5959	6046	6126
5561	5663	5733	5801	5892	5964	6049	6127
5562	5665	5734	5802	5893	5966	6055	6128
5563	5666	5736	5804	5894	5967	6056	6129
5564	5667	5737	5805	5896	5968	6058	6130
5565	5668	5738	5807	5903	5970	6059	6131
5566	5672	5739	5808	5904	5975	6060	6132
5567	5673	5741	5809	5906	5976	6063	6133
5568	5674	5742	5811	5907	5977	6064	6134
5569	5676	5743	5813	5908	5980	6065	6135
5570	5679	5744	5814	5909	5981	6066	6136
5571	5680	5745	5816	5910	5985	6067	6137
5572	5681	5746	5817	5911	5986	6068	6139
5573	5683	5748	5820	5912	5987	6071	6140
5574	5686	5750	5821	5914	5992	6072	6142
5577	5687	5751	5823	5915	5993	<u>1953</u>	6143
5580	5688	5752	5824	5917	5995	<u>6077</u>	6145
5581	5689	5753	5827	5919	5996	<u>6079</u>	6146
5582	5690	5754	5829	5920	5997	<u>6080</u>	6147
5583	5691	5755	5831	5922	5998	<u>6082</u>	6148
5584	5692	5757	5832	5923	5999	<u>6083</u>	6149
5589	5693	5758	5835	5925	6001	<u>6084</u>	6150
5590	5695	5759	<u>1951</u>	5926	6002	<u>6085</u>	6153
5591	5697	5762	<u>5840</u>	5927	6003	<u>6086</u>	6154
5594	5699	5763	5841	5929	6004	<u>6087</u>	6155
5595	5700	5764	5842	5930	6005	<u>6088</u>	<u>1954</u>
5621	5702	5765	5843	5931	6006	<u>6089</u>	<u>6157</u>
5622	5703	5772	5849	5932	6009	<u>6092</u>	<u>6161</u>
5625	5704	5774	5850	5934	6010	<u>6093</u>	<u>6162</u>
5626	5705	5775	5853	5936	6011	<u>6094</u>	<u>6163</u>
5627	5706	5776	5854	5937	6012	<u>6095</u>	<u>6164</u>
5630	5707	5777	5859	5938	6013	<u>6096</u>	<u>6165</u>
5631	5708	5778	5866	5940	6014	<u>6097</u>	<u>6167</u>
<u>1949</u>	5709	5780	5867	<u>1952</u>	6015	<u>6099</u>	<u>6168</u>
5632	5710	5781	5868	<u>5941</u>	6017	<u>6100</u>	<u>6169</u>
5637	5711	5782	5869	<u>5942</u>	6019	<u>6101</u>	<u>6170</u>
5638	5712	5785	5870	<u>5943</u>	6020	<u>6102</u>	<u>6181</u>
5639	5713	5786	5871	<u>5944</u>	6021	<u>6105</u>	<u>6184</u>
5641	5714	5787	5873	<u>5946</u>	6022	<u>6109</u>	<u>6185</u>
5642	5715	5788	5874	<u>5947</u>	6028	<u>6111</u>	<u>6187</u>
5645	5717	5789	5876	<u>5948</u>	6029	<u>6112</u>	<u>6188</u>
5647	5718	5790	5881	<u>5949</u>	6030	<u>6113</u>	<u>6189</u>
5650	5725	5791	5884	<u>5950</u>	6031	<u>6116</u>	<u>6190</u>
5652	5726	5792	5885	<u>5951</u>	6032	<u>6117</u>	<u>6193</u>

6194	6272	6359	6452	6564	6674	6769	6865
6195	6273	6361	6453	6565	6675	6770	6866
6196	6275	6364	6454	6566	6678	6771	6867
6197	6276	6365	6455	6567	6679	6772	6868
6200	6277	6374	6457	6570	6681	6773	6869
6201	6278	6380	6471	6571	6682	6779	6870
6203	6279	6382	6472	6575	6684	6780	6871
6205	6280	6384	6473	6576	6685	6784	6872
6206	6281	6387	6475	6577	6686	6787	6873
6207	<u>1955</u>	6390	6477	6578	6687	6788	6875
6208	6282	6392	6479	6579	6688	6789	6876
6209	6283	6393	<u>1956</u>	6580	6691	6790	6878
6211	6285	6394	6482	6581	6692	6791	6879
6213	6286	6395	6489	6583	6693	6792	6885
6214	6287	6397	6492	6588	6695	6793	6886
6217	6288	6398	6493	6589	6696	6794	6887
6218	6289	6399	6494	6590	<u>1957</u>	6795	6893
6219	6290	6401	6496	6604	<u>6702</u>	6802	6894
6220	6291	6404	6497	6605	6703	6803	6896
6222	6292	6405	6498	6607	6704	6804	6897
6226	6293	6407	6499	6610	6706	6807	6902
6228	6294	6408	6500	6611	6707	6808	6903
6229	6295	6409	6507	6612	6708	6809	6911
6236	6303	6410	6508	6613	6709	6810	6912
6237	6305	6411	6510	6614	6711	6811	6913
6238	6306	6412	6515	6615	6712	6814	6914
6239	6307	6413	6529	6616	6716	6815	6916
6240	6308	6414	6531	6617	6717	6818	6920
6241	6309	6416	6532	6620	6718	6823	6922
6242	6310	6419	6533	6621	6719	6824	6923
6243	6311	6421	6534	6622	6722	6827	6924
6244	6312	6424	6537	6625	6723	6829	6928
6245	6314	6426	6539	6626	6724	6839	6929
6246	6415	6427	6540	6627	6732	6840	6931
6247	6318	6428	6541	6628	6734	6841	6932
6248	6319	6430	6543	6634	6735	6842	6933
6249	6322	6431	6544	6638	6736	6843	6935
6250	6339	6432	6545	6644	6740	6844	6938
6251	6342	6435	6546	6647	6741	6847	6939
6252	6343	6436	6548	6648	6742	6849	6940
6253	6344	6437	6549	6650	6744	6853	6944
6256	6345	6438	6550	6655	6745	6854	6945
6257	6346	6445	6551	6658	6751	6855	6949
6258	6348	6446	6553	6665	6753	6856	6951
6260	6349	6447	6554	6666	6754	6857	6952
6267	6351	6448	6555	6667	6755	6858	6954
6268	6356	6449	6556	6669	6757	6859	6963
6270	6357	6450	6561	6671	6758	6860	6964
6271	6358	6451	6563	6672	6759	6861	6968

