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GOVERNMENT

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HEARINGS
BEFORE THE
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
EIGHTY-SEVENTH CONGRESS
FIRST SESSION
PURSUANT TO
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JUNE 28, 29, AND 30, 1961

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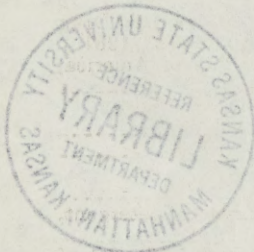
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PACKAGING AND LABELING PRACTICES

WEDNESDAY, JUNE 28, 1961

U.S. SENATE,
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:35 o'clock a.m., in room 2228, New Senate Office Building, Senator Philip A. Hart presiding.

Present: Senator Hart.

Also present: Bernard Fensterwald, Jr., staff director; S. Jerry Cohen, assistant counsel; Thomas C. Williams, assistant counsel; Peter N. Chumbris, counsel for the minority; Nicholas N. Kittrie, counsel for the minority; Dean W. Wallace, counsel for the minority; Daniel S. Greenberg, staff assistant; Paul S. Green, editorial director; and Gladys E. Montier, clerk.

Senator HART. The committee will come to order.

Today we are beginning hearings on packaging and labeling practices of food and household products as they affect consumers.

The consumer has a right to be able to find out what he is buying, how much he is buying, what it is costing on a per unit basis.

We are not proposing to determine whether any large stones have been thrown at the free enterprise system. What we intend to inspect is whether the system is suffering because every day millions of grains of sand are being thrown in the consumers' eyes.

The old-fashioned butcher was often accused of weighing his thumb. We want to be sure that today's consumer isn't still buying that thumb, but in a fancy package.

This subcommittee was authorized, as outlined in Senate Report 14, and I quote:

To examine, investigate, and make a complete study of the nature and extent of trade practices affecting consumers in a manner which tends or may tend to restrain competition * * * with particular reference to deceptive, misleading, fraudulent, or unfair practices in the production, processing, packaging, labeling, branding, advertising, statement of prices, and other conditions of sale, marketing, and furnishing of goods and services to consumers.

Senator Kefauver, chairman of the subcommittee, has asked me to head this inquiry. We have determined that the field of packaging and labeling of products ordinarily sold for household consumption in supermarkets should receive our initial attention.

The importance of this subject matter is rooted in our free enterprise system itself. The American economic system is based on consumer purchases, that is, the consumer, as a result of his purchases in the marketplace, ultimately determines what goods shall be produced and in what amounts. For the system to operate soundly

requires that this choice by the purchaser be a rational one. To make an intelligent choice the consumer necessarily must have accurate information, readily available, and truthful descriptions of the products being offered. Yet in the modern American market, which is very rapidly replacing the neighborhood grocery, this choice must be exercised from approximately 6,000 items on which American consumers spend hundreds of millions of dollars a day. An ever-growing number of these items are prepackaged. This means, of course, that the consumer choice must generally be made on the basis of the packages and labels themselves. This packaging of household items is now estimated to be a \$10 billion industry and is still expanding at a rapid rate.

The purpose of this inquiry is to determine whether the information concerning the products on sale is such that the consumer can make a reasonably intelligent choice between competing products in today's marketplace.

Do the packages and labels aid in performing this essential economic function by giving necessary information, clearly stated?

Are packages and labels designed so that the shopper can reasonably obtain and understand necessary and significant information pertaining to quantity, quality, and value?

Do there appear to be techniques or practices which confound or confuse the consumer? If so, how extensive are they?

Finally, if such practices do exist, what effect do they have on the producer who does not engage in them but prefers to use a package and label designed to give pertinent information in a clear and easily understood manner?

These initial hearings will not be concerned with quality or purity. We are beginning with the container itself to determine how it performs the function of informing. These first 3 days of hearings will be general in nature, to try to outline the problem, delineating the practices involved, their extent and impact on the consumer in the marketplace, and on the American economy itself.

I do want to emphasize the following: Today's inquiry is not directed to merchandising practices at the retail level. We are concerned with packages and labels. I am certain that many of the practices complained of to the subcommittee to date have come about without any deceit or misrepresentation intended. I would add that the producers we have talked to and their association representatives have been extremely cooperative.

In view of its effect on free competition, a trade practice may be unfair without being so intended. We are concerned with the impact of these practices on the consumer and, necessarily, on healthy competition in the marketplace.

Without belaboring it, I know perfectly well that several assumptions are drawn from hearings such as this, and they may be completely unfair.

The mere fact that we are announcing hearings on packaging convicts, in the minds of a great many people, the whole packaging industry. The only way to avoid that implication in that segment of the American community is not to inquire. But the overriding interest, I think, is in insuring that if there are packaging practices which are objectionable and could be corrected by this public inquiry, that we go ahead with the inquiry.

Each of you can appreciate some of the other assumptions that are drawn from this hearing. I hope the committee can, as it concludes its work, say that it has conducted itself in a way that we announced at the start, and that is we are going to try to be just as factual as possible.

I have had communications suggesting that what we are really doing is criticizing the advertising profession. Here again, all we can do is say this isn't so. The implication thus drawn will not be rebutted by our saying this, but again, it is the obligation of Congress, in my judgment, to attempt to measure the greater good. I base this upon communications the committee has received just in the past few days after the announcement of these hearings was made.

There are a great many consumers across this country who do have the notion that they are in less than fair shape as they are swept through a supermarket corridor. If it is so, let us correct it. If it isn't so, let us reassure them.

I think, at the great risk of oversimplification, that is what we are going to try to do.

Mr. Chumbris, for Senator Dirksen, did you have any comment that he would like to make?

Mr. CHUMBRIS. No, Mr. Chairman. I think you have very well covered the premise of the hearing. I think Senator Dirksen feels and hopes that the hearings will be conducted in the next 3 days along the lines and within the confines that you have just stated. If so, I think it will be a very fruitful investigation.

Senator HART. And for Senator Hruska?

Mr. WALLACE. Senator Hart, I agree with Mr. Chumbris if Senator Hruska were here, I am sure he would go along and agree with your remarks, and we know that the hearings that will be conducted in the next few days will be objective and fair and not with the purpose of attacking any individuals or corporations.

Senator HART. Senator Wiley is represented by Mr. Kittrie. Did you have any statement, Mr. Kittrie?

Mr. KITTRIE. Mr. Chairman, Senator Wiley had planned to be here, and therefore he had a statement prepared. However, he is unable to attend. He asked me to read it, and, with your permission. I would like to do so.

This is the statement of Senator Wiley:

Today, in opening this series of hearings in the area of packaging and labeling as they affect the consumer, the Senate Antitrust and Monopoly Subcommittee is performing an invaluable service, not only to many millions of American consumers, but also to the strengthening and survival of our free enterprise economy.

Free enterprise is based, not on blind faith in human perfection and the evils of regulation, but on the cold logic that self-regulation is preferable to external regimentation. Capitalism is a system which believes that enlightened self-interest best contributes to the general good. It is based on belief in the ability of the free marketplace, rather than the governmental bureaucrat, to act as a regulator for economic life.

It is the function of the marketplace, through the intercourse of informed buyers and sellers, to accelerate production, distribution, and consumption where they are required, and brake them where necessary. The functioning of our economic system depends, therefore, on the absence of unreasonable restraints, on the free flow of information, on the ability of the public to exercise its best judgment, and on the general observation of accepted standards of good business and human conduct.

The value of weights and measures to healthy economic life was recognized in historic days. The most ancient of civilizations recognized that, unless same and equal weights and measures were generally recognized and used in all parts of the realm, economic anarchy would result. Standard weights and measures were recognized as essential for economic stability and progress, and as early as 2000 B.C. the local sovereigns undertook to regulate and inspect all weights and measures.

It is noteworthy that in the basic skeleton of moral and social law which Moses conveyed to his people, together with the Ten Commandments, was the injunction that, "Ye shall do no unrighteousness in judgment, in meteyards, in weight, or in measure. Just scales, just weights * * * shall ye have. I am the Lord which brought you out of the Land of Egypt. Therefore shall ye observe all my statutes."

Labeling and packaging are indeed merely parts of our system of weights and measures in modern dress. Today the scales and the weights are only rarely seen by the purchaser. Instead, he picks up a prepackaged parcel, can, box, or other container, often judging them in a hurry on external appearances. We have long recognized the legal doctrine of "let the buyer beware," but it is another thing to require the buyer to become a part-time detective.

Charges have been heard that labeling and packaging practices have been abused. We are here to listen to the evidence. If some modern packaging practices do not clearly and adequately inform the buyer of what he gets, if they result in unfair exploitation, it may become necessary for the Government to apply more stringent supervision, because the damage is done not only to the consumer, the housewife, the laborer, you, and I, but indeed such practices may breed lack of faith and lack of respect for the workings of our whole economic system.

Economic freedom, under our system, does not mean anarchy; neither does it mean dog eat dog, or man eat man. To me it means widespread public and individual responsibility, and an endeavor to bring the greatest benefits of freedom to the greatest number possible. The leading exponent of capitalism, Adam Smith, stated:

"Consumption is the sole end and purpose of all production."

Let us make sure that it is not the consumer who loses out in this system of ours.

Senator HART. The committee is most appreciative of Senator Wiley's thoughts and expression. I know that, as the hearings proceed, we will have the benefit of this continued interest on his part.

I think no committee could be more fortunate in the person of its first witness. We use superlatives in this Senate institution so loosely that they lose their impact, I fear. Our tongue sometimes is so far in cheek that we can scarcely be heard with the adjectives, but on this occasion the committee is delighted that the distinguished junior Senator from Oregon, Mrs. Neuberger, should be willing to give us her impressions, based on long study of this subject. She has herself achieved a leadership role in the Government's effort to protect consumers. I was flattered to be able to cosponsor her suggestion to the Senate that there be a standing Senate committee on consumer problems. I would only hope that as these hearings continue, Mrs. Neuberger will give to the Judiciary Committee what we do not have by assignment, that is, the delight of both a nonlawyer and an attractive lady.

In other words, Mrs. Neuberger, you are invited at any time you are free to sit in on this hearing.

Mrs. Neuberger.

**STATEMENT OF HON. MAURINE B. NEUBERGER, A U.S. SENATOR
FROM THE STATE OF OREGON**

Senator NEUBERGER. Thank you, Senator Hart. I am delighted to have the opportunity to come before this committee and though the chairman has given me a great deal of credit for some activity in consumer relations, may I say that in the Senate of the United States my way has certainly been well paved by Senator Kefauver and Senator Hart who are very expert in this particular field.

I was particularly interested in the statement that was submitted by Senator Wiley's representative because of the reference that he made to the standardization of weights and measures. I thought that I would like to interpolate my prepared remarks here by having the representative of the distinguished Senator from Wisconsin carry back to his Senator the fact that I have introduced in the Senate a proposal for adoption of the metric system of weights and measures because our country is not proceeding on any real legal plan in this respect.

I believe that the consumer has come of age in this Congress. In long years of observing the Congress, I have never seen so much attention focused on him. I would like to call attention to the fact that the whole series of reorganization plans for the regulatory agencies—that is the FCC, the SEC, the FTC, all of them are really looking toward the consumer interest in this field of Government regulation.

I feel that being here today is a rare privilege because I think I am appearing before a committee in an investigation that can surely have only one result. How could anybody be against giving the public the greatest knowledge that is possible to help the members of that public buy in the very best manner for their own economy and for their own information?

I thought the chairman prefaced the introduction of my testimony so well by saying that it is to elicit information, and I don't think anybody feels that we are after anybody in particular on this.

I especially liked also your comments, Mr. Chairman, that labeling and packaging has now become such a big industry, it is within our right to comment, I think.

Now we have been speaking and reading and writing about the consumer for a long time, and I wonder if this person that we seek to aid and protect is really aware of our efforts in his behalf. Out across the length and breadth of this land, there are people working on farms and in factories who are probably not aware that there is a great committee of the Senate of the United States concerning itself with something that is really vital to them.

As many of you know, I recently had quite a bit of experience with another item I consider not of consumer interest; namely, the control of billboards along our highways. I began to realize that if the public is aroused that they really can make their wishes known because some of the success in passing this billboard legislation was really due to the weight of public opinion which made itself known; that

they wished to have our interstate highway partly free from billboards, and I think that the very fact that they have expressed themselves along this line is partly why we are here today.

One of the purposes of Government is to do for a person what he cannot do for himself, and I hope that one of the pictures that comes to man's mind when he hears the word "Government" is that of a protector and defender. This is the role of the Government in consumer legislation.

A large number of people have been sufficiently aroused by questionable practices in the field of labeling and packaging to write me of their concern and tell me of examples wherein they feel there is fraud or an attempt to deceive.

Again, I like the statement of the chairman who said that we do not assume deception as we start these hearings, but that some of the public is of the opinion that there is deception and they may need to be disillusioned in that respect.

Now, what is the largest single item in the average American's budget? It is food and clothing. They are items that can be said to be basic consumer purchases.

In supermarkets and groceries alone last year the American consumer spent over \$53 billion. Do you know how much \$1 billion is? It is a thousand million dollars.

Dr. Persia Campbell, authority on consumer economics, explains the family's economy as two exchanges. The first exchange is that which takes place between the wage earner and his employer. It is an exchange of labor for money.

But for that exchange to be beneficial, there must be a second handling. This is the exchange of that money for goods and services. It takes place at the grocery counter, the drugstore, or through the monthly payment of rent or mortgage. If the consumer is deceived or betrayed, he gets less than full value for the labor that we spoke of in the first exchange. To the extent that he gets less than full value, the labor in the first exchange was wasted.

Specific complaints have been reported to me about slack filled packages, hard to find statements of net contents and weights, suggested "best buys" by oversize packaging and misleading terminology.

An endless variety of packaged rice or corn flakes or dried beans stocks the grocery shelves. The containers may all be uniform in size but vary widely in content. One box may contain 15¾ ounces for 47 cents while the adjacent box will have 16½ ounces priced at 53 cents. Which is a better buy? It shouldn't be necessary to provide every shopper with a slide rule so that price comparisons can be readily made.

I am looking toward the day when the "jumbo half quart" is bigger than the "full half quart" or a "big 16 ounces" or "16 large ounces" is more than the "king sized half quart" or the "quart sized half quart."

Is there no such thing as a standard half quart or a standard 16 ounces? Why must we have these adjectives?

This reminds me of olives which are the classic example. Anybody would think that a large olive would be pretty good sized but under the present system a large olive is a small olive and you have to buy "colossals" or "super colossals" to really get a good sized olive.

Many shoppers, and especially those on limited budgets, feel that getting their money's worth is an important responsibility. The careful shopper will check the package before the purchase to determine the net weight of the contents, which the law requires to be printed on packages of foods and drugs and cosmetics. But the Food and Drug Administration has never really spelled out in detail where on the package, or in what size type the net contents must appear, so the busy, but careful shopper, stands in the supermarket aisle, twisting and turning the package, looking over all four sides and both end to try to find a guide to contents and weight.

Mr. Chairman, I know that some of these practices have gradually crept into our businesses in the spirit of competition, but the industry has a responsibility to the buyer. If it fails to accept that responsibility, the Government must strengthen its directives in this area.

It has been a pleasure to be here and to bring my thoughts before this committee.

Thank you.

Senator HART. I repeat for the subcommittee, wouldn't you agree also that a point often overlooked in our comments about the location of responsibility is that the consumer has responsibility, too? First, the consumer should better understand the function he or she plays in our economy. The act of purchase by the consumer, even though it involves only a 10-cent item, accumulated over the total of those actions each day, in large part determines what will be made tomorrow. With a clearer understanding that this is the function of the consumer as he puts his dime down, this is the consequence of his action, I think there would come a better awareness.

The second point is that the consumer has an obligation, or the consumer ought to give his patronage, to that seller who gives that consumer a good break and not be unmindful that this is necessarily a two-way operation, if the seller-producer who seeks to best serve the customers' interest is going to survive.

Senator NEUBERGER. The chairman is so right, and the consumer does have a responsibility, but I am reminded of another area where we don't think of consumer protection by recalling that the chairman comes from a State that produces a great many automobiles. Let us say I am in the market and I walk up and down automobile row and lift the hoods and look at them. It won't mean a thing. I won't know where my best buy is, but I feel I must have some faith in the great automobile industry of this country that the purchase I make is going to give me value received.

So in that respect, I will try to shop but I really won't know. There is a responsibility of the industry to the consumer and certainly if we have faith and find that performance has been proved we will continue to support that industry or that producer.

Senator HART. I think the point I could add to that is that we do, when we are talking about a \$3,000 investment in a car, recognize our function, the effect of our judgment on the economy, and think of prior experience and base our selection largely on that. This is not our attitude when we drop our dime on the counter.

Senator NEUBERGER. Unfortunately, that is correct.

Senator HART. But the accumulative total of the dimes would be welcome in Detroit also.

Mr. Chumbris?

Mr. CHUMBRIS. Senator, I just want to make this observation while you are here so that it will be very strongly put to counteract what may be misleading to the public as they read some of the stories as to what we may go into. I was hoping that the consuming public would not get the idea from this investigation that if you buy a larger sized package rather than a smaller sized package, you gain nothing in the transaction. I hope that the public will keep their minds open.

Just last night I had an illustration of this. My wife wanted me to get some moth crystals as she was getting ready to pack some things away for the summer. I went out and bought a 1-pound container for 49 cents. Then she said, "I think I will need another one." I went back to the store and noticed if I had bought a 5-pound can, I could have bought it for \$2, which would have been five cans instead of four, or a 25-percent saving. Of course, that was a pretty big saving.

I have noticed in other instances where you make a 6-percent saving by buying the larger quantity rather than the two smaller. If you take 6 percent of \$4,000, which may be the amount that a person spends at the market during the year, 6 percent of \$4,000 is quite a saving over the year that the consumer should bear in mind.

I just wanted to bring that out now because there has crept into some of the stories the idea that a person who buys the larger box rather than the smaller may even be losing money rather than making a saving.

Senator NEUBERGER. I think that you are making exactly the point, that one of the things we are bringing out is that we want to know that the larger container is the best buy because there are examples where it is not.

Mr. CHUMBRIS. That is right.

Senator HART. Any other questions?

Mr. WALLACE, for Senator Hruska, indicated he had a question.

Mr. WALLACE. Senator, I was interested in paragraph 3 on page 2 of your statement where you state that you are looking forward to the days when the jumbo half quart is bigger than the full half quart or the big 16 ounces is more than the king-sized half quart.

I presume that your objection goes to the size of the lettering on the package; that is, I understand generally from your remarks that you would like to see on some of these packages, in larger lettering and in a more conspicuous spot on the package, the amount of the content.

Senator NEUBERGER. These quotes are taken from advertisements and grocery ads. Some of them are found in grocery stores above the shelves. I hope you realize I was trying to be somewhat facetious with the use of these superlatives.

I think that one of the things that would be of great help to the consumer is to find a standardization of somewhere on the package, and in reasonable size type, the indication of the net contents—16 ounces net or whatever it is. The adding of one-eighth of an ounce, quarter of an ounce, half an ounce and so on makes it very difficult to get the unit weight. But I believe that it should not be a matter of needing a magnifying glass to find the label content of a package.

Mr. WALLACE. The question I had and I was pointing to was the fact that the emphasis on correction may well be on the amounts that

are listed on the box and the fact it should be in a conspicuous spot and large enough to be seen, rather than on the adjectives that are used in describing the product. For example, the use of the term "jumbo half quart" or the use of the term "king-sized half quart" would give me concern that we would try to legislate against the use of that terminology.

Senator NEUBERGER. How would the Food and Drug Administration, standards, weights and measures define what is a king-sized half ounce? You have to have some basis of standardization.

Mr. WALLACE. Of course, Senator Hart said the responsibility is also on the consumer. Now a half ounce is a half ounce no matter how you look at it and if the manufacturer wants to use the term "king sized" or "jumbo sized," I think it is within his right to use that term as long as he says 16 ounces because 16 ounces is 16 ounces and the consumer ought to know it.

Senator NEUBERGER. Even if they are large or small, they are still 16 ounces.

Mr. WALLACE. That is right.

Senator NEUBERGER. I believe you can say king-sized cigarettes because we don't have a standard for that. But I myself don't know what a king-sized ounce or half ounce is.

Mr. WALLACE. That is all. Thank you.

Senator HART. Thank you very much.

Dr. Persia Campbell is our next witness.

Good morning, Doctor. The reluctance of some witnesses to state their qualifications makes it necessary on occasion for the committee to provide this. I would hope that I could persuade Dr. Campbell to concede for a minute that she was in a court of law and required to state her qualifications.

Won't you, for the record, do that because there will be readers of this record who may not be familiar with your background? Do give us an indication of the depth and extent to which you have studied this consumer economic situation.

**STATEMENT OF DR. PERSIA CAMPBELL, PROFESSOR OF ECONOMICS
AND CHAIRMAN OF THE DEPARTMENT OF ECONOMICS, QUEENS
COLLEGE, CITY UNIVERSITY OF NEW YORK**

Miss CAMPBELL. Thank you, Senator. My name is Persia Campbell. I am professor of economics and chairman of the Department of Economics, Queens College, City University of New York. I was formally consumer counsel to the Governor, State of New York, from 1955 to 1958. I don't know whether this is an adequate introduction.

Senator HART. Do give us some more.

Miss CAMPBELL. I have written some books in this field. I don't think this is an appropriate place to commercialize them.

I have also been associated with a number of consumer organizations. I think they have done a tremendous job in bringing some of these problems to the attention of the public and have been helpful to you, sir, in this type of investigation. I could name some of them.

Senator HART. I think the record would reflect more fully your background if you did that.

Miss CAMPBELL. I was an officer of the National Association of Consumers for a number of years.

I am a member of the Council on Consumer Information and their representative at the United States mission to the United Nations.

I am a member of the Board of Directors of Consumers Union.

I attended as a delegate the biennial convention of the American Association of University Women which was held here last week; the program included a consumer panel.

I have worked with and belonged to a number of other organizations, lay and professional, which have taken a great interest in this area.

One such organization is the Community Service Division of the AFL-CIO. I think you know, Senator, that they are developing a program of consumer information and consumer services throughout the unions in this country because of the importance of the consumer interest to the wage earner.

Senator HART. Thank you very much, Doctor. We are delighted you could come. I notice that you have filed a statement with us. I would suggest that you read it.

Miss CAMPBELL. Thank you very much. If I seem to trespass unduly on your time, Senator, please let me know and I will try to summarize.

Senator Hart and members of the Antitrust Subcommittee, I appreciate the opportunity to appear before you today to present some comments on the important subject under consideration, namely, certain packaging practices in the food and general grocery fields.

We hear much of the packaging "revolution." It both results from and facilitates rapid changes in marketing structure and technique necessitated by an automated mass production economy. Packaging is in part a method of handling goods for convenience, cleanliness, and product protection; it is also part of the expanding "demand-creation apparatus," the merchandising process directed toward promoting sales, conveying various messages to the buyer, in a constantly changing technological, economic, and social environment. The package-related problems that have led to this inquiry arise primarily out of this merchandising process, though it is not always clear whether a particular practice belongs in this or in the "handling" category. They are, of course, interrelated. And the line between functional handling and economic cheating is not easy to draw—this, in fact, is the main issue in the important test case which the Food and Drug Administration has brought against the Delson Candy Co.

Sizes and shapes, colors and materials, pictures and symbols are intended to carry a message to the consumer-buyer, a persuasive message; there is evidence that in many cases this message has the "capacity to mislead," even "to deceive." That situation is growing worse, as the "revolution" develops, is emphasized in reports over recent years of Federal, State, and local regulatory agencies—note for instance, proceedings of the annual conferences of weights and measures and of food and drug officials: the proliferation of sizes, the varying amount of fill and short-weight, the obscure disclosure and fractionalizing of weight and volume, the concealment of a price increase through reduction in quantity, the fictitious price "bargain." The Commissioner of Food and Drugs reported this month to the 46th National Conference on Weights and Measures on a special survey made, during the past 12 months, on incorrect and inconspicuous declarations of the quantity of contents of packages of foods, drugs,

and cosmetics. And no doubt many witnesses at these hearings will provide dramatic testimony to the same effect and help establish the dimensions of the problem. Enough is already known of these practices to raise some disturbing questions about developing patterns of behavior and performance in an important sector of the economy.

I shall raise two questions. The first is a broad primary question which reaches to the integrity of economic relationships and instrumentalities. Our economy has been based traditionally on contractual relationships, explicit and implied, supported by law, but maintained primarily by confidence and mutual respect. And it has used such instrumentalities as standard and easily recognizable units of money and weight to facilitate transactions. The current breakdown in proper performance in the food-packaging industry has, in turn, affected the economic function of the consumer. It is fortunate, under the circumstances, that the subcommittee called a halt for repairs.

The second question I shall raise is a more particular one that arises from some evidence of concealed inflation. This suggests the possibility of rising costs in the distribution of food and household supplies, a disturbing possibility that is presently being kept from view by certain reductions in quantity (and quality?) of particular products. What does this presage for the economy as a whole?

Now, speaking first to the broad primary question: in the developing complexities of our economic system, our studies have tended to concentrate on aggregates; on statistics and charts; we have tended to overlook the underlying decisionmaking processes, the attitudes that lead to them, the changing functions and relationships. Prices do not "rise"; decisions are made to raise them. The weight-mark on a can does not move of itself from the front panel to a shady nook. I hope these hearings will throw light on the reasons that led to the practices now under consideration and on the line of responsibility, as well as on the economic consequences and possible remedies.

Traditionally, the retail counter has been the symbolic point in our free enterprise system. To this point have been brought the increasing quantity of goods and services which private initiative has made available, in advance of sale, for selection by the consumer-buyer. Traditionally, the retailer, "broke bulk"; buyer and seller confronted each other across the counter, striking a bargain, in a relationship that was clearly defined, essentially local and personal, with mutual responsibilities that were fairly well understood. I have at home an early cartoon showing buyer and seller, chatting, eye to eye, over old-fashioned scales, while the thumb of one surreptitiously pressed his edge of the scale down, and that of the other pressed hers up. There is nothing new in the fact of human frailty; there is in its dimensions, particularly in the reach and impersonal character of its expression.

In passing up and down the aisles of the modern supermarket, the consumer-buyer is confronted not by the seller, but by rows of packages and cans, each an inanimate salesman, carrying a message usually not from the retailer but from some remote manufacturer or distributor; the retailer may not even be responsible for fixing the price, at least not the retail manager, and it is rarely subject to bargaining. Part of the traditional retailing function has been transferred to the consumer and part to the "product-personality," clamoring for attention in an evermore impressive and bewildering array of lines,

brands, sizes, contents, and prices. What we have now is a product-buyer rather than a seller-buyer relationship. This is the environment in which the problems now under consideration have developed, in their present form and magnitude. Under these conditions, how do we establish and maintain confidence and mutual respect?

Before commenting on the economic aspects of this situation, may I refer to certain basic principles of our economic system which we as a nation have set up to provide for ourselves the goods and services we desire as the material foundation of our way of life. It is, generally speaking, a solid foundation. We hold its image up to the world and invite all to come and observe it. Perhaps some cleaning up is desirable before the guests arrive. Particular practices, though individually not of major importance, may have the capacity in the aggregate to besmirch the image in which we collectively take pride, though, at times, an uneasy pride.

The private enterprise system must operate, if it is to operate successfully, on certain basic principles permeating its constantly changing structure and relationships. The central function is the production of goods and services for the maximum satisfaction of the consumer public, individual and collective. This is not necessarily the same thing as maximizing the gross national product, unless this phrase is understood to mean a maximum of satisfying content. The importance of this central function seems too obvious to mention but there is a widespread contrary opinion, namely that the consumer public exists to serve the system.

Within a framework of public law and custom, businessmen have the important and responsible role of organizing the production and distribution of the desired goods and services; profit is their appropriate reward. Consumers for their part, have the important and responsible role of informed choice in spending, or saving, the disposable family income, which currently, in the aggregate, approximates \$350 billion a year. Informed choice by consumers and competition on the sellers' side of the market, should, at least theoretically, provide the "built-in" regulatory factors which tend to maximize "the wealth of nations." The economic process moves forward through multiple buy-selling transactions reflected in the "price-per-unit" mechanism. This mechanism, if intelligently operated in each particular transaction, adjusts supply to demand, clears the market, allocates resources in line with consumer wants. Every now and again some obstruction clogs the works and has to be removed or brought under control.

The current package-related situation should be examined in the light of these basic economic principles. Consider first the responsible role of the consumer in spending family income, responsible both in terms of family welfare and of the proper functioning of the economy. Money received in exchange for labor has no value in itself. There must be a second exchange; money into satisfying goods and services. Unless this second exchange is competently made, some of the labor that went into earning the money is wasted and also some of the material resources; the wrong signals go back through the economic system.

The consumer's job is not an easy one, particularly since consumers, generally speaking, have had no instruction in understanding the importance of their role, and the conditions for its competent performance.

The way the job is carried out differs for various commodities and services. We are concerned here with the food and general grocery field. If the inquiry had related to major appliances, the question of "discretionary buying power" would have risen and the cost and availability of credit; the family decisionmaking process would be different. In the case of food and household products, most of the buying is done by women; in our urban economy, the bulk of it is done two or three times a week, usually in the mornings, sandwiched between other homemaking obligations, though the buying pattern changes.

At first glance, the market basket, or shopping cart, seems a trivial subject for congressional investigation, compared, let us say, with the automobile. But the volume of food purchases, which is relatively stable, averages about 30 percent of total consumer expenditures; in the lower-income groups, this percentage rises. What is important for the family, particularly the low-income family, is the product, not the package, which will probably end up in the trash can, despite the fact that it figures in the GNP.

Shopping for food and household supplies, often on a fixed "housekeeping allowance," the consumer soon learns her way about the supermarket, picking out maybe 20 to 30 products from among the 6,000 items beckoning her from the shelves, probably one-third of which were not in existence, at least not in their present form, 10 years ago. But she is an amateur, not a specialist, in this new buying situation. She cannot be expected to have the time, even if she had the capacity, to make the computations necessary to divide fractionalized weights into fractionalized prices to find out the "best buy," even assuming she knows the relative quality values—and this is a large assumption. She carries over her past experience into the present. How else could she manage? If the new can is the same size as the old, she assumes it has the same weight or volume of content; if a new jumbo, giant economy package turns up on the shelf, she expects the price will be less per unit of weight than the smaller item, because this is what "economy" has always meant to her; she is not aware of the significance of the trade term "packaging to price" until she finds there is not as much to go around as usual when she gets the product home. She ought to be alert and careful, because she has a responsibility both to her family and to the economy as a whole. But the shiny aisles of the supermarket should not conceal pennysnatchers even from the ignorant and gullible, particularly not from the ignorant and gullible, because she may need all her housekeeping money to keep her family properly nourished and her home clean. These are not luxury items.

Maybe women do not pay enough attention, in an "affluent society," to thrift. But an advertising expert has recently warned her professional colleagues that women do take pride in being "smart" shoppers and particularly resent being "fooled" or "bamboozled."

"Women usually react strongly to being misled or fooled," writes Janet Wolff in her new book "What Makes Women Buy" (McGraw-Hill, 1961, pp. 101-102) :

this feminine aversion to being tricked or deceived can hardly be over-emphasized—women do not simply resent misleading information * * * but they often feel compelled to action to right the wrong.

There are present indications that many are now reacting against the packaging situation. The package is not performing its responsibilities as a salesman. The traditional network of relationships has broken down. The state of "affluence" should be more fun.

The present situation, we are told, is the result of competitive pressures. It is well known that competition is active, even strenuous, in the marketing of foods and household supplies. In the self-service supermarket, that gives rise to the struggle for shelf space. This struggle, it is said, is a major reason for the increase in range of package sizes, as well as of company brands, in an effort to catch the consumer's eye; and also for the change in shape of packages to make them wider and thinner for maximum "visibility."

This process of differentiation in packaging parallels the continuing process of product and brand differentiation; it aims at creating a semiprotected area of the market through consumer recognition and attachment.

The line between progress and waste is not easy to draw, or between desirable variety for choice and an array with the "capacity to confuse and deceive." The costs of differentiation are high—extra space, larger inventories, the using up of additional material and labor resources. To what extent these costs are offset by ultimate satisfactions has to be determined by experience. In the case of packaging, the difference between the handling and the promotional aspects of package change has to be kept in mind; this is most important in the food field where the consumer interest particularly demands relatively high volume at low price.

For a number of years the National Conference of Weights and Measures Officials—the practicing experts in the field—have recommended the standardization of package sizes. Their concern, however, has been not so much with the need for conservation of resources—which led to the standardization of can sizes during the war—but with the effect of size changes on the consumer's capacity for informed choice. What utility results from the introduction of a new package type or size? Is the larger size combined with "slack" or "puffed up" fill? Does the same size conceal a reduced quantity of product? Does the label adulterate the customary designations of weight and measure? The linguists might well complain of the slaughter of the "pound" and the "pint" in the development of the "jumbo full pound" and the "giant half quart." This subcommittee, Mr. Chairman, would serve a useful purpose if it did no more than undertake a jungle rescue operation for the English language.

But our concern here is with the effect of competitive practices in the food packaging and related industries on the consumer interest, since, as pointed out above, the function of the economy is to produce maximum satisfaction for the consumer public. In the economic field the interest of the clearly identifiable consumer public is a more workable concept than the more generalized "public interest" which it approximates.

The consumer also has a functional responsibility to help maintain the regulatory role of competition. What, in essence, is economic competition but the opportunity afforded the consumer to search out and select, with reasonable common sense, among the goods and services offered on the free market, on the basis of the "best buy?" To the extent that the consumer is not able to make, or does not make, a choice on the basis of price-per-unit for comparable quality of product and service, the competitive system generates, or at least protects, inefficiency, and, unhappily, unethical practices. The responsible businessman is penalized.

One course open for him is to justify Gresham's law and downgrade his own practices, in the anticipation—or hope—that this action will not be found out. One of the depressing aspects of the current situation is the reputable standing of many of the companies cited by regulatory agencies for unfair and improper performance. Unfortunately, the Better Business Bureaus have not concerned themselves, except on an occasional ad hoc basis, with developments in the food and grocery field. But small losses in large volume can reach spectacular aggregates.

One of the officials of the Food and Drug Administration pointed out the other day a statement from an advertising agency listing 10 points for good labeling practice: The 10th point said, "Conform with the food and drug law, if possible."

Would it not be better for the responsible businessman himself if he were to express the sense of function and act positively to restrain the unethical competitor by cooperating with consumers and appropriate agencies of government in developing and enforcing fair and flexible rules of behavior, in strengthening and maintaining the integrity of the private enterprise system? In this the retailer has a stake as well as the product manufacturer. By the way, where is the retailer? He seems to have got lost to sight in the vastness of the expanding retail structure. Does he still claim the title of agent for the consumer?

One of the difficulties in the competitive situation is that the rules of the road are not clear. The function of law is to channel the forces of change so they will enrich and not destroy; but it moves slowly on its job. The courts are gradually freeing themselves from the caveat emptor precedent—see e.g., the recent decision of the Third Circuit Court of Appeals in the *Delson Candy Co.* case. But they do not give clear and consistent guidance—the depressing news has just reached me that the lower court, to which the above-named case was remanded by the Court of Appeals, has ruled against the Government.

Federal-State relations are complicated and complicating. State and local enforcement officials can deal with certain improper and misleading practices in the seller-buyer relationship. But if the product moves interstate, as is the case with many supermarket supplies, then jurisdiction is likely to be with Federal agencies, and there are a number of them, with fragmented authority.

The Food and Drug Administration can deal with merchandising practices related to food, drugs and cosmetics, if "misbranding" is involved, but not with other grocery items; for instance, soaps, detergents, paper products and so on. In the food field, limited jurisdiction lies with the U.S. Department of Agriculture—meats up to the

time they leave the processing plant; and the Department of Interior—fish; the Internal Revenue Bureau deals with liquor. The Bureau of Weights and Measures, which has the most direct interest in this problem area, has, nevertheless, no power to act, except in an advisory capacity to State and local officials. The Federal Trade Commission is beginning to take cognizance of certain practices related to the merchandising of nonfood products.

Even when the law itself seems clear—for instance, the Federal requirement that the disclosure of weight or volume be conspicuously placed on the front panel of the container—the Food and Drug Administration, until recently, has been too preoccupied, within its very limited resources, in insuring the safety and cleanliness of food, drugs and cosmetics to move with any strength against “economic cheats”; it has also been discouraged by the results of contested cases it has brought into court.

The subcommittee would perform a valuable service by clarifying, in simple form, the existing framework of law relating to packaging, by considering how best to strengthen the administrative and enforcement procedures, and by encouraging cooperative effort in the development of standards and acceptable trade practices. In a constantly changing situation, such as exists in packaging, with powerful industries developing new materials and new processes day by day, some flexible machinery for review and evaluation seems desirable. This would be greatly to the advantage of the responsible businessman—and also of the consumer.

Certainly the consumer is not aware of her legal rights vis-a-vis the “product personality” and so does not know whom to complain to, if there seems to be cause for complaint in particular situations. This is one of the reasons why a central consumer “clearinghouse” and representative function in government is necessary, if the level of consumer competence is to be raised. At their recent 46th national conference, the weights and measures officials, recognizing that—

consumer protection and consumer education are constantly increasing in importance to the Nation’s economic well-being

and recognizing further that—

equitable comparisons and intelligent decisions by the consumer in the marketplace are growing more and more difficult,

officially commended the President of the United States on his decision to appoint a consumer counsel to his office, and offered their full cooperation.

The elements of competition are price, quantity, quality, and terms of sale. Price is expressed in monetary units and from the earliest days of our national history we have been concerned to protect the integrity of our monetary standards. When chisellers began chiseling from the old new New England pine shilling, it was given a beveled edge for protection. We also gave early constitutional recognition to the importance of standards for weights and measures. As in the case of money, this involves not only setting up the original unit designations, but also the continuing protection of their integrity in operation; they also need a beveled edge. We are not here considering problems related to quality and terms of sale. But certainly unless we maintain confidence in our basic units of measurement for economic transactions, at retail as well as at other levels of our func-

tioning economy, we are headed toward trouble, instead of toward a strong and satisfying growth pattern. And this brings me to the last point I should like, with your permission, to make.

The most serious complaints arising out of the current package-related problems have to do with the concealment of a price rise through reduction in product quantity, while maintaining the same or approximately the same size package—there is reason to believe that, at times, the reduction takes place in product quality. It is somewhat obscure how this arrangement is worked out between manufacturer and retailer, but apparently it has become a recognized practice in at least part of the food industry—the practice of “packaging to price.” Even assuming that the reduction in quantity is clearly disclosed—certainly in some instances the contrary is the case—the inflationary implication of the change is not likely to make its full impact on the consumer public. This of course is enough explanation for the practice. Rising food prices in a period of agricultural depression are embarrassing to explain even when certain increased consumer utility can be shown. Consumers do react rapidly to rising food prices which threaten the stability of their level of consumption, since food expenditures constitute so large a part of the total. But if we assume that they are not presently overbuying in terms of family needs, then a reduction in quantity to hold price, will result either in a shortage or in additional spending, and an enforced shift in the balance of expenditures. Such changes are best faced openly. Moreover, the effect of inflationary trends on the economy as a whole is too serious a matter to justify efforts at concealment. If we are to deal adequately with inflation, we must have it out in the open where its causes can be more effectively diagnosed, and, hopefully, cures developed.

