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Department of Justice

ADDRESS

BY

THE HONORABLE WILLIAM B. SAXBE
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE NATIONAL CONFERENCE

FOR

STATE, COUNTY, AND CITY
CONSUMER OFFICE ADMINISTRATORS

12:30 P.M.

FRIDAY, JUNE 21, 1974

RAMADA INN

WASHINGTON, D.C.

I VERY MUCH APPRECIATE THE OPPORTUNITY TO BE WITH YOU TODAY AS YOU CONCLUDE THE WORK OF THIS IMPORTANT CONFERENCE.

IN ONE WAY OR ANOTHER, YOUR EFFORTS TOUCH THE LIVES OF ALL AMERICANS, AND I HOPE THAT THIS CONFERENCE WILL LEAD TO A SUBSTANTIAL INCREASE IN THE LEVEL OF PUBLIC SERVICE THAT WE CAN PROVIDE.

THE RANGE OF YOUR EFFORTS SHOULD BE EXCEPTIONALLY BROAD, FOR THE COMMON DEFINITION OF A CONSUMER IS, VERY SIMPLY, ONE WHO CONSUMES.

BUT THE CONSUMER TODAY IS ALL TOO OFTEN IN THE PERILOUS POSITION OF HIMSELF BEING CONSUMED BY FORCES WHICH HE MAY SELDOM UNDERSTAND AND OVER WHICH HE HAS PRECIOUS LITTLE CONTROL.

IT IS OUR JOB TO SEE THAT THE CONSUMER IS GIVEN NOT MERELY A BETTER BREAK BUT RATHER IS GIVEN ALL OF THE RIGHTS TO WHICH HE IS ENTITLED. IN SHORT, THE CONSUMER MUST RECEIVE THE FULL PROTECTION OF THE LAW.

FOR CENTURIES, THE CREED IN THE MARKETPLACE HAS BEEN TO LET THE BUYER BEWARE. I THINK IT IS ABOUT TIME THAT WE BEGIN TO INSIST ON SOME NEW RESPONSIBILITIES ON THE OTHER SIDE OF THE FENCE.

IT IS TIME FOR A CHANGE: TO ALSO LET THE SELLER BEWARE, AND LET THE MANUFACTURER BEWARE AS WELL. THE PUBLIC SHOULD INSIST ON HONEST VALUE RECEIVED FOR HONEST DOLLARS PAID.

AND PERHAPS EVEN MORE IMPORTANT, THE WHITE COLLAR CRIMINAL SHOULD BE ON NOTICE THAT HIS ILLEGAL BUSINESS PRACTICES WILL NOT BE TOLERATED EITHER.

WHEN GOVERNMENT FAILS IN THE CONSUMER AREA, AND IT HAS FAILED FAR TOO OFTEN, A WIDE RANGE OF COSTS IS EXTRACTED FROM THE PUBLIC. IT MAY BE IN THE HEALTH HAZARDS OF THE POLLUTED AIR WE BREATHE OR IN THE OUTRIGHT THEFT OF OUR MONEY WHEN WE PURCHASE A PRODUCT WHOSE PRICE HAS BEEN FIXED.

CONSUMERS SHOULD BE ON GUARD AT ALL TIMES TO MAKE SURE THEY RECEIVE THE GOODS AND SERVICES FOR WHICH THEY PAY.

BUT IN A SOCIETY AS COMPLEX AS OURS, GOVERNMENT HAS A RESPONSIBILITY TO HELP INFORM THEM ABOUT THE POTENTIAL PROBLEMS THEY FACE -- AND TEACH THEM HOW TO PROTECT THEMSELVES.

LAW ENFORCEMENT AND CONSUMER AGENCIES ALSO HAVE A DUTY TO HELP RESOLVE CONFLICTS. AND WHEN VOLUNTARY COMPLIANCE FAILS, THERE MUST BE PROMPT AND VIGOROUS PROSECUTION FOR VIOLATIONS OF THE LAW.

IN ADDITION, NEW STATUTES AND NEW PROGRAMS ARE VITAL -- AS ARE JOINT EFFORTS BY THE GOVERNMENT, THE BUSINESS COMMUNITY, AND THE PUBLIC TO HELP ELEVATE THE ETHICAL CONDUCT OF THE MARKETPLACE.