6971	7058	7199	7327	7426	7537	7662	7841
6972	7059	7213	7328	7427	7538	7665	7844
6988	7060	7214	7329	7428	7539	7666	7845
6989	7073	7216	7330	7429	7540	7679	7849
6994	7074	7219	7332	7432	7541	7680	7852
7001	7075	7223	7335	7433	7543	7682	7853
7003	7076	7224	7337	7434	7545	7683	7854
7004	7077	7235	7338	7435	7546	7688	7855
7005	7078	7237	7339	7437	7547	7697	7856
7006	7080	7238	7341	7442	7548	7702	7858
7007	7081	7244	7342	7444	7549	7705	7860
7008	7083	7245	7343	7445	7551	7706	7862
7010	7085	7248	7344	7448	7560	<u>1960</u>	7863
7011	7091	7252	<u>1959</u>	7449	7563	<u>7726</u>	7870
7012	7097	7254	<u>7345</u>	7454	7568	<u>7728</u>	7871
7014	7100	7259	7346	7455	7569	<u>7731</u>	7872
7015	7101	7264	7347	7460	7572	<u>7735</u>	7873
7016	7102	7266	7348	7466	7575	<u>7736</u>	7874
7017	7103	7267	7350	7468	7577	<u>7737</u>	7878
7019	7104	7272	7351	7469	7579	<u>7740</u>	7882
7020	7105	7277	7352	7472	7581	<u>7741</u>	7891
<u>1958</u>	7109	7278	7356	7477	7582	<u>7747</u>	7904
7022	7110	7279	7358	7480	7583	<u>7748</u>	7905
7023	7114	7280	7359	7481	7584	<u>7749</u>	7909
7024	7115	7281	7360	7482	7586	<u>7750</u>	7910
7025	7122	7282	7362	7483	7588	<u>7751</u>	7911
7026	7123	7283	7363	7484	7589	<u>7769</u>	7912
7029	7125	7284	7364	7485	7591	<u>7771</u>	7913
7030	7126	7286	7366	7486	7593	<u>7772</u>	7914
7031	7127	7287	7367	7487	7595	<u>7773</u>	7916
7033	7130	7289	7376	7488	7601	<u>7780</u>	7917
7034	7137	7290	7377	7489	7602	<u>7785</u>	7937
7036	7140	7292	7380	7490	7603	<u>7786</u>	7943
7037	7145	7294	7399	7491	7609	<u>7787</u>	7944
7038	7146	7298	7400	7498	7610	<u>7788</u>	7947
7039	7148	7301	7404	7500	7616	<u>7789</u>	7948
7040	7152	7302	7405	7501	7617	<u>7806</u>	7949
7041	7156	7304	7406	7502	7626	<u>7810</u>	7950
7043	7166	7305	7407	7506	7642	<u>7811</u>	7951
7045	7169	7308	7408	7507	7643	<u>7812</u>	7952
7046	7171	7309	7410	7513	7645	<u>7814</u>	7953
7048	7176	7312	7411	7521	7649	<u>7816</u>	7954
7049	7177	7313	7412	7525	7653	<u>7818</u>	7955
7050	7178	7314	7413	7526	7654	<u>7819</u>	7956
7051	7179	7315	7414	7529	7655	<u>7820</u>	7957
7053	7180	7316	7415	7533	7656	<u>7822</u>	7960
7054	7181	7318	7417	7534	7657	<u>7834</u>	7961
7056	7182	7324	7419	7535	7658	<u>7836</u>	7962
7057	7197	7326	7424	7536	7660	<u>7839</u>	7963