This inquiry into package-related practices and problems reveals serious economic and social issues. In undertaking it, the chairman and subcommittee members are to be congratulated for their vision and courage.

Senator HART. Thank you very much, Doctor, for your statement, which I am sure will require additional study from all of us. There is much in this that, absent a Ph. D. requires a second reading.

Miss CAMPBELL. I am sorry for my academic type of presentation, sir.

Senator HART. Before asking the members of the committee if they have questions, I, on almost an aside, think you have made a little clearer a point frequently overlooked. This is part of the purpose of our hearing. So many times we hear school systems criticized for building a lot of frills. Now, of course, the obvious “frill” in the minds of many is bad, but included in the minds of a great many Americans as a frill, and therefore unnecessary in the school system, is domestic science and more particularly, consumer education.

I think that you have made very clear that for the consumer effectively to protect his interest and to contribute constructively to the operation of our economy, consumer economics is far from a frill and a most necessary subject for a growing young America.

You do that very well on page 4, in describing the difficulty of the job as you shop, and you make the point that if you have had any instruction in understanding the importance of the consumer's role

and the conditions for its competent performance, you will understand.

Among other things, you have helped buttress the cause of those who do feel that the school system should early give attention to developing an informed youth.

Miss CAMPBELL. I hope you won't look upon that as a free commercial by an academic professor.

Senator HART. I am thinking of the structure that is well below Queens College in New York. I am thinking of the sixth or ninth grades.

Miss CAMPBELL. May I make one comment here?

Government traditionally has put a lot of resources into research and education to help farmers become more efficient, and also small businessmen.

The consumer function is also an important economic function, and I agree with you, it is important for effective operation of the private enterprise system in which we take pride, that consumers be better informed as to the responsibility and techniques of their role.

Senator HART. Mr. Cohen?

Mr. COHEN. I have no particular questions. But I would just like to commend the Doctor for her very comprehensive and excellent presentation. I think she has given us all a lot to think about and work at during the continuation of these inquiries.

Senator HART. Yours will be a basic document in our study.

Mr. FENSTERWALD. Dr. Campbell, could you tell us something of the experiences of other countries, and particularly other advanced Western countries, in this field, in dealing with these deceptive practices?

Miss CAMPBELL. Well, sir, in neighboring Canada, you have probably heard that they have just passed legislation in this field.

There is a very effective national consumers organization in Canada—the Canadian Association of Consumers—and they have been recognized by the Government for a long time as an effective and proper force in this field, from the consumers' point of view. I think this new law is one of the results of their activity, in the interests both of responsible businessmen and of the consumers; it clarifies the law with respect to packaging, in all its aspects.

Mr. FENSTERWALD. Is Canada the only country with such a law at the moment?

Miss CAMPBELL. Oh, no. But as I was indicating earlier, it takes the law some time to catch up with new problems; and we have a developing economy, we have an emerging situation, and we need certain flexibility.

In England there is also a very active consumers organization. They are very protective of certain areas of the consumer interest.

For instance, in the so-called hire-purchase system, they go much further than most of our States in regulating consumer credit rates and terms, and so on. I think you get more of this in many countries.

There has recently been established an international office of consumer testing agencies to develop appropriate tests for rating consumer goods in terms of performance, and this includes many countries today.

I was in Israel recently, and they have developed a unit in this field in connection with their new enterprises.

Mr. FENSTERWALD. Would you favor a national labeling law for all products moving in interstate commerce?

Miss CAMPBELL. Do you mean in addition to food and drugs and cosmetics?

Mr. FENSTERWALD. Yes.

Miss CAMPBELL. We do have it in some areas. We have it on a spasmodic basis. We have it for furs; we have it for woolens; we have it now for textiles.

It is a spasmodic situation, and I think if the committee would just look at this total field, it would result in very helpful suggestions.

I understand the Director of the Weights and Measures Division of the Bureau of Standards is here, and I am sure he can give you more particular information than I have.

Mr. CHUMBRIS. Mr. Chairman, on that point, we could also explore the problem that the manufacturer faces in having to meet with different standards in one State as against another State. Perhaps we ought to somehow get that in the record, because it might be something that might be helpful to the manufacturers who are faced with the problem of meeting these different standards, and they are in a somewhat anomalous position because of that.

Miss CAMPBELL. I just saw a report from Canada that the American manufacturers who are selling in Canada must now meet the conditions of the Canadian law, so that this creates divergent problems.

Mr. COHEN. In response to Mr. Chumbris' suggestions, we have been told by many producers that this is a real problem, this question of meeting different laws in different States which will determine what the producers have to put on their packages and labels. We are in the process at the present time of doing some work in trying to compile the various statutes that do exist.

Senator HART. I would hope the committee, before concluding these hearings, not necessarily within these 3 days, but before we conclude our general survey, will be able to develop this problem for the record.

I also assume, Doctor, that your comment about the fragmented authority in Federal agencies—forgetting the 50-State problem and just the fragmentation at the Federal level—would create a substantial problem for some producers in some lines.

Miss CAMPBELL. There is, fortunately, increasing cooperation among the agencies.

I understand the Commissioner of the Food and Drug Administration has indicated his interest in commissioning some of the State weights and measures officials to act for him.

We want to establish a condition whereby a buyer and a seller can have mutual respect for and confidence in each other, and take pride in this relationship. I think if we can cooperate in doing this, then we will all be happy.

Senator HART. Mr. Chumbris?

Mr. CHUMBRIS. I have a question.

On page 9, you refer to the most serious complaints arising out of the current packaging and related problems having to do with the concealment of a price rise by a reduction in product quantity while maintaining the same or approximately the same-sized package.

What suggestions do you have in that case for the manufacturer of a product?

Let's take a bar of candy which the manufacturer has been producing at a certain price, and he puts it on the market for 5 cents. Now, he doesn't want to sell a 6-cent pack of candy or a 7-cent pack. I think it is almost common knowledge that the candy bar is not as big today as it was prewar, when you paid 5 cents for that bar of candy. He is in a dilemma. He wants to put out a product that is within the price range that people understand it to be, but he doesn't want to jump it up to 10 cents. He wants to keep it a 5-cent candy bar. How are you going to answer his problem? He has a problem of putting out a 5-cent bar of candy and making a profit.

MISS CAMPBELL. He could make it 6, instead of jumping to 10. This is an important question. It seems to me that consumers recognize price changes quicker than quantity changes and it is certainly better for the economy to get our economic problems into the open.

MR. CHUMBRIS. I want to make it clear in this instance that the producer maintains the 5-cent candy bar rather than jumping it to 10 cents, to keep it within my example.

MISS CAMPBELL. Yes, I understand, but he reduces the quantity.

MR. CHUMBRIS. That is right.

MISS CAMPBELL. Take the housewife who is buying for her family. She has, even in our affluent society, difficulty very often in making ends meet—at least the people I know have difficulty in making ends meet. They want to make sure that quantity is what they expect it to be. They are not as alert as they should be in looking over all the packages to find where the contents are marked. A price rise is something you can handle in the open. I think if we were alert to this question, we would put the businessmen on an open, competitive basis. Whereas if costs are rising, everyone's price will go up.

This is an area in which I believe the Senator will agree there is much unrest and complaint; there is lack of confidence in the selling operation because of this, as though something is being concealed from the people which they would prefer to handle out in the open.

MR. CHUMBRIS. Let me put it this way:

Do you think that the consumer is hurt—let us say this is relative—if he pays 30 cents for a 6-ounce can, and he has a choice, and we will put it at 8 ounces for 30 cents.

MISS CAMPBELL. Don't get me too mixed up in arithmetic. I don't happen to have a computer here.

MR. CHUMBRIS. I am not trying to. But let us say there is an 8-ounce can of goods, and the charge is 30 cents, and because of the increased cost, he has a choice now of either raising that 8-ounce can to 40 cents, or reducing the size of the can to 6 ounces and still charging 30 cents:

Is there anything wrong in that?

MISS CAMPBELL. Well, let me first say this: I think that some of the increased cost is due to practices that are not facilitating the economic system, as such. I think perhaps we have gotten into a situation where we are overspending on packaging.

I don't mean to say we have to be mean and miserable about packaging. But how do you feel when you buy a big package of cookies for the family and you open it up, knowing it is all going to be gone within a day or two; you open up one cellophane folder after another, and finally you see what you are looking for—"Oh, there it is."

Anybody you speak to about this will say: "Oh, I remember that; that happened to us." That is why you have such a broad public interest in this investigation. People are confused and are bewildered as to what is going on.

My first answer to your question, Mr. Chumbris, would be to make sure the costs are minimal. With food, people want the product, you know. That package is going to add to the government's cost in sending around the garbage and trash pickups.

This is why it is so difficult to draw a line between progress and waste. I think we need continuing review on a cooperative basis. Consumers are so much more willing to cooperate with businessmen in trying to bring about improved conditions than they give them credit for, and I think sometimes some of them are intelligent and know what it is all about. But assuming you have reduced your cost to a reasonable minimum and must still make an adjustment; I think that raising prices is a fairer method of proceeding in a competitive situation than reducing quantity, because people know better where they are.

The whole question of inflation in our economy is a very serious question, and we ought to be able to handle it in the open.

Mr. CHUMBRIS. I have no more questions.

Senator HART. Mr. Wallace?

Mr. WALLACE. As you can tell, I know who does the shopping in the Chumbris family. [Laughter.]

Being a bachelor, all I have to worry about is the TV dinner.

Mr. CHUMBRIS. That is one of the unfortunate facts of this modern way of living. The husband does the marketing today instead of the wife.

Miss CAMPBELL. There was a suggestion here that perhaps men aren't as adverse to being made fools of as women.

I wouldn't make any comment on that subject.

Mr. CHUMBRIS. May I point out further, there is a gentleman living in my apartment house who is with one of the embassies. He cannot understand, now that he has to do the marketing, how he was talked into it in the first place. He said, "We just don't do those things where I come from."

Mr. WALLACE. Just one question. This is one similar to the one I asked Senator Neuberger.

On page 6 of your statement, the fourth paragraph, you state:

The linguist might well complain of the slaughter of the "pound" and the "pint" in the development of the "jumbo full pound" and the "giant half-quart."

I want to ask you if you feel there should be some legislation on the use of adjectives in describing weights and measures.

Do you think this is something that Congress should legislate on?

Miss CAMPBELL. Yes, but I think that would be difficult, sir. It is partly a matter of attitudes.

How silly can this business get? The "jumbo half quart" just seems silly to a lot of people. But the effect is to raise the anticipation in some people's minds that they are getting more than the standardized unit.

And this does not seem to me a good way to operate a system that we are holding up to the world to take a look at.

Mr. WALLACE. I recognize that, but I think we have to make some distinction between, as the law says, puffing and representations.

There is a distinction, and I think that it would be very difficult to tell a man that he cannot use certain words in describing his product, as long as they are not factual misrepresentations.

I think we see the point there.

Mr. KITTRIE. I just have a short question.

Doctor, do you feel that this growing lack of confidence in products and labels may have a serious effect on our economic growth?

Miss CAMPBELL. When we are talking about the GNP and economic growth, we have to keep in mind that what we are concerned about is the content, as well as the rate of growth.

The content is very important, and if we mean growth in terms of the maximum of satisfactory products and services, then this is a basic objective.

I do not think we have got to the point in loss of confidence, if this is what you mean, when consumers are going on a strike against buying food and supplies.

Mr. KITTRIE. Are they going on a strike against particular industries every so often because they just get disgusted with what is going on?

Miss CAMPBELL. You cannot stay home and say, "I will not get food for dinner." In different areas of shopping you get different problems.

In the automobile industry, and Senator Hart knows this much better than I do, you are up against the problem, in part, of what is called "discretionary buying power." You can take it or leave it.

You may buy it this month or buy it next month. But you cannot do that with food. You have to go to the store this morning, you cannot wait until next week. So that you have a different type of relationship and problem in this area.

What we want to do is rid the economy of these areas of suspicion and conflict, and also protect the responsible businessmen. The breakdown in reliance on standards is a very bad thing for the honest businessman, and, it might be sentimental to say so, but I think that most of our businessmen would prefer to be honest, if they had the chance.

Mr. KITTRIE. In the food and clothing area perhaps people cannot strike, but here are other areas where they may very well strike. That is, if they had the impression they were getting new colors rather than an improved product, they might just not go and buy as often as they otherwise would.

Miss CAMPBELL. I think "strike" is a harsh word in this connection, but as you know, for the last 3 months or more, according to the statistics, there has been a certain hesitancy in spending on major appliances, or even longer in certain product areas.

The reasons for this are still subject to discussion, at least among my colleagues.

Mr. KITTRIE. Thank you very much.

Mr. COHEN. One more question: In replying to Mr. Wallace's previous question, in regard to the use of the half-quart and the jumbo half-quart, an imperial half-quart, and these other terms that are used, to the extent that these practices actually deceive or confuse a buyer,

would you consider them puffing statements or something more serious, in terms of economic relationships?

Miss CAMPBELL. I suppose it depends on the individual buyers and how alert they are.

I am not a linguist, but I know some of my friends worry a good deal about the purist aspects of English usage. In terms of shopping, why use the phrase if you do not mean to imply that a jumbo full pound is somehow or other more than a pound?

Mr. COHEN. Do you think a proliferation of these practices in the marketplace, which might have a tendency to confuse, would necessitate some type of sanction at least to limit it either in terms of consumer pressure or some other type of sanction?

Miss CAMPBELL. Are you thinking about legislation?

I think in this area, at this time, perhaps we need controls. Simple designations of weight and volume plainly stated. We are always being told: Educate the consumer. This is not enough.

If we had cooperative relationships, with the development of fair practices, with different attitudes toward function, and this is a question of function, I think perhaps there would be more restraint.

Mr. FENSTERWALD. May I ask one more question?

Dr. Campbell, can you outline for us, just briefly, the effect of these practices on competition?

Miss CAMPBELL. I am told, and there is evidence for this in the cases that are brought to court by regulatory agencies, that one of the effects of bad practices by businessmen is to downgrade all practices; that is, honest businessmen find themselves in a situation where they tend to meet competition by doing the same kind of thing as the less ethical competitor.

To that extent, it affects competition, because, theoretically—if you do not mind my going back to this for a moment—competition performs a regulatory role in our economy.

But it has to be the kind of competition that enables the consumer to make an informed choice. Otherwise it protects inefficiency and dishonesty. That is why I think we need to take a good look at the current situation.

Mr. FENSTERWALD. Thank you.

Senator HART. Lacking any background, I could cite an example to respond to the question put by Mr. Fensterwald on the effect of some of these practices or developing attitudes, and the effect on the competition.

The label is no longer used but, in one case, the private brand of a maker of tomatoes bore the announcement, "Reasonably good quality," and the product simply did not move at all. In a survey carried on, the average response was that if "reasonably good quality" was admitted, the product must be awful.

This does show the effect on competition, this kind of situation.

Miss CAMPBELL. Perhaps more quality standards would help.

Senator HART. Again, Doctor, thank you very much.

Among many things, you have emphasized to the committee that we are opening a door on an enormous problem.

Miss CAMPBELL. Thank you for your patience.

Senator HART. I should add also that Senator Carroll, of Colorado, was present during a portion of your testimony. He asked that I

explain to you, and other witnesses, that he is required to attend a meeting of the Interior Committee that is attempting to report out the Wilderness bill. He said that after he took care of that, he would come back and take care of this.

Miss CAMPBELL. Consumers are very interested in the wilderness, too.

Senator HART. The final witness scheduled for hearing this morning is Marya Mannes.

I am sure that the "equal rights for men committee" will quarrel with the witness list this morning, but if they would read carefully the testimony and, if, even better, the record included photographs, I am sure they would not really protest.

Miss Mannes for some 10 years now has been on the staff of the Reporter magazine. She has a remarkable diversity in terms of interest and activities and background. Frequently we have seen and heard her on network radio and television. For a while she had her own television program. Her first novel was "Message From a Stranger." It had the good fortune to be reissued. Essays of hers were published by Lippincott in 1959, from articles in the magazine. In September, Lippincott is publishing Miss Mannes' latest book, "The New York I Know." She was the winner of the George Polk Memorial Award for radio and magazine reporting in 1958, and most recently was honored with a doctorate from Hood College.

Having spent the morning with us, I need not explain that this is not the committee that is studying the problem of television, Miss Mannes.

STATEMENT OF MARYA MANNES, NEW YORK, N.Y.

Miss MANNES. I am aware of that, sir.

Senator HART. We are very grateful that you have come, and we welcome your testimony.

Mr. WALLACE. If I may make a statement here, I think we should call attention to a very interesting article appearing in this month's Esquire Magazine which was written by the witness. I think it is called "The Sophisticated Man."

Is that correct?

Miss MANNES. Correct.

Mr. WALLACE. It is in this month's Esquire Magazine. So if anybody here would like to buy it, I would recommend reading it.

Miss MANNES. Thank you, sir. It is just another instance of deceptive packaging.

Senator HART. I see bachelors are still reading that magazine.

Miss MANNES. I am afraid, Mr. Chairman, compared to the previous two witnesses, my qualifications may seem dubious, because writers are notoriously considered unreliable, but I come here also as a housewife.

As a writer I sell words and ideas. They are not packaged. The buyer can see exactly what they are and pay what he thinks they are worth. As a housewife I buy what is sold to me. It is packaged. I buy it on faith. That is why, these days, the word "consumer" is sometimes spelled "s-u-c-k-e-r."

And that is why I stand before you here not as a writer but as a sucker—one of millions who wonder why so much money drains out

of the foodbag and the handbag every week, and who then forget about it.

Now, I have always believed that the majority of people were too good to be smart. Ever since we bartered a beaver pelt for 10 eggs, we have assumed that the eggs were fresh and the pelt was supple, for how else can decent business be transacted? Except for the relation between man and wife, nothing is more intimate than the relation between the buyer and the seller—and there would be neither marriage nor commerce if the fundamental basis of both were not trust. Without trust, a civilized society cannot endure. When the people who are too smart to be good fool the people who are too good to be smart, then society begins to crumble. I think this is what is happening now, and I believe it must be stopped before our integrity as Americans is chiseled away as fast as our dollars are.

What am I talking about? I am talking about certain practices in the market which manage to evade the spirit of the law while adhering by an eyelash to the letter of the law. I am talking about what happens when a housewife like myself goes to buy food for her family—and how she spends her money doing it.

And I am talking about the many small deceptions, most of them deliberate, which make a rational buying choice—the basis of free enterprise—meaningless. You can only choose when you know what you are choosing, and the plain truth is that much of the time we don't. That great American institution, the supermarkets—those gleaming palaces of convenience and bounty—have come to be the greatest exercise in planned confusion since the bazaars of Samarkand. If you don't believe me, climb into my pushcart and come around with me, shelf by shelf.

Need some applesauce for the baby? Pick up a few of brand A's new jars. They look just like the old ones. They cost the same. But do you know that the new jar has only seven and a half ounces of applesauce while the old one had seven and three-quarter ounces? No? You mean you didn't look at that fine print with your glasses?

Now, how about some breakfast food? Well, brand B's old box contained six biscuits and weighed 6 ounces, but when you open the new box which is exactly the same size, you'll find only 5 ounces of biscuits—a drop in contents of about 16 percent. Oh sure, they tell you what's inside the jar or box, but you need a slide rule to figure out the difference. And what housewife with a kid inside the cart and one at her heels can spare the time?

This is confusion No. 1: to make you think you're getting the same value in the same box at the same price when you're actually getting less. If you complain, the manufacturers say that they're saving you a price raise by reducing the contents. Can you beat it?

Confusion No. 2 is in sizes. This, I know, has been covered before, and I will try to collapse it. Know the difference between "giant" and "jumbo"? Between 2 ounce and a big 2 ounce? Between a quart and a full quart? What's a tall 24 inch? What does "extra long" mean? Who's kidding who? And what's the matter with simple sizes, like a pint or 2 pints or a quart or 2 quarts?

I'll tell you what's the matter. They're too easy to figure. You might know what you were getting. And that goes for the economy size too. What economy? If you stop to figure it out, half the time

the price per unit remains exactly the same regardless of size, and you save nothing. It just seems economic to us suckers.

Now, let's stop at detergents, where the giant sizes are. Well, with a box of brand C—these are actual brands, and I am not making these up out of my head as I have seen them, opened them, and examined them—"giant" means 3 pounds, 5½ ounces, but with brand D, "giant" means 3 pounds 1¼ ounces—but both boxes look the same size and cost the same price—77 cents. Are the ingredients of the one so superior to the ingredients in the other that 4 ounces don't matter? And how do you know it, anyway?

Let's move next door to the all-purpose liquid cleaners. With 69 cents you can buy 1 quart of brand E, or 1 pint, 12 fluid ounces of brand F. The shapes are slightly different but they look the same size. Do you know where the 4 ounces go? Do you care?

Want some soap pads? Well, you can buy a box of brand G or a box of brand H for 13 cents, but unless you turn the box upside down and use your bifocals, you won't know that there are only four pads of brand G compared to five pads of brand H. Care about one less pad? Half the time, the quantity of such products is printed in very small type or in a color that merges in the background. Sometimes it's even printed underneath the flap, and you can't see it until you open it. Do you see it even then?

Now, you would think that if packages were different sizes, they'd contain different amounts, but that's because you're congenitally dumb. Brand I, a table salt, is in a box 1 inch taller than brand J, another table salt, but each has exactly 1 pound and 10 ounces in them, and how are you to know if the first box is slightly thinner than the second one? Where was your tape measure?

Then there are the simple devices of not really filling the box or bottle. You open up a cereal, say, and you find an inch or more space on the top—slack filled, it's called. Or the liquid in a bottle has an inch or more empty space above it. And there's the business of using paper to wrap around crackers or soap and fill the loose space. The manufacturers will, of course, claim these are necessary for safe handling and so forth. But we're paying enough for outer space not to have to pay for inner space, too.

There's another good gimmick to confuse you—funny shapes of bottles that make any real estimate of contents impossible.

Then there are all those lovely phrases like the "new," the "improved," the "activated," the "super" and so forth. Don't they give you the impression that you were getting a better product, justifying a higher price? Well, half the time you aren't. These words are like the bells the scientists ring to make dogs salivate. You see the word "new" and you reach for it.

For now, you see, there is no salesmen any more to tell you what you are getting. In supermarkets, the package is the salesman. The more space he takes up on the shelf—(that's the reason for "giant" and "jumbo," not "economy")—the louder his letters scream at you, the sooner you'll notice him. But while he shouts "buy me" at you, he also talks doubletalk out of the side of his mouth. And while you put him in your cart, he picks your pocket.

Why? Because you're dumb? Because you're gullible? Because you're careless? Some of us are all of these. But most of us are simply too busy or too tired or too harassed to take a computer, a slide-

rule, and an MIT graduate to market and figure out what we're buying. And the makers of the goods we buy know this. In fact they know far more about us than we know about them. They have spent millions of dollars studying us—the consumer. They know what colors and what sizes and what shapes and what words we go for. Compared to them the Big Brother in George Orwell's "1984," who knows all and sees all, is a piker. The big brothers in our society today are not Government dictators—they are the sellers and their brainwashing handmaidens, the behavioral scientists. Together, and under the banner of "free choice" and "open competition," they have made us believe that we are getting what we pay for. Their purpose is that innocent goal of free enterprise—to make an extra buck. But when their profit becomes our loss, how innocent is that goal? And what is our loss?

Not much, you may say. An ounce here, a cent there, and what real difference does it make? Most of us have learned to accept the added charges of packaging and advertising and distribution along with the product. But must we pay for deception too?

Just take one figure—baby foods again. Remember the brand where you paid the same price as you used to but got a quarter ounce less food? Well, if your baby ate four jars of this applesauce or carrot puree a day, he would eat 24 pounds less food per year, without your knowing it. Do you care? Does it matter?

Maybe it doesn't. We are a spoiled and lazy and wasteful people, our pay checks were never higher and so what—that's the way business is done. A little less applesauce, a few less crackers, a few more pennies here and there, who cares?

But it isn't a question of applesauce. It's a question of morality. Little deceptions of single consumers can add up to a mighty deception of the whole people. You may only lose a penny here and there, but the loss in dollars sustained daily by American consumers who pay for more than they get is estimated to be greater than the staggering amount we forfeit to crime and corruption. But it's not sensational. It doesn't hit the headlines. And who is going to bring it to your attention? The press which depend on advertising? Television which owes its existence to products? The makers of the products? As Eliza Doolittle said in "My Fair Lady," "Not bloody likely."

Only those whose prime concern is people and not profit can tell us the score: Organizations like the Consumers Union and those agencies of Government who regulate the pure and basic world of weights and measures and law and justice, so that the exchange of goods is a transaction of trust.

But we, the public, have got to want to know the score. If we don't care, nobody else will care. Dishonest practices, because they succeed, will drive out honest practices, because they don't. In the end, our condition depends entirely on us. And I think at last we may be beginning to realize it.

The murmur of rebellion against these wide-spread deceptions and confusions in packaging is swelling daily. People are bringing their slide rules to market, they are taking a good look at what the package says and what it holds, they are beginning to write protests to the manufacturers who manipulate them. But still not enough.

We hear day in and day out of the revolutions that are sweeping the world. I think we are ripe for one here. And when you hear the

testimony that follows in this chamber, I believe you will think we are ripe for one too—a revolution of the American consumer against the manipulation of his mind and money by practices of packaging and labeling that empty his purse and his market basket while he is looking the other way.

So far the manufacturers guilty of these deceptions are not the majority; yet among them are some of the most respected brand names in the business. They will, of course, deny deliberate deception and produce any number of reasons which they consider both valid and legal for packaging and labeling as they do. But the evidence stands and the confusion mounts.

Ladies and gentlemen, consumers, we are being kidded. In the days of McCarthy, Elmer Davis said of those who tried to confuse our thinking, "Don't let them scare you." Today I would like to say to those who try to confuse our buying and our values, "Don't let them kid you."

And I kid you not.

Thank you.

Senator HART. I have a strong suspicion there will be very few here who will dare to ask questions.

Miss MANNES. Thank you.

Senator HART. While I regain my breath, I will ask Mr. Cohen if he has any questions.

Mr. COHEN. No questions. I would only like to say that we have invited Miss Mannes here today to act as an articulate voice for the American housewife and, without going into the packaging aspects of this matter, I am sure they will all be satisfied that they received full value this morning.

Senator HART. In the introduction of Miss Mannes I omitted what now must be clear. She is a housewife and mother, and, I am sure when she is in the marketplace, she is rarely kidded. I just have that strong suspicion.

Miss MANNES. Senator, you say that I am rarely in the marketplace?

Senator HART. That you are rarely kidded when you are in the marketplace.

Miss MANNES. Oh, thank you. Thank you, sir.

Mr. FENSTERWALD. Miss Mannes, do you think it would be proper to reprint your statement this morning entitled "The Decline and Fall of the Free Enterprise System"?

Miss MANNES. It is proper for any of you gentlemen to do what you think just, but I think that would be a slight exaggeration. I do think that there is a danger in that the slow chipping away is obviously not good for the system.

I do think there is a danger inherent which has been superbly brought out by Dr. Campbell and Senator Neuberger and bears very close watching. This, I am sure, you already know.

Mr. FENSTERWALD. Am I correct in summarizing what you said in that you believe that a large percentage of these deceptive practices are not accidental but are planned deceptions on the part of the manufacturers?

Miss MANNES. This would have to be in the realm of speculation.

Obviously, I do not know the motivation of the manufacturers, but it would seem too prevalent to be accidental.

Mr. FENSTERWALD. Thank you.

Senator HART. Any questions?

Mr. WALLACE. I enjoyed your statement very much. I just wanted to make clear one thing. On page 2 of your statement you discussed detergents, giant size, one being 3 pounds $5\frac{1}{2}$ ounces, and one being 3 pounds and $1\frac{1}{4}$ ounces. And you also discussed the difference in size of all-purpose liquid cleaners and the number of soap pads.

I take it from your statement that you would not want to regulate or try to tell a manufacturer how many soap pads he can put in a box, or how much he can put in a box of detergent. But, rather, the deceptive practice of not explaining in large enough sized print how much is contained in the box or how many soap pads are in the box or how many ounces of soap are in the box, that is your—

Miss MANNES. That is it, sir, yes. Also, I think that if you are going to use the word "giant," and obviously you cannot legislate on language, I think there should be some assurance that "giant," if they are going to use it, that it means the same thing, that it means so many ounces, because otherwise, really, the confusion is compounded for the poor housewife.

Mr. WALLACE. I suppose instead of 12 ounces being underneath the box or in small print, we would have a law which would require 12 ounces to appear in a large sized print.

Miss MANNES. In a conspicuous place, in lettering clear enough so that the average person can see it.

Mr. WALLACE. And if that were done, then, I would not think that we would need to worry too much about the puffing, so to speak, or the fact that a manufacturer wants to say this is a giant size or that it is an economy size, or use any other words he wants to use, as long as there is in big type right there how much is there. I would think that that would suffice. Maybe you had some views on that.

Miss MANNES. Well, it would suffice, but I also think, that perhaps some kind of standardization in weights and measures would be very desirable.

I think that it is asking too much of even the intelligent consumer to give her weights like one quarter, $13\frac{3}{4}$ ounces, you know. Why can't you have, you know, 2 quarts or $1\frac{1}{2}$?

I think that this is unnecessary confusion which borders on deception; that is all.

Mr. WALLACE. Thank you.

Senator HART. Mr. Chumbris?

Mr. CHUMBRIS. I have no questions.

Senator HART. You made a point that I think was mentioned earlier in the testimony, but I suspect we will hear it repeated through the hearings. There are not any retail salesmen in many of these stores any more and, except for the man at the cash register, sometimes it is hard to find anybody. This does, I think, dramatically explain why this presentation by package is most important.

I remember, as a boy, we would go to the store and we would talk to the owner. You would know the man and he would know you. Usually the product was given to you in a brown paper bag, and you knew what you had, based on his representation to you.

But today that function most literally is performed by the box on the shelf. This is why, I suspect, there is such concern that this

box speak as truthfully as we used to expect the neighborhood grocer to speak.

Miss MANNES. You put it in a nutshell, Senator.

Senator HART. Again, thank you very much for your testimony.

Tomorrow the witnesses will be Dr. Colston E. Warne, professor of economics at Amherst College; Dr. Ernest Dichter, president of the Institute of Motivational Research, and J. Lyle Littlefield, chief of the foods and standards division, who is with the Department of Agriculture of the State of Michigan.

It had been our plan, and we so announced it, that tomorrow we would hear from Thurston Clarke, the editor of "Food and Drug Packaging magazine." Unfortunately, he suffered an appendicitis attack and he cannot appear. His statement will be available either tomorrow or very shortly.

I should add that yesterday on the floor of the Senate, and again today to Mr. Fensterwald, the staff director of the subcommittee, Senator Kefauver explained that it was his intention to be here as soon as he had concluded the hearings of another subcommittee of which he is chairman, the Subcommittee on Constitutional Amendments. We have been advised that that hearing continues. Thus, Senator Kefauver was not able to be present.

If there are no further questions or comments, we will adjourn until 9:30 in the morning.

(Whereupon, at 11:35 a.m., the subcommittee recessed, to reconvene at 9:30 a.m., Thursday, June 29, 1961.)

PACKAGING AND LABELING PRACTICES

THURSDAY, JUNE 29, 1961

U.S. SENATE,
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 2228, New Senate Office Building, Senator Philip A. Hart presiding.

Present: Senators Kefauver (chairman) and Hart.

Also present: Bernard Fensterwald, Jr., staff director; S. Jerry Cohen, assistant counsel; Thomas C. Williams, assistant counsel; Peter N. Chumbris, counsel for the minority; Nicholas N. Kittrie, counsel for the minority; Dean W. Wallace, counsel for the minority; Daniel S. Greenberg, staff assistant; Paul S. Green, editorial director; and Gladys E. Montier, clerk.

Senator HART. The committee will be in order.

As indicated yesterday, our first witness is Prof. Colston E. Warne, professor of economics, Amherst College, and whose role here is more particularly that as president of the Consumers Union, Inc., of Mount Vernon, N.Y.

Doctor, you are very kind to come.

I don't know that there is much elaboration I can give to your background. I think that those in this field know you very, very well. I know that you have filed a statement with the committee, and I would like to ask whether you would be able to summarize it for us without losing the effectiveness of your statement. Your full statement will be printed in the record.

STATEMENT OF COLSTON E. WARNE, PROFESSOR OF ECONOMICS, AMHERST COLLEGE, AMHERST, MASS., AND PRESIDENT OF CONSUMERS UNION, MOUNT VERNON, N.Y.

Mr. WARNE. I will do my best.

Senator HART. Thank you.

Mr. WARNE. Thank you, Senator Hart.

I should explain to the committee that Consumers Union is a non-profit organization chartered back in 1936 under the laws of New York for the purpose of providing information counsel to consumers about goods and services and about the management of family expenditures.

Consumers Union publishes a monthly magazine, Consumer Reports, and issues, from time to time, other publications on related subjects. The financial support of the organization comes from its 900,000 members, subscribers and newsstand buyers of its publications.

Consumers Union accepts no support from any commercial organization. Consumer Reports carries no advertising. The samples used for testing are bought anonymously at retail.

In addition to testing and reporting test results on products, Consumer Reports provides information on other aspects of the consumers' problem in making the best use of family resources. Nearly every issue contains articles on such topics as drugs and health questions, economic matters as they affect the marketplace, and legislative and other governmental developments which consumers ought to know about for their own protection. A full and detailed description of the history and functioning of Consumers Union is submitted here.

Since Consumers Union is the largest organization in the United States devoted specifically to providing information for consumers, we also function as a center for consumer complaints as a byproduct of our activities. Letters from our readers constitute one of the broadest feedbacks of retail market experience that is available today. We at CU use these reader responses to guide us in the choice of material to publish. Not infrequently this flowback to us delineates problems in the day-to-day market experiences of individuals that have broad implications for the economy as a whole. This is to be expected. The assumptions that lie behind our free enterprise system rest on a single, vital, pivotal point; namely, the belief that the ultimate consumer through his free and informed choice will steer production toward the socially desired goal of the greatest good for the greatest number. Weighing his utilities with discernment the consumer shapes and reshapes the market. Thus, upon the sum of the myriad, tiny, directional nudges given by each final buyer exercising his consumer sovereignty, we all depend for insurance that our resources will be utilized with the best possible efficiency.

Sprawling reality, of course, has seldom if ever patterned itself in a glove fit to neat and tidy theory. Consumers have never been so wise as they would need to be to bear perfectly the burden of choice our economic assumptions have placed upon them. But to the degree that consumers do exercise rational choice in the marketplace, the use of our resources is husbanded. And, on the contrary, when the final buyer's ability to exercise rational choice is inhibited, our economic directional sense is confused and the threat of waste and malpractice looms larger. Thus, careless or irrational choice on the part of the consumer threatens not only the family budget but undermines the efficient and honest merchant by robbing him of those sales which by his competitive efforts he has merited. In short, when a consumer is a sucker, when he pays more than he need, when he chooses the worse not the better part, the efficient producer is punished while the inefficient is rewarded.

There is a widespread general sense that this is so. Advertisers, for example, frequently refer to a brand choice as a product vote. And Consumers Union receives a number of letters regularly, some from businessmen, complaining that corporate immorality is, indeed, the fault of the consumer. If consumers would refuse to buy the mislabeled, the slack filled, the deceptively packed goods, runs the theme of these communications, then and only then could honesty become the best commercial policy. Let me read you a recent letter—one that is

about the issue before this Senate Committee today—which comes from a reader in California. He puts it this way:

I would like to point out that the consumer is the main culprit in deceptive packaging. In a free economy the consumer is free to pick the pretty package or the quality product. * * *

Similarly we can build better appliances, garden hoses, etc., so the consumer can get more for his dollar. Some companies have even tried doing this. Most of them went broke.

In short, corporate morals lead to corporate death. The free economy which we enjoy dictates that only those who satisfy consumer demand will survive and prosper.

In short, drive home the message that the consumer has a major responsibility in this economy beyond his immediate and short-sighted self-interest.

I doubt if our correspondent, however, even though he may have been a reader of Consumer Reports for years, is fully aware of how the problem of rational choice, expanding at a geometric rate, tends continually to outstrip the ability of the consumer to deal with it adequately. Not because consumers are dumb or stupid; but because of the dynamic character of the modern economy. Modern industrial technology has, in a few short generations, sent a mass migration from the countryside into the cities, from agricultural and handicraft pursuits onto assembly lines and into giant distributive arteries. This rapid and profound alteration in a way of life, which changed us from a nation where 90 percent lived in rural areas to one where 90 percent now live in urbanized areas, wiped out a backlog of familiarity with goods that was based on custom and family lore. The grandsons of the farmer who sold as well as bought and used commodities in standard weights and measures no longer handle gallons, quarts, pounds, pints, ounces, pecks and bushels as part of their daily routine. And the granddaughters, who for a longer time used these standard weights in buying, now wheel carts along endless aisles in supermarkets stacked high with prepackaged goods. A way of life is eroding what was once a hard-won heritage, the widespread knowledge and use of standard weights and measures.

This is no need to elaborate for this committee the great significance of standard weights and measures in the development of orderly trade and commerce over the past 2,000 years. Nor is there need to call upon history to testify to the role that trade and commerce have played in the enrichment of Western civilization, or to evidence the debility that sets in when a civilization's trade and commerce is undermined by a loss of faith between buyer and seller. And there is not time here to describe how institutional controls have been devised over the years to foster these practices which build good faith—standard coinage, standard weights, standard terminology, commodity grades, standardized accounting, and billing, laws prohibiting misrepresentation, and so on. An emergent market practices have reflected changing techniques and methods, changing institutional controls have, of course, been called into play. But there is always a time hiatus between a new problem and its answer. During that time, the problem weighs heavily upon us. We are in such a time today with respect to practices in packaging. Fortunately, however, the time during which bad practice continues to drive out good in the field of packaging may be lessened by this committee's deliberations and by the angry awareness of a growing number of consumers over deceptive packaging.

In the whole of CU's 25 years there has been no single subject upon which we have received more letters than upon this. In the past year, for example, we have received about 500 letters. These are typically this-happened-to-me letters. Quite often they contain old and new boxes labeled (most inconspicuously) with the old and new weights and with the identical price stamped on both boxes. And the number of commodities complained about is wide. Though the letters bulk heaviest for such goods as detergents, candy, cake mixes, cookies, paper products, bread, and meat, the actual number of different commodities mentioned is over 100 and runs the gamut from baby food to liquor.

I would like to read you a few samples of these letters to illustrate how the consumer comes upon the problem and to indicate how he feels about it. This is one from Park Forest, Ill.

DEAR CU: * * * Not too long ago I purchased a glass container of X brand because our current supply was dwindling. I was attracted by the bright yellow splash on the label of what I thought was the 14-ounce size we normally buy, which read "New price 25 percent lower." When I returned home I was immediately startled to note that the jar was smaller than the jar on our shelf, and even at a cursory glance I could see that there was less than a 25-percent difference in the prices. A few minutes of somewhat disgusted calculation informed me that I had fallen for a baldfaced lie, amounting to 14 cents.

The new container held only 12 ounces instead of the usual 14 ounces, and sold for 67 cents, as compared with the 83 cents I had previously paid. Without repeating my calculations, I will only state that the price, even in the deceptive, smaller container, at the advertised reduction, should have been 53 cents. Knowing that prices are usually determined by the retailer according to a relatively fixed percentage, I blame the manufacturer for the lie, rather than the retailer.