MUCH MORE IS INVOLVED IN THIS MATTER OF CONSUMER AFFAIRS THAN, FOR INSTANCE, THE FAILURE OF A STORE TO HONOR THE WARRANTY ON A FAULTY TELEVISION SET. IN AN ASTOUNDING NUMBER OF CASES, HUMAN LIFE IS INVOLVED.

THE CONSUMER PRODUCT SAFETY COMMISSION REPORTS THAT AN ESTIMATED 20 MILLION AMERICANS ARE INJURED EACH YEAR BY PRODUCTS USED IN AND AROUND THE HOME. ABOUT 110,000 ARE DISABLED PERMANENTLY AND 30,000 ARE KILLED.

NO ONE SUGGESTS THAT THE MANUFACTURER IS TO BLAME IN EACH AND EVERY CASE, BUT THE BARE STATISTICS ALONE SHOULD COMPEL US TO REACH THE CONCLUSION THAT SOMETHING HAS GONE WRONG AND THAT AT LEAST PART OF THE BLAME MIGHT BE PLACED ON THE PRODUCER.

AN UNSAFE PRODUCT CAN BE POTENTIALLY AS BAD AS A ROBBER HOLDING A PISTOL TO YOUR HEAD -- AND THEN PULLING THE TRIGGER. ALL TOO OFTEN, THE RESULT IS THE SAME, AS THE CONSUMER PRODUCT SAFETY COMMISSION STATISTICS SO GRAPHICALLY SHOW.

IN A BOOK CALLED "THE INCURABLE WOUND," BERTON ROUECHE WROTE AN ACCOUNT OF A THREE-YEAR-OLD BOY WHO EASILY OPENED A BOTTLE OF ASPIRIN AND ATE THE CONTENTS WHILE HIS MOTHER SLEPT. WITHIN A FAIRLY SHORT TIME, THE CHILD WAS DEAD. THE AUTHOR INCLUDED THE INCIDENT WHILE TALLYING UP THE DEADLY PERILS THAT LURK IN NEARLY EVERY HOME MEDICINE CABINET AND IN CLEANSERS AND OTHER MATERIALS USED BY NEARLY EVERY HOUSEWIFE. HE SUMMED IT UP BY QUOTING A YOUNG SCIENTIST AT A POISON CONTROL CENTER WHO SAID:

"MOST PEOPLE TAKE LIFE FOR GRANTED. IN FACT, IT'S THE MOST DELICATE THING IN THE WORLD. ONE FALSE STEP AND IT'S OVER."

THOSE WORDS SHOULD BE ENGRAVED IN THE MINDS OF EVERY PERSON WHO HAS ANYTHING TO DO WITH GOODS USED BY THE PUBLIC -- AS WELL AS THOSE OF US WHOSE DUTIES INCLUDE PROTECTION OF THE PUBLIC.

SOME BUSINESSMEN COMPLAIN ABOUT NEW LAWS PASSED BY THE GOVERNMENT AND NEW REGULATIONS IMPOSED ON THE QUALITY AND SAFETY OF COMMONLY USED PRODUCTS.

BUT I OFTEN WONDER WHY MORE OF THEM DON'T MAKE IMPROVEMENTS ON A VOLUNTARY BASIS INSTEAD OF LETTING THE PROBLEMS BECOME SO GROSS THAT THE GOVERNMENT HAS TO ACT -- AND THEN ONLY AFTER ENORMOUS SUFFERING HAS OCCURRED.

THE INDUSTRIALIST WATCHING SMOKE BELCH FROM THE CHIMNEYS OF HIS FACTORY SHOULD HAVE HAD A GLIMMER THAT THE AIR WAS BEING POISONED. THE DRUG MANUFACTURER SHOULD HAVE HAD AN INKLING THAT CHILD-PROOF CONTAINERS FOR HIS PRODUCT MIGHT HAVE BEEN A PRUDENT STEP TO TAKE.