7966	8150	8276	8392	8474	8570	8643	8719
7967	8151	8277	8394	8476	8573	8644	8720
7997	8152	8278	8395	8477	8575	8645	8721
8024	8153	8281	8396	8478	8576	8646	8722
8025	8155	8283	8397	8480	8577	8648	8723
8026	8156	8286	8398	8482	8578	8649	8724
8028	8158	8287	8399	8483	8579	8652	<u>1967</u>
8042	8159	8288	8400	8486	8580	<u>1965</u>	8725
8043	8160	8290	8401	8488	8582	8653	8726
8044	8161	8291	8402	8489	8586	8660	8727
8046	8162	8296	8403	8490	8587	8661	8728
8047	8163	8298	8405	8509	8588	8662	8729
8051	8165	8299	8407	8517	8589	8667	8730
8054	8166	8302	8409	8518	8591	8668	8731
8058	8167	8303	8411	8520	8592	8670	8732
8071	8169	8307	8413	8521	8593	8673	8733
8072	8170	8308	8422	8523	8594	8675	8734
8073	8173	8310	8423	8526	8595	8676	8738
8077	8178	8311	8425	8527	8596	<u>1966</u>	8743
8080	8180	8316	8426	8528	8597	<u>8679</u>	8744
8081	8181	8318	8427	8529	8598	8681	8745
8085	8182	8319	8428	8530	8601	8686	8746
8086	8185	8320	8430	8531	8602	8688	8747
8087	8186	8321	8431	8533	8603	8689	8748
8088	8187	8322	8432	8534	8604	8690	8749
8089	8190	8323	8437	8535	8605	8692	8750
8097	8193	8325	8438	8538	8607	8693	8751
8098	8195	8327	8440	8541	8608	8694	8752
8099	8196	8329	8441	8542	8609	8695	8753
8105	8197	8337	8442	8545	8611	8696	<u>1968</u>
8106	8199	8338	8448	8546	8612	8697	8754
8107	8200	8339	8449	8547	<u>1964</u>	8698	8756
8110	8201	8340	8454	<u>1963</u>	8613	8699	8758
8114	8202	8346	8455	8550	8614	8700	8761
8117	8205	8347	8456	8551	8615	8702	8762
8124	8211	8349	<u>1962</u>	8552	8616	8704	8764
8125	8216	8352	<u>8457</u>	8553	8617	8705	8766
8126	8217	8353	8459	8554	8619	8706	8769
8127	8221	8361	8460	8555	8621	8707	8770
8134	8222	8363	8461	8556	8624	8708	8771
8135	8223	8365	8462	8560	8627	8709	<u>1969</u>
8136	8232	8366	8465	8561	8628	8710	8773
8137	8235	8367	8466	8562	8634	8711	8774
8138	8239	8378	8467	8563	8635	8712	8776
8139	8253	8381	8469	8565	8636	8713	8780
8140	8261	8382	8470	8566	8637	8714	8781
8141	<u>1961</u>	8383	8471	8567	8640	8715	8782
8145	8274	8384	8472	8568	8641	8716	8791
8146	8275	8387	8473	8569	8642	8717	8792

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APPENDIX B

CONSENT DOCKET NUMBERS OF FTC DECEPTIVE PRACTICES CASES
1961-1970

<u>1961</u>	C-97	C-193	C-278	C-514	C-609	C-716
C-1	98	196	281	516	610	718
2	100	198	284	517	614	719
3	103	199	286	518	615	720
11	104	206	288	520	617	721
12	105	209	289	521	618	724
15	106	210	290	522	620	725
17	107	211	291	523	621	726
18	111	214	<u>1963</u>	524	622	730
20	112	215	<u>C-292</u>	525	623	731
27	114	216	296	527	625	735
30	115	219	297	529	626	737
34	117	220	300	531	<u>1964</u>	738
37	119	222	302	532	<u>C-631</u>	740
40	123	223	303	534	632	741
42	125	224	306	536	633	744
43	126	227	308	537	635	745
44	130	229	310	538	637	746
45	132	237	313	539	673	747
47	135	239	314	571	676	748
51	137	240	315	572	679	749
53	141	243	320	580	690	750
<u>1962</u>	142	244	323	586	691	752
C-59	143	245	326	588	693	753
60	144	246	491	591	694	754
62	152	249	492	592	696	755
71	153	250	495	594	699	756
77	154	253	496	596	701	757
80	156	254	498	598	704	759
84	167	256	499	601	706	760
85	172	259	501	602	707	762
86	185	261	502	603	708	764
87	186	263	506	604	710	776
88	188	269	507	605	711	777
92	191	275	511	607	712	779
94	192	277	513	608	715	788