I cannot decide which is worse to be cheated out of 14 cents by a glaring lie, or to be subtly deceived by a change in the size of the package. Both are outrageous and certainly ought to be subject to legislative action * * *.

This is a letter we received from Sacramento, Calif.:

DEAR CU: The enclosed tag for a macaroni product is an example of the "14-ounce pound." The recipes on the back speak of "1 pound," while the front label reads "14 ounces."

The next one came from Bridgeville, Pa.:

DEAR CU: Until now deceptive packaging hasn't affected me too much because I've been able to change brands whenever I've felt that I was being gypped. But I've been taken by a product I've used for 10 years—X brand for automatic washers—now put out by Z company.

It has been 10 pounds for \$2.65 for a long time and often was packed in a box marked "—¢ off" (from 10 cents to 20 cents). Obviously they had a problem.

August 16, I bought X brand in an attractively redesigned box (very nice) with finally a regular price stamped \$2.45 and a free measuring scoop inside. At home I noticed the new X brand is labeled "jumbo" and measured 12 inches by 8½ inches by 4¼ inches. The old box is 11½ inches by 8½ inches by 3¼ inches. But the jumbo box only holds 9 pounds 13 ounces net weight. This includes the scoop.

The new X brand had a fresher smell so I read the information on the box for an explanation. I found new instructions to use more X brand per load of wash:

New—about one-half cup per load.

Old—about three-eighths cup per load.

In effect I had bought a larger more attractive box containing less X brand and a "free" measuring scoop (to make it easier for me to use more X brand per load) at a higher price per pound. I wonder what they will fill the box with when the supply of scoops runs out.

I'll continue buying the product because I've tried others and found X brand works best in my washer.

However I'm unhappy with the feeling that somebody planned to put something over on me without my catching on. It's degrading and I don't understand the reasoning behind it at all.

And here is one from Milwaukee, Wis.:

DEAR CU: One method of packaging especially irritating to me is the recording of net weight in obscure locations and in fine print. A typical example which I believed would make a better case in court is the instant mashed potatoes package which appears twice the size of its competitors', yet on closer (much closer) examination, one finds less net weight by 5 to 10 percent.

This one came from Los Angeles, Calif.:

DEAR CU: Could you possibly do something about the weight of bread? Recently I went to the grocers to buy a large loaf of bread. One brand cost 31 cents and one brand cost 32 cents. I have always bought the 31-cent loaf (they measure the same size in height and length). This day I looked for the weight—extremely difficult to find, I might add. The 31-cent loaf weighed 15½ ounces. The 32-cent loaf weighed 1 pound 6½ ounces. Since both loaves were the same size, I definitely feel this is deceptive packaging—similar to the example of some cake mixes which are put out in the same size boxes but contain much less cake mix.

The package changes in cake mixes, by the way, as I mentioned earlier have drawn a large number of letters. And consumer complaints about this product are seconded by such professional observers of merchandise as the Hyde Park Cooperative Society, Inc., of Chicago, Ill., one of the largest consumer cooperatives and also one of the largest single supermarket grocery stores in the Chicago area. Miss Barbara Goede, home economist for the Hyde Park Cooperative, submitted to CU a report to be used in testimony before this committee which read in part:

Brand X cake mixes—Two-layer devils food, and so forth, has dropped from 1 pound 4 ounces to 1 pound 3 ounces * * *.

Brand X—Plain angel food cake mix changed from 1 pound 1 ounce to 15 ounces * * *.

Brand Y—Plain angel food cake mix from 1 pound 1 ounce to 1 pound.

Prices on these products did not go down. The price either remained the same with the reduced weight or the price increased * * *.

Brand Y now carries single layer cake mixes for banana-nut, chocolate-nut and date-nut cakes. The boxes of these new mixes appear at quick glance to be the same size as their 2-layer cake mixes. But the brand Y single layer cake mix boxes hold a good deal less * * *.

The two-layer cake mixes sell for 39 cents; the single layer brand Y cake mixes sell for 39 cents. * * * I have had many complaints from homemakers who shopped in a hurry or with impatient children and took a single layer mix expecting to get 2 layers because the box seemed to be the same size as the regular two-layer cake mixes * * *.

Here is a letter we received from Baltimore, Md.:

DEAR CU: I have been a consumer of X brand cereal for the past 56 years, rarely missing a single day. (I like it.)

I recall they used to be manufactured by the Z company before the Y company took them over * * *.

I had misgivings at the time this transfer took place, insofar as it concerned my breakfast food, and subsequent happenings have verified my intuition.

First and foremost were the gradual price increases to the consumer. Now, as of April 15, I note a change in packaging, a reduction from 12 ounces to 10¼ ounces * * * for the same price, which constitutes another price increase.

I resent and protest this rape of the public's pocketbook, though there is little I can do about it. I most certainly shall institute a one-man boycott against all Y company's products which is the only way in which I can retaliate for the injustice I feel has been done.

Here is another letter from Milwaukee, Wis.:

DEAR CU: * * * While on a recent grocery shopping trip, we had occasion to purchase some X brand cucumber pickles. We noticed that these pickles were being marketed in a new bottle very similar in size and shape to the old

bottle. As there happened to be one of the old bottles still on the shelf, we compared the two bottles to see if they were the same as to net contents. Alas, the price was the same as the old bottle but the net contents were less. The old bottle contained 15 ounces and the new bottle contained $13\frac{3}{4}$ ounces. Needless to say, we purchased the old bottle but in the future we will be forced to purchase the new bottle containing less pickles. The decrease in net contents in this case surely is not great but more than likely Y company will reduce the net contents again in the future. The small decrease was obviously small so that the consumer would not notice it. I am sure we would not have noticed any decrease in net contents had there been no supply of the old bottles on the shelf.

Almost invariably, when a new package appears on the grocer's shelf one can assume that it will contain fewer net contents than the old package, at the same price. Often times a manufacturer will come out with a new package at a different price but when one compares it with the old package, on a unit price basis, the new package is always more expensive. I personally find the latter situation more prevalent than the former. The situation is getting so bad that a person almost has to carry a slide rule to the store with him in order to determine which package of a given size to buy.

In a number of instances our correspondents have also written to the manufacturer concerned and have sent us the letters they have received in reply as well as their own complaints. Let me read you a few samples of what the manufacturers have answered.

This one is from a large food company which also makes candy.

DEAR SIR: We appreciate your letter * * * concerning our recent package change on X caramels * * *.

In the candy business the 9's—19 cents, 29 cents, and 39 cents—are considered the most acceptable consumer pricing range and for many years we have produced a 1-pound net weight bag of caramels and attempted to so price this product that it stayed within the 39-cent price range and still afforded us as manufacturers the profit necessary to conduct our business and the retailer his normal profit. This 1-pound package was packed in a cellophane material that did not keep the product as well as some of the newer films * * *.

This finding made a complete repackaging program, involving modifications and additions of machinery, in all of our confection plants necessary, plus a higher cost for packaging materials than we incurred in the old pound bag. As a company we had two choices: One to reduce the net weight of the bag to correspond to the retail price we hoped to achieve, or two, to continue marketing the pound bag and increase the retail price to 42 or 43 cents. As you probably know, there has been considerable publicity connected with the increase in food prices, and we felt that our established customers would prefer, first, to have a fresher caramel and, second, to have slightly fewer pieces rather than have to pay a premium and this dictated our change from 1 pound to 14 ounces.

I might further add that we found it necessary in some of our products to reduce even more than the 2 ounces in the caramel pack. In the case of Y brand candies, we reduced from 15 to 12 ounces, and we are also experimenting with a lower net weight unit of caramels for sale at 29 cents in some test markets. * * *

The consumer who sent us this letter felt insulted as well as injured, he wrote, because it appeared that the Z company thought he would not understand that a drop in quantity at the same price was a price increase.

Mr. CHUMBRIS. Professor, would you mind a question at this point?

I raised that same question yesterday with Miss Campbell. I notice in this morning's paper a statement by Paul S. Willis, president of the Grocery Manufacturers of America. He points out that when a manufacturer is forced to change his prices to offset rising costs, he has the option of doing this in several ways—he can increase the price of his regular package or he can decrease the size and the contents proportionately and thereby retain the old price. This freedom to ad-

just the price in package sizes is basic and must be preserved under our free enterprise system of business. As stated, there is nothing wrong with it, legally or otherwise.

You have given the view of the consumer. How do you personally feel? Is it wrong for a manufacturer who is faced with a cost increase and who doesn't want to initiate a price increase for various reasons—and in your example he explained why he didn't do it; instead he reduced the size or the content.

Is that basically wrong or what can Congress do about that?

Mr. WARNE. It is wrong and deceitful to do it. The point that runs through all these letters that have come into us is that where a manufacturer sneaks in on a back corner in exceedingly fine print the statement of a reduced amount and uses motivational research techniques to make the package look far larger than it is and, somehow or other, a couple of ounces disappear in the procedure, this constitutes a straight deceit. It is that I object to.

I think that in a free market there will inevitably be price switches, but the redesigning of packaging is a very costly undertaking. This isn't something that is done very quickly and where it is undertaken by a great many of these concerns, it does seem as if the purpose falls short of being aboveboard.

Mr. CHUMBRIS. Let's take it from this point of view. A person goes to the market and buys meat and finds out that the price of meat might have gone up a penny or two a pound, either in chickens or in beef or in pork. He notices that there has been an increase in milk of 1 cent a quart; eggs go up, too. He goes to buy a can of peas and the price remains the same but the content of the can is smaller.

Mr. WARNE. Let's take milk. Would you expect that, if the cost in milk production went up, it would be a very good idea to drop below a quart level and sell smaller quarts, so to speak? Is that a good way to tackle it?

I think our dairy laws protect us against this. We sell by quarts, gallons, and so on.

Now this business of constantly shading into unstandardized sizes is bad. I have a report here from California dealing with detergents where the consumer is running into every size from 16 pounds, 20 pounds one ounce, to 25 pounds 3 ounces, and so on. Apparently, many manufacturers have an expectation (and a realization) that the typical housewife pushing a cart down the supermarket aisle doesn't read labels carefully and that if concerns can bury the product weight somewhere on the rear and thus comply with the existing law, then they can continue to have the market, even though they have upped the price in a method that to me does not seem to fulfill the requirements of honest business practices.

Mr. CHUMBRIS. How would you legislate on that?

Mr. WARNE. I have toward the end of my statement, a tentative idea. I think this committee ought to secure a wide variety of suggestions. One proposition would be that of prominent labeling, having, for example (and I think this is a Canadian proposal) the net weight stated on the face of the package in type that is as prominent as the largest type on the front. That is, make the weight stand right out so that a consumer knows how much that package contains.

Of course, I think there also could be some sprucing up of slack-filling requirements so that packages aren't engineered too much to

look twice as large as their competitors and yet be so slenderized that they contain no more.

I also think that in a wider range of articles we could reach agreement as to standard sizes under competition. That is already done in a great many fields.

It applies, for example, today in alcoholic beverages, in the milk industry and it could be applied elsewhere. There is no good reason to drop from 8 ounces to $5\frac{3}{4}$ ounces and get off into the complexities of mathematics as we are doing.

Mr. CHUMBRIS. Well, then, would you go so far as to say that the Congress should pass a law that in interstate commerce, all cans should be only of certain varieties, 6 ounces, 12 ounces, and 1 pound?

Mr. WARNE. No, I wouldn't.

Mr. CHUMBRIS. And then should the law say that boxes should be 1 pound or half pound and get away from this $15\frac{3}{4}$ ounces, for example? These are examples that have come up in the last 2 days. We have to get some kind of rationale on this point if we are going to have legislation.

Senator HART. If I could suggest, let us get a record on which this committee in the months ahead can base an opinion. We will have placed in the record the article that you just asked a question about.

Mr. CHUMBRIS. Yes, sir; it is on page 51 of the transcript of yesterday at the end of Miss Campbell's statement.

Mr. COHEN. I might say we have received a letter from Mr. Willis which embodies his full statement and is a little more comprehensive than the article. We might put the whole statement in.

Senator HART. I suggest that we insert that statement instead of the article.

(The statement referred to may be found on p. 162.)

Senator HART. Before we leave, I think we ought to make pretty clear even though we are very, very early in our study that there is no disposition that I am aware of to prevent price adjustments. I am sure we don't want that impression to develop here. We want the economy to remain flexible in that regard. This is what concerns me.

Mr. WARNE. Yes, I understand.

Senator HART. But when we do it, let's say we are doing it; let's explain, so without the need for 20-20 eyesight, we know that the content has been adjusted downward.

Yesterday, we commented that no longer in many of these markets can you find a clerk to consult. You can find a cashier but your salesman now is the box on the shelf. You commented, Professor, that a generation ago most of us were on the farm and we knew the storekeeper and we could talk to him. He talked to us and when we left the store we just had a paper bag but we knew what was in it. It didn't have a label in many cases. We knew exactly what we were getting, how much we were getting, and how much we paid for it. We talked about it to the shopkeeper and he knew we would be back tomorrow if he treated us fairly today.

But today you are talked to by the label. That is the only consultative arrangement available in many places. We should make sure that the label tells us the truth, the whole truth, and not in a way that requires you to be a skilled cross-examiner to find out. That is the point I would like to establish.

We are not proposing somehow or another that Congress can pass a magic wand to regulate prices. All we ask is that we be certain that when the adjustments are made, the buyer is told of them.

Mr. WARNE. I quite agree with you. In fact, I think it might be dramatized this way.

For example, in California our report suggests that beer comes in 11-ounce cans and 12-ounce cans, and so on. Where you have a lack of standardization in sizes, the price flexibility that is essential to the system does not work with perfection. Competition gets over into this question of who can cloak a decline in size of can or container. Today this sort of thing applies to many highly varied lines. It is a very difficult problem and certainly we would not wish to eliminate the price flexibility. That is a cardinal point in our system. We should like to eliminate deception.

Mr. CHUMBRIS. I just want one further illustration. I would like to get this point clear. Yesterday, for example, there was an illustration—one can is $13\frac{3}{4}$ ounces and let's say the price is 39 cents. Another man comes along with another can of the same product with $14\frac{1}{4}$ ounces. And let's say he charges 41 cents. The question is, Do you have to carry around an individual slide rule to figure out which is a better buy?

Let's say I am a smaller manufacturer and I make peas. I want to compete with a man who has $13\frac{3}{4}$ -ounce cans. Now I am giving you my own thought on this. How can I best compete with this man with the $13\frac{3}{4}$ -ounce cans if I used the same size can as he did and where I wouldn't get much attention, but if I put size $14\frac{1}{4}$ -ounce cans alongside of his, I will get that buyer to think which of those two to pick. Right away I am projecting my unknown product against a trade name.

Is there anything wrong for a man to think along that line in our competitive system?

Mr. WARNE. I wish there were many illustrations of an upward bidding of contents as a method of competition. If there were, this problem wouldn't be before us in this room today. Actually, it seems to be like the old British pound sterling which started out with a certain weight and with the nibbling away of monarchs, came to be a much smaller coin. Today, in weights and measures, we somehow aren't encountering 16-ounce pounds. We aren't encountering 8-ounce packages. The nibbling is downward—it goes to 8, 7, to 6 ounces. I don't know where we are going to arrive ultimately as this continues. Competition in many fields is competition in deception rather than competition in price. The deviations in size are not deviations for the purpose of serving the consumer. Some companies are trying to sneak by on that supermarket shelf with a smaller quantity of goods at an effective higher price per ounce.

Mr. CHUMBRIS. But you don't bear in mind the manufacturer's point of view. He has a choice of either raising the price or lowering the content. For his specific reasons, which he has a God-given right to do under the American way of life and the competitive system, he has a choice of doing one or the other. You keep saying it is deception and you don't give him any credit at all for any honesty in his judgment, as to why he prefers to lower content rather than raise the price. I think we ought to get that point pretty well straight at this point. You don't give him any credit whatsoever.

Senator HART. Let me make it straight right at this point in the hearing. We are not denying him the right to adjust his prices.

Mr. WARNE. That is explicit.

Senator HART. Let's make it equally clear that when those changes are made, let them be noted by any reasonably gifted person.

Mr. CHUMBRIS. I agree with the chairman 100 percent.

Senator HART. Now let's continue with the testimony.

Mr. WARNE. Now here is an even franker description of this policy of packaging to price. This letter is from one of the very largest breakfast cereal packer and cookie manufacturers:

Dear Sir: I have received your recent letter commenting on the packaging of our products. * * *

Although we do not set retail prices, we do control the wholesale price to the retailer. And in doing so, we can exert a little influence in what the final retail price will be.

Note that today, most food products sell at 19 cents, 29 cents, 39 cents, and so forth. This is what is called a psychological price, and people will buy items at 29 cents when they won't buy at 28 cents, 38 cents, et cetera, even if the price is cheaper.

Now, if we are going to try to price in a way that the retailer can finally come out to 29 cents or whatever, we can only put so much product into the package. In short, as a manufacturer, we begin by figuring what kind of a retail price we can get, and we work back from that point to determine what weight of product we can put in the package. Not only do we do this, but every other company in the grocery business does the same. * * *

Here is the nub of the matter. Note that this prominent manufacturer states flatly that not only does Z company merchandise its products by packaging to price but that "every other company in the grocery business does the same." When you tie that observation together with another; namely, that the net weights contents on most food packages are so placed, and in such a size and color of type, that they are all but impossible to find, you can readily see that it becomes quite difficult for the consumer to exercise his major responsibility to the economy by buying rationally.

One of the quite surprising things about the samples of letters from manufacturers that have been sent in to us, is how far removed from the consumer point of view these makers of consumer products appear to have drifted during these last boom years. Repeatedly some such sentiment as this appears:

DEAR CONSUMER: We are sorry you are unhappy at the change in product but, you see, either we had to raise the price of the product or filch a few ounces out of your package, and we decided to do the latter.

There are some cases, however, where the manufacturer places the blame on the retail trade. Here is a letter from an English importer of marmalade whose jar size was recently dropped from 1 pound to 12 ounces:

DEAR SIR: We are sorry you have had reason to complain, particularly since you are a regular user of X brand products, but we must point out that you have been misled in thinking that the product is being marketed by us at the same price as the old 1-pound jar.

We changed our pack for X brand because the former pack was old fashioned and the cap hopelessly out of date. It was difficult to remove and almost impossible to replace to give an airtight seal.

The new pack, however, has a cap which does give a completely airtight seal and yet is easy to remove and reseals again efficiently. The container itself has a reuse value in the home. More and more American domestic manufacturers have changed to the 12-ounce pack and a survey showed us that most consumers prefer this slightly smaller size.

We have no doubt that you approve of the new pack and the new seal but object to the price. May we assure you that although we and our agents in America have reduced our price for the pack and are doing our utmost to prevail upon the chains to reduce the consumer price in proportion, there is no reason why they should not make this reduction and we hope they will all do so shortly. * * *

Please believe us that there is no intention at all of deceiving our customers and in fact we placed the indication of the weight of the contents of the jar on the label instead of on the cap to insure that it should be more clearly visible while on the shelves to an intending purchaser.

We have asked our agents to send you some jars which we would like you to accept with our compliments and which may keep you supplied for a little while until we have succeeded in our efforts to persuade the stores to pass on to the customer the reduction in price which we have made. * * *

Lacking the support of informed consumers, the honest packager cannot be expected to withstand the inundation. That is why we at Consumers Union have been somewhat surprised to hear from some manufacturers and trade associations that the articles which have appeared in Consumer Reports on this subject in the past year are damaging to industry.

To us it appears that consumer awareness of this problem cannot do other than help industry to help itself. More than that, it seems to us that until our readers spoke up, industry was not fully aware of the extent to which package manipulation had developed on the marketplace. Certainly, we at Consumers Union were unaware of the situation until we began, 2 years or so ago, to get an increasing number of letters of complaint about changes in package sizes without corresponding changes in prices. In order to gain a further insight into how much interest there was in such deceptive packaging, we included that topic in our 1959 questionnaire.

Consumers Union charter requires that once a year subscribers and members be circulated with a questionnaire through which the management of the organization may be more fully informed about what readers want in the Reports.

These annual questionnaires of Consumers Union constitute one of the single largest samplings of consumer opinion on specific consumer problems in the country. More than 150,000 subscribers respond by filling out three pages of answers to detailed questions.

One section of the questionnaire each year lists topics and asks readers to check one of three boxes with respect to each topic. These topics include both products and problems, such as: automobiles, advertising, electric appliances, health and medicine, sports equipment, furniture, selling tactics, food, credit costs, and so on. The three boxes to be checked are labeled "More Emphasis" (in the magazine) "Same as Now," and "Less Emphasis."

In the 1959 and 1960 questionnaires, the topic "Deceptive Packaging" was included in this fairly lengthy list of subjects of interest, and each time the vote for "More Emphasis" on this problem was higher than that for any other subject—much higher.

For example, in the 1959 questionnaire the response on electrical appliances (always one of our most popular reports) was a 40-percent vote for "More Emphasis." On "Deceptive Packaging," however, the "More Emphasis" category was checked by 54 percent of those answering the questionnaire. In 1960, the "More Emphasis" vote remained a high 52 percent.

Although the extent of the problem and the widespread interest in it seems to us at Consumers Union to be overwhelmingly evident, we

have heard comment, both from industry and from some other sources who should know better, that might be summed up in the flip phrase, "So what?" All right, so there is an ounce less in the liquid detergent bottle, a half-ounce less in the baby-food jar, $1\frac{3}{4}$ ounces less in the cereal box, 4 ounces less in the dishwashing machine detergent, 6 ounces less in the cooking-fat can, so what? Who cares? Who is going to worry about an ounce here and an ounce there?

You gentlemen are aware, I am sure, that the average family spends something close to 30 percent of its income in the grocery store. But let us take just one category, grain products. The per capita consumption of grain products in the United States is 148 pounds a year. Multiply that by the total population and our annual domestic consumption of grain products amounts, roughly, to more than 30 billion pounds a year. One ounce taken from each of those pounds provides a total of 1.9 billion pounds—a husky haul.

And supposing those pilfered pounds were worth only 1 cent each; such a haul would bring in \$19 million. Or put it another way. The total domestic expenditure for food amounts to a rounded estimate of \$85 billion a year. One percent, one one-hundredth, of that is \$850 million. That is how a multiplied hundreds of thousands of packaging nibbles—just an ounce from a package—mounts up to big-time money.

A newspaperman once told me that he and a lawyer friend spent many long evenings during the depression days over 3.2 beer contemplating this intriguing question: Could the two of them figure out a way to take from each American family just 1 penny a year—a sum the family would not miss but would make millionaires of the two of them?

Times improved and the interests of these two schemes were turned into less exhilarating channels. But the scheme they failed to devise has been perfected and the payoff upped. We witness it in operating daily on supermarket shelves and what it actually costs each American family cannot be calculated. It is surely a good deal more than a penny a year. But whatever the cost may be in dollars and cents, there is a greater loss that cannot be figured in money—the loss of confidence.

These dealings we have with each other on the marketplace, these daily work-a-day relationships, wield an often unseen but profound influence over our lives, our values, our social integument. No large social group can long tolerate, with impunity, the loss of good faith and good will between and amongst its various members.

The tons of bewildered outrage that marked so many of the letters we received was, we feel, a response proper to the provocation. "I know it was only an ounce and three-quarters," wrote another reader, "but we must begin somewhere, mustn't we?"

Consumers Union would like to express appreciation to this committee for making a beginning. The problem can be solved. The social engineering required is not elaborate. It may be tedious to work it out. But the goal of fashioning institutional controls to restore a sense of equity in quantity to the marketplace is surely one worthy of serious consideration by the Congress of the United States.

(The full prepared statement of Professor Warne may be found on p. 166.)

Senator HART. Thank you very much, Professor. You have emphasized the point that was made to us yesterday and that we hear time and time again. It is a point that the housewife who is putting down a few pennies at the supermarket rarely thinks of, but actually, the significance of her gesture in putting down the few pennies has a basic and enormous effect on the American economy. This choice that she is making, as we were told, and I hope I am phrasing it correctly, determines who will and won't survive in business.

Mr. WARNE. Yes.

Senator HART. It is as simple as that.

I hope in addition to making it easier for the consumer to avoid being nicked at the store, that we will make it easier also for the honest producer to survive. If he puts up a box that the buyer can immediately understand the volume therein, and he is competing against a box that obscures almost completely and yet stays within the letter of the law, the obscure box takes away the customer from the more honest box and then survival is jeopardized for the more honest merchant.

When we undertake to make it easier for the consumer, we are also making it easier for the honest merchant to prosper. The effort I think serves both.

Mr. WARNE. That is very well stated.

Senator HART. Mr. Cohen?

Mr. COHEN. No questions.

Senator HART. Mr. Williams?

Mr. WILLIAMS. No questions.

Senator HART. Mr. Fensterwald?

Mr. FENSTERWALD. One or two questions, Mr. Chairman.

I would like to ask Professor Warne his views on the effect of deceptive practices in packaging on competition. As I understand it, what he is saying is that we have not so much a lessening of competition but rather a change in the basis on which the competition takes place, or to put it another way, certain packaging techniques resulting in a replacement of competition based on such things as price and quality by competition based on deception. Is that roughly your position?

Mr. WARNE. Yes. A new and unnecessary variable has been introduced in the equation. Products do have differences and we all cherish a multiplicity of products and feel that there is a great value in having competition between products, both in price and in quality. But to introduce an unnecessary variable into the picture with techniques which shade off into this area of deception; that is bringing this revolt of 1961 which is becoming a national issue. This brings floods of letters to us; others have also reported the same interest. This reflects a problem for which a solution must be found.

Mr. FENSTERWALD. One more question. Could you tell me whether the Consumers Union favors the establishment of a Federal Department of Consumers as has been proposed?

Mr. WARNE. Yes, but we have not taken an active role in pressing for this. We are fundamentally a testing group, a nonprofit group which does not engage in lobbying. We do feel this is a good idea, but the nature of our structure and organization is such that we cannot emerge in a lobbying position, but we have very much welcomed Senator Kefauver's idea.

Mr. FENSTERWALD. Thank you, Mr. Chairman.

Senator HART. Mr. Chumbris?

Mr. CHUMBRIS. Professor Warne, it seems to me that perhaps what could come out of this hearing is to make the consumer as conscious of content as he is of price.

Mr. WARNE. I hope so.

Mr. CHUMBRIS. If he is as conscious of content as he is of price, then there wouldn't be any deception if the producer lowered the content rather than raising the price for the same content. It would work either way. In other words, if I was as conscious of the content as I am of the price, it wouldn't make any difference, because the minute I bought a can of peas and I saw there was 6 ounces instead of 8, I would be just as conscious of that if I had to pay 35 cents for it instead of 33 cents. So that would take the deception out of it if we were as conscious of content as we are of the price.

Mr. WARNE. If content were clearly stated.

Mr. CHUMBRIS. Yes.

Mr. WARNE. And if the alterations in content did not proceed at such a pace that consumers could not really keep check. I think life is so complex that we can't very well be expected to check every last can on the shelf to see whether it is one-quarter ounce below the next one.

Now there are certain fields of common purchases where standardization of the content has already been prescribed and I think this could be expanded in quite a few fields.

Mr. CHUMBRIS. That applies to price also.

Mr. WARNE. No, not price.

Mr. CHUMBRIS. I go to market every Saturday and I can't remember from one Saturday to the next whether I paid 33 cents or 35 cents a pound for chickens at the chainstore or two cans for 37 cents or two cans for 35 cents for the same make. They vary. It depends on whether there is a sale going on or the time of the season. You buy eggs one day for 67 cents and the next day for 65 cents. As it gets closer to the egg season, they might drop to 55 cents a dozen. So the prices change more than the content.

Mr. WARNE. Yes, I would expect that and I think the whole drive of this revolt I have referred to is against the deceptive decline in contents, with the purpose in mind of hiding price increases. I hope that the Congress will come up with some provision to compel contents to be stated very conspicuously.

Mr. CHUMBRIS. I don't want to belabor the point, but I think the letter which you received which is on page 3 of your statement, in short, drives home the point that the consumer has a major responsibility in this economy beyond his immediate and short-sighted self-interest; that could be repeated over and over again to clarify some of these problems.

Mr. WARNE. I agree with you the consumer has responsibility.

Mr. CHUMBRIS. And so does the manufacturer.

Mr. WARNE. The manufacturer has the responsibility not to make the pitfalls for the consumer. That is part of the problem. The consumer can carry his share if an already difficult situation is not made worse by a deliberate manipulation to try to cloak quantity changes.

Mr. CHUMBRIS. Because in your statement you refer to the downward nibbling of ounces from 16 to 15 and 14.

Mr. WARNE. Yes.

Mr. CHUMBRIS. Also, there are many people in Congress who are concerned about nibbling away our rights in many ways and sometimes in trying to protect a consumer he is giving up a right that may be far greater. I am reminded of this quotation from the Bible: "What good is it to gain the world if you lose your soul?" Which of the two is greater?

Mr. WARNE. I don't think any consumer loses any rights, for example, in having standard containers for milk or alcoholic beverages.

Mr. CHUMBRIS. But it does if we have over-legislation. That is the point I am making.

Mr. WARNE. It is all a question of what the legislation is dedicated to.

Senator HART. You wouldn't have had that standard container without legislation.

Mr. Wallace?

Mr. WALLACE. Professor, do all the letters you have been getting from these people indicate that maybe there are some housewives who aren't getting deceived?

Mr. WARNE. There are some wise housewives in this country. Many of them belong to the Consumers Union.

Mr. WALLACE. If everybody belonged to Consumers Union, we wouldn't have the problem then.

I understand your true objectives, as I see from your statement, first, to have some standardization in weights and measures, and secondly, to have more conspicuous labeling as to what is contained in the weights and measures in the package.

Mr. WARNE. Yes.

Mr. WALLACE. What would you do with the problem of tie-in sales? Suppose there is a tube of tooth paste selling for 69 cents in one size, and with that 69 cents size there is a tube of shampoo and maybe it is five-ounces and maybe the shampoo is seven or eight fluid ounces and right next to that tooth paste there is another tooth paste that sells for 89 cents and it is only tooth paste but in a six-ounce size.

I seems to me that you still would have a problem because if the housewife is going to determine if she is getting her money's worth, she is going to run over to the other side of the grocery store and find the shampoo that she would have bought separately and figure out from that whether or not she is getting a bargain or not.

In other words, I think that it may be somewhat impossible to legislate to correct everything we are talking about here. I think a tie-in sale is a good example of that. What would be your views on that?

Mr. WARNE. I quite agree. This sort of thing has become a part of our tradition. We have complexities of marketing but so long as an accurate presentation is made, I think it is all right. I think the Federal Trade Commission has rules on asserting that something is "free." So long as it is accurately presented, the consumer would, I hope, be able to size up the situation.

But my main interest here this morning is merely in the inaccurate disclosure of what the consumer is buying and, hopefully, the preven-

tion of this kind of nibbling process that has gone on subrosa until this consumer revolt emerged to bring it out in the open.

I think that this very hearing that is being held this week may help to save American consumers millions of dollars by causing them to read their labels and to bring also a feedback to manufacturers.

Senator HART. I wonder if I could interrupt for just a moment to express appreciation to the very busy chairman of this subcommittee who hasn't had an opportunity to join our session before this.

You were just a moment too late, Senator Kefauver, to hear Professor Warne speak well of your proposal for the consumers.

Senator KEFAUVER. Thank you, Mr. Chairman. I am sorry I haven't been able to be here all the time. I have to be at hearings scheduled before the Constitutional Amendment Subcommittee and was unable to get anyone else to come take over for me. But I do want to congratulate Senator Hart and the staff working with him on the excellent preparation and arrangement for this useful and important hearing which he is conducting. I express my appreciation to him for taking the lead. It is good to see Professor Warne again. We will get you back to talk about the Consumers Department some time.

Senator HART. Thank you very much, Mr. Chairman.

Mr. WALLACE. I was just going to make this observation, Professor. On this problem of packaging, there may be many facets to it that we, at this point, do not have particular information on. I noticed yesterday one of the witnesses complained about the number of layers of cellophane around a certain type of product and the fact it was not filled up to the top.

As I understand it, there are many problems of protection of the product from moisture and spoilage, and the fact that it is laying on the shelf for maybe 6 months or in the warehouse and the fact it maybe isn't filled up is best for the product. Maybe there should be an air space or vacuum space, or whatever it might be.

I am not saying this is true, but I think probably we should have appear before the committee some people who are experts on the matter of packaging and get their viewpoint of why some of these packages are made the way they are.

Mr. WARNE. Yes. Well, I think the Food and Drug Administration is taking action to seek to lessen deception through slack filling.

The law does, I think, cover this point, but the problem has been one of adequate staffing and I don't doubt a case might be made for your airspace but I would start with a certain element of suspicion when slack filling is substantial.

Mr. WALLACE. That is all I have.

Senator HART. Mr. Kittrie?

Mr. KITTIE. Professor Warne, as you realize, the subcommittee is just beginning its work. It is trying to find out the facts. In your testimony you made reference to three particular solutions which are all very interesting and as indicated right now, some of these solutions would have to be examined more carefully.

You made reference to the possible need for standardization of containers. You made reference to slack filling, and then you made reference to more conspicuous labeling.

Mr. WARNE. Right.

Mr. KITTRIE. As far as slack filling is concerned, apparently this is a rather technical question and the subcommittee will have to go into it. On standardization of containers, again there may be all kinds of arguments. The main argument may be that the manufacturer should be free to decide what size container he wants to put his product in.

But what I do want to concentrate on and get your opinion on is this point of conspicuous labeling. Is there any reasonable objection to adopting a rule which would require the contents to be printed in as large type as the label? Could anybody say, "No, we don't believe this should be done"?

Mr. WARNE. I would presume that there might be an argument on the esthetics of advertising; that this might interfere with the portrayal of product name. Weights aren't as popular as pretty women on the front of packages. I honestly don't know of any argument. I can see no reason for failing to have a prominent disclosure of weight.

Mr. KITTRIE. You don't really believe that artistic considerations should be justification for depriving the consumer of the right to know what he is buying?

Mr. WARNE. No. You asked me whether I thought there would be an argument and I would presume that this might disturb certain advertising artists.

Mr. KITTRIE. Usually the name of the manufacturer and the name of the product appears in substantial type. This is the most obvious item on the label.

Mr. WARNE. Yes.

Mr. KITTRIE. You could pass a law saying that the contents should appear in as large type as that does.

Mr. WARNE. Yes, it could be legislated.

Mr. KITTRIE. Do you envision any difficulty in putting that into effect?

Mr. WARNE. I would think that there would be substantial objection on the part of some manufacturers. My crystal ball isn't too clear, but I suspect that there would be.

Mr. KITTRIE. And the objection you see is possibly on esthetic grounds, is that right?

Mr. WARNE. There would be other rationalizations undoubtedly. I should think Mr. Willis, whose letter was quoted, might be a better spokesman for the attitude of manufacturers on such a subject than I would be.

Mr. KITTRIE. I want to ask you one final question. You indicated that practices of this kind are producing a lack of confidence in the marketplace.

Yesterday, when Professor Campbell testified here, I was trying to get an answer from her if she believes some of our economic difficulties that we have occasionally in this country can be attributed to consumer strikes; that is, the consumer gets disgusted with this or some other practice and, consequently, for awhile he decides he is going to stay home and not buy.

I wanted to find out if this may have any effect on our economic growth, or the rate of our economic growth. I never got a specific answer yesterday, but I wonder if you want to comment in any way?

Mr. WARNE. I would be glad if the committee desires to make comments in that field, but it seems a little distant from this immediate packaging issue.

In the food area, the optionality of not buying is not as great as in some other fields. Here you spend about 30 percent, plus or minus, of your budget for food and if you are taken for a little extra money because of deception, this may impinge on your ability to purchase elsewhere. But I would guess that your question would be more relevant to the area which Senator Kefauver investigated some time back—the pricing of durable goods where there has been a certain element of stickiness which has, I don't doubt, impeded some consumer expenditures.

Mr. KITTRIE. I realize that. The only reason I am asking is this. This hearing is designed to deal mostly with foods, yet the subcommittee is concerned with the general problem of labeling and packaging as it may have any effect at all on our economy. The effect it may have on competition is related to whether these problems exist in other areas. That is the only reason I am raising it at this time.

Mr. WARNE. I see.

Mr. CHUMBRIS. Professor, you are not endorsing the suggestion that the weight of the package be printed as large as any other printing on the can or the box, are you?

I think that the letter "K" on one of these cereal boxes takes up the whole box. Yet, on the other hand, on a can of peas the letter "P" might not be but just so tiny.

Mr. WARNE. I haven't figured out with any precision the answer to this. I did recall that this has been worked on a bit in the Canadian proposal. Whether it has been passed, I don't think it has.

Senator HART. The committee has been advised it has been.

Mr. WARNE. The exact sizes might be delineated, but in any event it might bear a relationship, let us say, with the largest type on the package, some relationship which would give it a more conspicuous place.

Mr. CHUMBRIS. Just so somebody can read it without any difficulty.

Mr. WARNE. That is right. I don't think we ought to press this to the point of making the size the only element. People, after all, want to know what is in the package.

Senator HART. Mr. Chairman?

Senator KEFAUVER. No questions.

Senator HART. Again, professor, thank you very much.

If there is no objection, I suggest we include at this point in the record the statement prepared for the committee by F. J. Schlink, the president and technical director of Consumers' Research, Inc.

With the testimony of Professor Warne and this statement of Mr. Schlink, the committee has the benefit of two outstanding consumer organizations in the country.

(The statement of Mr. Schlink follows:)

STATEMENT OF F. J. SCHLINK, PRESIDENT AND TECHNICAL DIRECTOR OF CONSUMERS' RESEARCH, INC.

It is impossible to present in a brief space an adequate survey of the problem of "deceptive, misleading, fraudulent, or unfair practices in the production, processing, packaging, labeling, branding, advertising, statement of prices and other conditions of sale, marketing, and furnishing of goods and service to consumers," the scope of the subject before this subcommittee. Therefore, in the space available, I will attempt only to present the results of a brief examination of certain aspects of the problem which have come to the knowledge of Consumers' Research. Consumers' Research is a nonprofit organization serving ultimate consumers through a wide range of tests and analyses of products and

appliances; the organization publishes monthly and annual bulletins, and in many of these discusses topics related to labeling and deceptive practices in packaging and advertising.

Concealment of price rises by reduction of weight or volume of the contents of a package is a common practice in many kinds of grocery store and candy store items sold to consumers. Senator Hart has called attention to a device which makes it impossible for consumers to make a rational choice in that the manufacturers' selection of a wide variety of package sizes in the same range of sizes (weights or volumes) makes it practically out of the question for the purchaser to compare the unit costs of products. Brand A of a cleaning fluid for instance is sold in a 1-pint bottle; the competing brand B in a 15-ounce bottle. Three competing dust control products are in 10½-, 11-, and 12-ounce packages respectively. There would seem to be no good reason why products such as bread and milk can be and are sold in even or simple multiples of pints and pounds, whereas silver polish and all sorts of food products are sold in an almost infinite variety of package sizes, not only with odd ounces, but often with fractions of an ounce.