ALL OF US SHOULD BE MORE ALERT TO PRODUCTS AND PRACTICES WHICH MAY POSE A CLEAR AND PRESENT DANGER. SOME YEARS AGO, MANUFACTURERS WERE REQUIRED TO PRINT A WARNING OF HEALTH HAZARDS ON CIGARETTE PACKAGES. BUT THERE ARE NO SIMILAR WARNINGS REQUIRED, FOR INSTANCE, ON ALCOHOLIC BEVERAGES -- DESPITE THE FACT THAT AN ESTIMATED NINE MILLION AMERICANS SUFFER FROM ALCOHOLISM, AND ALCOHOL-RELATED PROBLEMS CAUSE MORE THAN 85,000 DEATHS A YEAR.

IN CONSIDERING CONSUMER MATTERS, IT IS APPARENT THAT THE PROBLEMS ARE OF SUCH MAGNITUDE THAT NO ONE SECTOR OF OUR SOCIETY CAN HOPE TO SOLVE THEM BY ITSELF.

EVERY MEMBER OF THE CONSUMING PUBLIC WILL HAVE TO BECOME MUCH MORE AWARE OF THE THREATS POSED TO BOTH HIS POCKETBOOK AND HIS HEALTH, AND WHERE POSSIBLE JOIN FELLOW CITIZENS IN RESPONSIBLE CIVIC ACTION PROGRAMS TO PROTECT HIS INTERESTS.

THE WORLDS OF BUSINESS AND FINANCE ARE GOING TO HAVE TO ENGAGE IN DEEPER SOUL-SEARCHING THAT HOPEFULLY WILL LEAD TO SELF-POLICING ON A MUCH BROADER SCALE.

THE BUSINESSMAN, LIKE THE PHYSICIAN, HAS HUMANITARIAN RESPONSIBILITIES -- WHETHER HE RECOGNIZES IT OR NOT.

AND GOVERNMENT AT EVERY LEVEL SIMPLY MUST BEGIN TO REALIZE SOME TIME-HONORED TRUTHS -- STARTING WITH THE BASIC PRINCIPLE THAT IT EXISTS TO SERVE THE PEOPLE, NOT TO THWART THEM THROUGH SUBSERVIENCE TO SPECIAL INTERESTS.

GREATER LEVELS OF COOPERATION ALSO ARE NEEDED AMONG ALL OF THE GROUPS IN THE PUBLIC AND PRIVATE SECTOR. WHATEVER ELSE IS DONE, NONE OF US CAN AFFORD TO LET THE STEAM GO OUT OF THE CONSUMER MOVEMENT. THE TOLL ALREADY IS TOO GREAT, AND IT WOULD BE IMMEASURABLY GREATER IF APATHY ALLOWS OLD WAYS TO REASSERT THEMSELVES.

FOR ITS PART, THE DEPARTMENT OF JUSTICE IS FACED WITH A NUMBER OF PROBLEMS AS IT ATTEMPTS TO CARRY OUT ITS RESPONSIBILITIES IN THE CONSUMER AREA.

IN THE FEW MONTHS THAT I HAVE BEEN ATTORNEY GENERAL, I HAVE FOUND THAT CONSUMER RESOURCES IN THE FEDERAL GOVERNMENT ARE NOT ADEQUATE AND THAT THERE IS FRAGMENTATION OF EXISTING PROGRAMS WHICH HAMPER THEIR EFFECTIVENESS.

THE DEPARTMENT OF JUSTICE HAS STATUTORY RESPONSIBILITY TO REPRESENT THE GOVERNMENT IN A VARIETY OF CRIMINAL AND CIVIL ACTIONS RELATED TO CONSUMER PROBLEMS. THESE INCLUDE ENFORCEMENT OF THE FOOD AND DRUG LAWS, STATUTES ON UNSAFE PRODUCTS AND DANGEROUS SUBSTANCES, AND MAIL FRAUD AND RELATED LAWS.

THERE IS ANOTHER AREA OF OUR RESPONSIBILITY WHICH TRANSCENDS THE INDIVIDUAL CONSUMER, THOUGH IT IS ONE WHICH AFFECTS ALL OF US -- NO MATTER WHAT OUR OCCUPATION, NO MATTER WHAT OUR INCOME.