C-789	C-922	C-1096	C-1221	C-1418	C-1559	C-1720
791	924	1098	1222	1421	1564	1724
793	983	1099	1223	1422	1566	1730
795	985	1100	1224	1423	1568	1731
797	987	1101	1225	1429	1569	1737
800	990	1103	1226	1430	1570	1738
801	992	1107	1227	1431	1571	1739
802	996	1115	1229	1432	1572	1741
810	998	1116	1234	1433	1573	1744
817	1000	1118	1246	1440	1574	1746
818	1003	1119	1249	1447	1580	1747
819	1004	1122	1261	1448	1581	1750
820	1005	1123	1266	1452	1583	1768
821	1006	1124	1269	1453	1588	1769
826	1007	1125	1279	1454	1589	1770
829	1008	1126	<u>1968</u>	1468	1590	1771
831	1011	1127	<u>C-1284</u>	<u>1969</u>	1591	1772
839	1012	1128	1286	<u>C-1474</u>	1595	1774
840	1014	1129	1287	1475	1598	1775
844	1015	1130	1291	1476	1621	1777
845	1017	1132	1292	1479	1622	1778
847	1018	1133	1293	1482	1623	1783
848	1026	1135	1298	1487	1634	1784
849	1027	1136	1307	1488	1635	1786
851	<u>1966</u>	1137	1311	1489	1636	1789
852	<u>C-1030</u>	1138	1316	1493	1637	1790
855	1031	1142	1322	1494	1639	1791
856	1034	1144	1324	1495	1642	1793
859	1035	1146	1326	1499	1644	1795
860	1036	1148	1329	1504	1645	1796
863	1037	<u>1967</u>	1330	1507	1646	1808
864	1038	<u>C-1154</u>	1332	1510	1647	1809
869	1039	1156	1334	1511	<u>1970</u>	1810
870	1041	1157	1337	1512	<u>C-1666</u>	1811
<u>1965</u>	1049	1158	1340	1514	1667	1812
<u>C-884</u>	1051	1162	1341	1517	1668	1814
887	1060	1164	1342	1518	1689	1817
894	1063	1165	1343	1519	1690	1822
895	1064	1167	1347	1523	1691	1823
897	1074	1181	1348	1524	1692	1824
898	1076	1184	1349	1527	1693	1825
900	1080	1186	1356	1532	1694	1826
901	1082	1190	1374	1536	1703	1827
906	1083	1194	1377	1539	1704	1832
907	1084	1203	1387	1541	1709	1833
908	1087	1217	1395	1543	1712	1835
910	1089	1218	1397	1547	1713	
912	1092	1219	1403	1548	1714	
915	1094	1220	1407	1555	1719	

APPENDIX C

YEARLY DISTRIBUTION OF FEDERAL TRADE COMMISSION
COMPLAINTS DOCKETED

<u>Year</u>	<u>Total Complaints</u>	<u>Deceptive Practices</u>	<u>Restraint of Competition</u>	<u>Others</u>
1938	394	347	47	0
1939	300	236	64	0
1940	460	374	86	0
1941	220	174	45	1
1942	222	190	32	0
1943	225	185	27	13
1944	153	119	22	12
1945	150	118	25	7
1946	64	42	20	2
1947	48	31	13	4
1948	107	50	55	2
1949	98	61	29	8
1950	106	73	19	14
1951	105	60	27	18
1952	134	79	46	9
1953*	81	58	10	12
1954	126	76	36	14
1955	199	100	48	51
1956	221	102	55	64
1957	320	151	70	99
1958	323	138	66	119

<u>Year</u>	<u>Total Complaints</u>	<u>Deceptive Practices</u>	<u>Restraint of Competition</u>	<u>Others</u>
1959	368	145	119	104
1960	560	181	286	93
1961#	239	107	28	104
1962	329	139	100	90
1963	400	123	212	65
1964	285*	117	78	89
1965	178	48	87	43
1966	174	90	30	54
1967	156	55	23	78
1968	211	59	24	128
1969	226	80	23	123
1970	193	77	15	101

* One complaint rescinded.

Beginning in 1961, the Commission began a separate docketing procedure for Consent Orders. The deceptive practices consent orders are listed by Consent Docket number in Appendix B. Complaints resulting in consent orders are included in the tabulations above.

APPENDIX D

PERCENTAGE YEARLY DISTRIBUTION OF FEDERAL TRADE COMMISSION
COMPLAINTS DOCKETED

<u>Year</u>	<u>Total Complaints</u>	<u>Deceptive Practices</u>	<u>Restraint of Competition</u>	<u>Others</u>
1938	394	88.1%	11.9%	0%
1939	300	78.7	21.3	0
1940	460	81.3	18.7	0
1941	220	79.1	20.5	.4
1942	222	85.6	14.4	0
1943	225	82.2	12.0	5.8
1944	153	77.8	14.4	7.8
1945	150	78.7	16.7	4.6
1946	64	65.5	31.3	3.1
1947	48	64.6	27.1	8.3
1948	107	46.7	51.4	1.9
1949	98	62.2	29.6	8.2
1950	106	68.9	17.9	13.2
1951	105	57.1	25.7	17.1
1952	134	59.0	34.3	6.7
1953*	81	71.6	12.3	14.8
1954	126	60.3	28.6	11.1

<u>Year</u>	<u>Total Complaints</u>	<u>Deceptive Practices</u>	<u>Restraint of Competition</u>	<u>Others</u>
1955	199	50.3%	24.1%	25.6%
1956	221	46.2	24.9	28.9
1957	320	47.2	21.9	30.9
1958	323	42.7	20.4	36.8
1959	368	39.4	32.3	28.3
1960	560	32.3	51.1	16.6
1961#	239	44.8	11.7	43.5
1962	329	42.2	30.4	27.4
1963	400	30.8	53.0	16.3
1964*	285	41.1	27.4	31.2
1965	178	27.0	48.9	24.2
1966	174	51.7	17.2	31.0
1967	156	35.3	14.7	50.0
1968	211	28.0	11.4	60.7
1969	226	35.4	10.2	54.4
1970	193	39.9	7.8	52.3

* One complaint rescinded.

Beginning in 1961, the Commission began a separate docketing procedure for consent orders. The deceptive practices consent orders are listed by consent docket number in Appendix B. Complaints resulting in consent orders are included in the tabulations above.