Popular silver polishes are offered in all of the following sizes: 7, 7½, 8, 12, 14, and 16 ounces. Two simply related sizes, 8 and 16 ounces, should suffice to cover this range of values. There can be no good reason for deviation in the weight of packages of approximately the same size, from a standard or normal value, except the convenience of the manufacturer of the product and his interest in making it impossible for consumers to make comparisons of price easily and quickly and without the aid of a computing device, such as the engineer's slide rule. It is not easy to decide upon a system of standard weight and volume values for the contents of bottled and packaged items, because of variations in density, consistency, and other factors; but there is reason to believe that a workable system could be constructed by experts on size standardization without difficulty. Such a system would do no serious injustice to any manufacturer but would be of very great value to consumers.

The marking of weight and volume also presents difficult problems for the consumer, for at the present time these marks may be found on almost any part of the package and most manufacturers prefer to have the weight or volume marking remain relatively inconspicuous so that they can sell their packages upon appearance rather than their true net contents in weight or volume. Rigid rules should be established regarding type size, type style, contrast of color, and locations of labels as to net weight and likewise as to ingredients of food and beverage products.

I am furnishing for the record articles published in February 1958 and in May and June 1961 Consumer Bulletins which discuss the present deplorable situation in respect to ingredients labeling.

To summarize the content of the February 1958 article very briefly, let me say that many labels of food products are designed not to be read, and are placed so that they will be missed by the purchaser or be inconspicuous through color of printing and background, or a confusing background pattern. Some are so contrived by the color and type size used and the presence of obscuring matter that they almost defy reading by any person who is not positively determined to know what the label provides in the way of statements of net contents and ingredients.

Two articles (December 1957, and March 1955) are also supplied which show the lack of economy in purchasing the "big economy size" in household detergents, which often turns out to be less economical than smaller sizes. The actual prices have changed in the period since these articles were written, but the generalization still applies, that the consumer may pay about as much, or more, per pound when he buys a "big economy" box of a product than if he buys one of the smaller ones.

It is important that the net weight or volume data and the ingredients label should be together, and always in substantially the same location on every package, bottle, or can. Ordinarily most of the other information on the package, except the manufacturer's name and the brand name, is of little importance to the consumer at the point of sale, but the net weight or volume and the list of ingredients (and a statement of any precautions necessary in the use or storage of the product) are vitally important to any discriminating purchaser.

I think it fair to say as a general statement that, poor as they often are, the net weight and volume markings are much better presented on packages than statements of ingredients, a situation which may reflect the well-known and marked inactivity of the food and drug officials in the matter of ingredients label-

ing. Most lists of ingredients on packages violate the regulations for ingredients labeling that manufacturers should be required to conform to in all package design and printing.

I suggest here that Federal and State regulations should require that special symbols, color, or other means of indication be used to signalize each and every item on the ingredients label of a food product that is not of definite nutritive value. Consider the example of the food product C, which is labeled as an "instant breakfast drink," and shows a total of 11 ingredients. Only three or four of these, at most, could reasonably be termed natural food substances. The rest are products of the chemical factory and include among others carboxymethylcellulose, sodium citrate, calcium phosphate, artificial flavor and artificial color. If all of the nonnutritive substances were printed in a special way, let us say in red, or strongly underlined with a red line, or enclosed in a red-line box, the consumer would be put on notice that the product is one which he might prefer not to buy for use in feeding children or persons not in the best of health or indeed anyone who happens to prefer food materials to nonfood materials at his meals.

This suggestion will be strongly resented by food and additive manufacturers, who have relied in a large part upon the fact that consumers buy a host of packaged foods containing highly questionable materials simply because they do not read labels, or because the terms used to identify these ingredients are not known to them, and they would assume, quite incorrectly, that all substances used as ingredients have been specifically accepted and are vouched for by the State and Federal agencies as unqualifiedly safe and wholesome.

As an example, a certain brand of raisins, representing a food which at one time was just raisins, now requires several lines of type to state its eight ingredients, all of which, except one, the raisins, are products of factory processes. The foreign or chemical ingredients are raisin seed oil with artificial flavor, and propyl gallate, butylated hydroxyanisole and butylated hydroxytoluene, propylene glycol and citric acid added as preservatives. The list is printed in black on a dark-blue background, and under a cellophane wrapping, so that the names of ingredients are difficult to read. An imitation rum extract for home use in cookery contains 10 ingredients and of these only 3 have familiar names that would be recognized by the housewife. Some of the unfamiliar substances are ethers, esters, "vanillin and other aldehydes," ketones, propylene glycol, and artificial color.

Two so-called toppings are typical of the extreme sophistication of modern foods and food accessories. One is labeled as containing a total of 13 ingredients, of which 10 are the products of chemical industry and factory processing. A second one contains 12 ingredients, of which 8 are the products of chemical industry and factory processing. (The four natural ingredients used in one or both of these toppings are water, sugar, salt, and vanilla.)

The maker of "a fat-free cooking aid" found room for very legible labeling of the name, guaranteed by a popular household magazine, and a statement of recommendations for use. The list of ingredients can just barely be found by a person who will spend considerable time studying all the printing on the package. The same is true of the net weight marking, and both the list of ingredients and the net weight have been made difficult to see by location, size, and color—very small, black printing on a very dark-red background.

Millions of people have to be careful about what they eat. Doctors have forbidden, to many, the use of hydrogenated fats or foods containing added salt or other compounds of sodium. When they buy frozen fried chicken, they should not have to guess whether the "shortening" it is alleged to contain is of a particular kind which they may consume and not of a kind of their physician has told them to avoid. Neither should they be asked to determine whether "oxygen interceptors to improve stability" comprise only additives that they would like to consume. If a substance is added to delay spoilage, the label should name that ingredient specifically, and no food label should ever be permitted to use vague or general terms such as whipping aids, stabilizers, sequestrants, or oxygen interceptors.

There is no objection to a manufacturer saying on his label that a product contains vitamin C as an added nutrient, or natural vanilla extract as a flavor, but it is important to include the full usual name of the substance in each case, and not to substitute the name of the category in which it falls, for its own common or usual name. ("Artificial flavor and color" is a common type of wording used in ingredients declarations on all sorts of packaged food products. This phraseology or its equivalent is unfortunately sanctioned by law. There is a

real and pressing need for congressional action to make mandatory the disclosure by name of the *particular dyes, flavors, and spices used* in each case, as well as to eliminate the statutory exemptions whereby a few favored foods are permitted to be sold without disclosure even of the presence of artificial coloring matter.)

In a single brand of peanut candy which deviates from the natural or expected formulas for such a product, the manufacturer includes added emulsifier and vanillin (an artificial flavor), a nutritive glaze containing zein. There are, besides, no less than two added "fatty acids" preserved with four added chemicals (the manufacturer is allowed, under the regulations, to use as many as 7 of 13 permitted chemical preservative ingredients in a single product; yet none have to be called preservatives). Such products are obviously in unfair competition in the market with natural fresh foods that do not require preservative ingredients.

Thus, one brand of potato chips contains nothing but potatoes cooked in "pure vegetable oil or shortening," with salt added. Another brand contains, besides potatoes, vegetable oil, and salt, all of the following: "citric acid, propylene glycol, tricalcium phosphate, antioxidant added to preserve quality; butylated hydroxyanisole, butylated hydroxytoluene, propyl gallate."

Manufacturers do not have to use complicated food mixtures (and most did not until very recent years). A few—all too few—make their food products out of the same ingredients that a good cook would use in her own home, and no others.

A well-known brand of oatmeal raisin cookies shows on its label nothing but the following ingredients: "unbleached flour, sugar, pure vegetable shortening, raisins, oatmeal, eggs, molasses, baking soda, pure vanilla, salt." All of these are of proven food value and unobjectionable. These cookies will not keep so long as those of other makers who add four, five, or six preservative ingredients, and include some ingredients that are more "chemical" and less perishable than oatmeal, raisins, and eggs. The manufacturer who makes the product with a minimum number of chemicals and the largest number of natural and perishable food substances is at a real disadvantage in the market by comparison with the manufacturer who does not hesitate to use any practicable means to lengthen the shelf life of his goods.

The supermarket operator, knowing that relatively few customers read long, elaborate, and semilegible or illegible ingredients labels on foods, does not care particularly about the ingredients, but he does care about the shelf life of the products he buys for resale.

A considerable number of food and cosmetic dyes have been found to be poisonous and unsafe, and some even have the capacity of causing cancer in test animals; yet the homemaker who reads on the label "harmless food dye added" is in no position to decide later on, after the dye has been found unsafe, whether or not she should discard the food product containing it. If its *name of the dye is given*, she can decide, if she desires, that the food containing it is not safe or suitable for use in her home.

A label which says contains "vanillin and other flavoring materials" fails to give the consumer a very important piece of information and one to which he has every right, and needs greatly, since mass production of foods has robbed the homemaker of one of the major protections of her food supply, namely, knowing what goes into it, in the way of familiar, simple ingredients available to the homemaker who is accustomed to buying raw materials at the store for home cookery. The least that can be done for her is to let her know not merely that the ingredients fall into certain categories, but that they are of certain understandable specific kinds; naming names, instead of mere categories, will mean that few substances of incomprehensible nomenclature and questionable safety will be used, for example di-tertiary-butyl-para-cresol, which is, and very properly, an unpleasant and repellent term to the careful or critical consumer. As the director of the Massachusetts Commonwealth Food and Drug Department has put it:

"* * * there is a definite calculated risk in the use of many additives. Calculated risk has been used by researchers in medicine as a means of helping man combat disease. In this entire problem of chemical additives in foods, the public health official fails to find any pressing need equivalent to the saving of life or the prevention of the spread of disease that justifies a calculated risk with the health and welfare of the consumer. In my opinion, the overwhelming benefit from the use of chemical additives is for the agriculturist and producer of food, and not for the consumer."

A product which on its label is called Clear Chicken Instant Soup, turns out to be far indeed from what any person with even a rudimentary knowledge of cookery would refer to as soup. The principal ingredient is salt, the next ingredient in order of weight is a sugar (dextrose, better known as glucose), the third is monosodium glutamate, a material much used to step up the indifferent or undistinguished flavors of many canned and processed foods, the fourth is dehydrated onions, the fifth is chicken fat—which is not chicken. Other ingredients in order in this astonishing mixture called soup are: starch, dehydrated vegetables, spices, tricalcium phosphate, butylated hydroxyanisole, propyl gallate, and citric acid in propylene glycol added to improve stability. Note the term "added to improve stability" instead of the simple direct term, "preservatives." And note the absence of chicken from "Clear Chicken Instant Soup." A correct label for this product, if one assumes that its sale should be permitted at all, would refer to it as an imitation soup mix having in it in order of predominance by weight, salt, dextrose, monosodium glutamate (a factory by-product artificial flavoring material), dried onion, a small amount of chicken fat with starch, dried vegetables (with their names given), spices (each specifically named), tricalcium phosphate as an anticaking agent, propylene glycol as a solvent carrying three chemical preservatives (with the names of each given, as preservatives, not as substances "added to improve stability").

The idea of having definitions and standards of identity for certain foods is basically a good one, and, on the whole, the interests of consumers have probably been advanced by the adoption of some of the existing food standards. However, in this age of increasing complexity of food technology and the apparently limitless multiplicity of chemical additives, now said to number about 3,000, there is a distinct possibility that the labels on packages of "standardized" foods may sometimes actually mislead the consumer in important respects.

Briefly, the law now provides that a food which conforms or purports to conform to a "standard" is properly labeled if it bears the name or class of food specified in the standard, and such information regarding ingredients as is required by the standard. Note that there is no requirement that the label shall reveal that the food is one for which a standard has been promulgated.

Now, consider a consumer who wishes to avoid a certain food ingredient, say, for simplicity, salt. The consumer, having read many food labels which disclose the presence of added salt, reasonably assumes that when added salt is present, the label may be depended on to say so. And he would be right, except for the foods for which standards have been established. In them, salt (or almost anything else, even preservatives) may be present without specific disclosure if the standard permits their inclusion (as it does with salt for macaroni products and for mayonnaise, for example). To be sure of just what may be allowed, the consumer would need a copy of the applicable definition and standard, and he would need plenty of time, and in some cases, the aid of a lawyer, to be sure of what the standard permits and what it excludes in the way of ingredients in relation to labeling.

So that the buyers may know when a food is one for which a standard exists, and whose label, therefore, may not be required to disclose all the ingredients, I would urge that the labels of standardized foods be required by law to carry a legend such as the following:

"This product conforms in content and labeling to a definition and standard of identity issued by the U.S. Food and Drug Administration, Washington, D.C., from which copies are available upon request."

This is a partial and very imperfect solution only, since it is of no help to the person who is not willing to go to a lot of trouble, and it is furthermore of no help to one who is not capable of understanding and interpreting some very complex and highly legalistic language.

The right procedure is to see that *all foods* carry complete lists of *all ingredients*, by name, not merely in order of their predominance, as some do at present, but in terms of stated quantities or percentages of the whole quantity present, by weight.

Senator HART. Our next witness is Dr. Ernest Dichter.

Dr. Dichter has been kind enough to give the committee a biographical summary which I suggest be printed in full in the record. (The biographical summary may be found on p. 163.)

Senator HART. Let me say to those who are present that Dr. Dichter came from Vienna and is now the director of the Institute for Moti-

national Research. Just a few days ago, the New York Times announced a service for the grocery research workshop being conducted jointly for the New York Times by the Institute for Motivational Research under direction of Dr. Dichter.

I think this also would be helpful in the record.

(The announcement referred to may be found on p. 152.)

Senator HART. It was very nice of you to come today, Dr. Dichter. You have a statement which you might read in full, but it will be printed in the record in full. If you feel that you can summarize it, that will be helpful to us.

STATEMENT OF DR. ERNEST DICHTER, PRESIDENT, THE INSTITUTE FOR MOTIVATIONAL RESEARCH, CROTON-ON-THE-HUDSON, N.Y.

Mr. DICHTER. I will try to do that.

I don't have to stick to my statement.

Senator HART. The record will contain the statement at this point.

(The full prepared statement of Dr. Dichter may be found on p. 172.)

Mr. DICHTER. I would like to describe briefly what I consider to be my role.

We have been hired by industry and by packagers to find out what the consumer thinks. We act as liaison people. We go out and talk to hundreds of people, show them packages, find out what motivates them, and what I would like to do is sort of introduce a more positive note.

In our experience, I think about 90 percent of the clients (and then we were just lucky that we worked for them) are very honest and very decent and do not try to practice deceit. Maybe the reason why they don't is that they are smart and operate that way not just on the basis of morality and ethics.

Actually, they are continuously being put on the witness stand. They are being voted on by the kind of confidence that they do create in the public in their brand names.

There are literally thousands of examples where products have failed, despite all the apparently clever devices. If it were as simple as figuring out in exact detail how to tell your story to the public in the most efficient fashion and then your success would be assured, we probably would have tens of thousands of additional products in existence. In reality, that is not the case at all.

The modern advertiser is continuously concerned with competition. He has to very often fight for survival, and one of the most important things he is concerned with is to build up what has been quite popularized by now was the brand image. As far as I understand it, he has entered in the field of politics.

Brand image is a nebulous, but at the same time, a very tangible thing. It is like the signature on a check. Your signature can be very elaborate, very beautiful and what have you, but if this check bounces several times that signature will not be worth very much in the long run. Therefore, in our practice and in our experience, their main concern is in building a permanent brand image.

Furthermore, I think that any packaging and labeling practices that presume that the consumer is a gullible moron can end up to prove the advertiser to be the moron.

There are such morons, yes. I don't know the exact percentage. I doubt if it is more than 1 or 2 percent but those people are usually voted out of existence quite rapidly by the consumer.

What has to be done, and what concerns me most, is this question of how can we motivate the consumer to read the label and how can we motivate the remaining small percentage of stupid advertisers to practice intelligence in packaging and labeling. Legislation won't help. That such committee hearings as this will help is beyond any doubt. It draws attention to the fact that these practices do exist.

I would like to make the point, however, that one could go too far in the other direction. We are doing a lot of work in foreign countries and for many American advertisers who have a tremendous struggle abroad in competing with foreign advertisers.

American products are losing ground in this struggle for world markets. This is not due to the poor quality of the American products but to the poor quality of marketing and advertising and packaging techniques. It has appeared from previous testimony that our advertisers are so smart, so intelligent that they can pull the wool over the public's eyes and that, in an indirect way, people like myself who practice marketing research or motivational research apparently are helping them to do this. I think this is a complete disregard for actual reality.

If the French and Germans package their products more attractively, they will sell more goods and please more customers. The reality, however, again looks quite different. Unfortunately, I must report (and we talked to tens of thousands of consumers) that about the only label that a consumer ever reads is the content and proof on the liquor bottle. That interests him. What we have to do, therefore, is to make it interesting to find out what is the content and the ingredient.

Maybe I am just trying to sell my particular specialty, but we again feel it is motivation. Legislation forcing people to do certain things is, of course, a very efficient way, but in my opinion not necessarily the only way. What has to be done is to motivate, as I said before, the consumer to interest himself and find out what he is buying. This could be done rather simply, and primarily it is the job of the retailer. He could do what we have commended to the Greenbelt Co-op in Baltimore and Washington: to label the price, to state the price per ounce. The real problem lies in the fact that the consumer is not as much interested as we assume. The consumer is a normal, very sophisticated individual rapidly developing and he has to be exposed to advertising, packaging practices for several decades. What he is interested in is how the consumers react, he or she is, to a very large extent, on an emotional basis. Even after having read a very carefully prepared "Consumers Union and Consumer Research Report" on what is the best car for me to buy, the vast majority of consumers will go out and buy the car with the red leather upholstery which happens to be delivered to them on Saturday morning with which they can surprise their family and go on a weekend outing.

I would like to state this as a realistic, three-dimensional fact that cannot be voted out of existence. Just telling him that this is the most worthless car he could have possibly bought, unfortunately will not convince him not to buy it.

I can quote you very many instances out of my own personal life. Now, buying a boat for instance, I asked the usual questions, "How much trade in would you give me for it?" and then if I wanted to sell it how much would it cost me to get rid of it and run it and so on down the line.

Now the salesman apparently was quite intelligent and looked at me and said, "If you want to find out if the purchase of your boat is an intelligent action, I can tell you right now it is probably going to be one of the most stupid things you ever did. You will never get your money back. You will have all kinds of problems with it."

Now, what did I do? This was an open statement of facts that he gave me, the ingredients, and the consequence was that I went and bought the boat because I wanted the boat. I was a normal, realistic individual consumer guided by my emotions.

I would like to make another point:

I do not think there is a lack of confidence. There is a lot of confidence that has been created by modernized methods, possibly too much.

What people actually spend their money on are the psychological differences, brand images permitting them to express their individuality.

This is an important point. We have reached what I, in my book, call a psychoeconomic era. It is because of the improved quality and reliability of our merchandise that we can allow ourselves the luxury of making our decisions on the basis of more purely psychological factors.

In reality, there are not very many differences between a General Electric, Westinghouse, International Harvester refrigerator as long as you pay the same amount of money.

There is practically no difference between any one brand of cigarettes and another as long as they contain, more or less, the tobacco, and most of them do.

There is no difference whatsoever between one brand of gasoline and another. Yet, what do you think the public will say, the public that we continuously keep on referring to?

It will be the public itself that will scream the loudest if they had only five different brands of cigarettes. And that is about all you probably need.

On one end you might have menthol cigarettes and on the other something else, and this could be the real, honest, moral, ethical approach because for the rest of it you are just buying labels, the different kinds of colors, the different types of designs.

Yet, what I would like to state is this: That this again is a reality. It happens continuously. It happens all over the world.

We recently were associated with a book which has nothing to do with sex or apparently, moral things as cigarettes, cars, or shops—"U.S.A. answers."

This has the purpose to sell America abroad (that is possibly a horrible phrase), or to improve America's image. It has to be packaged. There are a lot of questions being answered, 1,800 questions listed in this book.

They are all answered honestly. Yet there is an additional emotional factor involved. The people who receive this book are either already positively inclined toward the United States, and then it

actually will not do very much—they will say yes; a very nice country—or they are negatively disposed toward the United States.

In this case this is where a person like myself comes in as a technician of human motivations. They will say on a lot of pages, "I never believe a word that is in it." What we are recommending, what we are announcing, now is an additional page which lists a number of negative things about the United States, getting the reader of this book to nod and say, "Yes; you are darn right, I did hear about the riots in Alabama; I did hear about the employment slumps; I did hear all these other things."

We are not denying anything. In addition to that, we would like to inform you that we are trying to do something about it.

At the end of the book, we are inviting these people with negative attitudes to ask those questions that they think had been purposely or accidentally avoided or covered up in this book.

This is a quick example of correct communication.

I would like further to say this: That in big brand images, in buying these, apparently, illusory brands differences, which do not really exist, we are not buying illusions. What we are really doing as consumers is to express our confidence in not receiving a shoddy product.

We do not pay very much attention, really, to the engine of a car because we are, by and large, convinced that we are going to receive good value for our money. No matter how many times you are going to invite the public (and it has to be done many, many times) to look under the hood, the American public just does not look under the hood.

They are more interested in the shape, the beauty, the color, and the upholstery of the car.

The advertiser lives in a competitive world. He wants to sell his merchandise and wants to convince the consumer that his product is better. Actually, the modern consumer is highly sophisticated.

In the hundreds of thousands of interviews, conducted by us, one of the most frequent findings is the widespread conviction, on the part of the consumer, that most of the products which he uses are almost indiscernible, one from another.

The intelligent respondent, as we call them, will say, "Yes, sure, I know I am getting the same brand of gasoline whether I am buying any one of the brands. Come to think of it, what I really like about this brand of gasoline happens to be Sam, who is a very friendly guy that helped me out last winter when I got stuck in the snow."

Now, if some company or anybody else were to proceed and in tremendous letters list exactly all the things about their gasoline, it still would have relatively little motivating power.

In this co-op study that we mentioned before, we were being asked to find out how to get more consumers to buy from co-op stores.

The Rochdale principals, the fact that they were benefiting and participating in the profits, all these things have been used and stated for decades.

The company came to us or the group came to us and said: "How can we attract these customers that apparently are not coming despite our emphasis on the apparently more ethical approach in selling and marketing used?"

What we found is again a very simple fact.

When the Grand Union markets labeled their peaches as "gorgeous" and the co-ops called theirs "reasonably good," the housewife chose those sold by Grand Union. She had been trained by several decades to apply the same psychological disbelief to both statements. In other words, she felt that the Grand Union peaches were probably fairly good and that the peaches sold in the co-op stores were probably poor. Our recommendation to the co-op stores was to bring their labeling into line with the prevailing procedure of dramatization in order to meet the claims of the competition.

We automatically discount 40 or 50 percent of these statements by advertisers and often, too, as a voter on statements made by politicians. We do not quite believe what we are being told.

And I think we are getting smart. We are getting wise. Maybe I should not bring this in about the voting much for an image, not because—and this is not a horrible thing. This, I think, is a wonderful thing, because just as in consumer goods we had learned that, by and large, an intelligent, responsible candidate will make a good President, and, apparently, the two candidates, we figured, will about make equally good Presidents and the differences that we voted for were as demonstrated by the very small difference in votes.

Was this a horrible thing? It was the image of the candidate. Now, all we did was, in a way, write off and say that we can be assured, we can be relaxed now, as far as the basic qualities of public servants are concerned. It was mentioned before that in the good old times the grocer would talk to you and tell you exactly what is in it and how much weight you are receiving.

In the good old times it also happens very often that you did not receive soap but chalk.

Now, the intelligent grocer did not do it then because he could fool the consumer once or twice, and the intelligent advertiser did not do it then and the intelligent advertiser does not do it now, because he could fool the consumer once or twice, but she would not come back very often and after she had found out that she had not received good value for her money she would not come back.

As far as packaging is concerned, what are we doing? Nothing very mysterious.

In one case a company may want to put out a new product and they will want to know what name to use, and whether they should pack their products in glass jars, plastic containers, or in tin cans. Often such choices are determined by technical considerations of freshness, preservability, and practicality of use. In other cases, sales may have slipped and the client will feel that his package may have something to do with this loss of business. Perhaps his competitor has introduced an innovation of some kind, a new and more colorful package design that is more enticing than that of our client. In that case he has to reappraise his approach and remodel his packaging in order to stay in business.

The examples run into the thousands where advertisers learn "by using people like me" to find out from the public what they like or dislike about a particular package.

In selling a bleach many housewives are worried about spilling the bleach and harming themselves. In the study for one of the major manufacturers we recommended a completely newly designed type of handle which would provide safety.

Now, what happens in a completely competitive field is that such a competitive advantage does not last very long, unfortunately for the advertiser, because it is open. It is not hidden.

It is not hidden persuasion. It is overt persuasion.

We have gone out and talked to the public. We found out what they wanted. We improved it very often at great cost to our packager. Of course, the advertiser wants to reap the benefit. As it happens, he does not reap it very long.

If General Electric introduces automatic defrosting, 2 months later, in what way I do not know, by hiring the engineer who developed it or buying the patents, somebody else has automatic defrosting.

I would like to submit this is part of our free enterprise system, and I would like to have this free competition preserved.

Actually, our work with packaging falls into two basic categories. The first is the developing of rule-of-thumb guides—criteria which will aid the designer in evolving new package designs. The second is to measure the effectiveness of various designs which are submitted to us by manufacturer or advertiser. We try to find out answers to questions such as, Does the package stand out in the competitive climate of the store? Does it adequately reflect the product? Is it aesthetically satisfying in terms of shape, color, layout, illustration, type face?

By going to hundreds of people we can tell the feeling that people have; that the associations they have with this brand of soap is one of being old or very conservative or not very effective, and so on.

What we then advise the designer to do is redesign the package in such a way that greater usefulness, and greater effectiveness will be introduced in the package design.

At the same time, however, the advertiser listens to our report and checks back as to what he can do to actually mark his soap more effectively.

This, however, as I stated before, is not as crucial a problem as may seem to the outsider, because usually he keeps on working continuously on improving his products in order to survive in a competitive circle.

I do not want to take the committee's time in describing the techniques. They are put down in the book, "The Strategy of Desire," and are discussed in detail, how we go about it, and what we do.

What I would like to say in summing up, is that what we are dealing with in most instances are human weaknesses; that all parties involved are usually equally guilty in hiding the less pleasant realities.

Exactly where the borderline is in embellishing your product, which is what all of us do—the lover or the girl who meets a lover does not tell him what she is going to look like in 10 years and that she snores. She is trying to cover up her frailties.

The politician who tells the public that he is not very sure that he is going to be very much better than his predecessor and has doubts about his qualifications is probably not going to win an election.

The Air Force, and very many Government institutions will not tell the recruit that he might enter a very dangerous profession. They sell him a trip around the world, "see the world," and also go so far as showing beautiful girls that he might meet on television commercials.

As far as I know, the law does require that the quantity packed be listed on the package. To the extent that this law is violated, such a

practice is, of course, dishonest and should be punished. But what is even more important is that it is stupid. The point is that packages and labels can at best sell merchandise only once or twice. Once he detects an inferior product or spots a fraudulent advertising claim, the consumer will reject that product regardless of how attractive the package or label may be.

If you ask me, if I am against sin, sure. I am for morality. I think most advertisers are, too.

Sure, the size and ingredients should be listed prominently. Yes; for God's sake, do it. The only thing I try to introduce into this hearing is the public will still not look at it unless you motivate them properly.

As I told you before, the only thing some people compare, that we found, where they are interested in the ingredients, happens, unfortunately, to be liquor. The consumers themselves must be educated to look for the kind of information that will protect them from being cheated.

This is a gigantic task.

What I would suggest almost, if it does not sound like blowing my own horn, is that in addition to legislation some consumer research and motivation research be done. Let's find out how people really behave, how we can get them to behave the way we want them to behave, and how can we get the advertiser to behave the way we want him to behave.

Legislation is one easy way out, but it is not always successful. I do not think I would have to point out that we would not have any crime and many other things, not any longer, if legislation were the only answer.

Senator HART. I am sure the the audience regrets that we did not have you read your statement in full. This has been a delightful few minutes. I just hope the committee will restrain itself. I know that everyone up here is just dying to make some observation in response to your reference on the American political scene and the fellows engaged therein. But that, I think, would put us off on a tangent and keep us here for a long time.

Your silence will not be construed to either endorse or condemn. You make, so vividly, the point that we are a pretty dumb outfit—

Mr. DICHTER. Pretty dumb?

Senator HART. Pretty dumb, speaking of myself as a consumer.

We think that we want to be told and yet, it is your judgment is it, that we really do not care?

Mr. DICHTER. Yes, but I do not state that I am satisfied with that.

What I am saying is "let's do something about it and let's use the very same techniques that we practice in many other fields on how to get the consumer to show more interest."

Maybe instead of just listing the price or the contents or the ingredients, maybe the ingredients should be equally dramatized as the gorgeous peaches.

Senator HART. Do I understand you to say that if the content was on there to be easily seen and, to go one step further, in mathematics, easily understood, that it would still be a "do not bother me" type of thing as far as most shoppers are concerned?

Mr. DICHTER. Well, as the researchers report, unfortunately, yes.

But I want to make clear, as a moral citizen, that I am not satisfied with it. I would like to do something about it.

I would like to—in other words, I am in full agreement, if that does not sound pretentious, with the purposes of this committee.

But I would like to be helpful, to go beyond that, and sort of warn you or disillusion you and say, “well, fine, supposing you have all this legislation, you might find yourselves faced with exactly the same problem you had before.”

Why could we not discuss or find out what else could be done?

Now, I think that the advertiser could quite easily be convinced and, at least, we know of that, not because we are such honest people, we would like to get good value for our money and the services received, and we know that it is stupid on the part of the advertiser to try to be deceitful.

I was not born in this country, but I think it was Barnum & Bailey that said something like that and it is still true.

And we point out to him that he can make out of his honesty, if he dramatizes it enough—maybe that is what I want to say—a very important competitive advantage.

We very often advise the advertiser to state it as dramatically as he can rather than just in legal terms or in size or “we are honest” and “we are proud of it.”

Now, if he does this with enough advertising budgets and with enough support by the public, automatically all of his competitors will do it, again not because they are so moral and nice, but because they are smart businessmen and will follow suit.

Senator HART. In reference to all the mail that the committee has received and the mail that some of the witnesses have received, including Professor Warne, whom you heard this morning, are these expressions from just a tiny segment of the community?

Mr. DICHTER. I would say “Yes.”

Senator HART. People who are, in a sense, outraged by having to stand on their heads to find the content on some package? These people are strange rather than normal.

Mr. DICHTER. Well, what I would like to find out is what have these people done themselves, and what does their buying behavior look like in reality and I would have very great doubts that they are as rational, that they read every darned label as carefully as they make it out to be.

And, this, I state on the basis of my experience, as we did some work abroad for a group intending to push sales, in a South American country, of their own products.

And the very same group that hired us to help them sell Latin American products were smoking American cigarettes and driving American cars.

And this is what I would expect this group to do.

They would be almost as guided by emotions in their purchases as everybody else.

Senator HART. You would agree, I take it then, that among the things the committee should be concerned with is how can it suggest means whereby all of us have a better sense of the values with respect to consumer purchasing?

The indifference to all of this with consumers, with respect to content and weight, you affirm this to be a very broad attitude shared

by most of us? Even some of us who protest that we do want to know, you say we are really kidding ourselves.

The committee should try to figure out some means that would make better understood, in the minds of the consumers, the fact that if he is anything less than as rational as he can be, he is doing harm not alone to himself but causes an effect, apparently, on the American economy.

Is this true?

Mr. DICHTER. Yes.

Senator HART. Specifically, how would we go about it?

Mr. DICHTER. Well, this—

Senator HART. What do we do?

Mr. DICHTER. Well, there I would say—I am hesitating to put it this way: that people like myself should be called in to find out how to do it.

And, what I would like to suggest is simply legislating it will help. Exposing the practices will help.

But, sir, I am sorry to report my experience is that with all the exposure and all the drama, the average consumer will keep on doing what he is not supposed to do.

I think this is the basic problem of our civilization. It is a basic problem of education.

And very often these bad practices continue because we have the illusion that all we have to do is—well, take the Safety Council.

Every long weekend they advertise very dramatically, with all the help of the newspapers, radios, TV and so on, how many people are going to be killed.

At the end of Decoration weekend or Labor Day, all they usually succeed in doing is to announce triumphantly, "See, we were right, not only 650 people were killed; 675 were killed."

With almost a sadistic feeling, they say, "It serves you right; we warned you and you stupid guys would not listen."

Now, what intrigued me about it is that, apparently, this has not worked even where the lives of the people are concerned.

What? I am getting short-changed and not getting the right weight? I can say, well, the world is not going to fall apart. I knew about it, anyway, but if my life is concerned, and I still do not react to the admonition, then I think I have to sit back and say apparently the approach is wrong.

I do not know whether I make myself clear.

Now, we are presenting all these horrible facts. In my opinion they are highly exaggerated, but I am in favor of them because it exposes it.

It is one way of motivating the people. Look what is happening: What I am saying is I am afraid it still does not do very much good unless additional techniques are being used.

Now, you could then ask, what additional techniques?

Senator HART. I was going to say we should turn to you for suggestions.

Mr. DICHTER. Or my competitors. Approach the problem in a realistic fashion. Accept the fact that this is how we behave. I bought the boat. And I do not know how many members of the Commission or the audience keep on smoking although they know very well

they should not and how many keep on drinking although they should not, and so on down the line.

It is almost that the right kind of strategy has to be utilized. Is it as desirable to be informed about the weight and the ingredients as it is desirable now to be led or misled by the gorgeous peaches?

Senator HART. What is the strategy?

Mr. DICHTER. What is the strategy? Well, I do not know how much time I have. I do not know whether I am smart enough to develop it that quickly.

It is like asking a doctor, "Well, how would you cure this disease that I have?" at a cocktail party.

Senator HART. It never occurred to me that we were overreaching you.

Mr. DICHTER. If you give me one minute I might try. I think all the supermarkets and retailers could be invited, for instance—I do not know if I am going to be quoted—to institute an "honesty week."

It may be corny but it might very well work.

"We guarantee that any customer, during this week, will get his money back or," I don't know, "\$50 or \$100 if he can point out that we have not clearly stated on any merchandise displayed in our store exactly what the ingredients are and what the weights are."

This might be a practical suggestion.

Senator HART. How much money do you think they would have to give away?

Mr. DICHTER. I think, probably, not very much because there is a trick involved.

They would very carefully look at all their labels during that week. And if this were continued, this would be one excellent practical way of doing it.

I can see an advertiser stepping forth and saying, "We are glad to submit ourselves to a consumers' group that will be called in on a monthly basis to check on every one of our outputs, every one of our merchandising practices. We are calling them in as representatives."

And they already have union representatives. Why should not they have consumer representatives in their management meetings to find out exactly what we are doing?

Now, it is a form of modern psychological self-legislation which does not mean that I am against any outside legislation. The only thing I am saying, again, is I think it will not have too much effect.

Maybe, I can think of a couple more. I do not know.

Senator HART. I do hope so, and I know the committee is very serious when we say this, that the two suggestions you made, off the top of your head, apparently are appealing.

I would suspect they would be very effective. In the days ahead and the weeks ahead, if one or more suggestions of that sort occur to you, do let the committee have them.

Mr. DICHTER. I would be very glad to. I am thinking of another one that we had suggested to the consumer co-ops.

We suggested they have a hostess in each retail store who is an information clerk at the same time.

"Anything that you notice that bothers you, do not wait to send it to the Consumers' Union, do not wait to send it to the Senate Committee, we are going to remedy it right here.

"We may have inadvertently carried a product that we should not have or which does not list the weight properly."

This could be done Monday morning and this is exactly what we were concerned with: What can be done in a strategic, practical way without sermonizing, without saying, "Isn't it horrible?"

My viewpoint is—I do not know whether I should bring it in—if we had spent a lot more time in the last 6,000 years in finding out how the Ten Commandments might be implemented, we might be farther ahead.

Senator HART. I wish the time was not running against us.

Mr. KITTRIE. Mr. Dichter, these suggestions you made right now are actually suggestions to the consumer who cares. You have really not answered the basic question here. Your basic thesis here has been caution; that there is only a small portion that cares. The other does not act in the logical way. In fact, you have been repudiating the whole philosophy of the age of reason. The age of reason went on the assumption that if you inform people, they will behave accordingly. You say they do not really care.

This is an age of psycho-economics. They are going to judge on the basis of other considerations. You said that even when you inform the consumer, most of them would not care.

These suggestions you mentioned are actually, again, ones that would apply to the ones who already care.

The one that comes into the store who is unhappy, you are going to have the hostess explain to him what the answer is. But how do you reach the consumer who does not care? This is really the question directed to you.

There are those millions who somehow are going to go in there regardless, you see, and are not going to exercise the proper role they should.

Mr. DICHTER. Well, you are talking in mocking-bird terms. In other words, can we reach the people that already buy our product and those who do not? It may have to be done in a gradual way.

You might, by having such dramatic things, as the one off the top of my head I suggested before, and I do not know if they will work or not. They will have to be tested out and tried out. You might make it very chic, popular. I do not know whether I explain it properly.

This, unfortunately—again, I am not saying I am in favor of human nature the way it is. That is the way it is. I have nothing to do with it.

And I am the same victim as all of us are of our basic nature.

It may very well be, by using the snob appeal you might be more effective in making me into an intelligent consumer than by simply saying it is moral for me to step on the advertisers' toes.

Mr. KITTRIE. You feel almost that you could make it chic to be a smart consumer just the way it was made chic to have an economy size car, let's say?

Mr. DICHTER. Yes.

Mr. KITTRIE. Is that the point you make?

Mr. DICHTER. Yes.

Mr. KITTRIE. Thank you very much.

Senator HART. Mr. Cohen?

Mr. COHEN. I just have one or two questions.

I was a little bit intrigued by the survey that you did for the markets and the co-ops. I think you stated that in one case the peaches were listed on one can as "gorgeous" and on the other as "reasonably good."

Is that correct?

Mr. DICHTER. Yes.

Mr. COHEN. What did you think more accurately described the peaches in this case?

Mr. DICHTER. "Reasonably good."

Mr. COHEN. At least, the "gorgeous" was reasonably dishonest insofar as an accurate designation of the peaches is concerned?

Mr. DICHTER. Yes, if you want to put it in those sharp terms.

Mr. COHEN. I think you referred in your testimony to dramatizing honesty. You said that some people might call it dishonesty.

Mr. DICHTER. That is right.

Mr. COHEN. I think you stated that the reason for that was because the consumer had been trained by several decades to apply the same psychological disbelief to both statements. Is that correct?

Mr. DICHTER. Yes.

Mr. COHEN. This is trained by what? By market conditions?

Mr. DICHTER. Well, I think it started with Adam and Eve.

Mr. COHEN. I just meant the last two decades.

Mr. DICHTER. If I may say, again, by politicians, by a whole modern democratic life and our daily life.

I do not know whether this is appropriate or not, but President Kennedy asked to arrange the lights at one of his recent press conferences, because in the previous press conference his double chin, or he appeared to have a double chin.

He was packaging himself. Was it honest or dishonest?

I think it was just normal, sound, human instinct to present himself—

Senator HART. I restrained myself on those earlier remarks, but I think on this, this is a good example and also loyalty compels me to do this.

Mr. DICHTER. I am also a good Democrat.

Senator HART. The President was presenting himself more accurately by asking for the adjustment of the lights, because in truth he does not have a double chin.

Mr. DICHTER. I am glad to hear that.