I AM REFERRING TO THE ANTITRUST ENFORCEMENT PROGRAM OF THE DEPARTMENT. THE ANTITRUST LAWS HAVE BEEN CALLED THE ORIGINAL CONSUMER LEGISLATION. BUT MORE TO THE POINT, THE VIGOROUS ENFORCEMENT OF THOSE STATUTES CAN HAVE A MAJOR AND BENEFICIAL IMPACT ON THE ENTIRE ECONOMY AND THE WHOLE FREE ENTERPRISE SYSTEM.

ONE MIGHT HAZARD A GUESS THAT A NATION THAT SPENDS AS MUCH TIME AS WE DO TALKING ABOUT THE VIRTUES OF FREE ENTERPRISE REALLY BELIEVES IN THE VIGOROUS TUGGING AND HAULING OF THE MARKETPLACE. BUT JUST MENTION ANTITRUST ENFORCEMENT TO BUSINESS AND INDUSTRIAL LEADERS AND SEE WHAT KIND OF A REACTION YOU GET.

AS LONG AS IT IS DIRECTED AGAINST SOMEBODY ELSE, THEY FAVOR IT. BUT IF THEY ARE THE TARGET OF ENFORCEMENT EFFORTS, THEN THE COMPLAINTS BEGIN, AND SO DO THE DIRE PREDICTIONS THAT THEIR COMPANIES WILL BE RUINED AND WHOLE SEGMENTS OF THE ECONOMY SHATTERED. AND THEIR SUPPORTERS POP UP ALL OVER: CONSUMERS WHO ARE ALSO STOCKHOLDERS; LABOR UNIONS; AND OFTEN EVEN CONGRESSMEN WHO ARE OTHERWISE VOCAL IN THEIR SUPPORT OF STRONG ENFORCEMENT.

TO THEIR DIRE PREDICTIONS THAT ANTITRUST MEANS DISASTER, I CAN ONLY SAY THAT IT IS NONSENSE.

I AM CONVINCED THAT THE OPPOSITE IS TRUE:

THAT WE WILL BE IN FOR SOME VERY TOUGH SLEDDING IF WE DO NOT ENFORCE THE ANTITRUST LAWS AND STOP A WIDE RANGE OF PRACTICES DETRIMENTAL TO THE ECONOMY AND TO THE CITIZENS OF THIS COUNTRY.

IF BUSINESSMEN INSIST ON CUTTING CORNERS AND BREAKING LAWS IN THEIR QUEST FOR PROFITS, THEN THEY WILL SET US ON A COURSE THAT COULD WRECK THE ENTIRE FREE ENTERPRISE SYSTEM.

THE BOTTOM LINE ON ANY FIRM'S LEDGER BOOK SHOULD CERTAINLY SHOW PROFITS. BUT IT ALSO MUST INCLUDE ETHICAL CONDUCT AND A SENSE OF RESPONSIBILITY TO THE LARGER SOCIETY.

IF BUSINESSMEN REFUSE TO OBEY THE ANTITRUST LAWS, THEN WE HAVE NO RECOURSE BUT TO PROSECUTE THEM AS VIGOROUSLY AS WE PROSECUTE ANYONE WHO COMMITS FRAUD, OR SELLS NARCOTICS, OR VIOLATES THE CIVIL RIGHTS OF ANOTHER. THOSE LAWS ARE DESIGNED TO ASSIST THE CONSUMER BY ENCOURAGING LOWER PRICES FOR GOODS AND SERVICES. WHEN FIRMS COMPETE FREELY, PRICES DO TEND TO GO DOWN AS THE COMPANIES BECOME MORE CREATIVE AND MORE EFFICIENT.

WHEN THERE IS A MONOPOLY, HOWEVER, OR WHEN FIRMS JOIN TOGETHER TO FIX PRICES OR RESTRICT COMPETITION, THE COST OF GOODS TO THE CUSTOMERS TENDS TO RISE SUBSTANTIALLY. GIVEN ENOUGH ILLEGAL ACTIVITIES, PROFOUND INFLUENCES BEGIN TO MAKE THEMSELVES FELT IN THE ENTIRE ECONOMY, WHICH ALSO IMPACT ADVERSELY ON THE CONSUMER.