APPENDIX E

THE FEDERAL TRADE COMMISSION'S INITIAL DISPOSITION
OF DECEPTIVE PRACTICES COMPLAINTS

<u>Year Issued</u>	<u>Total Complaints for Disposition</u>	<u>Cease and Desist Orders Issued</u>	<u>Consent Orders</u>	<u>Closed/Dropped</u>	<u>Still Pending</u>
1938	347	311	0	37	0
1939	236	202	0	34	0
1940	374	327	0	48	0
1941	174	146	0	28	0
1942	190	141	0	49	0
1943	185	132	1	54	0
1944	119	76	0	43	0
1945	118	76	0	42	0
1946	42	25	1	16	0
1947	31	19	0	12	0
1948	50	38	0	12	0
1949	61	46	0	15	0
1950	73	58	0	15	0
1951	60	50	4	6	0
1952	79	47	25	7	0
1953	58	40	16	2	0

<u>Year Issued</u>	<u>Total Complaints for Disposition</u>	<u>Cease and Desist Orders Issued</u>	<u>Consent Orders</u>	<u>Closed/Dropped</u>	<u>Still Pending</u>
1954	76	40	21	16	0
1955	100	19	64	18	0
1956	102	32	67	4	0
1957	151	30	112	9	1
1958	138	23	109	7	0
1959	145	34	104	12	0
1960	181	35	139	9	0
1961	107	27	73	7	1
1962	139	33	95	10	1
1963	123	33	76	14	0
1964	117	23	93	1	0
1965	48	7	39	2	0
1966	90	25	62	3	1
1967	55	13	37	5	0
1968	59	8	50	1	0
1969	80	9	70	1	0
1970	77	6	68	2	1

Note: In a few cases, beginning in 1954, both a consent order and later a cease and desist order have been issued for the same complaint, resulting in several instances of double counting. These are negligible.

APPENDIX F

PERCENTAGE DISTRIBUTION OF FEDERAL TRADE
COMMISSION'S DISPOSITION OF
DECEPTIVE PRACTICES COMPLAINTS

<u>Year Issued</u>	Total Complaints For Disposition	Percent Resolved by Cease and Desist	Percent Resolved by Consent Order	Percent Closed/Dropped
1938	347	89.6%	0%	10.7%
1939	236	85.6	0	14.4
1940	374	87.4	0	12.8
1941	174	83.9	0	16.1
1942	190	74.2	0	25.8
1943	185	71.4	1.0	29.2
1944	119	63.9	0	36.1
1945	118	64.4	0	35.6
1946	42	59.5	2.4	38.1
1947	31	61.3	0	38.7
1948	50	76.0	0	24.0
1949	61	75.4	0	24.6
1950	73	79.5	0	20.5
1951	60	83.3	6.7	10.0
1952	79	59.5	31.6	8.9

<u>Year Issued</u>	<u>Total Complaints For Disposition</u>	<u>Percent Resolved by Cease and Desist</u>	<u>Percent Resolved by Consent Order</u>	<u>Percent Closed/Dropped</u>
1953	58	69.0%	27.6%	3.4%
1954	76	52.6	27.6	21.1
1955	100	19.0	64.0	18.0
1956	102	31.4	65.7	4.0
1957	151	19.9	74.2	6.0
1958	138	16.7	79.0	5.0
1959	145	23.4	71.7	8.3
1960	181	19.3	76.8	5.0
1961	107	25.2	68.2	6.5
1962	139	23.7	68.3	7.2
1963	123	26.8	61.8	11.4
1964	117	19.7	79.5	1.0
1965	48	14.6	81.3	4.2
1966	90	27.8	68.9	3.3
1967	55	23.6	67.3	9.0
1968	59	13.6	84.7	1.7
1969	80	11.3	87.5	1.3
1970	77	7.8	88.3	2.6

APPENDIX G

APPELLATE RECORD OF FEDERAL TRADE COMMISSION
DECEPTIVE TRADE PRACTICES DECISIONS
IN THE UNITED STATES CIRCUIT COURT OF APPEALS
1938-1970

<u>Year Complaint Issued</u>	<u>Number Complaints Issued</u>	<u>Number Appealed</u>	<u>Number of Rulings Favorable to FTC</u>	<u>Number Decisions Pending</u>
1938	347	37	34	0
1939	236	19	18	0
1940	374	24	24	0
1941	174	16	12	0
1942	190	20	18	0
1943	185	10	8	0
1944	119	10	9	0
1945	118	15	15	0
1946	42	2	2	0
1947	31	1	1	0
1948	50	10	10	0
1949	61	4	4	0
1950	73	8	7	0
1951	60	6	6	0
1952	79	8	8	0
1953	58	11	9	0

<u>Year Complaint Issued</u>	<u>Number Complaints Issued</u>	<u>Number Appealed</u>	<u>Number of Rulings Favorable to FTC</u>	<u>Number Decisions Pending</u>
1954	76	16	14	0
1955	100	8	7	0
1956	102	11	10	0
1957	151	9	9	0
1958	138	5	5	0
1959	145	15	14	0
1960	181	12	9	0
1961	107	9	7	0
1962	139	8	8	0
1963	123	4	3	0
1964	117	15	10	3
1965	48	1	1	0
1966	90	8	8	0
1967	55	4	4	1
1968	59	2	2	2
1969	80	2	1	1
1970	77	4	1	3