Mr. COHEN. I had also rather hoped that we could stay as close to peaches as possible.

So, as I understand your recommendation to the co-ops to meet this type of practice, it is that they call their peaches either "gorgeous" or, possibly, use some other words like "more gorgeous" or "gorgeous gorgeous," or something to this effect. Is that right?

Mr. DICHTER. Yes, in a way and if they want to—if you ask me what will be the exact right procedure, they could have said, which they did not say, "well, you know, of course, what we mean by 'gorgeous.'"

"These are carefully selected peaches and they are as good as peaches normally can be."

Well, this, I think, is putting a lot of burden on people to do this. If you want to be very strict, and I am just trying to be the realist, sure, they should have done that.

The public is more sophisticated than we assume. They would have laughed it off and said, "Yes, we know; we forgive you; you do not bother."

It is like the example—since we want to stay away from politics—the girl says, "Look, I really snore and I probably will not be good looking 10 years from now," but we forgive her. We do not expect her to carry the cross of honesty to that extent.

It would be a very horrible life if we all did.

Mr. COHEN. You are on a subject that I have very little knowledge of. If we could stick just to food for a few minutes.

So, actually then, in order to meet competition in the modern marketplace, you, in fact, very honestly, knowing what you do about human nature, had to advise this particular client that you were going to have to do this same thing your competitor did or else do a little bit better in terms of designating your peaches.

Is that a correct statement?

Mr. DICHTER. Yes.

But I would, at the same time, advise the advertiser as we have done, "Do not overstate; stay within reasonable claims, because if the public should open the can of peaches and find out they are actually lousy, you are not going to get them back."

In other words, you can measure, if you want to, the percentage of reasonable deduction from the claim that is being made.

Mr. COHEN. Actually, you are advising them that you cannot say they are supergorgeous, but just a little bit more gorgeous?

Mr. DICHTER. Well, you do not have to say it in words, and maybe it becomes a little clearer, but actually you do it in a much more subtle way.

You show some very colorful peaches. And I do not know whether this could be called a defense but even the Russians have learned to do that.

If you have been to the Russian exhibit, their labeling is quite gorgeous looking. Apparently, the Russian consumer also wants to have some embellishing glorification of the products that he is buying.

They would not like, as you would assume, in a very rational economy or apparently rational economy, simply a white label with a machine type of statement on it, "these peaches were collected on June or July 15 and in the following area and have been tested and found to contain so many of grade A, B, and C."

What I would like to submit: It just does not exist anywhere in this world. Nobody does it.

Maybe someday there will be this really 100 percent rational, ethical, moral society. Maybe it would be a very horrible society.

Mr. COHEN. As I understand it, you feel that even if the packages contained a statement of the content and weight in large letters, this really would not make too much difference.

But, I understand you do not have any objection to giving the women a crack at it to find out how they would react themselves.

Mr. DICHTER. No. I would like to be of help when you do it, if you do it, to do it in an effective way rather than wasting the legislative effort or the printer's ink, in putting the size on.

And, as you state again, I do not think it will be sufficient. I have no objection.

And in my experience with thousands of clients there has been no client that came to us and said, "How can we cheat the public?"

Maybe they do not need us if they really want to do this.

They will advise the girl at the packaging machine to do it and they will not inform very many people. But the vast majority of advertisers are intelligent enough to realize that it does not pay in the long run.

That there are some people doing it? Yes, in every field.

There are bad people and if legislation is needed, and apparently to some extent it is needed to control these people, fine.

But I would like to be able to go beyond that and, again, I was asked before by Senator Hart what I would do. Well, I made another suggestion that there might be many other ways in which it might be done.

Mr. COHEN. I would assume that at least in the merchandising world, this gross exaggeration of a product is not particularly considered as cheating. This is considered as an American condition?

Mr. DICHTER. Well, I think it is a necessary part in the competitive struggle. And, unless you could, by legislation, force everybody, giving a certain day from July 1 on, to take all the color photographs off the peaches, and all the other exaggerated descriptions, you would simply have reduced it, and probably the same thing would start happening again on the next level.

Senator HART. That is a discouraging prospect.

Mr. COHEN. That is all I have.

Senator HART. Mr. Wallace?

Mr. WALLACE. In that regard, you are saying that you do not think there can be legislation?

The word "gorgeous," for example, on peaches, you would not want to see legislation that would prohibit the use of the word "gorgeous" on peaches, would you, even though they are not gorgeous?

Mr. DICHTER. Well, what I want to make clear is, it is not because I am for sin, but because I feel it would not achieve very much. It would simply reduce the upper level of embellishment or exaggeration and everybody will use a lower kind of description. You will have the same thing. You simply have changed your scale.

I am thinking of a shortwave set where you change from one scale to the other; that the needle is still the same except the reading is different.

Senator HART. Mr. Fensterwald?

Mr. FENSTERWALD. I have no questions, Mr. Chairman.

Senator HART. Mr. Chumbris?

Mr. CHUMBRIS. I just have this briefly, and I will not go over it again because it was the substance of discussion this morning and again yesterday: As you will observe at any grocery store, you can buy two cans of peas or string beans for 29 cents, which may be the house products, or you can buy two cans of peas or string beans for 35 cents. The public has the choice as to which one of the two they want to buy and you set forth the reasons why many people will prefer the two for 35 cents rather than the two for 29 cents. They have their various reasons.

Mr. DICHTER. Yes.

Mr. CHUMBRIS. Would you say that the public has the same discernment when it comes to looking at two boxes alongside of each other?

Whether it is a cereal or instant mashed potatoes or whatever the case is going to be, they are going to buy the one that they are acclimated to, or used to, irrespective of whether it is 14 ounces or 15 ounces?

Mr. DICHTER. I am not sure whether I quite understand the question. There are two packages—

Mr. CHUMBRIS. During the course of the hearing yesterday and today there has been very much discussion on whether it is deceptive to have two boxes alongside each other, one at 15 ounces and one at 14 ounces, but the size of the boxes about the same. One has one company and one has the other.

The other point that was raised yesterday and again this morning was that it is deceptive for the manufacturer to have an 8-ounce can of peaches for 35 cents and if he has to raise the price, instead of raising to 40, he reduces the can to 6 ounces and that is called deceptive. But still it is going to be the public that will decide whether they want to buy that particular brand or one that continues with the same content.

Mr. DICHTER. Well, I would say that it would be desirable, as one of my two major points, to educate the public. You are doing it right here. This is publicized. Watch out; look for these things.

And I would also educate the advertiser, not just on a legal basis or moral basis. Do not be dumb. The public is getting wise.

As I said in the beginning of my statement, there are not very many morons left in the public and any advertiser who thinks that he is dealing with a moron is a moron himself, because he is going to lose out in the end.

And he should be—I do not know whether he should be forced, possibly, to state exactly. I meant, one of my suggestions was to have the retailer state the price per ounce which would do the trick.

Mr. CHUMBRIS. And no matter how conscious the consumer becomes of either content or price or both, he still is going to buy the particular can or box that meets his fancy for the reasons that you said?

Mr. DICHTER. That is the reality that I am reporting. Again, I do not want to appear immoral. I do not approve of it. I am not responsible for it. This is how we behave.

Mr. CHUMBRIS. But at the same time, the more conscious a consumer becomes, the better he will be in this particular problem, but it gets me again to the point that you raised of the letters that come in to our subcommittee and of the letters that go to the Consumers' Union.

We have now 183 million people in the United States. How do those letters really reflect the thinking of people across the country? Do people only write when they have something to gripe about or do they write when they have something good to say?

I mean, many times Congress has that concern not only in this matter but on other investigations, especially before the subcommittee during the last 4½ years.

Mr. DICHTER. Well, I think the answer is fairly obvious. We have what we call market research by sample. The grippers are usually more outspoken and speak up more readily and you get a good sample of this group. The economic facts, the tremendous success of most advertisers, show that the vast majority of people do not pay attention to these things, and are not particularly bothered, which may be bad.

Mr. CHUMBRIS. I have just one facetious statement to make. You stated here that every day the American housewife votes in the supermarkets and department stores all over the country for the products of her choice. Do you think our problem today is that the husband is going to the market instead of the wife?

Mr. DICHTER. Yes, partly; but if I am permitted to quote a personal thing: I always overpay and buy too much when I go shopping.

Senator HART. Mr. Kittrie?

Mr. KITTRIE. I would like to ask you this: Your concluding remarks were that if we do anything at all to lower the extent of these embellishments and so on, all we will do will lower the scale and, really, we are not accomplishing much.

But at the same time, is there not a danger that if you let these embellishments add up and add up, they become more extreme, and before long you really do not know what is fact and what is fancy?

Mr. DICHTER. Well, the danger is not very great.

There is a limitation as far as the English language is concerned. There are not very many other words you can use on top of "gorgeous."

There are not very many information designs you can use on a four-column label.

Mr. KITTRIE. But are you not creating a society that is conditioned to all these wild claims and nobody knows what the facts are?

Mr. DICHTER. Well, that gets us into a very complicated field.

You also are conditioning a society that is being informed in many other ways by mass communications as to how things are put together.

You could, and very many manufacturers do exactly that, show the public how they make the product, how they practice quality control, and so on.

Their major complaint usually is that these stores—there are stories of manufacturers that invite the public continuously on checklists, to check the car that they are going to buy; according to these various points, to look under the hood, which is a very old and famous advertising approach, which is the exact opposite from the embellishment.

"Look at the facts before you buy."

Mr. COHEN. If I might ask you one last question:

You have been very patient, Mr. Dichter. If I understand it, these packages are brought to you by people who are not doing too well, and they ask you to determine what they can do to help sell the product by packaging. Is that right?

Mr. DICHTER. Yes.

Mr. COHEN. And, as I also understand, this packaging is a very important element in the sale of the product itself. Is that right?

Mr. DICHTER. Particularly because of what I have called in my book, we have reached the psychological era where the products are quite reliably good.

Mr. COHEN. In fact, you said that packaging may be more important in emphasizing the sale than advertising?

Mr. DICHTER. That is a new question.

Yes, it depends on the product. The advertising agencies would deny it. The packaging people would say yes.

Mr. COHEN. So, you are put in the position of having to design a package which by its color and design will appeal to the emotions of the purchaser in terms of the product being sold. Is that correct?

Mr. DICHTER. Yes, but not just the emotions.

To find out what can be done to have it stand out competitively.

Mr. COHEN. And, as I understand your statement, there is often a great cost for the producer to make this particular change.

Mr. DICHTER. I did not hear you.

Mr. COHEN. As I understand from your testimony, this is often at great cost to the producer in changing the whole package.

Mr. DICHTER. Well, I think that gets us into the field of economics.

Mr. COHEN. This was in your statement, I believe, that this was often at great cost to the producer himself.

Mr. DICHTER. No, I did not say that.

The whole big question is: Does it add to the cost of the product or does it permit mass production, thus reducing the cost of the product?

Since you have asked this question I do not want to be—well, very often the cooperatives, the merchandise sold in Co-op stores is not necessarily cheaper than the merchandise sold in the Grand Union, despite the fact that one supposedly actually does distribute the profits and the other one keeps the profits.

The one has more of a mass production and mass distribution. So that gets us deep in the field of economics.

Is the mass production and mass distribution brought about through advertising and packaging, and, in the final result, is not the product made cheaper rather than more expensive?

Mr. COHEN. I had not in mind to go that far.

I assumed there were certain costs involved in changing the package for a producer.

This cost them money, does it not?

Mr. DICHTER. Yes.

Mr. COHEN. This cost would have to be passed on somehow to the ultimate consumer, I would assume——

Mr. DICHTER. Well——

Mr. COHEN (continuing). In a direct way?

Mr. DICHTER. Yes, but if it increases the sales of the advertiser, he can afford to produce his product on a mass scale and, in doing so, be satisfied with a smaller profit on a mass scale which still adds up to the large profit.

Mr. COHEN. But, regardless, this puts the consumer in the position of financing an appeal not to his rationality but only to his emotion?

Mr. DICHTER. Yes, if you want to say that.

Mr. COHEN. I have no more questions.

Senator HART. Doctor, as you have sensed, we have enjoyed your testimony very much and we have benefited from it.

Mr. DICHTER. Thank you.

(A letter subsequently received from Dr. Dichter follows:)

INSTITUTE FOR MOTIVATIONAL RESEARCH, INC.,
Croton-on-Hudson, N.Y., July 6, 1961.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: I hope that I have contributed something to the work of the committee. You had asked me to suggest additional ideas on what could be done to educate the public and make it more conscious of content and ingredients of products sold to them. I suggested to you the possibility of:

1. ESTABLISHMENT OF AN HONESTY WEEK OR, PROBABLY A BETTER TERM,
"CONSUMER CONFIDENCE WEEK"

The idea would be to assure the public that no merchandise displayed and sold in this particular store will contain any misrepresentation. If the public feels that weights and ingredients are not prominently enough displayed on packaging, the retailer would promise to pay a certain amount. The could be parallel to the sunshine insurance paid by some Florida or Arizona resort places. They refund the money for any day of the year of the tourists stay where the sun does not shine. The whole purpose behind it would be to educate the advertiser to pay more attention to what his package implies or fails to imply and to make the retailer more conscious of his duties.

2. PRICE PER OUNCE

We had suggested to the Greenbelt Consumers Services in Baltimore and Washington to post clearly the price per ounce or pound of most of the merchandise sold. This would draw the consumers' attention to the actual values they receive. It would counteract any attempt on the part of the advertiser to hide the contents of his package and print it in small letters.

3. CONSUMER COUNCIL

Management of many companies could be asked to invite representatives of their consumers to their package design and merchandising conferences to inform them ahead of time as to what changes they have contemplated and to get their advice and recommendation.

4. HOSTESS AND INFORMATION FUNCTION

Each retailer should assign a person or, if he is a small retailer, offer his own services for accepting any kind of complaint as to improper labeling, unclear labeling, etc., and promise and guarantee to pass on such information to manufacturers.

5. CONSUMER EDUCATION PER SE

In home economics courses in high schools, PTA groups, clubs, the consumers could be asked to pay more attention to packaging and labeling. Samples of poor packaging and improper labeling practices could be exhibited. Young girls, housewives to be, could be taught how to spot possible frauds and how to become better shoppers.

6. BE A SMART SHOPPER

Attempts could be made through various channels of communication, newspapers, TV, radio to make it chic to be a smart shopper. Supermarkets could be asked to have a consumer education chart posted at the entrance of each store—5 points or 10 points—to watch out for when shopping.

(a) If you are worried about what you are receiving for your money make it a practice to read each label carefully.

(b) Read all the instructions on each label very carefully.

(c) Be aware of the fact that your emotions may play an important role in buying. There is nothing wrong with splurging or buying unusual food, giving in to some of your whims as long as you know what you're doing.

7. EXPOSE AND ADVERTISE FRAUD

Ways could be found through consumer councils, shopper's clubs, PTA meetings to expose, on a monthly basis, all improper labeling. In other words, every consumer within a given area who has bought merchandise that he found shoddy, that the weight was hidden, and similar deceptive practices, could be invited to bring samples of this merchandise to meetings and exhibit them. The fact that this is being done could be reported by local newspapers and eventually this threat of exposure could become so powerful that even the few advertisers who might still practice such deceit would soon reform their ways. Possibly this committee itself might issue such consumer information or warning. Although I don't know whether this would be legally possible, I am sure that ways could be found to copy the method of the Middle Ages and to expose trespassers to the public. Few advertisers would dare to risk such exposure.

I hope that these few ideas will be of value to you. If I think of other possibilities I shall be glad to send them on to you. If you, yourself, have any suggestions as to what I could do and how I could be of help I shall be very glad to cooperate.

Sincerely yours,

ERNEST DICHTER, *President.*

Senator HART. As the last witness, I can introduce as an old friend, Mr. J. L. Littlefield, the Chief of the Foods and Standards Division of the Michigan Department of Agriculture.

Mr. Littlefield has filed a statement with the committee and it will be printed in full at this point in the record.

(The full prepared statement of Mr. Littlefield may be found on p. 176.)

Senator HART. And if you could summarize portions of it, we would appreciate it.

STATEMENT OF J. LYLE LITTLEFIELD, CHIEF, FOODS AND STANDARDS DIVISION, MICHIGAN DEPARTMENT OF AGRICULTURE, LANSING, MICH.

Mr. LITTLEFIELD. Thank you, Senator Hart, and I certainly will summarize it in the interest of time.

You indicated I am from Michigan. I am employed as chief of the foods and standards division under Michigan civil service in the department of agriculture, with headquarters in Lansing, Mich.

It is a distinct honor and privilege for me to appear before you today. I feel the subject of advertising, packaging, and labeling techniques which are designed to deceive or mislead the purchaser is one that deserves the attention of government officials at State and Federal levels as well as packagers and advertising agencies. I commend your committee for its efforts in a study of these matters of importance to all of us as consumers.

Our Michigan Legislature has vested the department of agriculture with authority to enforce laws dealing with the purity, quality, and labeling of foods and sanitation of all food establishments within the State, as well as to check the accuracy of weighing and measuring devices and the quantity of any item sold by weight, measure, or numerical count. So you might have some small concept of our responsibilities, in addition to several service sections, the foods and

standards division also administers over 100 laws and regulations with authority to:

1. Regulate all places handling food to prevent filthy and insanitary conditions.
2. Prohibit adulteration, fraud, and deception in the manufacture and sale of food and drink.
3. Protect consumers from possible deception in the identity, quality, or quantity of food products.
4. Remove violative foods from the market through seizure or prosecution.
5. Prevent false advertising in the offering for sale of any food product.
6. Prosecute violators of the laws and regulations.

At the present time our regulatory staff in one section of the division under my jurisdiction totals 7 supervisor and 42 inspectors in the field.

The consumption of food in America is rising and predictions are that it will continue to rise. There will be more and more products to be packaged next year than ever before, and there will be more men, methods, materials, and machines to package them, according to these predictions. The problems posed by prepackaging are staggering, if we take time to examine them. Enforcement officials are continually facing these problems in an attempt to keep them under control, but there is every indication that they are getting out of hand.

As regulatory officials in Michigan, we have continually strived toward standardized descriptive labeling. However, the increase in prepackaged items which are not directly controlled under specific laws of our State has resulted in the program getting out of hand. The purpose of any such program is not to standardize consumers' tastes nor to control their individual preferences but to facilitate the individual's free selection of packaged goods in an intelligent manner.

Since most packaged products cannot be examined by the eye, it is necessary that an appropriate label describe them so accurately that, in effect, the label puts a window in the product. Many commodities are, I believe, purchased because of the package, not necessarily for its contents. We continually find that pictorial material tends to deceive and mislead the consumer while the required information is buried where the consumer must search to find the true facts.

We are all familiar with the many ways used by those who purposely intend to do so to deceive or mislead the purchaser as to the quality or quantity of the product, such as:

1. Picturing on the label the product in a quality or color superior to the product contained therein.
2. Misleading the consumer with complicated and even false claims as to the nutritive value of vitamins, minerals, and calories in the product.
3. Using terms which cannot be understood by consumers as to the quantity, such as "tall," "giant," "king size," "economy size," "extra large," "super," and like descriptive adjectives.

As enforcement officials, we attempt to secure voluntary compliance with the letter and spirit of the law for an honestly labeled food supply. We stand ready to deal with the transgressor who is concerned about his public responsibility only from the standpoint of trying to

determine the extent he can ignore legal requirements without facing serious legal difficulties.

It should not be necessary for the consumer to read the entire label to learn what type of a product she is buying. Consumers should not be required to dissect the label with a dictionary at hand. Labeling should be so arranged that the mandatory information is not subordinated to other statements appearing. To support this, in our surveys of labels and labeling we have found:

1. Information statements do not appear on the part or panel of the container which is presented or displayed under the usual conditions of sale, known as the main display panel.

2. Where the package has several panels, any of which may be displayed, the informative statements are not repeated on each of the available panels.

3. Enough label space is not allotted to assure that the informative statements are conspicuously displayed. We find overemphasis on minor matters on labels while the area assigned to the mandatory statements is relatively insignificant.

4. The size and style of type employed does not advance the prominence of the mandatory information—it seems to defeat its purpose.

5. The background of the label does not distinctly contrast with the printing matter to set it forth plainly. We find considerable difficulty with labels on the aluminum-foil-type wrappers and on plio-film bags. Have you ever tried to read pale yellow printing on such wrappers? We recently had cans of soft drinks printed in one color, the labeling being of a deeper color than the background. The packer's explanation for the use of the one color was a cheaper can cost.

Here are some additional problems we have encountered in the State of Michigan. Perhaps they will bring to light some areas in the labeling and advertising of some products which appear to deceive and mislead consumers.

- (1) We find that some manufacturers reduce the product content without cutting price or container size.

I have here a recent exhibit of this. If you look real close down in this corner it says, "1 pound net."

This has been obliterated and the size "12 ounces net" printed in much smaller type than the original "1 pound."

It is the same size container.

One of two things happened. They have either used dividers in here to take up 25 percent of the space or they have made the cherries considerably smaller, the chocolate covered cherries.

This is the type of thing——

Senator HART. The container you referred to will be filed with the committee.

(The exhibit referred to will be found in the files of the sub-committee.)

Mr. LITTLEFIELD. I deleted the reference to manufacturers.

Senator HART. The producer's name has been masked?

Mr. LITTLEFIELD. Yes, it has.

Senator HART. It has been received as an exhibit.

Mr. LITTLEFIELD. Others apparently give less product than specified on the package because of misleading terms which are not rep-

representative of the quantity. This problem has developed overwhelmingly since the tobacco people came out with a king size cigarette. This gimmick in advertising has caught on by leaps and bounds in other industries. Of course, we realize there is little that we in enforcement can do about nonstandard packages, but a quart is a quart regardless of labeling and advertising which states "full quart," "jumbo quart," and finally a "giant imperial quart." Small, medium, and large are becoming a thing of the past. The standard units of weights and measures are being warped beyond recognition. They are being camouflaged by descriptive terms which tend to deceive, mislead, and distort the actual meaning of true net weight or measure. They want the consumer to believe that my pound is bigger than your pound, and that my quart is a full quart and yours is not. Advertising agencies will admit that they found it necessary to try to out-gimmick one another but there are still just 16 ounces to a pound.

I am told by manufacturers that they feel obligated to call their commodity a "full quart" because competitors use a 28-ounce bottle not readily discernible from the 32-ounce bottle. They want the consumer to know theirs is "full" quart.

The next logical step would be a "full 28 ounces." The same thing has happened with the comminuted meat industry in our area. Packers state that so many of their competitors had begun packaging a 12- and 14-ounce package of various luncheon meats and sausage products, to get their point across to the shopper that theirs contained 1 pound of product rather than the smaller amount of 12 or 14 ounces, they labeled it "full pound." The next logical step in this type of labeling competition would be to label the smaller packages as "full 12 ounces" or "full 14 ounces."

Last fall I wrote to all weights and measures officials in the United States, explaining the action we had taken regarding the use of such terms as "king size," "giant," and "full" in connection with the contents and asked each jurisdiction to notify me if any action had been taken in their jurisdiction to prevent such misleading labeling and advertising.

I will read just a few of the responses.

We are also interested in finding some way to attempt to stop labeling and advertising which is misleading to the public, but so far we have not made much progress.

We certainly agree with you that labeling commodities in terms of "king size," "big," "giant" and similar statements is in violation of the intention of State laws and action taken by the national conference (weights and measures). We have done some work * * * to discourage this practice; however, at the present time we do not have sufficient law to correct it entirely. We will continue to discourage qualifying statements of weight contents so far as we are permitted under our present law.

I do not know of any problem that faces weights and measures that would be more destructive than this one. I am wholeheartedly in agreement with you that there should be unified action in regard to this subject on all commodities sold by weight and measure, particularly in the food field.

I fully agree that the use of such terms is an attempt to mislead the buying public into believing it is receiving more than it does. For this reason, some definite action should be taken to bring about a discontinuance of the practice.

The ordinary buyer is guided to a considerable degree by a visual appraisal of size by comparative dimensions of a package. Few take the trouble to read and compare quantity declarations. Manufacturers appear to be capitalizing on this knowledge of consumers' purchasing habits by utilizing containers which apparently enhance the size and

hence the value of the commodity. Buying by container size, the consumer feels she is getting the most of a product. However, a small package right beside it may hold more product at a cheaper cost per unit.

One of our keymen recently went on an investigational shopping trip. Without covering every item or type of item in the store, here are just a few examples of labeling and advertising gimmicks he found which are apparently intended to influence the shopper.

Cereals are a good example. One manufacturer puts out several different types of dry cereals with each box marked "large size." However, this "large size" is used to describe boxes of cereal weighing from 9½ to 16 ounces. The net weight on one type was 10½ ounces, another contained 9½ ounces, another 12 ounces, and still another was marked "16 ounces" and a fifth "1 pound."

Soaps and detergents are another example. Some may have a large container but within that container may be a gift which doubtless has been figured in the cost. Although the consumer may select this product based on the size of the box and perhaps pay a higher price, she feels she is getting the largest size. She may be getting the largest size box but not the most product for her money.

We surveyed the weights and prices of soaps and detergents. Fifteen brands were compared—the declared weight against the net weight, the unit price, and the price per pound. Note was made as to whether any gifts were included and the location of the weight declaration. All of the packages were labeled "giant" except two. All were labeled in various ways but had identical height and width but varying depths. None had the declaration of contents on the front panel but such descriptive adjectives as "giant size," "king size," and "laundry size" were most prominent on the front display panel. Nine of fifteen had fractional ounces in the net weight declaration.

In our investigation of the labeling of various sizes of soaps and detergents labeled in descriptive sizes, we decided to compare the various weights offered by one company under one brand name. Four sizes are marketed. The smallest is called "regular," containing 1 pound 4 ounces. The next size is "giant," containing 3 pounds, 11½ ounces. The third is "king size," which would be expected to contain the most but it contained 5 pounds, 3¾ ounces. This "king size" was merely one-third as large as the one marked "home laundry size," which contained a total weight of 16 pounds 1 ounce. Maybe this size could be labeled "jumbo." However, 3 other brands used the term "jumbo" on varying sizes from 10 to 13 pounds. So this one company's "home laundry size" defies description.

Our investigational shopper found other examples of misrepresentation or misleading claims that may be intended to deceive or mislead the consumer, such as:

Roll-on deodorant packed in a box twice the size actually needed for the product and labeled as "giant 1½ fluid ounces."

Canned soups, such as "chicken noodle" labeled in the same size type with very little chicken in the actual product. The ingredient list shows "chicken stock, noodles, and chicken" in that order. The product is probably on a 1-to-1 ratio—one chicken to one carload of noodles.

Many brands of canned beans labeled "pork and beans," with a very minimum amount of pork. The label would indicate generous

amounts of pork since the name of the product on the label gives as much prominence to "pork" as to "beans."

Various brands labeled "instant nonfat dry milk," but one was labeled "faster than instant."

Rolls of wax paper of various brands, all in the same type edge-cutter containers, with one labeled "big 125-foot roll" and another "big 100-foot roll." A third used "100 square feet" to describe the contents.

Aerosol-type containers of spray for hair, one containing 15 fluid ounces was labeled as "giant \$2.25 value reduced to 98¢" in comparison to a competitive product labeled "Special, \$1.09." Both contained the same quantity. The price quotation appears to be a consumer come-on gimmick.

Then we have those items that are marked 5 and 10 cents off. The question is: Off what?

Aluminum foil in rolls. One product is labeled "quilted for strength," a second "flexible strength," and the third "super strength." What is the significance of these statements regarding strength?

On a package of instant mashed potatoes, the label indicates "includes butterfat," in several places, while the list of ingredients stated "dry whole milk." It would seem "butterfat" is overemphasized in that actually the whole milk is its only possible source.

Many compounded food products list ingredients someplace on the back or underneath panel in print almost too small to read. This same situation is true of the net contents declarations on many food and nonfood items.

We have found butter cookies without any butter and required the label to eliminate any reference to the use of the term "butter."

"Banana fingers" and "banana turnovers" where the list of ingredients fails to mention bananas or banana puree.

An "almonettes" cookie which declared "cashews" in the list of ingredients, but no almonds. The product name implies almonds.

"Pineapple-filled oatmeal cookies" without any filling and no declaration of pineapple on the label.

"Strawberry gelatin dessert" determined by our laboratory to be an artificially colored, gelatin-type dessert with a strawberrylike taste, containing small pieces of peach, pear, and pineapple fruit. The same type of product was labeled as "raspberry dessert" which had a raspberrylike taste with the small pieces of fruit.

"Chocolate nut bars," with cocoa listed as the only source of chocolate flavor.

There are many, many such examples of misleading labeling of food products and advertising gimmicks which do not adequately describe the product, its quality, size, or contents.

It is continually obvious that with more and more of our products being canned or packaged, the labels must give the information necessary for the consumer to make the right choice when shopping and the advertising must be compatible. The label must be the spokesman for the product and its manufacturer, and the overenthusiasm of advertising agents and label designers must be restricted so that the labels, labeling, and advertising, are truly representative of the product.

A descriptive label and advertising does not mean a false label or false advertising. Playing up relatively unimportant factors in over-size type while more vital factors are relegated to minute type requiring a magnifying glass to read is deceptive.

I have made occasional reference to what may be considered the problem of "slack fill" of containers. A review of the responsibility of this committee indicates this matter, and others of importance may be given consideration in due course.

Enforcement officials throughout our Nation should join together to eliminate deceptive, misleading, fraudulent or unfair practices in the production, processing, packaging, labeling, branding, advertising, statement of prices, and other conditions of sale, marketing, and furnishing of goods and services to consumers.

Our legislative bodies should see that we have the necessary laws, finances, and personnel to adequately handle the problems in violative labeling, packaging, and advertising.

Truthful labeling and advertising should be all packagers' goals. As Winston Churchill once said:

Truth is incontrovertible. Panic may resent it, ignorance may deride it, malice may distort it, but there it is.

Truth isn't always in the labeling and advertising but it should be. Thank you, Mr. Chairman.

Senator HART. I was prejudiced and admitted it to begin with, but I insist that was an excellent statement.

Mr. LITTLEFIELD. Thank you, Senator.

Senator HART. Mr. Cohen?

Mr. COHEN. Just one question: I understand, Mr. Littlefield, that you recently gave a speech, or were invited to give a speech, on the same subject, "Deceptive Packaging and Labeling," to the National Conference of Weights and Measures. Is that correct?

Mr. LITTLEFIELD. Yes, sir.

Mr. COHEN. And you were also invited and gave a similar talk to the Association of Food and Drug Officials of the United States?

Mr. LITTLEFIELD. Yes, sir.

Mr. COHEN. During these meetings you have talked and discussed these matters of weights and measures with officials around the country, from other parts of the United States. Would it be fair to say that your statement here today fairly represents a consensus in regard to this field of packaging and labeling?

Mr. LITTLEFIELD. Yes, sir. I am sure it properly reflects the attitude, based on my personal conversations with them and, as I indicated in my formal statement, their response to communications on this subject.

Mr. COHEN. No more questions.

Senator HART. Mr. Fensterwald?

Mr. FENSTERWALD. Mr. Littlefield, do you have any legislative suggestions for the Congress in this field?

Mr. LITTLEFIELD. This is a real difficult question.

I think there are many areas where we already have adequate legislation, if we had adequate enforcement.

This matter of conspicuous labeling, and I think the meaning of these words have been lost in the maze of some product promotional work and perhaps we, as enforcement officials, have let this happen.

I know it may have happened to us for the lack of people and finance and this is also a general tone of some of the responses that I got from other States.

We will do more if and when we can.

So far as Federal legislation is concerned, perhaps some guidelines might well be established and certainly in the interest of free movement of commodities and produce in interstate commerce, we would not want to set up what might be considered trade barriers.

But if we had some guidelines and the States could adopt some of these in their entirety and then enforce them at State and local levels, for uniform application, I think it might serve the purpose.

Mr. FENSTERWALD. Thank you, Mr. Chairman.

Senator HART. Mr. Chumbris?

Mr. CHUMBRIS. How do you feel about the approach by the Food and Drug Administration and the Federal Trade Commission to labeling and advertising? Are you satisfied with that as a State official on the Federal level?

Mr. LITTLEFIELD. Well, first, the Federal Food and Drug Administration, like my own agency, is concerned with factors affecting health as well as the economic aspects of food commodities, particularly.

And probably the lion's share of our efforts have been directed in the areas of health and sanitation of food handling establishments, including the violations of the weights and measures laws certainly as it applies to the declared content.

Now, it has been my observation that FDA has recently stepped up a program in this area.

No, I have not any material on it. I do not know how active they are going to be.

The Federal Trade Commission has been in my office reviewing certain phases of this and they have manifested interest also.

Mr. CHUMBRIS. Do you cover that in your speech, or did you cover that in your speech to the Food and Drug Officials conference that Mr. Cohen referred to?

Mr. LITTLEFIELD. Did I cover it?

Mr. CHUMBRIS. Yes, in your speech.

Mr. LITTLEFIELD. No, I did not.

Mr. CHUMBRIS. I think we ought to put that speech in the record. Senator HART. If there is no objection, we will put them both in. (The two speeches referred to may be found beginning on p. 153.)

Mr. CHUMBRIS. I have no further questions.

Mr. WALLACE. Just one question:

Would you agree with Dr. Dichter that it does not pay for some of these companies to be deceptive in their packaging?

For example, on page 9 you mentioned the roll-on deodorant which is packaged in a box twice the size actually needed. You mentioned canned chicken noodle soup as not having much chicken in it.

Would you say that the consumer, when he discovers this when he gets home, would react in such a way that the product would not be purchased again?

Mr. LITTLEFIELD. No, I do not think they do. This happens in some cases.

As I indicated, people buy them by brands and by package to a great extent and they are disappointed, and we only hear, I am sure,

from a small percentage of the people that actually have some complaints to make.

They do not want to take the time to do this.

Mr. WALLACE. But they will not buy the product again, will they?

Mr. LITTLEFIELD. Yes, I think they do.

Mr. WALLACE. Then they do not care? I guess that is it.

Mr. LITTLEFIELD. They care, but I think they are becoming somewhat callous to, "Well, this is it, this is what we are going to get and this is what we expect now," even though it may say something a little bit different.

Mr. WALLACE. That is all.

Senator HART. Mr. Kittrie?

Mr. KITTRIE. Mr. Littlefield, these references to particular instances you listed here, in most of these cases these were not Michigan products, I assume. Is that right?

Mr. LITTLEFIELD. Yes, I think some of them were.

Mr. KITTRIE. Some were but not all?

Mr. LITTLEFIELD. No, I could not say all were.

But I would be quite sure that in one area some were.

Mr. KITTRIE. When you find a product like this, where you believe the label does not adequately state what the product contains, what do you do about it? What can you do about it under the present law?

Mr. LITTLEFIELD. Well, we have to rely on this term "conspicuously labeled" and this becomes a matter of opinion as to what is conspicuous.

And maybe you can see it a foot away and maybe I can see it 2 feet away, and this becomes one of these decisions that finally has to be resolved in some court.

And we have had one of these cases where one of the witnesses said, "Well, I cannot see this," and the Judge said, "I cannot either."

And in this case he said it was not conspicuous.

But I think each case has to stand on its own merits.

Mr. KITTRIE. If it is your own State product, you can get to the manufacturer, I assume, and complain. Is that right?

Mr. LITTLEFIELD. Yes.

Mr. KITTRIE. If it is a nationwide product that is not manufactured in the State, what do you do then? Do you have any recourse at all?

Mr. LITTLEFIELD. Oh, yes. We exercise embargo or seizure proceedings against such commodities.

And, as I indicated, we cannot do this very often or very fast. I have done this, in the last 6 weeks or 2 months, on these cookies and cakes that allegedly have fruit and do not, and this is working along pretty well.

Mr. KITTRIE. Do most States have an agency similar to yours?

Mr. LITTLEFIELD. Yes.

Mr. KITTRIE. Are you able to call the attention of these agencies to practices of this type? Do you have the staff, when you see something like this happen, not only to utilize your knowledge in your own State but also to bring it to the attention of other people, or is there a need for more coordination?

Mr. LITTLEFIELD. Well, there is always the need for better coordination in communications.

As I indicated here, I made some similar comments at the Conference of Food and Drug Officials Association of the United States, which covers about 36 States which were represented, as I recall, and

the National Weights and Measures Conference, and I think there were about 35 or 36 there.

Now, this material will all be printed but this becomes a matter of an individual's time being available.

Mr. KITTRIE. The reason I ask you all these questions, as you will appreciate, is that if the decision is reached here that there is need for some legislation, the question is always whether it should be on the State level or on the Federal level.

Mr. LITTLEFIELD. Well, as I indicated, I think if there is the need for legislation, I think it well could be Federal. I am a States-righter probably in this regard, favoring some State jurisdiction.

Mr. KITTRIE. Thank you very much. Thank you, Mr. Chairman.

Senator HART. Mr. Littlefield, again I thank you.

I am sure that in the course of just these 2 days all of us have been stricken by the fact that we have only just begun in this field. I am glad to have heard several of the witnesses comment that the very fact that the hearings emphasize the need for consumers to increase their awareness of some of these practices will help.

All of us, I am sure, were disturbed to be told by Dr. Dichter that it really is not true that very many of us really care. I think time will give us a better answer to that.

If we move effectively, we may be pleasantly surprised. I hope we can.

The witnesses for tomorrow are Thomas P. Wharton, president of the Packaging Consultants, Inc., and Mrs. Sarah Newman, member of the board of directors, of the National Consumers League.

Senator Carroll, who was not able to be with us this morning, was represented.

Are there any further questions?

(No response.)

Senator HART. We will adjourn until 9:30 in the morning.

(Whereupon, at 12:25 p.m., the committee recessed, to reconvene at 9:30 a.m., Friday, June 30, 1961.)

PACKAGING AND LABELING PRACTICES

FRIDAY, JUNE 30, 1961

U.S. SENATE,
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 2228, New Senate Office Building, Senator Philip A. Hart presiding.

Present: Senator Hart.

Also present: Bernard Fensterwald, Jr., staff director; S. Jerry Cohen, assistant counsel; Thomas C. Williams, assistant counsel; Peter N. Chumbris, counsel for the minority; Nicholas N. Kittrie, counsel for the minority; Dean W. Wallace, counsel for the minority; Dr. E. Wayles Browne, Jr., economist; Daniel S. Greenberg, staff assistant; Paul S. Green, editorial director; and Gladys E. Montier, clerk.

Senator HART. The committee will be in order.

The first witness today is Mr. Thomas P. Wharton, president of Packaging Consultants, Inc.

Mr. Wharton is a graduate of Maryland and is a civil engineer. I will insert in the record in full a biographical sketch that has been made available to us and include in the comment, for those of us who will not have an opportunity this morning to read it, that Mr. Wharton has had a very extensive career in the field of packaging. He had 6 years with the Department of Army General Staff as chief of the packaging section; and 7 years with Container Laboratories, Inc., a packaging consultant firm, as vice president and manager of its office, where he was responsible for directing numerous package engineering studies performed for the Government and for Government prime contractors. In 1959 he founded his firm, Packaging Consultants, Inc.

He has contributed many articles to packaging trade journals. He has lectured in American educational institutions, including Rutgers, MIT, New York University, Temple, and is an active member of several national associations concerned with packaging and the handling of products.

I think the committee is fortunate he could come.

(Mr. Wharton's biography may be found on p. 164.)