FACED WITH THESE PROBLEMS, I BELIEVE IT IS MY RESPONSIBILITY AS ATTORNEY GENERAL TO SEE THAT THE ANTITRUST LAWS ARE VIGOROUSLY ENFORCED.

LET ME SAY HERE THAT I FEEL THE ANTITRUST DIVISION OF THE DEPARTMENT OF JUSTICE HAS DONE AN EXCELLENT JOB IN THIS ADMINISTRATION. IT IS FUNCTIONING MORE EFFECTIVELY NOW THAN AT ALMOST ANY TIME IN ITS HISTORY. ITS ATTORNEYS ARE HIGHLY MOTIVATED AND DEDICATED TO THE FAIR ENFORCEMENT OF THE LAWS. BUT THAT IS NOT TO SAY THAT THERE IS NO ROOM FOR IMPROVEMENT IN THE DIVISION'S OPERATION.

ONE ACTION, WHICH I INTEND TO PUT INTO EFFECT JULY 1, IS TO END THE LONG-STANDING PROCEDURE WHEREBY THE ATTORNEY GENERAL MUST PERSONALLY APPROVE OR DISAPPROVE EACH COMPLAINT PROPOSED BY THE ANTITRUST DIVISION.

I WILL OF COURSE RETAIN RESPONSIBILITY FOR ANTITRUST POLICY AND MAKE MY VIEWS ON ANTITRUST ENFORCEMENT KNOWN TO THE DIVISION, BUT I FEEL MY BASIC ROLE IS TO HELP DEVELOP OVER-ALL POLICY AND LEAVE THE INDIVIDUAL CASES TO THE STAFF.

AS IT STANDS NOW, A POTENTIAL COMPLAINT IS SUBJECT TO AS MANY AS EIGHT SEPARATE AND TIME-CONSUMING REVIEWS, INCLUDING THAT OF THE ATTORNEY GENERAL, BEFORE IT IS FILED IN COURT. BY ELIMINATING THE ATTORNEY GENERAL FROM THAT REVIEW PROCEDURE IN NON-POLICY TYPE COMPLAINTS, THE DIVISION WILL BE ABLE TO PROCESS CASES MORE RAPIDLY WITHIN THE DEPARTMENT.

IN THE ABSENCE OF STATUTORY REQUIREMENTS, OTHER LEGAL DIVISIONS NORMALLY BRING SUCH CASES ON THEIR OWN AND I SEE NO REASON WHY ANTITRUST SHOULD NOT CONFORM TO THAT PRACTICE.

EVEN AS PROCEDURES ARE BEING STREAMLINED, HOWEVER, WE ARE STILL FACED WITH THE PROBLEM OF ADEQUATE RESOURCES. THE PROPOSED BUDGET FOR THE ANTITRUST DIVISION FOR FISCAL 1975 IS ABOUT \$16 MILLION. THAT IS ONLY SLIGHTLY MORE THAN THE BUDGET FOR THE RIVER BASINS SURVEYS PROGRAM OF THE FEDERAL GOVERNMENT. I DON'T SUGGEST FOR A MOMENT THAT RIVER BASIN SURVEYS ARE NOT IMPORTANT, BUT I DO THINK THAT ANTITRUST SHOULD HAVE A SOMEWHAT HIGHER PRIORITY.

IN THE CURRENT FISCAL YEAR, THERE IS AN AUTHORIZED LEVEL OF 327 ATTORNEYS IN THE ANTITRUST DIVISION, AND FOR THE COMING YEAR WE ARE SEEKING 40 ADDITIONAL LAWYERS.

EVEN THIS MODEST INCREASE WAS SEVERELY CUT BY THE HOUSE APPROPRIATIONS COMMITTEE, BUT I WAS EXTREMELY PLEASED THAT THE ORIGINAL REQUEST WAS RESTORED ON THE FLOOR OF THE HOUSE THIS PAST TUESDAY. THE 216 MEMBERS WHO VOTED IN FAVOR OF RESTORING FUNDS FOR THESE BADLY NEEDED LAWYERS DESERVE THE RESPECT OF ALL CONSUMERS.