APPENDIX H

PERCENTAGE DISTRIBUTION OF APPEALS OF FEDERAL TRADE
COMMISSION DECEPTIVE TRADE PRACTICES DECISIONS
IN THE UNITED STATES CIRCUIT COURT
OF APPEALS

<u>Year Initial Complaint Issued</u>	<u>Percent of Decisions* Appealed</u>	<u>Percent Ruled Favorable to FTC</u>	<u>Percent Pending</u>
1938	11.9%	91.9%	0%
1939	9.4	94.7	0
1940	7.3	100.0	0
1941	11.0	75.0	0
1942	14.2	90.0	0
1943	7.5	100.0	0
1944	13.2	100.0	0
1945	19.7	100.0	0
1946	7.7	100.0	0
1947	5.3	100.0	0
1948	26.3	100.0	0
1949	8.7	100.0	0
1950	13.8	87.5	0
1951	11.1	100.0	0
1952	11.1	100.0	0

<u>Year Initial Complaint Issued</u>	<u>Percent of Decisions* Appealed</u>	<u>Percent Ruled Favorable to FTC</u>	<u>Percent Pending</u>
1953	19.6%	81.9%	0%
1954	26.2	87.5	0
1955	9.6	87.5	0
1956	11.1	90.9	0
1957	6.3	100.0	0
1958	3.8	100.0	0
1959	10.9	93.3	0
1960	6.9	75.0	0
1961	11.4	77.7	0
1962	22.9	100.0	0
1963	12.1	75.0	0
1964	65.2	66.1	20.0
1965	12.5	100.0	0
1966	24.2	100.0	0
1967	23.5	50.0	25.0
1968	22.2	0	100.0
1969	13.3	50.0	50.0
1970	36.4	25.0	75.0

* Decisions include both orders to cease and desist and consent decrees.

APPENDIX I

AGE OF DECEPTIVE PRACTICES COMPLAINTS AT THE TIME OF INITIAL DECISION BY THE FTC

Year Filled	Months or Less	Year	Months-			Months-			Months-			Months-		
			18		Years	30		Years	3		Years	3		Years
			Months	Years	Months	Months	Years	Months	Months	Years	Months	Months	Long	
1952	19	27	18	7		6		0		1		1		1
1953	21	13	8	8		3		3		0		2		2
1954	13	15	10	8		10		3		0		17		
1955	43	22	7	4		2		10		7		5		5
1956	43	28	12	5		4		3		5		1		
1957	83	36	15	3		6		3		1		3		
1958	72	41	8	3		7		3		2		2		
1959	74	36	13	3		6		3		1		9		
1960	93	41	20	11		5		5		2		4		
1961	42	13	6	6		7		5		1		5		
1962	7	10	19	7		2		0		0		0		
1963	5	20	15	3		1		0		0		3		
1964	3	2	5	4		5		2		2		1		
1965	6	1	1	2		0		0		0		0		
1966	11	8	9	4		2		1		0		0		
1967	3	4	5	4		4		1		0		0		
1968	3	3	3	0		1		0		0		0		
1969	1	6	5	4		0		0		0		0		
1970	2	5	4	1		1		0		0		0		

Note: Appendices I and J do not include those cases handled under the special consent docket system (Appendix B) as these cases, docketed and disposed of on the same day, cannot be "aged" in the same manner as cases handled through FTC's regular docket.

APPENDIX J

FREQUENCY DISTRIBUTION OF INITIAL RULINGS ON DECEPTIVE TRADE PRACTICES COMPLAINTS

<u>Year Filed</u>	<u>Months or Less</u>	<u>Months-1 Year</u>	<u>Months-18</u>	<u>Months-2</u>	<u>Months-30</u>	<u>Months-3</u>	<u>Months-42</u>	<u>Months-42</u>	<u>Long</u>
1938	29.1%	20.7%	15.3%	11.0%	8.4%	4.9%	3.7%	3.7%	6.9%
1939	36.4	16.9	14.0	11.4	8.5	3.0	2.1	7.2	
1940	40.4	26.2	16.6	7.2	2.7	2.1	0	4.8	
1941	29.3	21.3	17.8	6.9	2.3	6.9	2.9	12.0	
1942	18.4	20.5	8.9	8.9	5.8	4.2	4.2	28.4	
1943	14.1	17.8	9.2	13.5	5.4	1.6	4.9	33.5	
1944	8.4	16.0	11.8	7.6	7.6	6.7	9.2	32.8	
1945	11.0	11.9	9.3	10.2	6.8	8.5	6.0	36.4	
1946	14.3	11.9	7.1	14.3	11.9	2.4	9.5	28.6	
1947	6.5	16.1	22.6	9.7	6.5	19.4	12.9		
1948	8.0	12.0	24.0	18.0	4.0	6.0	4.0	24.0	
1949	9.8	26.2	23.0	9.8	9.8	4.9	14.8	1.6	
1950	13.7	24.7	13.7	20.5	11.0	8.2	4.1	4.1	
1951	23.3	25.0	23.3	1.7	3.3	11.7	6.7	5.0	
1952	24.1	34.2	22.8	8.9	7.6	0	1.3	1.3	