STATEMENT OF THOMAS P. WHARTON, PRESIDENT, PACKAGING CONSULTANTS, INC., WASHINGTON, D.C., ACCOMPANIED BY MRS. ANNA L. DIX, SECRETARY

Senator HART. We are very grateful, Mr. Wharton. You were considerate enough to provide us with a statement, and you may proceed.

I see you are accompanied by——

Mr. WHARTON. My secretary.

Senator HART. Would you identify her for the record?

Mr. WHARTON. My secretary is Mrs. Anna L. Dix.

Senator HART. You are welcome, Mrs. Dix.

Will you proceed, sir.

Mr. WHARTON. Senator Hart, and the gentleman of the subcommittee, I am appearing before you today representing a firm of independent packaging consultants. Being impartial and unbiased, we must look at problems, such as those on which hearings are now being held, without prejudice and without emotion. We try to see both sides of the picture. We are interested in both the motives of the manufacturer and the reactions of the consumer.

Being impartial and objective does not mean that we must be neutral or straddle the fence. It would be a popular stand for me to take the position of defending loudly the innocent housewife. It would be a prudent position for me to try to defend the packaging industry, the package designers, and the manufacturers. As consultants, we must try to analyze the various facets of this overall problem, present our conclusions, and let the chips fall where they may.

None of us should indulge in shallow thinking and generalize to the effect that manufacturers are all conniving to mislead and deceive the consumer which has (erroneously, I believe) been branded as a sucker. On the other hand, no one should be so blind as to whitewash the examples of confusing and less-than-honest packaging which have been singled out by your investigators and by some of the witnesses.

But above all, we must differentiate between the legitimate efforts of the marketing people to motivate the shopper to pick up their product rather than their competitors' product, and the sinister, subtle, obviously calculated misrepresentation which is intended to cheat and defraud.

It is not too difficult to recognize the many packages which are honest and forthright, reasonably full, and well labeled. Nor is it difficult to single out those which are obviously deceptive in size, shape, volume, or labeling. It is those inbetween, the borderline cases, which present the greatest problem to this subcommittee.

Has anyone defined the point at which a package or label becomes misleading? Has anyone defined "deception"? To me, this is what is needed. Until there is an effective yardstick against which the manufacturer and the consumer, and the Food and Drug Administration, can measure the point at which a package or label becomes misleading, there will be endless discussion, debate, and prolonged legal action on each suspect package.

What makes the task of this subcommittee a difficult one is that it is not easy for such a yardstick to be established. One cannot merely define deception with a few sentences of well-chosen words and expect to have a legal basis for stopping questionable practices.

It is our considered opinion that someone should be charged with the responsibility of having studies made for the purpose of establishing standards of proper packaging and labeling. These standards will not be simple. Each category of goods must be approached individually and, what's more, variations of products within a particular category should be recognized.

I would like to discuss in detail several categories and show illustrations of the problems involved in defining deception or standardizing certain aspects of packing and labeling, so that perhaps we will recognize a systematic approach toward the solution of the problem.

My first example concerns a few brands of chocolate-covered mints which are being marketed today. In packaging circles, this is the most talked of example of alleged deception. One of these packages has been under study and investigation for months; it has been taken to court where an attempt was made to stop the sale of a glaring example of deception.

Here is a photograph of four brands of chocolate-covered mints in approximately the same size package. Two of the boxes contain 16 ounces; two of the boxes contain only 10 ounces.

Senator HART. Mr. Wharton, may I interrupt you?

Let me inquire whether, in line with the policy thus far followed by the committee, the exhibits which you are tendering have masked the name of the producer?

Mr. WHARTON. All exhibits and all photographs have masked the trade names and company names and addresses.

Two of the boxes contain 16 ounces; two of the boxes contain only 10 ounces. Here are the actual boxes.

Now, it is a bit farfetched in this instance to rationalize and say that perhaps two of the brands are heavy, dense mints while the other two are fluffy, lightweight mints. If this were true, some of our first arguments against these packages might fall flat, because perhaps a fluffy mint would be of higher quality and more palatable. Weight is not always the measure of what we are buying.

Here is another photo of a smaller size package of several brands of mints: 12 ounces and 8 ounces, in substantially the same package. Now let's look inside of the package and see if we can discover the reason for this substantial discrepancy in the weight of the contents. I am convinced that the housewife who opens this package is shocked and bitter at the obvious steps which have been taken to reduce the quantity of mints in the package.

Senator HART. The way they package this room makes it difficult for the committee to follow you.

Mr. WHARTON. I would be glad to pass these up to the committee.

Senator HART. If it would not handicap Mrs. Dix, it would be well if she could come up here, as you go along with these, so we can follow this.

I suppose this plays havoc with your sequence?

Mr. WHARTON. That is all right.

In the inner package, the ends have been recessed a full half inch. Two hollow partitions have been provided, each of which occupies another half inch of space. This deception isn't even subtle. A full 2 inches of length has been faked within the package.

Within the three compartments, there is enough additional space for six additional mints. The width and height of the box are suffi-

ciently large to accommodate a mint one-quarter inch larger in diameter. It is significant to me that legitimate manufacturers put 60 percent more of their mints in the same size box. There should be some way to stop such a flagrant violation, but these mints are being sold in a large drug chain in Washington today.

And this is the case that went to court. This is the case that the Government is trying to stop and is having difficulty to stop even that.

Now there are two other angles in this case which represent problems beyond those which meet the eye. I understand that the company that now makes this deceptive package used to put a greater quantity of mints in this same box, but over a period of time has reduced the quantity without reducing the size of the container.

Secondly, as a result of this type of competition, two other brands have resorted to recessed ends and hollow partitions. It is obvious that if such practices are allowed to continue, each company will try to out-do the other and deception will become standard practice. It is not enough that somewhere on the package, in small letters, the weight of the contents is shown.

Senator HART. This is what I was going to ask: I have noticed on these exhibits, I think, in one case, 1 pound, and in another 10 ounces is displayed.

In your judgment though—

Mr. WHARTON. That is not enough.

Senator HART. That is not enough?

Mr. WHARTON. In the furor and speed with which housewives now do their shopping, with the thousands of packages that must be glanced through before selections are made, I believe it has been proved in a study that 80 percent of buying is done on impulse and not by reading comparative labels.

Senator HART. This is a very interesting expression coming from a source such as yourself.

Mr. WHARTON. It is not enough, in my opinion, that somewhere on the package in small letters the weight of the contents is shown.

While existing regulations requiring a statement as to the weight of the contents can be substantially improved, the inclusion of the weight marking should not be a license to permit the manufacturer to cheat the consumer by manipulating the size, weight, and shape of the package.

Now let's take another completely different category of food product—dry cereals. One supermarket near our offices carries 60 different dry cereals in packages of many sizes and shapes. We selected 24 boxes for examination and immediately found that we could not generalize within this category, but had to divide cereals into subcategories.

You obviously cannot compare the volume required for a pound of grape-nuts with the volume required for a pound of shredded wheat. Surprisingly, bran flakes weigh twice as much as corn flakes, and corn flakes packages can legitimately be approximately twice the volume of the bran flakes boxes.

We have compared the different brand names of corn flakes, wheat flakes, bran flakes, shredded wheat, and other categories to determine the variation in size and shape of the packages, to determine, let us say, the standard of the particular industry and then to try to find who deviates most from that standard.

One yardstick which we have used is the number of square inches on the surface of the package as compared with the ounces within the package. I believe we can assume it is the objective of the manufacturer to occupy as much of the shelf space in the supermarket as he possibly can to make his package appear to be larger and to provide more surface on which he can present his sales message. This is his "billboard;" this is his point-of-purchase advertising; this is where he must motivate the shopper to buy his package instead of that of his competitor. So we computed the amount of "billboard per ounce" of various packages.

Here is a photo showing several shredded wheat packages. The smallest is a 12-ounce shredded wheat package with about 43 square inches of surface on the face of the package, and the largest is a shredded wheat package containing only $10\frac{1}{4}$ ounces with 68 square inches of surface. One package has about $3\frac{1}{2}$ square inches of billboard per ounce while the other has about $6\frac{1}{2}$ square inches of billboard per ounce.

Without trying to condemn or condone either package, we must ask ourselves whether there is really anything basically wrong with either package. Most cereals are in tall, shallow packages; perhaps the manufacturer of the small package is being foolish not to adopt a package of conventional shape.

Let's go one step further with this shredded wheat package. The larger of these two packages has about 10 percent more volume and about 15 percent less weight of contents, but upon examination you will find that the larger package contains four inner packs of three biscuits each sealed to keep the product fresh and crisp. These inner bags occupy a little space, but they are an added value; they are a convenience which the manufacturer has provided as an added appeal to the consumer. It is a more expensive package to manufacture and I believe most of us would agree that a small price differential is warranted.

Mr. CHUMBRIS. Mr. Wharton, at this point I would like to say this.

I did not get your paper until this morning, so I have not had a chance to read it ahead of time, but I notice, while we are discussing this, the cubic content.

Is there any difference in the cubic content between these, because the one that appears the smallest is much thicker across here.

Is the cubic-foot or cubic-inch content different between the two boxes?

Mr. WHARTON. In this example the larger box has more cubic inches but fewer ounces.

Mr. CHUMBRIS. This one?

Mr. WHARTON. Ten percent more cubic inches. It looks like it has a lot more than 10 percent more.

Mr. CHUMBRIS. We just wanted to make sure that that was straight.

Mr. WHARTON. But my point is we do not just buy volume; we do not just buy ounces. We buy quality. We also buy convenience: an easy-opening package, or an easy-closing package, or a package with compartments inside to keep the shredded wheat fresh. And, therefore, I am saying that both are good packages.

Neither is deceptive in my opinion.

Price is not the only criterion for buying food products, or any other products for that matter. One may select a more expensive

automobile based on factors other than price. Neither dimensions nor size is the only criterion for selecting a package, or any other product. We don't necessarily select the dress with the most cloth in it.

The weight of the product is certainly not the only criterion. What about quality? What about convenience?

So in this example the larger package has fewer ounces, but to label this package as being deceptive or misrepresenting the contents, or to feel that you are getting gypped by this package is far more debatable than the first example of the chocolate mints. I think most of us would buy this larger package which would keep our shredded wheat crisp and free from infestation for a longer period of time.

We did notice one area for improvement in cereal packaging of which the subcommittee might take note. There has been a tendency for packages to become taller and shallower to the point where it is difficult for them to stand up alone. The cereal packages which we considered averaged $4\frac{1}{2}$ times as high as they are thick.

Senator HART. I have never, in the course of these hearings, pretended to be the shopper in our family, and I shan't begin now, but there are certain activities that I do engage in. And you can add at this point that this tendency to get larger and larger boxes requires that you either revise your shelf or write the manufacturer, if that is your selection.

But, in any event, they are getting so tall that they do not stand easily.

Mr. WHARTON. Well, the cereal packages which we considered, as I say, average $4\frac{1}{2}$ times as high as they are thick and some are even more. Here is a package that is $5\frac{1}{2}$ times as high as it is thick. It would appear to us that consideration might well be given to placing a limitation on the proportions of the package. Or else, gentlemen, manufacturers will continue to try to outdo each other in this regard, and where will it lead?

I have given an example of what some of us would consider to be flagrant deception and another example of what could be considered to be excellent packaging, even though some might accuse it of being deceptive.

Senator HART. Before we leave the point that you last made, Mr. Wharton; namely, that we consider whether a limitation ought not be applied to the proportion of the package:

As you have, over the years, discussed these trends with others in the industry, do you feel that you reflect the general attitude of the industry on this point?

Mr. WHARTON. I think we are in a unique position where, perhaps, there are not too many in our same category, in that, as consultants, we are in the middle. We are impartial with no ax to grind.

We are not representing the manufacturers or the designers or the consumers. We are consultants and, therefore, have to look at this thing squarely.

There are not too many firms who specialize in packaging consulting work.

Senator HART. Let me put it this way:

In servicing the several firms which engage you as a consultant, do you find an attitude developing that would suggest that they design tall and shallow packages reluctantly or with enthusiasm?

Mr. WHARTON. In my experience, we have not come across any general trend to calculate to try to deceive. I believe that deception is the exception.

Senator HART. My question really did not go to the point of—

Mr. WHARTON. We have never been asked to try to make a package look bigger than it really is. I think things like that just happen. I think they are a trend over the years rather than a calculated effort to deceive.

Senator HART. I think that what I was really trying to peg down is whether the committee should refer to the recommendation to place a limitation on the proportion of the package as yours alone, or whether this opinion you hold is, to your knowledge, shared by others and around your business.

Mr. WHARTON. I am not trying to avoid your question.

I do not see how they could disagree and I am sure the consumers would agree.

Senator HART. Thank you.

Mr. WHARTON. And the consumers are not organized into any industry or association.

Senator HART. That lack on occasions is costly.

Mr. WHARTON. My third and last example is an interesting one. Here are five brands of instant mashed potatoes. All trade names have been deleted. This photograph shows how these packages look on the shelf.

On the shelf, the sizes of the packages appear to be inversely proportionate to the weight of the content. Here they are: 7 ounces, 7 ounces, 6½ ounces, 6½ ounces, 5⅝ ounces. The smallest package has 7 ounces, and the largest has only 5⅝ ounces. It is this sort of thing about which some have become emotional and made headlines. Why should those who make the largest packages be permitted to trick the innocent consumer, they say.

Let's take a closer look at these packages, and see which one is the most deceptive. If you will open one of the larger packages you will find a flaky product in a box which is nearly 90 percent full. It contains no false partitions, no inner bags, no space fillers. It would be difficult to prove that this package in any way misrepresents its contents, or gives the consumer less than his money's worth. And it will probably make eight servings of potatoes as it says on the box.

You would be surprised if I suggested that the smallest package here might be considered to be the most deceptive. That is the innocent-looking one on the end there, looking as though get a lot for your money.

True, it is 7 ounces as compared with 5⅝ or 6½ ounces in the larger packages. But let's take a look at it. When one opens the smallest package he finds two foil bags containing a more dense granular product. Perhaps this granular material will make just as good mashed potatoes as the fluffy flaked products in the larger packages. Those who are used to buying instant mashed potatoes packaged in foil bags overpackaged in paperboard cartons might not be surprised when the package is opened. I was surprised. There is a lot of air-space around those two foil bags within the carton. The foil bags could be a lot smaller and still hold the same amount of the granular product.

But looking at it coldly, the volume of the product if it were loose in the box rather than in foil envelopes would not begin to fill the box. Let's open the foil bags and pour the contents into the box. It isn't 40 percent full.

To carry this example to the extreme, let's look at it another way. I am holding in my hand a carton only about $2\frac{1}{2}$ inches square, but it is large enough to hold the entire contents of this 7-ounce package. Now I ask you: Which of these packages is more misleading as to contents?

So we have an example of obvious deception; an example of what might have been first accused of being a deception, but looked like good packaging, and here is an example where the package which looks innocent is probably the most deceptive.

Senator HART. Very early in your testimony you said that we needed to define "deception."

But you, by example, answer for yourself as to what a deceptive practice would be by the item I have in my hand—a small volume of product in a large volume container.

Mr. WHARTON. And I am going to make a recommendation on that. That is probably the best yardstick that we can use, the ratio of the volume of the product to the volume of the box.

I think there is one more lesson we can learn from this example. All manufacturers cannot be expected to make products of identical density.

You cannot standardize package sizes, even within a category. You cannot control the manufacturer's products. He may want to make flakes; he may want to make the granular kind. Perhaps the lighter weight product is the higher quality.

Or perhaps the granular products will make more instant mashed potatoes than the flake product. The labels on all of these packages state that they will make 8 servings. Perhaps they all will, but who has defined a serving?

One more comment about this last example. It took my secretary more than 2 minutes to find the number of ounces in each of these five packages. In only one instance was the weight marked on the face of the container. And, incidentally, it was on one of the packages which seemed at first to be most deceptive. It was the larger of the two containers that we just showed. At least they put the weight on the face of the container.

Here is an area where regulations are very much in order. There is very little reason why all manufacturers could not be required to place the statement of contents on the face of the package, and in my opinion they should be required to mark this weight in letters of a prescribed minimum size, in contrasting colors, and apart from other lettering which may tend to hide or camouflage these markings.

Some packages have content marking in tan on brown or yellow on white. Here is an example of a package which had its contents marked in yellow on shiny gold foil. And I do not want to be informal or flippant, but I would dare the committee to find the ounces on that package. It is on there.

The contents are marked in yellow on shiny gold foil which glistens and glares in your eyes, and unless you hold it correctly you do not see the yellow on the gold.

Senator HART. Well, I will hand it to a younger man.

Mr. CHUMBRIS. Thank you, Mr. Chairman, for the testimonial.

Mr. WHARTON. Now, let's see why they are not so anxious to have the quantity of the product well marked on the box.

I do not think it is an accident that that was yellow on gold. Open the box and again you will see that they have taken a lesson from our first deceiver and they have false ends and hollow partitions and compartments that are not full. They have three hollow partitions. They outdid the first one. The first one only had two hollow partitions.

This one has two recessed ends and three hollow partitions. That is a cutaway to show the hollow partition. This practice could be prevented by a relatively simple regulation governing the volume of the product as compared with the volume of the box.

To me, it is wrong when the product does not reasonably fill the package. It is wrong when there is an excessive amount of airspace or slack fill within a package. It is wrong when a package gets so radically out of proportion that it is misleading as to its volume. It is wrong when the contents marking is hidden or camouflaged or buried among other lettering on the package. These conditions can be and should be remedied.

But it is also wrong, it seems to me, to expect all manufacturers of a particular product to accidentally come up with the same size package, the same weight of contents, or the same price.

It is wrong to expect them to try to standardize. If they did, it would be an extreme coincidence and we would have reason to charge them with collusion. In fact, as has been shown, products vary as to weight or density, and such standardization would be impossible.

It is wrong to generalize and accuse all manufacturers of trying to put one over on the consumer. It is wrong to take the attitude that all manufacturers consider the consumer to be a sucker. It is wrong to accuse all manufacturers of attempting to confuse when packages don't happen to be the same size, weight, or shape. It is wrong to criticize a manufacturer of ulterior motives when he designs a package to be attractive, colorful, and appealing to the purchaser to motivate a sale, so long as he does it fairly.

Now, I have made no comment on the pricing of food products or on the advertising slogans or catch phrases or other sales ballyhoo which sometimes finds its way onto the surface of a package. I consider this to be a little beyond our area of interest.

Senator HART. Then I will ask you this: actually, it is a little off the subject of this Senate hearing, but I was going to get your reaction to the easy-to-read lettering which says "5 cents off regular price" on this package.

Mr. WHARTON. Well, this gets into an area of pricing policies and pricing structure which, to me, is beyond packaging, beyond my area of interest in packaging, but it is obvious every day that in the field of advertising, marketing, radio, television, even the packaged label, there are generous adjectives, false analogies and distorted catch phrases to try to attract the eye.

I am thinking of one product which I know for 10 years we have bought in a jar which is supposed to have been a dollar jar selling for 50 cents. They have been selling it in a dollar jar for 50 cents for 10 years. I do not believe it was ever intended to sell for a dollar. But I do believe this is beyond my area.

Senator HART. Yesterday we had a witness, a brilliant person, who said the consumers do not mind that.

Mr. WHARTON. I saw the headlines.

Senator HART. But I just do not buy that opinion.

I think that none of us likes to be publicly described by somebody else's action as a bunch of dummies, and 50 cents off the dollar after 10 years is a reflection on the part of that producer that he thinks we are all just one step short of commitment.

Mr. WHARTON. Yes, I saw the headline that we like to be fooled. I have not found a person yet that likes to be fooled. Would you like to be fooled with that mint package? I surely would not. I do not think anyone would.

Senator HART. But that man, if he had 5 minutes with you, could convince you.

Mr. WHARTON. But I am trying to state both sides. I think it is equally true that manufacturers do not connive under the assumption that we are all suckers. I do not agree with that philosophy either.

In conclusion, we feel that a few basic regulations would go far toward curing most of the problems discussed. The one big yardstick which is needed to control deceptive and misleading packaging is legislation regulating the ratio of the volume of the product to the size of the package. Secondly, we need legislation controlling the proportions of packages which are becoming so tall and thin. Thirdly, we need legislation regulating the position, size, and contrasting colors of the content marking.

That should be the simplest of all.

Fourthly, consideration should be given to a regulation requiring that all packages of food products, with specific exceptions and, let's say, above a certain size, contain a weight of product in even ounces rather than in fractions of an ounce. No one would be hurt.

Senator HART. You have added this to your prepared statement?

Mr. WHARTON. Right.

Senator HART. You know, this is something that we have not really gotten into prior to today.

It is your judgment that a requirement such as this, or your recommendation that we consider whether such a requirement would not be in order, but it is your opinion that this would not be burdensome on producers?

Mr. WHARTON. I believe that in any regulation you have to spell out exceptions.

There might be exceptions. But, by and large, it would not make much difference to the housewife whether her soap detergent was $11\frac{3}{4}$ ounces or whether it was 12.

She would not be buying less than required if it were 11 instead of $11\frac{1}{4}$ ounces. She would not care.

The reason I suggest this, Senator, is that it has been mentioned that you need a sliderule or a computing machine in the marketplace. This is primarily because of the fractions.

Senator HART. Certainly.

Mr. WHARTON. Most people have difficulty dividing fractions, or multiplying fractions for that matter.

So that if products, with certain exceptions, were in even ounces, then it would not be difficult to quickly estimate which was the better buy.

But I say this knowing that price is not or should not be the only factor for buying, price per ounce should not be the only factor for buying food, or any other product, for that matter."

Senator HART. But, sir, for quantity itself, it is an important factor and, depending on the circumstances, you can say it is even most important but at least it is a key factor in rational shopping. Correct?

Mr. WHARTON. Yes, especially when you are dealing with two or three packages, all of which are large, name-brand companies, and you know the quality is probably good in all three cases. That is correct.

And by having packages in even ounces, computations should be less difficult.

Now, I recommended this, in addition to my prepared statement, because of the headlines the last few days about the confusion in the fractions of an ounce, and then the headlines saying that all manufacturers should standardize.

Well, you cannot standardize the manufacturers. It is impractical. It is impossible, and it is too much Government control.

But in lieu of standardizing, in lieu of making all detergents in 8 ounces, 12 ounces, and 16 ounces, let's say, at least you could make them pack and label to the nearest ounce.

Now, if he has to put 15 and $\frac{3}{8}$ ounces in his package he would still have to print "15" on the box and not "15 $\frac{3}{8}$."

Mr. WALLACE. Could I ask a question on that point?

Is there not a danger that the manufacturers will then leave the same amount that they have in now and say "in excess of 5 ounces"?

And then we are starting to use all of these descriptive adjectives about "super 5 ounces" or—

Mr. WHARTON. Why?

Mr. WALLACE. "Giant-sized 5 ounces."

Mr. WHARTON. Well, this is why I used the word "consideration." There are a lot of angles to this thing and I have not gotten into these adjectives or to the ballyhoo.

I think that is an area that I did not get into too deeply.

Mr. WALLACE. You do not think it would require the manufacturer to put "exactly 5 ounces"?

He could put "more than 5 ounces" and then say "in excess of 5 ounces."

Mr. WHARTON. I would not let him say "in excess." I would make it say "5 ounces."

I would not let him say "a big gallon" or "a big quart." I would not let him say even "a full quart." That is a harmless, innocent phrase that has been used for years, but there is no other measure than a quart. There is no full quart as compared with any other kind of quart.

I agree with all these things that have been stated about the ballyhoo, and I think that would be rather easy to control.

Mr. CHUMBRIS. Mr. Wharton, you mentioned the fact that you thought it would be too much Government control to standardize a box at 6 ounces, 12 ounces, and 16 ounces.

Is that not the same type of Government regulation or standardization on the illustration that Mr. Wallace just brought out?

In both cases, you would be telling—

Mr. WHARTON. No; I think it is false and misleading and deceptive to use an adjective which connotes that you are getting an amount

other than the numerical amount on the package. I think that can be controlled.

Mr. CHUMBRIS. Let's use his illustration.

He said instead of just putting 5 ounces in the box, he puts $5\frac{3}{8}$ ounces, but the Government regulations are going to stop him from putting that " $\frac{3}{8}$ " on it, so instead, he says "in excess of 5 ounces."

He still would be consistent. He would not be misleading, but he uses the word "excess." It might be $5\frac{1}{8}$ ounces or $5\frac{1}{4}$. That was his illustration.

Mr. WHARTON. Or else he could reduce the quantity to 5 ounces and be more competitive with others that are selling 5 ounces, which is probably what he would do.

You have had many cases where they reduced the quantity in a package to be more competitive rather than raise the price.

Mr. CHUMBRIS. Have you ever tested the legal question as to this package here, whether it violates any existing State or Federal law, the way it is packaged?

Mr. WHARTON. No. You mean the fact that it is not in foil?

Mr. CHUMBRIS. No. the fact that it is made to appear that big and it is only this big.

Does it violate any State law on weights and measures, or—

Mr. WHARTON. No, I know of none.

Mr. CHUMBRIS. Has it ever been tested in court or before the Federal Trade Commission?

Senator HART. So far as you know.

Mr. CHUMBRIS. As far as you know.

Mr. WHARTON. No, not that I know of and, to me, the smaller package could not be wrong.

The larger package is the one that is out of shape and looks like more than it is, plus the fact that it was only 40 percent full.

Senator HART. Mr. Wharton, does your fourth recommendation conclude your statement?

Mr. WHARTON. Yes.

With a few concrete steps of this nature, I believe that most of the so-called confusing and deceptive practices in packaging and labeling would disappear.

I appreciate the opportunity of appearing before the subcommittee.

Senator HART. The committee appreciates your forthright expression of views in the field that you have a lot of knowledge in.

Mr. Cohen?

Mr. COHEN. I would also like to commend the witness on the very thorough presentation with the pictures and exhibits with which he obviously took so much time to help enlighten the committee, and the graphic illustrations.

I just wanted to ask a couple of questions.

In dealing with cookies and crackers, and individual items, do you think it would help if the box listed the number as well as the weight, the contents inside?

For instance, on mints, not just 8 ounces or 7 ounces but also 10 mints or 12 mints, whatever the number may be?

Mr. WHARTON. No, I do not think that would solve the problem. There may be 12 small mints as against another fellow's 10 large mints. You cannot, conceivably, you cannot possibly give the diameter and thickness of every mint, plus the count. The count would

not do you any good without knowing the size of the mint, or the cookie.

Mr. COHEN. I was thinking of having both on the package instead of one or the other. Do you think that this would be of any assistance?

Mr. WHARTON. Well, if you get into the number per package then you are going to have to tell them the size of each one.

I do not think that is practical, plus the fact that there are manufacturing variations where you do not always end up with the same number in a box, again, depending on the product.

Mr. COHEN. Now, my second question is:

On these two shredded wheat boxes, I believe you pointed out that the larger box, although it held 17 percent less content, had 10 percent more space in it.

Is that correct?

Mr. WHARTON. Yes.

Mr. COHEN. And you justified this in terms of putting the wax paper around the biscuits inside.

Is that much extra space actually needed to put this wax paper around the biscuits inside?

Mr. WHARTON. If you will open the package, it looks like a reasonably tight fit. It obviously takes up some space. It is not difficult, incidentally, to increase the volume of a package by 10 percent. If you increase each dimension by an eighth of an inch, you are probably increasing the volume by 10 percent.

We get into an area now where sometimes I wonder whether interior packaging is provided for protection of smaller quantities within a package or whether the interior packaging is provided to occupy space.

There are liners in boxes which are glued to the inner surface of the box, glassine paper, for example.

The red, white and blue package of whipped potatoes has a liner that is loose in the package. In the larger package, right next to it, the liner is glued to the inner surface.

I sometimes wonder whether the liner is left loose so that—and, incidentally, oversized—so that there are pleats and wrinkles which occupy space.

This is a difficult thing. I believe, however, the basic recommendation which I have made, where you would simply measure the volume of the product itself in a separate measuring container and compare that with the outer size of the box, not the inner volume of the box, but the outer size of the box, then you would have a good measure of whether you are getting the volume you think you are getting.

Mr. COHEN. And one—

Mr. WHARTON. And the volume, if I may interrupt, the volume-to-volume ratio that I am suggesting, to me, will solve these problems without having to get into the question of how many ounces you get for a penny.

Mr. COHEN. Now, one last question: In terms of these statements on the box of numbers of serving—for instance these potatoes all say “eight servings”—who is this determined by and what basis is used for these determinations?

Mr. WHARTON. We wrestled with this one a little bit.

As I indicated in my statement, no one has defined a "serving" to my knowledge. I think it is probably good for the housewife for her to be able to judge how much of the product she can make from the amount of granules in the box.

I think that it would be more honest to put a range of servings, that it would make "six to eight servings," or it would make "about eight servings" rather than to say "eight servings."

On the other hand, I do not believe that is deception. I believe it is helpful and any housewife would realize that if her family ate large servings, she would not get eight.

Mr. COHEN. I just wondered if you had been in any conferences or talked to the people who actually do this.

Was this decided by the advertiser, the packager, the producer, or how do people sit down and determine how many servings there are in a particular package?

Mr. WHARTON. The development work that goes into a product of this sort by the food industry is fabulous.

They have multimillion dollar laboratories and kitchens with hundreds of personnel, making products from these compounds for months, or years even, before it is perfected to the way they want it.

And I have no doubt that a reputable manufacturer puts enough product in there to make eight reasonably sized servings, granted that nobody has defined how much is a serving and what is a reasonable size.

Mr. COHEN. No further questions.

Mr. WILLIAMS. No questions.

Senator HART. Mr. Fensterwald?

Mr. FENSTERWALD. I have no questions of this gentleman.

Senator HART. A question has been asked, or clarification has been asked for, by Mr. Chumbris, who is counsel for Senator Dirksen.

Mr. CHUMBRIS. Mr. Wharton has brought out so many technical points on which he is such an expert and this strikes us as really hard to ask you a question on.

It reminds us of a lawyer trying to ask a psychiatrist a question in his particular field. He has to be mighty cautious.

I do not want to try to muddle such an excellent presentation as you have brought out here this morning, but there are certain questions that come to my mind.

For example, you were bringing out an indication of the boxes becoming taller and thinner, but I notice that the 14 ounces on this box is about twice as big as the 12 ounces on that shredded wheat, which you thought was a pretty good package.

One of the main objections during this hearing was that the net weight was so small on some of these packages that you could not see it. But here is one that seems to be objectionable as to the type of packaging, whereas the 14 ounces is very large, and I say almost twice as large as the one on the shredded wheat, the red and white box.

So that sort of puts us in the perplexing position, as far as trying to understand what is deceptive and what is not, and I am glad in your paper you have tried to give illustrations of how to define "deception."

I think if a bill is introduced, there is going to have to be some type of clarity in the bill so that if it ever gets to court, the court will know how it is going to interpret that particular bill.

My main question has been, in the last 2 days, and I do not know if you feel this is within your field, but the question has been that, let's say, a man has an 8-ounce can of goods, peas, string beans, whatever the case may be. He comes to the point where there is a rise in labor costs, material costs, advertising costs, everything else, and he has a decision that the price that he is getting for the can is not sufficient, say, 35 cents, and he has a decision to make, whether he is going to raise it to 38 or 40 cents or reduce the content from an 8-ounce can to a 7- or 6-ounce can.

If he decides to reduce it to a 6-ounce can or a 7-ounce can, and it is fairly well readable, net contents 7 ounces or 6 ounces, is that deception?

MR. WHARTON. Do you mean he does not change the size of his container but reduces the quantity inside?

MR. CHUMBRIS. No, I am not saying that.

I am saying, if he reduces—well, you might want to answer it both ways.

Let's say he leaves the container the same size and reduces the content and let's answer that way and also answer it if he reduces the container and the content both rather than increase the price.

MR. WHARTON. I will answer that in two ways.

I think that the decision as to what quantity of product a manufacturer wants to package and sell is solely up to him. If he decides at some point, in his study of his budget, that he has to sell his product in 9-ounce quantities instead of 10, I think that decision is solely up to him.

I think the question at issue, and the subject of the hearing, is deception. And if he would stay within the ratio of volume to volume that might be established, and, therefore, have a package that was slightly smaller for his 9 ounces instead of 10, I do not think this is a problem. It is not deception.

MR. CHUMBRIS. Then we are getting exactly to what you started off with: What is "deception"?

We had an example yesterday by Mr. Warne, in a letter that was sent to him where a manufacturer was manufacturing a product and they liked to use 19, 29, 39 cents as a price, and he was selling it at 39 cents for a pound.

The decision had to be made whether he was going to increase the price to 42 or 43 cents or to reduce the content. And it was in a cellophane bag, if I remember the description.

So he reduced the content from 16 to 14 ounces, and the description there was that it was deception.

And from the way I gather from your answer, it would not be deception because he would have the choice then because it is a cellophane bag. I do not think he could make one cellophane bag look much smaller than the other. Maybe I am wrong on that.

But, as I gather from your answer, that would be a decision for him to make; that as long as it is proportionate, he has a choice of reducing the content rather than increasing the price for whatever specific purpose he feels best for his interest or his business.

MR. WHARTON. Yes; I agree, and this is true not only in the food field.

If an automobile manufacturer has to reduce his cost by \$50 in order to keep it competitive with another automobile, he may leave out the light in a glove compartment, etc.

Now, you cannot stop that.

How can you stop a man from deciding that in order to stay in business he has to sell 9 ounces instead of 10? But you can stop him from being deceptive by controlling the ratio of the volume of the product to the volume of the package.

If the customer can see what he is buying, then, and only then, would I use the expression "Let the buyer beware."

Mr. CHUMBRIS. On that point that you have just raised, could you give us a description of this proportion that you just referred to of the volume to the box?

I mean, what guidelines would we have to make that stick? We would have to have some guidelines.

Mr. WHARTON. No. 1, we would have to do it in categories of products.

Let's take the cereal field, and, incidentally, that might have to be broken down to subcategories. You may have the biscuit-type versus the flake-type cereal, or what not, and you can easily say that a cereal box must be 90 or 95 percent full.

This will require some study, because immediately we get into the problem of how much does the product shake down in transit.

Well, that can be studied and controlled. The yardstick may be that after putting on a certain shaking mechanism the box would still be 85 percent full. This is the sort of yardstick I have in mind.

Mr. CHUMBRIS. I am glad you are bringing out some illustrations, because I think you have pointed out earlier that bran flakes, for instance, are heavier than the corn flakes, and therefore, it would be more compact.

Is that right?

Mr. WHARTON. Is that right.

Mr. CHUMBRIS. Now, you have the granulated against the flaky mashed potatoes.

Can we get that definitive in so many products that appear in a grocery market where it could be embodied in a bill, without creating more difficulties than you are trying to correct?

Mr. WHARTON. I believe you can. And I do not believe you are going to solve the problem unless you do, and there are parallels.

For example, in the Food and Drug Administration, in the area of food additives, the only way to solve it is to issue a list of additives. Some are permitted and some are prohibited.

The only way you are going to control deception in packaging is to take the categories of products and establish standards of the ratio of the volume of the product to the size of the package.

Mr. CHUMBRIS. Has there ever been a model bill that has been discussed by your group or in your field where you might be able to cover these matters that you have been discussing about ratio—

Mr. WHARTON. No, I know of no study that has been done yet on this problem, but I think a study is in order.

You are not going to do it just by phraseology of words or by arbitrarily setting a percentage.

Mr. CHUMBRIS. That answers my question, because by trying to generalize on that, we may run into as many difficulties as we are being faced with now.

Mr. WHARTON. Now, one more comment on this point, because I think it can be approached sensibly:

If I were doing it, I would study by categories what the industry is now doing. Determine what is the present practice as an average for the industry. Determine who are the ones that deviate the most from that practice. Get those deviators back in line with the average of the industry.

This is the way I would do it, and the fewest number of people would be hurt, and if anyone is hurt it would be those who deserved to be pulled back in line.

Mr. CHUMBRIS. Thank you, Mr. Chairman.

Senator HART. Representing Senator Wiley of Wisconsin, counsel for Senator Wiley, is Mr. Kittrie.

Mr. KITTRIE. I would just like to ask a few questions to clarify my own thinking about what is involved here.

First of all, I get the impression, from your testimony, that you feel the biggest deception is in the area of packaging and I am not sure it really is.

I mean, the biggest deception that you have displayed here is deception as far as volume is concerned, where you get a feeling you are getting more volume while you are getting really less.

But have you ever conducted any study to find out whether housewives really judge contents by the size of the container or do they judge it by something else? Do they really feel that they are getting a bigger bargain just because the box is bigger?

Mr. WHARTON. I have made no study. I know of no study, but it seems obvious to me that as we look at it today, one box is bigger than the other one. You think you are getting more. That is your first reaction, you think you are getting more. You may read the label, although it has been proved that 80 percent of the people do not read the label.

So I think the key to this whole thing is the volume of the package and it becomes deceptive when there is not a comparable volume of product inside.

Mr. KITTRIE. You see, I understand how important it is to mark the contents very, very clearly in big letters, but what do you do with a manufacturer like this who decides one day in order to promote his product he also wants to include a baseball bat in his box? It is going to be part of the package, and he would need much more volume.

Do you tell him, "No, you cannot do it"?

Mr. WHARTON. This is a very interesting and good example of something that deserves study.

For example, the including of a wash cloth in a detergent box, the gain in sales by making that box bigger to include the volume of the wash cloth probably offsets the cost of that wash cloth many times.

I agree that is an area that deserves studying.

Mr. KITTRIE. You know, I am picking examples at random primarily to see what is involved in this thing. When you are talking about deception and you emphasize it is the volume that is the major deceiver, I wonder if it really is so. Suppose you get two containers

exactly the same size; one has some pictures advertising potatoes that are appealing; one has pictures of potatoes that are not very appealing. You buy the ones that look appealing and you find out that they are not nearly as good as the ones that do not have such a lovely picture.

Should we take away the picture and say this is deceiving or should we say it must just say "mashed potatoes" because otherwise it is deceiving?

Mr. WHARTON. No, I said in my statement that I think we have to differentiate between deception and good motivation, as the gentleman spoke on yesterday, I believe. Honest motivation.

I think we should be proud of American packaging. It is beautiful. I think the examples you are showing there—there is nothing dishonest about a man showing a picture of fluffy potatoes on his package. He is trying to motivate you to buy that in lieu of a less attractive package.

I see nothing wrong with that.

Mr. KITTRIE. Let me ask you this:

When we are talking about deception, is there a real difference here between whether the consumer is being deceived because he just does not want to take the time to read what is on the label or whether you have cases where an actual effort is being made to deceive him?

Is there a real difference between an effort being made on the part of the manufacturer to deceive somebody? In that case, you can stop part of these practices. But if the consumer is still, on the other hand, being deceived by whatever logical or illogical factors, can you stop that? Can you stop the consumer from being deceived unless you completely reeducate him?

And, maybe, this is one of the things this subcommittee could do. But is it not one of the basic questions here, the question whether an actual effort is being made to deceive, which is similar to a criminal act?

If somebody decides he is going to commit a crime, you treat that person different from somebody who may have committed it but has really never intended to do the act.

Mr. WHARTON. Yes, I see your point and it makes it a problem difficult from a legal angle.

Let me go back to the chocolate covered mints.

The reason that has been pending for months, yes more than a year, is because the manufacturer said he did not intend to deceive. He thought he needed those partitions to keep the mints from breaking while they were being shipped.