WE ARE ALSO STUDYING OTHER NEW APPROACHES THAT MIGHT BE IMPLEMENTED IN THE ANTITRUST DIVISION, INCLUDING ADDITIONAL FIELD OFFICES AND A ROVING STRIKE FORCE THAT WOULD MOVE AROUND THE COUNTRY DEVELOPING PRIORITY CASES.

I WILL SHORTLY ASK THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL AND THE NATIONAL DISTRICT ATTORNEYS ASSOCIATION TO DEVELOP CLOSER LEVELS OF COOPERATION WITH THE DEPARTMENT ON ENFORCEMENT OF ANTITRUST LAWS. THE ANTITRUST DIVISION ALREADY IS GIVING SOME ASSISTANCE TO STATE AND LOCAL ENFORCEMENT AGENCIES, BUT I BELIEVE IT SHOULD BE GREATLY INCREASED.

I ALSO WILL INSTRUCT THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION TO INCREASE ITS ASSISTANCE TO STATES AND LOCALITIES FOR REDUCTION OF WHITE COLLAR CRIME -- INCLUDING ANTITRUST VIOLATIONS. LEAA RECENTLY AWARDED MORE THAN \$1 MILLION TO THE DISTRICT ATTORNEYS ASSOCIATION TO CONTINUE A CONSUMER FRAUD PROGRAM BEING CARRIED OUT ON A PILOT BASIS BY 15 LOCAL PROSECUTORS. THAT PROGRAM SHOULD BE EXPANDED TO EVERY STATE, WITH ANTITRUST ENFORCEMENT BEING AN INTEGRAL COMPONENT.

FRAUD HAS BECOME AN ENORMOUS PROBLEM THROUGHOUT THE NATION BUT FEDERAL ENFORCEMENT EFFORTS ARE HANDICAPPED BECAUSE OF THE LIMITED SCOPE OF THE MAIL FRAUD STATUTE. I BELIEVE THE CONGRESS SHOULD CONSIDER ENACTING A GENERAL FRAUD STATUTE THAT WOULD GIVE THE DEPARTMENT THE POWER TO PROSECUTE A WIDE VARIETY OF OFFENSES THAT NOW GO LARGELY UNCHALLENGED. TOUGH CRIMINAL PENALTIES ARE NEEDED RATHER THAN CIVIL SANCTIONS WHICH TOO OFTEN ARE TOOTHLESS.

FINALLY, THE DEPARTMENT HAS MAJOR RESPONSIBILITIES IN THE FIELD OF PUBLIC EDUCATION. WE WILL SHORTLY PUBLISH A NEW BROCHURE WHICH EXPLAINS ANTITRUST AND TELLS THE CONSUMER WHAT HE CAN DO TO SUPPORT PROPER ENFORCEMENT. THE MESSAGE IS SIMPLE: BE ALERT TO POSSIBLE VIOLATIONS, AND WHEN YOU FIND SOMETHING SUSPICIOUS CALL IT TO THE ATTENTION OF ENFORCEMENT AGENCIES LISTED IN THE BOOKLET. IT IS ONLY A SMALL, INITIAL STEP -- AND WE WILL HAVE TO BUILD ON IT.

PUBLIC EDUCATION PROGRAMS ARE ESSENTIAL BECAUSE, ON THE FEDERAL LEVEL, ABOUT 95 PERCENT OF ALL ANTITRUST ACTIONS THAT ARE INITIATED STEM FROM CITIZEN COMPLAINTS.

SUBSTANTIAL BENEFITS CAN RESULT FROM RESPONSIBLE AND WIDESPREAD CITIZEN SUPPORT FOR THE CONSUMER MOVEMENT. I HOPE THAT THEY LET US ALL KNOW WHAT IS ON THEIR MINDS, AS WELL AS INFORM ENFORCEMENT AGENCIES OF POSSIBLE VIOLATIONS OF THE LAW.

IN CLOSING, LET ME SAY THAT WHAT THE CONSUMER NEEDS IS AN EPIDEMIC OF COMPETITION, OF TRUTH, AND OF QUALITY. HE WILL BE THE BETTER FOR IT, AND SO WILL THE COUNTRY.

THANK YOU.