Year Filed	Months or Less	13			19			25			31			37		
		Months-	Long													
	1	18	2	30	3	42										
	Years	Months	Years	Months	Years	Months										
1953	36.2%	22.4%	13.8%	13.8%	5.2%	5.2%	0.0%	0.0%	3.4%							
1954	17.1	19.7	13.2	10.5	13.2	3.9	0.0	0.0	22.4							
1955	43.0	22.0	7.0	4.0	2.0	10.0	7.0	7.0	5.0							
1956	42.2	27.5	11.8	4.9	3.9	2.9	4.9	4.9	1.0							
1957	55.0	23.8	9.9	2.0	4.0	2.0	1.0	1.0	2.0							
1958	52.2	29.7	5.8	2.2	5.1	2.2	1.4	1.4								
1959	51.0	24.8	9.0	2.1	4.1	2.1	1.0	1.0								
1960	51.4	22.7	11.0	6.1	2.8	2.8	1.1	1.1								
1961	48.8	15.1	7.0	7.0	8.1	5.8	1.2	1.2								
1962	15.2	21.7	41.3	15.2	4.3	0.0	0.0	0.0								
1963	10.6	42.6	31.9	6.4	2.1	0.0	0.0	0.0								
1964	12.5	8.3	20.8	16.7	20.8	8.3	8.3	8.3								
1965	60.0	10.0	10.0	20.0	0.0	0.0	0.0	0.0								
1966	30.6	22.2	25.0	11.1	5.5	2.8	0.0	0.0								
1967	13.6	18.2	22.7	18.2	18.2	4.5	0.0	0.0								
1968	30.0	30.0	0.0	0.0	10.0	0.0	0.0	0.0								
1969	6.3	37.5	31.3	25.0	0.0	0.0	0.0	0.0								
1970	14.3	35.7	28.6	7.1	7.1	0.0	0.0	0.0								

APPENDIX K

THE AVERAGE AGE OF COMPLAINTS AT THE TIME OF INITIAL RULINGS BY THE FEDERAL TRADE COMMISSION*

<u>Year Complaints First Issued</u>	<u>Average Age in Months</u>
1938	18.9
1939	17.2
1940	14.3
1941	19.6
1942	26.6
1943	28.9
1944	31.3
1945	32.0
1946	29.7
1947	27.5
1948	28.6
1949	20.0
1950	21.2
1951	19.5
1952	15.2
1953	15.8
1954	24.8
1955	17.1
1956	13.9
1957	11.6
1958	11.9
1959	13.5
1960	12.6
1961	12.5
1962	5.3
1963	6.4
1964	5.0
1965	2.4
1966	5.7
1967	7.4
1968	2.3
1969	3.3
1970	2.6

* These figures are derived from data presented in Appendix I, "The Age of Deceptive Practices Complaints at the Time of Initial Decision by the FTC."

APPENDIX L

TOTAL YEARLY VOLUMES OF ADVERTISING
AND SALES OF RETAIL STORES
(in millions)

<u>Year</u>	<u>Retail Sales#</u>	<u>Total Advertising Expenditures*</u>	<u>Advertising as a Percent of Retail Sales</u>
1938	\$ 38,053	\$ 1,904	5.00%
1939	42,042	1,980	4.71
1940	46,375	2,087	4.50
1941	55,274	2,236	4.04
1942	57,212	2,156	3.77
1943	63,235	2,496	3.95
1944	70,208	2,724	3.88
1945	78,034	2,875	3.68
1946	102,488	3,364	3.28
1947	119,604	4,260	3.56
1948	130,521	4,864	3.73
1949	130,721	5,202	3.98
1950	143,689	5,710	4.37
1951	152,975	6,426	4.20
1952	162,353	7,156	4.41
1953	169,094	7,755	4.59
1954	169,135	8,164	4.83

<u>Year</u>	<u>Retail Sales#</u>	<u>Total Advertising Expenditures*</u>	<u>Advertising as a Percent of Retail Sales</u>
1955	\$183,851	\$ 9,194	5.00%
1956	189,729	9,905	5.22
1957	200,002	10,310	5.15
1958	200,353	10,302	5.14
1959	215,413	11,255	5.22
1960	219,529	11,932	5.43
1961	218,811	11,845	5.41
1962	235,351	12,381	5.26
1963	246,700	13,107	5.31
1964	261,900	14,155	5.40
1965	284,100	15,255	5.37
1966	304,000	16,670	5.48
1967	313,800	16,866	5.37
1968	339,300	18,127	5.34
1969	357,900	19,482	5.44
1970	375,500	19,600	5.22

Figures for the years 1938-1962 are taken from the U.S. Department of Commerce, Bureau of the Census, Historical Statistics of the United States, Series T 23-48, p. 519. Figures for the years 1963-1970 are taken from the U.S. Department of Commerce, Bureau of the Census, Statistical Abstract of the U.S., 1972, p. 739.

* 1938-1962 Historical Statistics, Series T 346-351, p. 526. 1963-1970, Statistical Abstract of the U.S., 1972, p. 757. These figures represent total advertising, not only that done by retail stores.

APPENDIX M

CONSUMER PRICE INDEX, 1938-1970*
Base Year: 1967

1938	42.2	1954	80.5
1939	41.6	1955	80.2
1940	42.0	1956	81.4
1941	44.1	1957	84.3
1942	48.8	1958	86.6
1943	51.8	1959	87.3
1944	52.7	1960	88.7
1945	53.9	1961	89.6
1946	58.5	1962	90.6
1947	66.9	1963	91.7
1948	72.1	1964	92.9
1949	71.4	1965	94.5
1950	72.1	1966	97.2
1951	77.8	1967	100.0
1952	79.5	1968	104.2
1953	80.1	1969	109.8
		1970	116.3

* Figures taken from the Bureau of Labor Statistics
Monthly Labor Review, selected issues.