We happened to get in that case, incidentally, and ran tests and proved that the box was not stronger than other legitimate boxes holding twice as much product.

We, in our opinion, felt that the purpose of those hollow partitions and recessed ends was not to keep the mints from breaking. But then you get into this legal area of the intent.

Was it his intent to deceive? Well, as soon as you start thinking about intent, they have a perfect out, and I do not know, I am not a lawyer, I do not know how you would go about it.

But if you would place a limitation on the ratio of the volume of the product to the volume of the box you would lick most of these problems.

Mr. KITTRIE. But, you see, this bothers me on this point: How far do you want to go with this?

Let's take an example from the case of the chairman of the subcommittee. Would you pass a law and say there should be a ratio between the size of the car and the horsepower it has? Would you say, let's not add too many frills and let's not add this and that, and if the horsepower is 200, the total volume of this car can be so and so?

And somebody will say, "Well, I still believe it is a much more nicely designed car by having little added things there. I believe it rides better."

I am sure you are going to have people here arguing too, when you say there should be a ratio between volume and weight, that they want to include something; they want to add little conveniences and so on.

If you start describing this, can you stop in this field and not have to go into others?

Mr. WHARTON. Well, I did not mention anything about the ratio of the volume of the box to the weight of the product, because it is different for every category.

And you also repeated what I said in my statement, that you do not buy a car based on its weight or its wheelbase or its horsepower. It is a composite.

I believe that the value of a package is based not only on how many ounces are in it, or how many cubic inches the package is. Quality certainly has something to do with it.

Convenience has something to do with it.

The only thing I am trying to concentrate my thinking on is this word "deception."

If the consumer can see, as I said awhile ago, if the consumer can see what he is buying and have reason to believe that what is inside is what he expects to be inside, then he is not being deceived.

But if he opens the box and finds it 40 percent full, by some device or hollow partitions he has been deceived, and he is not getting what he thought he was getting.

Now, this is the whole point, it seem to me, of the hearing.

Mr. KITTRIE. And you feel that when you write down very clearly on it what is contained here, that is, if you have a car just as big as a Cadillac, but it says that this car may look as big as a Cadillac but still it has half the horsepower, does that give the person enough warning or do you have to go beyond that? Do you have to require identical or similar packaging?

Mr. WHARTON. Well, this phrase, "let the buyer beware," has been tossed around and misconstrued, but I think the intent of that phrase was that if the buyer can see clearly and fairly what he is buying it is his decision what he buys.

If he has any sense at all in buying a car he will ask about the horsepower. If he has any sense at all in shopping he will look to see what he is getting.

The only point I think at issue is whether or not he picks up a box and takes it home and opens it and there is not inside what he has reason to believe should have been inside.

This is deception.

Mr. KITTRIE. Thank you very much.

Thank you, Mr. Chairman.

Senator HART. Representing Senator Hruska, of Nebraska, is Counsel Dean Wallace.

Mr. WALLACE. Mr. Wharton, would you agree with Dr. Dichter's statement that whatever we do with these packages and labels, in making changes, that will not make any difference; that people buy because of a brand image; they buy because of other factors and not because of weights and measurements and sizes?

Mr. WHARTON. No; I do not agree.

Of course, it is his business to help people create an image on a package through advertising, through labeling, and an image as he pointed out, is a very important thing in many aspects of life.

But I think the decision to buy is made by considering a number of angles: volume, ounces, national advertising.

You will buy what you heard on the television last night, perhaps. You will buy something that has an attractive picture on the front.

I am thinking of a glass of iced tea with the frosty bubbles on the outside of the glass. It makes you thirsty.

You cannot prevent that and it is not deception. It is motivation, and so long as that motivation is fair we have no complaints.

Mr. WALLACE. I was interested in your remarks about the mints, because I have looked at these two boxes and as far as this deceptive package is concerned, it is very apparent to me that the package is different. It is much thinner and is more like just thin paper, while this one is a little heavier carton.

And it seems to me that in this package you would need some strengthening at the ends.

I am not supporting this deception except that I think the way this packaging is prepared, he needs some insertions through the center of the package to strengthen it, because without them it would just crumble, whereas in this package here it is thick and heavy enough to hold them.

There, again, we get into a problem of requiring a manufacturer to package his product in a certain way, and I think we will run into legislative problems is trying to do that.

I just make that comment, because it is entirely possible that the intent to deceive was not there.

Mr. WHARTON. That is why it was probably given to us for tests, and we found that those ends did not make the box stronger. It made them weaker.

He could have used container materials to a lot better advantage, and, incidentally, I think he spent a lot of money to end up with that box. He might well have spent it on a little thicker board instead of all of that fancy partitioning.

Mr. WALLACE. In other words, you say the way he has this end here, it is weaker than if he had just had it straight?

Mr. WHARTON. That is correct.

Mr. WALLACE. Of the same consistency?

Mr. WHARTON. That is correct. Now, incidentally, the court case is the other one, the green and silver striped.

And I think I commented that as a result of this competitor coming out—yes—no, the stripes. The green and silver striped box.

Mr. KITTRIE. Somebody has already taken it.

Mr. WHARTON. Somebody likes mints.

That is it. This is the court case and, incidentally, the maker of one of these other packages that deceived to some extent testified in that court case that he was being forced to put less and less of his product in his package even though he did not want to, because his competitors are doing it.

Now, this is what I say is a vicious cycle.

Mr. WALLACE. I have just one other question.

You said that you thought we should do away with some of the adjectives that are used, like the "king-sized quart" and the "super-quart."

How about the use of the words "gorgeous peaches?"

My point is, how can you legislate in a field of that nature? Is it not somewhat impossible to define what is misrepresentation and what is not, in using adjectives?

Mr. WHARTON. No; I do not think so.

You cannot stop people from using adjectives so long as they are honest adjectives. You cannot stop somebody from saying they are gorgeous peaches or that they are thin mints.

You can stop somebody from implying that there is any other kind of a quart than a quart or any other kind of a gallon than a gallon.

Mr. WALLACE. I think that, to me, is obvious.

I just do not understand why people would think a king-sized quart would be more than a quart. A quart is a quart. I do not know. To me, that is a description.

Mr. WHARTON. There are people in this world that do not know how many pints there are in a quart. Many people.

Mr. WALLACE. You would not have to know how many pints are in a quart. A quart is a quart.

Mr. WHARTON. It becomes confusing. There are two tons, you know. There is a long ton and a short ton, and maybe some people think that there is a big gallon of gasoline and a smaller gallon of gasoline.

There are all sorts of people in this world.

Mr. WALLACE. Mr. Kittrie pointed out something that I think, too, can be just as deceiving by pictures.

If you had a can of peaches and the peaches in the picture on the outside were a bright yellow color and actually when you opened it up they were very dull looking peaches, it seems to me that that could be classified as "deception" as well as anything else.

Mr. WHARTON. That is correct. There are some regulations right now, I believe, on the colors that can be used to illustrate meat, bacon packages.

There are limitations on the colors that can be used, because of the fact that it may look like the meat or it may not look like the meat.

I am not too familiar with that area.

Mr. WALLACE. That is all I have.

Thank you, Senator Hart.

Senator HART. Observations have been expressed and will be expressed during further hearings in this field, tentative expressions at most, I think. But I am trying to suggest a point that should be in our minds as we continue.

The analogy between the purchase of an automobile, the whole setting of circumstances when one buys an automobile, is vastly different than the situation as you try to hold your ground at the counter. If you want to find out if the light is in the glove compartment, you have plenty of time to do it. Even the most fortunate dealer does not have somebody standing behind him to get in the front seat. We ought not to permit ourselves to develop an analogy here that may defeat our purpose.

And the second and last point is on "intent." What is the intent of the fellow who put the weight on the wrapper in gold against yellow that we had some difficulty with? Sure, you cannot get in his mind, but even if it was not so obvious as to give you a strong suspicion as to what it was, the point of concern here is the effect that it has.

There are things in society, whatever your intention might be, because the effects they produce are so harmful that you just are prohibited in the first place from doing it.

Mr. WHARTON. Exactly.

Senator HART. That is the second point I think we should have.

Mr. WHARTON. Very good.

Senator HART. Again, I thank you very much for your great help.

We have ample staff, but I do not know who is in charge of collecting the groceries. But in any event, if we could be permitted to retain them for our files, or reasonable substitutes.

Mr. WHARTON. All right. There are a couple of examples for which I have to make substitutes, but I will be glad to donate them to the cause.

Mr. CHUMBRIS. Mr. Wharton, before you leave, does part of your study go into sales that may be lost by this type of packaging, as we saw it?

Do you check that at all, to see if the person who has been deceived by something like this would go back and buy that?

Do you make a study of that at all?

Mr. WHARTON. No, that is in the area of the motivation research, market research, people rather than package designers.

I have copies of this statement and I have, incidentally, if you would like them, copies of each of the five pictures that were shown. I have several copies of those pictures.

Senator HART. The committee also would thank Mrs. Dix for her help.

Mrs. DIX. Thank you.

Senator HART. While we are gathering these exhibits for the file, I would ask Mr. Williams or Mr. Cohen to offer for the record certain statements that have been filed and are to be made a part of the record, if there is no objection at this time.

Mr. WILLIAMS. Mr. Chairman, we have received from Miss Sally Butler of the General Federation of Women's Clubs, a statement by that organization for insertion in the record.

Also a statement from the American Veterans Committee, prepared by Mr. J. Arnold Feldman, for insertion.

We have a statement from the Federation of Homemakers, by Mrs. Desmond and Mrs. Malstrom. The Federation of Homemakers is a nationwide organization of housewives.

A statement from the AFL-CIO for insertion.

From the National Farmers Union, by Angus McDonald, assistant director, a statement.

And we have a statement from the Cooperative League of the U.S.A.

Senator HART. If there is no objection, they will be made a part of the record.

Additionally, a statement has been received, and is offered for the record, from the editor of Modern Packaging magazine, of New York. It is by Mr. Lloyd Stouffer, and we appreciate it very much. It, too, is to be made a part of the record at this time.

(The above-mentioned statements may be found in the appendix beginning on p. 135.)

Senator HART. Mr. Cohen advises that a study has been made by an economist on the staff of the subcommittee, Dr. Wayles Browne, which it is thought might be helpful at this time. We would appreciate Dr. Browne's coming up.

STATEMENT OF DR. E. WAYLES BROWNE, JR., SUBCOMMITTEE ECONOMIST

Senator HART. Off the record.

(Discussion off the record.)

Dr. BROWNE. Mr. Chairman, there has been some talk of the difficulty of figuring relative prices of various products. I think Mrs. Mannes and a couple of other people discussed the necessity of having slide rules. Well, I brought a couple of slide rules in case the people in the audience want to know what we are talking about. I will demonstrate that it is perfectly possible to figure out prices per ounce or per pound with a slide rule. However, it does take, as Mrs. Mannes says, two hands and your bifocals to do it, and she was also pushing a small child in the basket and leading another one, so she did not have any extra hands to run the slide rule, hold the package while searching for the weight, and take care of the two children.

I have here a tabulation showing the calculations necessary to compare prices of a single brand of—in this case—detergent. It could be anything. It could be dried potatoes, as the previous witness discussed, or whatever it is, as long as it is different sized packages of the same item, the same brand. You have eliminated the quality problem as a calculation item, and you are simply trying to figure out whether the large economy size is in fact the economy size. What you are given, if you can find it on the box, is a name—

Senator HART. Dr. Browne, before proceeding, may I establish one thing?

Dr. BROWNE. Yes, sir.

Senator HART. Is this the actual presentation in figures of a manufacturer of these various sizes, or is this the explanation of the computations needed without reference to any manufacturer?

Dr. BROWNE. Mr. Cohen went shopping a couple of weeks ago, Mr. Chairman, and came back with the right name of this detergent and the four different sizes in which it was packed, and the prices for those packages which he found in three different Washington, D.C., supermarkets.

Senator HART. So this is, in fact, the experience of this shopper?

Dr. BROWNE. An official shopper using, I think, official money to buy with—no, his own money. In any event, these purport to be honest prices at which you could buy the stuff over the counter in Washington.

Mr. CHUMBRIS. Dr. Browne, on one other point, this particular one that you are using as an exhibit now, would you say that is illustrative of any particular type or volume that you may buy at a grocery store?

Dr. BROWNE. I did not get the question. Any particular type of what?

Mr. CHUMBRIS. I used the example the other day that I bought a quart of moth crystals for 49 cents. If I had bought 5 quarts, I could have bought 5 quarts for \$2 or a 25-percent saving. That is one illustration, a 25-percent saving by buying 5 quarts at one time, rather than buying each individually.

Dr. BROWNE. You do not get a 25-percent saving in this one.

Mr. CHUMBRIS. Then there may be another product that has a different ratio than what you are explaining.

Dr. BROWNE. Yes.

Mr. CHUMBRIS. That is the thing I wanted to get into the record—it is one particular product, detergent?

Dr. BROWNE. It is a brand we are not showing. I understood you were not attempting to hold up any particular manufacturer to discussion.

Mr. CHUMBRIS. But in canned peas or ice cream or bread, the ratio may be different?

Dr. BROWNE. I would assume it would be. I would not presume that the pattern would differ very much.

Now, again, on the package, in perhaps yellow on gold, you would expect to find the name of the product, size of box and the pounds and ounces of contents, and certainly, generally stamped in purple, where you can find it, is the price. We have here the large size, 1 pound 4 ounces, for a price of 33 cents.

Senator HART. Without making a firm promise that this will be the last time I will interrupt you, how much detergent do you need to do a wash?

Dr. BROWNE. I have done the family wash with detergents and the usual statement is you need a cupful in an automatic washing machine. How many cups there are in the box I admit I did not bother to measure out. I would assume that even the large box, which is really the smallest box you can find, will do 2 or 3 weeks of a three- or four-person wash, if you are not unduly dirty.

The giant size in this brand is 3 pounds $1\frac{1}{4}$ ounces and sold on these days for 79 cents. King size, 5 pounds, $3\frac{3}{4}$ ounces for \$1.31. The home laundry size, again in this brand, is 16 pounds and 1 ounce.

I am not responsible for these weights, Mr. Chairman. They strike me as a bit odd, but this is what was found on the package. The price there was \$3.99.

Well, how do you compare the relative price of the different boxes of the same item made by the same manufacturer with this much variation in sizes, with fractional ounces? It is awfully hard to work out in pounds and decimals of pounds. You have to convert to ounces and figure a price per ounce. The first one is not hard, 1 pound, 4 ounces is 20 ounces.

At 33 cents for the box, you can divide in your head, or a good number of people can, you can divide 33 by 20 and get 1.650 cents per ounce. If that was your only problem, you could handle that one without slide rules and without calculators.

The next one gets a bit more complicated. Three pounds, an ounce and a quarter figures out forty-nine and a quarter ounces. To divide 79 by $49\frac{1}{4}$, you can average it, or round it a little bit and say, well, we are really going to divided 80 by 50 and we will get about 1.6.

Now, the "about" is good enough if there is considerable difference in the price of the smaller size and the price of the larger size. You can make a rough approximation and you will be all right. But there is not very much difference in this illustration, so you need to do a little bit more detailed figuring and you come out 1.604 cents for the giant size.

We chose the king size, 5 pounds, $3\frac{3}{4}$ ounces, for \$1.31 for the plain long division arithmetic example. There are 16 ounces in the pound, 5 pounds, multiplying out to 80 ounces. Adding 3.75—for $3\frac{3}{4}$ ounces—gives you 83.75 ounces in the box. Dividing that into \$1.31, you come out with 0.01564 plus, there is a remainder here. You never quite come out even. Or, in terms of cents, it is 1.564 cents per ounce that the detergent in this king-sized box costs.

This is perfectly simple when done with pencil and paper, perfectly simple when done with a calculating machine. It happened the day we started to do this, we had a salesman for a calculating machine, a \$1,000 machine, I might say, in the office. We said, "Can you simplify this calculation so you can go direct from this price to the price per ounce without having to clear the machine and start over halfway through?" He could not figure out a way to do it.

It is a two-step operation and it is not real quick even for a \$1,000 automatic calculator machine. He went away shaking his head and said he would call back if he could figure out a way to do it. He came back to sell us the machine, but he did not solve the problem any better than this.

Finally, we have the home laundry size, 16 pounds, 1 ounce for \$3.99. Sixteen times 16 to 256 and add 1 is 257 ounces. Dividing \$3.99 by 257, you get 1.553 cents per ounce.

All right, the home laundry, the big economy size here, is a little bit cheaper per ounce than each of the preceding sizes.

Mr. CHUMBRIS. Did you figure the percentage on that?

Dr. BROWNE. I did, sir.

Mr. CHUMBRIS. Seven and a half percent?

Dr. BROWNE. A fraction over 6-percent difference between the smallest size and the largest size.

Mr. CHUMBRIS. I figured $7\frac{1}{2}$

Dr. BROWNE. You go into a slide rule, please, and you will find—

Mr. CHUMBRIS. I took the difference of 155 to 165, which is a difference of 10, and 10 against 165 is about $7\frac{1}{2}$ percent.

Dr. BROWNE. You are doing a pretty good job of approximating an answer, and if you say it is around 7 percent, I shall not argue with you. If you say it is over 7 percent, I say it is less than $6\frac{1}{2}$ percent, because I ran it on a calculating machine.

Senator HART. I think the point that is being brought out is that it just is not that we are slow at arithmetic in a supermarket, but it is a tough job.

Dr. BROWNE. You cannot divide a four-digit figure into a three- to five-digit dividend and get a four-digit answer in your head.

Mr. CHUMBRIS. The only trouble with that is that the housewife is a little smarter than we think she is. She will take that home laundry size and take it home, because she is going to go back in a week or two and get another box. She is going to figure out that 7½-percent difference.

That is right. Do not put the housewife in the class of a moron, Dr. Browne, because she is not going to be that way.

Senator HART. Wait a minute, you are reflecting on the chairman here.

Mr. CHUMBRIS. No, I do not mean to.

Senator HART. You are, because you are implying that if I am unable to do that computation in my head, I am a moron and that is nonsense. This is a very complicated operation.

Mr. CHUMBRIS. No, I am saying Dr. Browne should not put the housewife in that category.

Senator HART. I am married to a brilliant woman, an aerial navigationist and very successful on her own, and I am going to take this up with her this weekend and say to her, "Do not be so upset, you are not slipping."

Mr. CHUMBRIS. The chairman knows of my fondness for him and I would not try to embarrass him in any way. I am trying to get this in the record, which is an illustration I gave yesterday or the day before when Senator Neuberger was here and she agreed. She agreed that we ought to get clear, into the record, that there are instances where, if you buy the larger size rather than the smaller, you will make a saving and there may be instances where it just may maintain a certain percentage and there are other times where it might not even be that.

I shall give just one more illustration where they were selling a small can. If you bought the small can as against the large can, you would save money on the large can usually. But this day they had 7 cents off on the small can. Instead of 71 cents, it was 64 cents. So the housewife would have saved by buying the small can in that instance.

I think as long as we are putting this in, we might as well get it clear on the record so that the consumer, who is going to go out and buy these things, will say "What is the use of buying the larger box if I am not going to save that 7 percent or 10 percent or whatever it may be?"

Senator HART. Let me make the record clear. This is not to establish whether king size gives you 6-percent saving or 60-percent saving. This is to put on paper what many of us find difficult to do in our heads. The point of this exhibit is to reassure those of us in a supermarket that it is not that we are unduly dull that we find difficulty making an ounce-by-ounce price comparison as we go down the line.

As far as the committee is concerned, you can state until you are happy as a clam that the big box is cheaper than the small box. The point the committee is trying to make is, would it be helpful to a shopper if the labels were in less complicated measurements than 5 pounds, 3¾ ounces? Would it be easier for the shopper? That is the point we are trying to make. I am glad to make clear on the record that it makes only that point.

Mr. CHUMBRIS. I think, Senator, that we have an obligation, since there is a certain inference in that exhibit—

Senator HART. No. And also to add, as the figures show, that there is a saving in the big box.

Mr. CHUMBRIS. I do not want to make a flat statement that there is a saving in every one of those instances. That is the point I am trying to bring out, that Senator Neuberger brought out the other day. She said she thought it would be helpful to the consumer to learn if there is a saving between the small box and the big box, and that is the point that I am saying, that the consumer will check those things. She may not do it right at that moment, but she will take it home and she will make that check.

Dr. BROWNE. Mr. Chairman, Mr. Chumbris is perfectly right. On occasion, the large size—usually, you would expect the large size to be somewhat cheaper than the small size. It certainly has occurred in this case. But there are plenty of times when it just does not work that way. It happens that in our cellar, we had the giant size of this particular brand which we were using. The last time I did the wash, I looked at the price on it and it was printed "5 cents off" and was marked "74 cents."

All right. At 74 cents, this 1.604 would be one-tenth of a cent cheaper, so it would be 1.5 for the giant size at that time. Assuming that the other prices were unchanged, the special price on the giant size would have been the cheapest of this band in those stores on that date.

I am not responsible for either the soap manufacturer or the chain store operator. I am not responsible for how any one of them prices this stuff. What was given to us as the regular prices for these sizes worked out this way, and on a special, one of the smaller sizes cost you less per ounce than any of the other sizes. How do you tell this?

You have to go through this kind of calculation to find out. I see quite a number of ladies who look like housewives in the audience. I wonder how many of them sit down in the morning with pencil and paper to figure out various prices per ounce of what they are going to buy that day, to see what sizes they are going to buy.

Mr. Chumbris, do you think many of them go through your calculation?

Mr. CHUMBRIS. They do not have to go through your calculation, Dr. Browne, since you brought the point up, but do not sell them short.

Dr. BROWNE. It was Dr. Dichter who was talking about morons.

Mr. CHUMBRIS. He did not say women were morons. He said if the advertisers or the seller thinks the woman is a moron, he is the moron. Let us get that straight.

Mr. KITTRIE. Mr. Chairman, may I add something of a general nature to this point? While this subcommittee is considering in a very, very preliminary fashion different ways of handling this and so on, let us take one possibility into consideration.

In the old-time grocery store, when you went in to buy something, you said "How much do I pay per pound?" And you immediately got an answer. Well, how much do I pay per ounce?

I realize this may be an extremely difficult thing to bring into being, but we may want to take into consideration a requirement which,

together with stating how much the package is, will actually include also so much per ounce.

This may be very, very difficult, but yet there is a possibility of having on the package something saying 6 ounces at such and such a price—price per ounce—and actually require that it be stated.

Whether this can be undertaken or not is another question, but I would like to bring forth this possibility.

Senator HART. Its desirability, I think, is demonstrated by this exhibit. Whether it is achievable or not is another thing. But I sincerely hope that there can be more of a per-pound, per-ounce price on a label, and less of that which requires, whether you do it in your head or otherwise, this sort of operation.

Dr. BROWNE. I could point out, Mr. Chairman, that the image sellers could still have an image to sell if it were packaged in 1 pound, 2 pounds, 5 pounds, 20 pounds, and not in fractional ounces.

If these packages had been made in whole, round pounds, quite likely the prices would have been different but it would have been simple enough, even for the housewife with two children in the store, to divide a two- or a three-digit number by a one- or a two-digit number and get a price per pound.

If this king size were \$1.20 for, say, 5 pounds, the quick answer would be it is 24 cents a pound. It is perfectly possible to simplify this calculation by having simpler and more solid units for the package.

Now, is everybody through with this table?

Senator HART. Any further questions?

(No response.)

Senator HART. Yes.

Dr. BROWNE. In the same store on the same day, there were several different varieties of detergents. There were seven in this case that had two, three, or more different package sizes. We call them simply brands 1 to 7, for random discussion, without trying to name any of them.

They were marked variously, "Regular," "Large," "Giant," "King," "Jumbo," and "Home laundry" size—six different name sizes.

We have in each case the number of ounces that were shown as pounds and ounces on the box. You could find it. I sometimes took a magnifying glass, which I carry, with the slide rule. It takes time to find some of these, but you can find them.

For the regular size, there were 19, $24\frac{1}{2}$, $20\frac{1}{2}$, and 20 ounces in four different brands, a spread of $5\frac{1}{2}$ ounces within the named size.

The large size, which you can see is the smallest size in the group, ran from $19\frac{3}{4}$ to $21\frac{3}{4}$, a spread of 2 ounces. Actually, the largest regular was bigger than any of the large sizes.

The giant sizes ran reasonably consistent: 50, 49, $53\frac{1}{2}$, $50\frac{1}{2}$, $50\frac{1}{2}$, $49\frac{1}{4}$, $49\frac{1}{4}$, with a maximum spread of $4\frac{1}{2}$ ounces between the 49-ounce and the $53\frac{1}{2}$ -ounce package.

There were only three king sizes in this group—one 92 ounces and two $83\frac{3}{4}$ ounces each.

Jumbo, 160 ounces, two 157 ounces. You can readily see that one Jumbo came out even, that was 10 pounds, with a spread of 3 ounces between smaller and larger.

The home laundry, 257, 320, 320, 257, 257. Now there again is a perfectly plain, honest 20 pounds. You can understand it, no problems about figuring out how much that is. Twenty pounds times five is a

hundred and you multiply the price by five and you point off two decimals and you have the price per pound.

Do you follow me?

Mr. CHUMBRIS. As I say, it is simple.

Dr. BROWNE. Given this much calculation to figure out which is the better buy in just one of these brands, then you go through the same type of calculation—seven times that much, perhaps, or five times because some of them are the same—to figure out which is the better buy today in this store, assuming that all of the detergents are of equal quality.

Now, I am not prepared to make that assumption, so that is where you ladies have to be the expert, sophisticated buyers that Dr. Dichter was talking about yesterday.

I would just like to say, Mr. Chairman, that I asked for a yardstick to use as a pointer and what I got was a 2-foot ruler, and it strikes me as quite appropriate that we are using a 2-foot yardstick.

Mr. CHUMBRIS. You would not accuse the subcommittee of deceptive practices, would you?

Dr. BROWNE. No, sir. I pointed out that it is marked right here.

Senator HART. Doctor, thank you very much.

Any questions?

Mr. CHUMBRIS. I have none, thank you.

Dr. BROWNE. I should like to make one suggestion, commenting on the previous testimony, sir: when you go to buy gasoline, you do not want the oil people to decide that they will make it $7\frac{1}{2}$ pints per gallon.

Senator HART. The two exhibits will be made a part of the record.

(The exhibits referred to follow:)

SELECTED DETERGENTS—OUNCES PER PACKAGE

SIZE	BRAND							SPREAD
	①	②	③	④	⑤	⑥	⑦	
REGULAR		19		$24\frac{1}{2}$	$20\frac{1}{2}$		20	$5\frac{1}{2}$
LARGE	$19\frac{3}{4}$		$21\frac{3}{4}$			20		2
GIANT	50	49	$53\frac{1}{2}$	$50\frac{1}{2}$	$50\frac{1}{2}$	$49\frac{1}{4}$	$49\frac{1}{4}$	$4\frac{1}{2}$
KING			92			$83\frac{3}{4}$	$83\frac{3}{4}$	$8\frac{1}{4}$
JUMBO	160	157		157				3
HOME LAUNDRY	257	320		320		257	257	63

Source: Data on packages, June 1961.

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CALCULATIONS NECESSARY TO COMPARE PRICES OF A SINGLE BRAND OF DETERGENT, JUNE 1961

GIVEN				REQUIRED	
SIZE	LB.	OZ.	PRICE	OUNCES	PRICE PER OUNCE
LARGE	1	4	\$.33	20	1.650¢
GIANT	3	1¼	.79	49¼	1.604¢
KING	5	3¾	1.31	83¾	1.564¢
HOME LAUNDRY	16	1	3.99	257	1.553¢

METHOD OF CALCULATION KING SIZE

16	OUNCES
x 5	POUNDS
80	OUNCES
+ 3.75	\$.01564+ = PRICE PER OUNCE
83.75	\$ 1.310000
	- 8375
	47250
	- 41875
	53750
	- 50250
	35000
	- 33500
	1500 REMAINDER

Source: Prices in 3 Washington, D.C. supermarkets for brand Z on June 24, 1961.

Senator HART. The last witness this morning is Mrs. Sarah Newman.

The committee is delighted to note that we have been joined by the Commissioner of the Food and Drug Administration, Dr. George P. Larrick. Doctor, thank you very much for coming.

For insertion in full at this point in the record is the statement of the National Consumers League, for which Mrs. Newman will testify.

(The full prepared statement of Mrs. Newman may be found on p. 181.)

STATEMENT OF MRS. SARAH NEWMAN, MEMBER, BOARD OF DIRECTORS, NATIONAL CONSUMERS LEAGUE, WASHINGTON, D.C.; ACCOMPANIED BY MRS. VERA MAYER, EXECUTIVE SECRETARY

Senator HART. Mrs. Newman, would you like to introduce your associate?

Mrs. NEWMAN. Helping me this morning is Mrs. Vera Mayer, who is executive secretary of the National Consumers League.

Senator HART. Thank you.

Will you proceed with your statement as soon as you organize your display?

Mrs. NEWMAN. I should really have consulted with Dr. Browne before I came in this morning, because I would have been saved from lugging down some of the things I did lug down.

I brought a slide rule. I once knew how to use it, I am not sure I still do. I brought a magnifying glass. I brought an abacus because some people can use an abacus, even if they cannot use a slide rule. I brought a measuring tape, which I think is the full 36 inches.

Senator HART. We have a hesitation about using the word "full."

Mrs. NEWMAN. I have no objection to using the word "full," because today we have gotten to the point where we almost have to use it, because today I think people want to feel confident that they are in fact getting the full amount.

My name is Sarah H. Newman. For the last 25 years I have been actively concerned with consumer problems and have served on many consumer committees in the District of Columbia area. I appear in a dual capacity here today. I am a member of the board of directors of the National Consumers League and am testifying on behalf of that organization. In addition, I appear as a housewife who has been tremendously bothered by the problems and abuses you are studying.

Organized in 1899, the National Consumers League has been concerned with the conditions under which consumer goods are manufactured and distributed. It has been closely associated with major reforms affecting consumers, as the Pure Food and Drug Act and the Poultry Inspection Act, for example, and others of the same type.

We would like to congratulate the chairman and the subcommittee for undertaking this important investigation into consumer packaging and labeling practices. After carefully studying and investigating the variety of practices in this area, we hope that the subcommittee will draft appropriate legislation if necessary to correct the abuses which, unfortunately, have grown up in this long-neglected field.

For over 30 years I have had the responsibility of managing a home and family, and trying to do this as intelligently as possible within the limits of our budget. Never, in all these 30 years has the task been as difficult or as time consuming and physically exhausting as it is today. In spite of all the nonsensical propaganda about the dominance of the consumer's wishes, and in spite of the hundreds of thousands of dollars spent on consumer research—the previous witness said something about the million dollar laboratories and the hundreds

of employees in those laboratories—all of which comes out of the pocketbook of the consumer, of course, the net result has not been to make it easier for her to make intelligent choices, but in fact, the very opposite.

In my own case, I spend more time on my shopping now, become more exhausted doing it, and have an increasing feeling of frustration and incompetence.

I do not quite feel like a moron, Senator Hart, but I certainly feel that I am not quite able to do the job as well as it ought to be done.

Now, if, as has been stated by a leading consumer educator, the consumer's main responsibility in spending is too maximize her satisfactions, let me state unequivocally that present day marketing practices make that virtually impossible.

I would like to show you some of the practices which have led to my conclusions.

Actually, as I have sat here through the last 3 days listening to witnesses, I have said to my husband, who was sitting beside me part of the time, "There goes a little more of my statement." Actually, most of my statement has been said to you gentlemen.

However, perhaps by illustrating some of the points, we can build up a more accurate picture of what does face the consumer when she goes into the supermarket.

In the first place, food stores have been getting larger all the time. In great part, this is due to the multiplicity of brands, and more recently the unrestrained multiplicity of sizes which require continually increasing shelf space in the stores. If this multiplicity resulted in lower costs to the consumer, it might be at least partially justified in our free competitive system, which theoretically is supposed to work toward that end. But I find that having eight or seven different brands of detergents on the store shelves does not make them any cheaper, and since the large number of brands and sizes requires so much more space, the store owner's overhead must necessarily be increased, and must result in increased cost to the consumer. Also, it means I have to cover that much more space when doing my shopping in the store, those endless aisles that Dr. Warne talked about the other day in doing my shopping, and believe me, I resent that much more walking.

Mr. CHUMBRIS. Would you mind a question at this point?

Mrs. NEWMAN. Not at all.

Mr. CHUMBRIS. In a different vein, you say the stores are getting larger and larger, but is that not a way of life? For example, you will observe in the cities that chainstores are practically leaving where they used to be, in the middle of a block they had a small store, and they are gradually leaving and getting some place to where they are in a big shopping center.

Mrs. NEWMAN. I sure have noticed.

Mr. CHUMBRIS. We cannot turn the clock back on that.

Mrs. NEWMAN. I notice this is called progress. I question that. Progress after a while gets to have a meaning which no longer is the old meaning. I am not so sure that that is good, but I do not think we want to go into the ethics of this, is it good or is it bad, is it better to have a small store at every corner, or one great big shopping center. I merely want to go so far as to say that the end result as to the consumer, very likely means higher costs.

Mr. CHUMBRIS. I just want to inject that, because we have gotten away from the corner store to where we could get this personalized service 15 or 20 years ago and it is almost a common thing now to be going to the shopping center where you not only shop for groceries, but you do everything else.

Mrs. NEWMAN. That is true and to that extent the consumer no longer has the same amount of free choice. At one point she could go to either the corner store or the supermarket. Now it is almost impossible to find a corner store, so she is being forced to go to the supermarket.

In addition I find that some sort of game is being forced on me. I refer to the practice of having the contents in such odd amounts that only an expert with this slide rule or abacus can figure out comparative costs of the various brands, or decide among the various sizes of the same brand.

Now, I would like to show you some examples, if I may.

For example, here are two packages of chocolate chip cookies. Somebody has been nibbling away at one. But they look pretty much the same. One brand contains $7\frac{3}{4}$ ounces. This one has $8\frac{1}{2}$ ounces.

Now, regardless of what the price is, you will find that most prices end in "9" these days, and as a matter of fact, both of these are 29 cents, so it would be easy for me to decide.

But if the price were different, 27 and 29 cents, to divide $7\frac{3}{4}$ into 27, and $8\frac{1}{2}$ into 29—well, I do not know.

You shop all the time, Mr. Chumbris. Could you do that quickly? Could you find out which is cheaper?

Mr. CHUMBRIS. The point I am trying to bring out is, I have made it my business to check those things. I may not do it on the spot. If I do not do it at that moment, I will have it figured out for next week.

Mrs. NEWMAN. I think you will agree that it would be difficult and time consuming to do that right there when you are faced with picking one box of chocolate cookies.

Mr. CHUMBRIS. I agree with you on that point. That is why I say we get back to these large chainstores rather than this small store on the corner. The consumers brought that on themselves. They could still go to that corner store if they wanted to.

Mrs. NEWMAN. I think a lot of us consumers had the feeling when the supermarkets came in that it was going to cost us less to get our groceries, so we gave up the corner store and went to the supermarket. Maybe at the beginning, it was cheaper. I am not so sure at this moment that it still would be true. Of course, the small merchant then suffered from the consumers making the change.

Now, here is another example. This is a can of tomato sauce. The contents are not too hard to find, $7\frac{3}{4}$ ounces. The price is two for 17 cents. How long would it take the ordinary consumer to decide what the price per ounce is?

We have here two cans of the same item. They are different size cans. They are tuna fish. This is a $6\frac{1}{2}$ -ounce can at two for 63 cents. This is a $9\frac{1}{4}$ -ounce can at 43 cents.

Now, my husband says I am awfully good at figures and I think I am pretty good at figures. But believe me, to decide which of these two cans of tunafish is the better buy would take and most housewives almost more time than we have to spend. Sure, we could take these cans home and figure it out. We would already have bought

them. Or we could keep scratch pads in our pocketbooks and make a note, write down the size, write down the price and go home and figure it out and then go back to the store and buy the cheaper one. I am merely trying to point out that it is not easy, and I hope I can convince you that it is unnecessarily difficult.

I do not know why tomato sauce, for instance, has to be packed in $7\frac{3}{4}$ -ounce cans. Why not pack it in an 8-ounce can. It is much easier to divide a number by 8 than by $7\frac{3}{4}$.

I do not know why this has to be $9\frac{1}{4}$ ounces. There does not seem to be anything magic about that. I do not think it makes an even number of servings, when servings can vary in size. Nine ounces would make it a lot easier for me to figure out the per-ounce cost.

Now, here are five packages of detergents. One of these is called "large." The other is called "regular." The casual examination, I think, would make you believe they are all the same size. Instead, they range from 15 ounces to 1 pound $5\frac{3}{4}$ ounces.

If Mr. Brown is still around, maybe he could, with his slide rule, quickly figure out what the difference is. But if you were in a hurry, if you believed that all the detergents in those packages were the same and if you just took it for granted that the content was the same, it would then be only by price that you would be delayed in making your purchase. Instead of that, you are faced with the fact that each of these packages has a different amount.

Right next to the detergents are five packages of crackers. Crackers are an item that mothers buy a lot of. Children like to eat crackers all day long, it seems. They all are the same size.

Again, instead of being able to decide just by comparing prices, since I am a shopper who is aware that you cannot always tell by the outside size of the package, I look at the labels to find out the weight. I find out here that these crackers weigh—one 8 ounces, one $8\frac{1}{2}$ ounces, one $9\frac{1}{2}$ ounces, one $9\frac{3}{4}$ ounces, and one 10 ounces.

It seems that the simple concept of a pound and a half-pound has just been thrown out the window. You might think we had never heard such simple weights.

Now it does not seem to me that this kind of packaging comes as a result of consulting consumers' wishes. This consumer would much prefer packages in even multiples of ounces or pound or pints. It would save me untold woman-hours and make me feel that I was doing a much more competent job in making my purchases.

While we have those detergent packages in front of us, you can see that—well, I did a quick guess on this—that although they are the same size, there is about a 30-percent difference in the weight.

In these cracker packages, which went from 8 to 10 ounces, there is a 20-percent variation. Is somebody trying to fool somebody by making you feel that because you have the same size package, a difference of 30 percent in a way should be ignored? I do not know. I cannot believe that they are trying to be honest.

Then, to make matters worse, that overrated research, at least from the consumer's point of view, has come up with ways of making containers appear larger while actually containing less. I got here this morning just in time to see that very dramatic example which the former witness showed of the potatoes. But I could show you some others.

Here are two jars of instant coffee. One looks slightly bigger. I think if I measured it with a tape measure, it might not be. But that is the impression you get, although I must say having to cover up the names on this has in some way changed the effect you get when the names are not covered up with all this tape we have used.

This looks slightly larger than this one. As a matter of fact, this contains 5 ounces, this contains 6 ounces.

Here are some more. All three of these contain 6 ounces. But these two next to each other on the shelves would make you think this might have a little bit more if they are not all going to be the same. As a matter of fact, it has an ounce less.

Here are two cola bottles that are quite interesting. Do they look the same size to you? I would really like an answer, because otherwise, I do not know what to say next.

Mr. CHUMBRIS. They look approximately the same size.

Mrs. NEWMAN. They look approximately the same size. All right. This bottle [indicating] has 12 ounces. This bottle has 16 ounces. I do not know how you figure it. Four in 16 is 25 percent, 4 in 12 would be $33\frac{1}{3}$ percent. So, according to the way the statisticians do it, this bottle, which looks the same as this, has between 25 and $33\frac{1}{3}$ percent less.