APPENDIX N

YEARLY LEVEL OF UNEMPLOYMENT, 1938 TO 1970*

1938	19.0	1954	5.6
1939	17.2	1955	4.4
1940	14.6	1956	4.2
1941	9.9	1957	4.3
1942	4.7	1958	6.8
1943	1.9	1959	5.5
1944	1.2	1960	5.6
1945	1.9	1961	6.7
1946	3.9	1962	5.6
1947	3.9	1963	5.7
1948	3.8	1964	5.2
1949	5.9	1965	4.5
1950	5.3	1966	3.8
1951	3.3	1967	3.8
1952	3.1	1968	3.6
1953	2.9	1969	3.5
		1970	4.9

* Figures taken from U. S. Department of Commerce, Bureau of the Census, Historical Statistics of the United States, and Statistical Abstracts, selected years.

APPENDIX O

THE POLITICAL COMPOSITION OF THE CONGRESS
OF THE UNITED STATES
1938-1970*

Year	Congress	House			Senate		
		Dem	Rep	Ind	Dem	Rep	Ind
1937	75th	331	89	13	76	16	4
1939	76th	261	164	4	69	23	4
1941	77th	268	162	5	66	28	2
1943	78th	218	208	4	58	37	1
1945	79th	242	190	2	56	38	1
1947	80th	188	245	1	45	51	0
1949	81st	263	171	1	54	42	0
1951	82nd	234	199	1	49	47	0
1953	83rd	211	221	1	47	48	1
1955	84th	232	203	0	48	47	1
1957	85th	233	200	0	49	47	0
1959	86th	283	153	0	64	34	0
1961	87th	263	174	0	65	35	0
1963	88th	258	177	0	67	33	0
1965	89th	295	140	0	68	32	0
1967	90th	247	187	0	64	36	0
1969	91st	243	192	0	57	43	0

* Figures taken from U. S. Department of Commerce, Bureau of the Census, Statistical Abstract of the United States, 1971, p. 353.

APPENDIX P

CORRELATION MATRICES

KEY TO MATRIX VARIABLE ABBREVIATIONS

BUDGET	DECEPTIVE PRACTICES LITIGATION BUDGET
AT	NUMBER OF ANTI-TRUST COMPLAINTS
OTHER	NUMBER OF "OTHER" COMPLAINTS
APS	ADVERTISING AS A PERCENTAGE OF RETAIL SALES
CPI	CONSUMER PRICE INDEX
APPEALS	NUMBER OF FTC DECISIONS APPEALED
DPCASES	NUMBER OF DECEPTIVE PRACTICES COMPLAINTS
PA or PCA	PERCENTAGE OF FTC DECISIONS APPEALED
DPS	NUMBER OF DECEPTIVE PRACTICES COMPLAINTS FILED IN THE SAME YEAR
DPN	NUMBER OF DECEPTIVE PRACTICES COMPLAINTS FILED THE FOLLOWING YEAR
AVAGE	AVERAGE AGE OF DECEPTIVE PRACTICES COMPLAINTS AT THE TIME OF INITIAL RESOLUTION BY THE FTC
DOC	PERCENTAGE OF COMPLAINTS DROPPED OR CLOSED
UNEMP	LEVEL OF UNEMPLOYMENT
LYAS	THE PREVIOUS YEAR'S APPELLATE SUCCESS RATE, EXPRESSED AS A PERCENTAGE
PCWINS	PERCENTAGE OF APPEALS WON, OR ESSENTIALLY FAVORABLE TO THE FTC
PCON	PERCENTAGE OF FTC JUDGEMENTS WHICH WERE CONSENT ORDERS

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BIOGRAPHICAL SKETCH

Jane Shelly Cromartie was born December 27, 1945, at Philadelphia, Pennsylvania. In June, 1963, she was graduated from Ft. Lauderdale High School. In April, 1967, she received the Bachelor of Arts degree with a major in English. In May, 1967, she entered the Graduate School of the University of Florida and worked as a graduate assistant in the Graduate Research Library until December, 1968, when she received the degree of Master of Business Administration. In January, 1969, she began work toward the degree of Doctor of Philosophy, which she has pursued until the present. From January, 1969, until August, 1971, she worked as a teaching assistant in the Department of Marketing.

Jane Shelly Cromartie is married to William Bryan Cromartie, and is a member of the American Marketing Association and the Southern Marketing Association.

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.

Ralph B. Thompson
Ralph B. Thompson
Professor of Marketing
Chairman of the Committee

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.

J. Donald Butterworth
J. Donald Butterworth
Professor of Marketing
Co-chairman of the Committee

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.

John R. Vernon
John R. Vernon
Associate Professor of Economics

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.

Jordan B. Ray
Jordan B. Ray
Associate Professor of Business Law

This dissertation was submitted to the Graduate Faculty of the Department of Economics in the College of Business Administration and to the Graduate Council, and was accepted as partial fulfillment of the requirements for the degree of Doctor of Philosophy.

March, 1974

Dean, Graduate School