Senator HART. May I ask you to indicate where the contents show on this?

Mrs. NEWMAN. That is a very interesting thing. I would like to show you. I can show you on these bottles or these.

Would you mind taking these bottles up? I think you would like to see how difficult it is to actually find the contents.

These two bottles have the same. I think they are the same. The contents are so badly marked that I am not awfully sure whether it is 6 or $6\frac{1}{2}$ ounces. But they have exactly the same and you can see how difficult that would be.

You see, there is no label on that which you can see. We covered the label, but the part we covered did not have the weight, did not have the contents. The contents actually are pressed on the glass, then the dark liquid is put in, and let me tell you, the light here today is much better than it is in a lot of supermarkets.

But you try. I think you gentlemen would be interested in seeing how difficult it is to get the reading there.

Senator HART. I think I have not expressed an opinion in the course of these 3 days that would imply a harsh judgment on any item, but in my book, somebody stayed awake a good many nights to make sure that you and I were not sure of what we were being offered.

Mrs. NEWMAN. And it does not actually have to be that way.

Senator HART. I ask Mr. Chumbris if he would not agree.

Mr. CHUMBRIS. The only comment I make on that is that this bottle [indicating] has been an established bottle since I was a little boy.

Mrs. NEWMAN. But you did not know the contents.

Mr. CHUMBRIS. I never cared how many ounces were in this particular bottle as compared with this one, because if I bought this particular product, there are so few of them, in my mind, I bought it because of what was in this particular bottle, irrespective of the price or the content, which makes it a little different from the subjects that you have here that we do not have much acquaintance with.

When you showed me these two, I really did not see the bottle well because of the tape around here, but now I see what the product is. If I buy that, I would buy it because of the product. And I think it was brought out by Mr. Wharton a while ago that you do not buy just on price, just on weight, but you also buy for quality or content.

Mrs. NEWMAN. But let me show you two more cola bottles which I have brought in, just to show you that it does not have to be done that way and that people who do it that way must have a reason for doing it.

Here are two cola bottles, and I think even from where you are sitting, it is pretty easy to see what the size is.

Can you read it?

Mr. CHUMBRIS. Did you ask me to read?

Mrs. NEWMAN. Well, any of you.

Senator HART. That has never been contested.

Mr. CHUMBRIS. I said, did you ask me to read it for you?

Mrs. NEWMAN. I said, can you? I think it can be seen from there. But certainly you see that cola bottles can be packaged in such a way that it is easy for the consumer to read the amount.

Senator HART. For the record, since these would have to go into the committee files, the chairman will state that the last two are readily readable and reading requires only the use of light marking instead of dipping your pen into the contents of the bottle, as appeared to have been done in the case of the other bottles.

Mrs. NEWMAN. Now, another example of this practice is these napkin packages. I think again a casual quick look would make this look like the biggest package.

Senator HART. Yes.

Mrs. NEWMAN. Well, actually, this [indicating] contains 20 napkins less than this package. There are only 60 napkins in the cellophane package. There are 80 napkins in this cardboard one.

Now, the napkins bring me to a further point of discontent with today's marketing practices. To some extent, we are being treated like Pavlov's dogs.

As you may recall, and one of the other witnesses mentioned this, Pavlov found that he could get certain responses from dogs by showing them certain things. I think she said he could get them to salivate by showing them certain things. We get conditioned in the market in the same way.

This carton of napkins, which is plainly marked "80" is a well-known products. I am sure you can read the 80, even from here.

Senator HART. Yes.

Mrs. NEWMAN. This is a well-known product. Some time ago the carton—the label, really, the writing on the carton was changed slightly.

Senator HART. Since apparently, you are going to discuss this in some detail, I wonder if you could bring all of the napkins up, so others on the committee will have an opportunity to see them.

Mrs. NEWMAN. I have put numbers on these so it will be easy for you to identify. The carton marked 26 is the one I refer to as the well-known brand of napkins, which has been on the market for a long time. Then some time ago, the label was changed slightly and the number of napkins was moved, and if you will look at No. 27, you will find there is no longer a big number in front. But you turn that

package around and down in the writing on the bottom you will find the number.

Do you find it?

You had better let Mr. Chumbris do a lot of this.

Senator HART. He will take my word for it. He can always find it.

Mr. CHUMBRIS. Mrs. Newman, you know, sitting here with us, it is a question of what is the issue as far as a congressional committee is concerned, how we personally feel about a product. I will give you an instance.

A few years ago I helped Senator Langer write the minority view on the Mallory rule. The average layman could not understand how we would try to prevent the legislation to let the Mallory rule to go into effect, because this man, in their eyes, was a known confessor of guilt. The question was a legal technicality, did he have enough time to get before the Commission, but that was a matter of principle, irrespective of how we felt about the particular individual involved.

Here, our main concern is with what role should the Congress of the United States play in telling a manufacturer of different products that get into the stores just the details of size, of quantity, of price, of description.

We have the Food and Drug Administration, we have the Federal Trade Commission, the States have their weights and measures agencies, which go into the matter when people violate the law as far as deceptive practices.

That is what we have to look at. I do not want to appear to be a coldblooded individual on this subject. But I have to look at it from my responsibility as a minority counsel of this committee on the legal question as far as this congressional committee can go into some of these issues. That is why we are asking these questions. The more you answer my questions, the better record you may be building to convince this committee that something could be done.

Mrs. NEWMAN. I do appreciate that, and I am really glad that you know as much about shopping as you do, because I think you have had some of the experiences which the rest of us who do the shopping have all the time, and I think it is wonderful for the subcommittee to have somebody on there who really has had some actual experience. I am not being facetious about it.

Well, the second package, 27, still contains 80 napkins. It is just that the number was removed from the front and put in much smaller letters on the back. So that if the consumer did notice that the package was slightly changed in appearance, she checked the contents just to make sure and she got reassurance because it was still 80.

Then, without any other change in the package, if you will look at No. 28, the number of napkins was reduced to 70, still printed in that little out-of-the-way place in the smaller type.

Now, having conditioned us to expect 80 napkins in this new package—I do not know. Are they hoping that we will still continue to think that there are 80 and that we will not keep checking? If they do, they just do not realize how mad it will make us to find out we have been deliberately misled, and I feel that this is a deceptive kind of thing.

I must say in all fairness to this napkin manufacturer that he may have been forced to cut down the number of napkins in his package to meet the competition which was presented by this cellophane pack-

age fluffed up to look bigger than his package and which contained 20 less.

This is one example, I think, of what deceptive packaging does to competition.

Mr. COHEN. If I may interpose a comment, I think in due fairness to the manufacturer, I would point out that he is still using 10 more napkins than his competitor, who is still giving you 60.

Mrs. NEWMAN. That depends on the price, and the manufacturer in packaging has really nothing to do with what the price will be in the store. It may be that that is a better buy. As a matter of fact, I still buy that carton of napkins.

I would like to show you these soap pads. For years the package marked "29" has been sold in this package and with the number 12 soap pads very plainly written on the front. Now, all of a sudden, the same size package appears on the shelf, that is No. 30, and the amount no longer appears as plainly. It still is legible, but it has been decreased to 10.

Most housewives, I am sure, would have been buying this brand for years and years, continue to buy it without being aware of the change. You do not, after all, count all the soap pads in your package when you take them home.

Again, this may be an instance where this particular decrease was forced on the manufacturer, because you see that other box, labeled "31," has only 10 pads. That came out after the other box had been on sale for a long, long time and the number on that competitive box is even harder to find than on either of the old boxes.

I gather you were shown cereal this morning. I was awfully sorry I could not get here, but this may be a repetition, because this is also shredded wheat cereal, so I will not go into that, the old box with 12 biscuits and 12 ounces and the new box with 12 biscuits and 10 $\frac{1}{4}$ ounces.

But I would like to show you these two cottage cheese cartons. I will put them on the table. We have to use a lot of cottage cheese in our family, so I always buy the large size because, well, at one time, it was always cheaper to buy the larger size. This is not true any longer, but I am still in the habit of buying larger sizes of things that I use a lot of.

Now, these packages are exactly the same in size. They are put out by the same cottage cheese manufacturers, you will notice, and originally, that size contained 2 pounds. You will notice that carton No. 34 is still marked 2 pounds, I think it is on the top. Carton No. 35 is now marked 30 ounces, which as you know, is 2 ounces less. I presume that after a while, the 2-pound one will disappear completely.

I have a feeling that the dairy putting that out must be hoping that I will not notice the new weight, since the package is identical in size.

Now, baby food has been talked about before. You know that these two jars of baby food look the same. One contains 4 $\frac{3}{4}$ ounces and one 4 $\frac{1}{2}$ ounces. I do not buy baby food any more. My children are all grown. But I have a little grandson and I know my daughter-in-law spends a large part of the food budget on baby food. I am not at all sure that she knows that one of the brands contains one-quarter of an ounce less than the other. I am going to tell her about this.

Mr. WALLACE. Do you think it will make any difference?

Mrs. NEWMAN. To her? The baby will eat any kind of baby food and I think the price will make a difference to her. She knows she has a limited budget. She would rather get $4\frac{3}{4}$ ounces than $4\frac{1}{2}$.

Mr. WALLACE. I am talking about the brand she is buying. I do not know and this may not be the case, but maybe she would buy that same brand even if she knew there was a difference.

Mrs. NEWMAN. I hope not. She is an intelligent girl. I cannot believe she would. Since the baby will eat either one, why would she buy the most expensive?

Mr. WALLACE. Dr. Dichter, who was here yesterday, said all this would not make any difference if the label——

Mrs. NEWMAN. I do not agree with Dr. Dichter on that. I talked before I came here with a special committee of the National Education Association meeting here in Washington. Before the meeting got underway, I was telling the chairman of the meeting, why I had to leave before the question period. He said, "Oh, yes, we have been reading about these hearings and the people in our conference were very much interested and wanted to spend an awful lot of time talking about it."

Now, here are teachers, maybe some of them are housewives. There were also some men in the group. They are interested. I do not believe that Dr. Dichter has made a careful enough sampling if he has arrived at the conclusion that consumers do not care. Most of the people I know do care. I remember just the other day, somebody saying to me, she knew I was going to testify, "I hope you will bring up this business about Tarragon vinegar."

I said, "What is this business about Tarragon vinegar?" I buy it, but maybe only once a year. She said, "You know it always came out in a pint bottle exactly like the bottle of vinegar which was not Tarragon vinegar."

"Now all of a sudden," she said, "you cannot buy that old bottle of a pint, and for the same price of 25 cents you now have a fancy bottle, but it has only 12 ounces in it. I think it is awful."

"We no longer have a free choice. We cannot buy a plain bottle of Tarragon vinegar at 25 cents. We have to buy this fancy bottle of Tarragon vinegar at 25 cents which contains 25 percent less contents."

Now, my friends are continually discussing this. They care terribly. I remember one of my friends that I thought did not really give too much attention to this kind of thing saying to me one day, "You know, I used to smoke."

I do not know if I ought to name names here.

"I used to smoke a brand of cigarettes which was a king size. They also put it out in a hard-top box," and she said, "I thought it would be nicer to carry in the hard-top box because they might not get crushed. But I do not do it any more. You know why? The king size cigarette in the soft pack is longer than the one in the hard-top box, even though they are both called king size."

And here is a woman who very seldom pays too much attention to price, but even she is beginning to get annoyed by what seems to be a buildup of these practices.

Mr. WALLACE. Let me just ask one more question, particularly as to these baby foods you have there. What would be your specific recommendation in changing these? Would you require a larger print of how much is in each jar?

Mrs. NEWMAN. I have several recommendations. I do not know why baby food has to come in $4\frac{1}{2}$ or $3\frac{3}{4}$ ounces. Why not let it come in 4 ounces? What is so awful about a 4-ounce jar? If that is not enough, let us have a 6-ounce jar. Let the size of the outside container not be the same if the weights are different. It is awfully hard to make a different size container when the difference is only a quarter of an ounce and it is one of my objections to quarter ounces, because you know, maybe if he actually measured this, we would find a slight variation in size. I doubt it.

Mr. WALLACE. Would you say 1 ounce difference requires—

Mrs. NEWMAN. In 1 ounce, I think you could have a difference in outside size, yes. Actually, I think anything that is over 4 ounces does not have to go by 1 ounce. I personally would see nothing horrible about making things over 4 ounces go up in 4-ounce increments.

Mr. WALLACE. Thank you.

Mrs. NEWMAN. Here we have two packages of wax paper. When they face you on the shelves, this part, which is what you see, looks the same in size. Actually, if you took them off and held them next to each other, you would see that the depth is not quite the same. But if you are buying fairly rapidly, one (No. 38) is clearly marked 125 feet. On the other, you would have to search the amount. It is not on the front of the label at all, where I would recommend that all weights be made to appear. But it appears on the side, and it is a 75-foot roll. Sure, the price is different. I do not know whether it is cheaper to buy the 125-foot roll or not. I have not figured that out.

But you see here—again, I do not know. This may be what competition is doing.

Here is the same size package which has only 100 feet. Now, at least that is marked clearly on the front and when it is marked clearly on the front and it is quite obviously different from this 125 feet, then the consumer gets an even break. You see that the amounts are different, you compare prices and you have a way of deciding which is the bigger one.

But the point is with these two, 38 and 39, in order not really to get fooled and not to feel frustrated when you get home and find what you have bought, you have to check each single package for content.

Here is another instance of that. Here are two cans of asparagus, and this is very interesting. They look alike. They are the same size can, what you call the No. 300 can. And, as a matter of fact, on the label it says this can size is No. 300.

I just by accident looked on the bottom of the cans—they are two different brands. The number on the bottom of the cans, pressed into the tin is the same. I do not know whether you gentlemen are aware what this means, but what it does mean is that it was in the same pack and came from the same cannery, but put out under different labels, which is customary. In other words, the same cans—the same cans as far as size is concerned, packed in the same cannery. Yet one has 14 ounces and one has 15 ounces.

Now, the ordinary consumer, seeing these two cans on the shelf, certainly should be able to assume correctly that they are both going to have the same weight. But you see, you cannot. That is what I mean when I say that you have to examine each package separately for weight before you buy in order to make sure of what you are buying.

Mr. CHUMBRIS. The pressing on the can there, was that the 300 number that showed—

Mrs. NEWMAN. No, no, the pressing shows the pack number.

Mr. CHUMBRIS. The reason I bring that out, I do not think we have any evidence in the record yet—it might be good to have it, Mr. Chairman. That is, for example, the man canned this as a canner and he manufactures the tin can and the peas and the string beans—

Mrs. NEWMAN. Excuse me. The manufacturer does not make the can—I think.

Mr. CHUMBRIS. There are companies that manufacture tin cans for use for groceries.

Mrs. NEWMAN. According to size.

Mr. CHUMBRIS. Let us say I am manufacturer A of peas, string beans and so forth and there is a manufacturer B. We both buy the cans from the same place. Now, if this manufacturer brings out this size of a can and I have them in stock and I have a problem that I was putting in 15 ounces and I felt that I could not sell it at that price for 15 ounces, so I have a choice of either raising the price or putting in 14 ounces. As manufacturer A, I decide to put in only 14 ounces. But I already have the cans, and they do not make cans except maybe a 400 can—I do not know because we do not have anything in the record. I think that ought to be in the record.

Are tin cans made, for instances, in only certain types of sizes and therefore the manufacturer who has that 300 can or the 400 can or the 500 can on stock, that is the only kind he can get, then he must determine what content he is going to put in it?

Then it is up to the manufacturer to make sure he has that 14 ounces clear there, as clear as perhaps maybe the 15 ounces is. I am not sure whether that is a good point or not.

Mr. COHEN. We have talked to people in the can manufacturing business and they tell us they will make any size can you want—give them the amount you want put in it and they will make the can for you.

I might say there is some difference of opinion as to whether this is just as cheap as taking a standard size can. But in regard to the technological aspects of it, it seems to present no problems whatsoever.

Mrs. NEWMAN. I brought those in, really, to show you how it is no longer possible to rely on just the appearance of the can, it is no longer possible to rely on brand names, it is no longer possible to rely on the old standards. You have to look at each individual item, each individual brand, each time you contemplate making a purchase.

Because you see, at any time, the quantity can be changed, as indicated, without any obvious outside change.

You cannot depend always on the larger size being the better buy, and I was interested in what Dr. Browne was saying this morning about the special price on the smaller size, making it a better buy.

To illustrate that, I brought these two cans of orange juice. One is a standard 6-ounce can—maybe I had better not say “standard.”

One is a 6-ounce can, one is a 12-ounce can. The 6-ounce cans in the same store were selling at four for 95 cents. The 12-ounce can was selling for 53 cents.

Now, if you figure out four cans of 6 ounces each for 95 cents, you are getting 24 ounces for 95 cents, which is 3.95 cents per ounce. The 12-ounce can for 53 cents comes out at 4.41 cents per ounce. And I am sure there must be many more illustrations like this, where the larger size is more expensive, actually, than the smaller, although I am certain there are still plenty of instances where the larger size is cheaper than the smaller size.

Mr. WALLACE. Mrs. Newman, what change would you recommend?

Mrs. NEWMAN. Since you are not concerned with price in this investigation, I do not see why we actually should concern ourselves with it. I am merely pointing this out to say that the consumer can no longer rely on the fact that the larger size is the cheaper, but is again forced to do this individual examination of each item she buys.

Mr. CHUMBRIS. On these two cans that you sent up to us, the one with 14 ounces costs two for 47 cents and the one of 15 ounces costs two for 49 cents, so there is a price variation.

Mrs. NEWMAN. Yes, quite frequently, the price variation goes right along with the change in weight. I do not know how that figures out per ounce, if it is still the same.

Now, there is one more practice I would like to mention which adds to our difficulties. That is another game which we apparently have to play, whether we have the time and inclination or not—it is a sort of button, button, who has got the button, or content, content, where is the content?

I refer to the practice of putting the amount in such a place, and in such size type and color of ink, as to make it almost impossible to find and/or read.

The cola bottles which you gentlemen have up there are one illustration. Mr. Littlefield referred yesterday to the pale yellow printing on pliofilm, and cellophane packages usually are the worst offenders in these.

I also have an illustration here. This is a foil package and I would like you to find the weights on those. It will give you an indication of how hard it is when you are in the supermarket, to see what a difficult task it is to find the actual weights.

Again, I think we have made it a lot clearer on those packages, because by covering over some of the label, we have ridden the confusion which faces you when seeing it.

Senator HART. I would guess you have reduced the face of this by 30 percent.

Mrs. NEWMAN. Easily, and you see, if they had that much blank space on their labels, it would be a lot more easily read, but, generally, the labels are pretty full.

Now, if we had time, there are thousands of examples that could be shown to you which face the housewife every time she goes to the supermarkets. Personally, if I could afford it, I would never step into a supermarket. If I had unlimited funds, I would find myself a reliable delivery market that carried the quality of merchandise that I like, and which could be counted on to give honest treatment, and I would simply phone my orders in each week. It would be much

less exhausting than walking endlessly through the huge supermarkets.

But unfortunately, the number of people who can afford such luxury is very small. Therefore, I feel I speak for the overwhelming majority of consumers when I ask that something be done to eliminate some of the so-called "progressive and modern practices" in the marketplace, which are in reality hazards and obstructions for the consumer.

Since the industry itself seems to be going wild in introducing new complications every day, we must seek relief elsewhere, and we are particularly grateful to this subcommittee for your investigation.

Now, for a moment, if I may, I would like to depart from the experiences of a housewife and deal with the problem slightly in a historical framework.

The confusion, obscurity, and complication of so-called modern packaging practices is strangely reminiscent of the chaos that prevailed in the Middle Ages when each country, each province, each city used a different type of measure in trading goods. Historians agree that one of the great steps forward was the adoption of a uniform standard of weights and measures which brought an end to the medieval chaos and encouraged trade and commerce to flourish between nations. Another great step forward hailed by historians of the industrial age, was the standardization of products which made possible mass production of goods at prices accessible to a multitude of purchasers.

These two significant developments in the economic history of the world seem today to be undermined by the curious customs and usages of modern product manufacturers. Instead of moving forward to greater precision and clarity in weights and measures, with savings to the producer and the consumer through standardization of product, we find that we are moving backward into the chaos, confusion, and obscurity of the Middle Ages. I think Dr. Dichter admitted as much.

It must be costly to hire motivational research experts to determine which color and which design gives the consumer the illusion of better quality despite reduced quality. It must be expensive to advertise through newspapers, television, and radio that the new package contains a new product requiring an unadvertised new higher price. This elaborate mechanism must indeed be costly. It seems rather unfair to ask us, through increased prices, to pay for being deceived when we are virtually helpless to defend ourselves in the marketplace.

It is not that we do not care, as Dr. Dichter and others have said. It is just that we feel so helpless, we do not know where to turn to say how this bothers us.

Not only are the increased costs of packaging passed along to us, but the very purpose of the packaging seems to be to mislead us into buying less for a higher price.

Senator HART. Mrs. Newman, on that one point where you just left the three different sizes of goods, I think we ought to keep in mind that for some families—let us say a husband and wife who have no children or the children are grown—a small can of beans or peas might be the thing, because otherwise, it is going to be wasted. For a

family of five or six, you may want to get the other size, or you may want to get the giant size, depending on the family.

That might or might not be what you would say is appropriate in all families. I know in my personal instance, there are certain things that my wife says the small can is preferable.

You take tomato sauces and things she needs for just one cooking, where a small can will do the job. If I bring home a large can, it just languishes in the can until she decides to make that specialty a second time.

Those are consumer traits that manufacturers have studied over and over. Maybe they are wrong. Manufacturers have been wrong in other fields and the consumer has made the manufacturer see the light and those styles have gone out in line with the consumer's needs.

Mrs. NEWMAN. I think the consumers are wise enough to buy the package which is best for them and oftentimes, the more expensive, small package is the best buy, because if indeed you get it at less cost per ounce and have to throw out half of it, then it is not a good buy, and each consumer, I think, is sensible enough to make this choice.

Mr. CHUMBRIS. But the point I want to bring out is if we get to saying that a manufacturer can make only one size of cans of peas, that is all, or should make two sizes of cans of peas—in other words, you should not have the regular, the giant, and the king size; you are putting too many of those cans of your own brand on the market, and those are questions that are going to have to be considered if the laws are going to be passed.

Mrs. NEWMAN. We do not want to be arbitrary either and say only two sizes within one product or only three sizes, but I think that in some instances, we have gone so far from a reasonable number of sizes.

Mr. CHUMBRIS. And if you pick up a Congressional Record, you will hear a Senator or a Congressman make a speech and say "Where do you draw the line?"

In other words, is it one or two or three sizes? Why do you draw the line? In cans of peas, one thing may be applicable. In fruits, maybe another. So it is hard to generalize.

Mrs. NEWMAN. I would guess that the canners themselves might welcome cutting down the sizes. Maybe Congress or some other governmental agency could call a trade conference and get these people to understand what the feeling of the consumer is and get them to discuss among themselves the desirability of cutting down the inordinate number of sizes within one commodity.

I am not saying that we have to have legislation in the Congress to accomplish this. I am merely trying to show what practices make it difficult for us to find out how to buy intelligently, and maybe some of this needs legislation. Maybe there already is sufficient legislation on the books which needs better enforcement, maybe the industry itself could examine its practices collectively under the auspices of some governmental organization and arrive at a better situation. The situation is so chaotic, it is so frustrating, improvement is needed and I am really not prepared to say exactly how that improvement should be brought about. I have not looked at the laws that are now on the books.

Mr. CHUMBRIS. You are doing a good job.

Mrs. NEWMAN. It may be that we have sufficient laws and they just need to be enforced. It may be just a little strengthening of one law or a little clarification of the language in the law would make it easier. This, I presume, will be your job.

Our inability to ascertain the price per unit-weight of products due to the obscurity of the placement and printing of weights and measures information, and the fractionalization of the weight designations themselves when finally found and deciphered, is costly to us over a period of time. We are prevented by all of this confusion and obscurity from shopping wisely in a marketplace that is increasingly more expensive.

We would therefore like to make the following recommendations in order to help the packaging industry emerge from the darkness of the new Middle Ages into the light of the modern world:

(1) Weights printed on packages are not always clearly legible or conspicuously placed. Therefore, we would recommend that all manufacturers of packaged foods and household products be required to print the weight or quantity on the main panel of the package under the brand name. The print size should be required to be proportionate to the label size.

I do not know what that proportion should be. I think it could be worked out very easily by experts in that field.

(2) The fractional ounces and the wide diversity of package sizes are confusing to the consumer and make price-per-unit comparisons very difficult. Therefore, we would recommend that standardized package sizes and weights be developed and adopted. There is much precedent for this in such laws as those requiring standard liquor containers and defining a "standard bushel" and "standard barrel," and so forth.

(3) Hidden price increases through the surreptitious reduction of product quantity is a deceptive practice, I think. We urge manufacturers to forgo voluntarily this technique as a means of keeping faith with the consumer.

I would like to mention here one thing that was brought to my attention this morning. Apparently, in Switzerland, if a package is sold in ounces—say it is butter and it is a 6-ounce package of butter, it is compulsory that in addition to the price for the 6 ounces, the price per pound represented by that be put on the label.

Mr. WALLACE. Would you recommend that in this situation?

Mrs. NEWMAN. In view of the chaos right now, this would be a tremendous help.

Mr. WALLACE. Is it not possible by requiring that we would increase the price of the product? For example, as you know, the prices of goods are marked in stores generally and they have sales from day-to-day at different prices. It would seem to me an almost insurmountable job to mark a product, price per pound per price per ounce.

Mrs. NEWMAN. Of course, we do it in some things now, packaged meats, for instance, at the meat counter. You get the per pound price, the weight, and the package price. They do it with cheese.

Mr. WALLACE. But I think it is more practical there than going through the cans and everything in the market and I think the practical problem there might make the price go up.

Mrs. NEWMAN. I agree with you it would be a terrific burden on the retailer. On the other hand, it would be a terrific help to the consumer and maybe if the packagers realize that we are being driven to ask for this kind of help, they may reconsider their method of using the amounts that they now use.

Mr. WALLACE. I think we should keep in mind that the manufacturers of products produce and sell and I think you understand that they spend a lot of money to determine what consumers want. I think the things that are on the grocery shelf are there because people want them, because they will sell. I think we should keep in mind that the more we buy, the more production we have, the less the cost of the product.

Mrs. NEWMAN. Theoretically.

Mr. WALLACE. In legislating on some of these matters, we want to keep in mind that fact.

Mrs. NEWMAN. But, believe me, philosophically, I am opposed to having any more legislation than we have to keep things running smoothly. But when you are faced with a situation that you do not know where to turn for help, I guess the natural tendency is, well, if we cannot do it, if the industry will not do it, maybe we ought to see if the Government will help us.

We greatly appreciate this opportunity to present our views to the subcommittee. And we congratulate you again for undertaking this important study. We will follow the course of these hearings with great interest.

Senator Hart. We appreciate very much your being here, complete with demonstration.

Mr. Cohen?

Mr. COHEN. No questions.

Mr. CHUMBRIS. I have no questions.

Mr. KITTRIE. I would just like to say to Mrs. Newman, you have done a good job calling these facts to our attention and educating this subcommittee. Are you as successful in educating the consumers, the members of your group?

Let me just add this one thing. You made reference a little bit earlier to some of your friends who complain and so on. But without wanting to cast any shadow on other consumers, I just wonder how many of these people you referred to are college graduates who pay that much more attention to what they do, are just more critical, and how many of the typical consumers going into a store are as well informed and as well prepared to do the job carefully?

I am wondering here if legislation by itself is the only solution. Despite the fact that we all seem to disagree with Dr. Dichter's idea that the consumer is a fool who wants to be a fool, I wonder how many people go into a store who are in a position to know about this and if more can be done to educate the people about their job and responsibility as consumers and what they could find out if they put their minds to it.

Mrs. NEWMAN. I think the field for that is wide open. The amount of education that is still needed is tremendous. I have worked for 25 years with consumer groups in this area trying to build up consumer educated, consumer-oriented people. It has been a small drop in the bucket.

But I was particularly pleased with Senator Kefauver's introduction of a bill for a Department of the Consumer for that very reason, or the statement made by the President about the possibility of a consumer council in the White House, because it seems to me that the consumer does need a tremendous amount of assistance in simply learning the basic things that would make him or her a more intelligent purchaser of the goods that are available.

Mr. WALLACE. Do you think that is a Government responsibility?

Mrs. NEWMAN. Well, the Government looks out for the people in commerce with the Commerce Department, it looks out for the farmers in the Agriculture Department, it looks out for labor in the Labor Department. Why not look out for the consumer?

Or, let me put it this way: Suppose we had a consumer council in the White House with enough staff and enough budget to really do a job. When this kind of thing comes up, she, or he, at least ought to be able to tell us what laws there are already on the books in the various agencies in the Government which have some connection with consumer protection.

Now, I really have an advantage over many other consumers because I have studied a lot of these questions for many years. I know there is a Federal Trade Commission and I know roughly what jurisdiction it has. I know about the Food and Drug Administration. I know about some of the regulatory agencies, many people do not.

But I do think it is a function of government to make sure that the consumer is protected. What good is the whole economy if the consumer, the ultimate purchaser of all our gross national product, is not taken care of?

Mr. WALLACE. My point was, I thought maybe this thing you are talking about could well be done through voluntary organizations, groups of people working without the necessity of the Government stepping into this field.

Mrs. NEWMAN. Everybody in this country is a consumer. Can you imagine any kind of voluntary organization which could get hold of even a majority of those people and train them? I think it would be wonderful if we could do it.

Mr. WALLACE. You represent the National Consumers League. I think organizations of this nature could call these matters to the attention of the public.

Mrs. NEWMAN. We call it to the attention of the public in whatever ways we can, we call it to the attention of our membership, which is, unfortunately, a limited membership, every time the occasion arises. We do it by means of appearing as witnesses. But we do not even begin to reach the—what is it—180 million consumers?

For that reason, I think some form of assistance in the form of a consumer council, well, as you know, some of the States already have consumer councils or consumer advisers, or a department of consumer would be a big help.

Senator HART. This concludes this phase of the hearing, a subject which I asked the subcommittee if we would not undertake. The subcommittee did and I thank Senator Kefauver very much for permitting me to have these hearings.

I would not have asked for them if I had thought it was an unimportant field. But in these 3 days, I think we have been impressed

that it is more important than perhaps any of us ever dreamed. Just in the narrow part of the big picture that someday we hope to get to, we find that in these supermarkets there are about 6,000 items. Hundreds of millions of dollars are spent by consumers just there every day that they are open, about 30 percent of consumer expenditure is represented right at that cash register and there is an increasing number of these products that are prepackaged. That means that the package is the sales item.

It is pretty hard to find anybody along that corridor in the market to discuss these problems with. You are talked to by the label. It says what it wants to say and nothing more. You cannot find anything more, unlike the neighborhood grocery, where you could get more information.

The dramatic way to see the difference is that when I was younger and went to market, you came home with your product in just a plain old paper bag that did not have anything on it. But you knew what was in it and you knew who you could raise Cain with in the morning if it was not right. That is the difference.

That is the reason that it now becomes so clear to us that we should do all that we reasonably can to insure that that box on the shelf is a truthful salesman. And that is what we are about to try to do.

I think it is too early to indicate even tentatively any conclusions, except to say that it needs a lot of study. The poor consumer, having heard a subcommittee say this, may conclude that we are going to disappear into contemplative darkness for a couple of years, but I do not mean that kind of study.

We do not know all the answers to these problems of slack fill, for example. At least I do not. We have heard about standardized containers. It would be nice if we could have this without having some accompanying problems, but we have to determine just how far we ought to go in that.

I was impressed this morning again by the apparent general agreement that the volume and the content should be right on that label, right in the mouth of that salesman and spoken loud enough so you can hear it even when you are being crowded from behind. And it would be wonderful, I think, if in addition, there was a formula, a unit, that did not require all of us to be able to do the calculations which Dr. Browne ran through with us on that exhibit. This, I think, would be a real advantage.

In saying this, I therefore dispute the distinguished witness of yesterday, Dr. Dichter, all of whose testimony we enjoyed thoroughly. But I just do not buy the idea that the consumer does not care. As a consumer, I care. As a person in public employment, I think I am obliged to care about this. I just cannot conceive that there is indifference with respect to the kind of treatment that that label gives us as consumers.

We are consumers. We are willing to do our fair share. We are not asking for a label that takes care of the least gifted in the community, but we would welcome a label that answers the question of the average child grown to adulthood.

Last, what clearly we must have learned is the function that the consumer's purchase decision has on our whole economy. To repeat it again, when I put my 10 cents down for a small object, I determine what production will be, and the cumulative total of all the consumers

in America, by putting our dollars and dimes down, we determine in figures annually of hundreds and hundreds of millions of dollars what the output is.

And if we are given a chance intelligently to shop and make fully rational choices, will we not be making the competitive survival of the more honorable merchant easier? Is not the manufacturer, who does want to tell us the whole story, going to be able more effectively to compete? Is not his survival made easier if we can, as consumers, make this intelligent choice?

I hope that we have not in this inquiry thus far created the impression that we feel that everything displayed in these exhibits is a felony, a heinous misdemeanor or anything else. It is not our function to pass that kind of judgment to begin with. For me, with some exceptions that grind my teeth, I think this just represents one aspect of a very busy world, with enormous problems in survival, adjusting to techniques that somebody builds in and when they are initially built in, nobody dreams that thereby he becomes, in objective eyes, a less useful member of the community.

It is hoped that the hearings will enable producers to mark time, catch their breath, see where we stand, and review the bidding. This packaging field has grown at a fantastic rate anyway. I think it always happens—history gives us this lesson—that when something spurts, something grows fast, you are so busy growing that you forget to count your limbs and to check your weight and that is what we may be able to help with.

I think, as we adjourn, I ought to read into the record a very short editorial from the *Advertising Age* of June 26 of this year.

This is called "Complexities in Packaging."

There are a good many things about governmental probes that we don't like, and we have the continuing feeling that the investigators can do better with their time and energies, in most instances, than by fooling around with relatively minor points in marketing or advertising.

Yet we must confess that, as consumers, our sympathy lies with the statements of Senator Hart's subcommittee which concerns deception, and particularly deceptive packaging. It would be nicer, we think to live in a simple world in which "pound" packages contained 16 ounces and not 15 or 14½; in which "quart" bottles were actually quarts, and not fifths, or even maybe 25 ounces; in which packages containing the same weight or volume didn't look as though one were twice as big as another * * * and so on.

Individual sizes and shapes, we suspect, have been created to the point where they no longer serve any useful purpose, even as merchandising devices. A little standardization might help everyone.

(Whereupon, at 1:05 p.m., the subcommittee adjourned subject to the call of the Chair.)

EXHIBITS AND APPENDIX

STATEMENT OF CONGRESSWOMAN LEONOR K. SULLIVAN, DEMOCRAT, OF MISSOURI

I want to begin my statement by expressing my thanks to Senator Hart of Michigan for serving as chairman of these excellent and useful hearings on packaging and labeling practices affecting consumers. I feel these hearings represent one of the most effective instances of consumer education we have had in the Congress in many years.

Every shopper who has had to fight the battle of the best-buy dilemma in the stores and who has had the feeling that no one in Washington seemed to know or care about the problem, at least knows at this point that we do care and are concerned. The question now arises, however: What do we do about it?

No purpose would be served by my going back over the ground you have already covered this week and discussing the myriad of confusing sizes confronting the consumer in trying to buy almost any packaged food or other packaged consumer product sold presumably by weight. Sugar, at least, still comes in 2- and 5-pound bags, and coffee in 1-pound and 2-pound bags or cans, and that's something to be thankful for. We can quickly compare prices on these items, and on a few more.

But, as your previous witnesses have so ably pointed out, the careful shopper absolutely needs a slide rule and the knowledge of how to use it in order to divide fractions of ounces into so-many-for-so-much prices if she is to estimate even roughly whether the large economy size is a better value than the smaller size. Often the answer is that it is not a better value—that the large size costs disproportionately more. And this answer always comes as a shock, as if the manufacturers and retailers—after spending years educating the consumer to believe the larger size is always more economical—are now cashing in on that induced belief by deliberately turning it against the consumer and cheating the purchaser. For that is exactly what the packaging rat race seems to represent.

UTOPIA, OR DECENT CONSIDERATION FOR THE CONSUMER?

The solution—from the consumer's standpoint certainly—would be a return to the traditional and recognizable weights and measures in net contents—pounds, half pounds, quarts, pints, etc., as in bread and milk and butter and flour and a number of other products. Despite what the manufacturers and merchandisers profess, I have yet to meet any consumer who really prefers a $1\frac{2}{3}$ -pint to a quart or a $7\frac{1}{8}$ -ounce size to a half pound, and yet in many products, that is what we are being offered, whether we know it or not.

And just as you can compare the price of a half gallon of ice cream to the price for a quart, and the quart price to that for a pint, it would be wonderful if most other products come in double and triple or quadruple sizes, too, so that the consumer could readily estimate the degree of economy—or lack of it—in buying larger sizes.

Are we seeking Utopia in asking that kind of consideration from the manufacturers and distributors? I don't think so. I think we are entitled to that kind of decency and consideration. Moreover, I think consumers should take a hand in this personally and ask for and insist upon standardized contents and show preference for products packaged in familiar quantity designations.

The Government, meanwhile, should move vigorously and effectively to enforce its newly upheld powers to crack down on deceptive packaging involving slack-filled containers holding an excessive amount of nothing.

VIOLATIONS OF INTENT OF FOOD AND DRUG ACT IN LABELING

Serious as it is to the consumer in trying to make intelligent choices in the stores, I am not nearly as concerned over the lack of uniformity of sizes which

makes quantity-versus-price comparisons so mathematically difficult as I am over the fact that on many items, you just can't read the net weight, and thus can't make any computations at all. Oh, it appears on the package all right if it is a food item—but just try to find it. To me, this is indefensible, and an outright violation of the spirit and intent and clear wording of the Food, Drug, and Cosmetic Act.

For instance, the law now says in section 403 that an article of food in packaged form shall be considered misbranded, and therefore subject to seizure and removal from the market—

“ * * * unless it bears a label containing (1) the name and place of business of the manufacturer, packer or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count * * *.”

And, in subsection (f)—

“ * * * if any word, statement or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.”

Senator Hart and members of the subcommittee, it seems to me that the intent of the law is indeed clear. But apparently the courts have varied in their interpretation of what constitutes sufficient conspicuousness of the information required on the label and, as a result, finding the information is often a case for an eagle-eyed proofreader rather than “the ordinary individual under customary conditions of purchase and use.”

There are going to be hearings by the FDA next month on the information to be required and how it must be displayed on labels of hazardous household substances under the law we passed on this subject last year. If we were to permit manufacturers to use the required warning words of “danger” and “caution” and “causes burns” or “keep out of the reach of children” in the same circumspect and hidden manner as some of them do now on labels giving contents and weights on food packages, the hazardous products law would be of little use.

SIMPLE AMENDMENT REQUIRED TO CLOSE LOOPHOLE

Now is this something we can correct? I believe it is, and by a very simple amendment to the Food, Drug, and Cosmetic Act—one which adds a new sentence to the end of subsection (f) of Section 403 as follows: “The Secretary (of Health, Education, and Welfare) may issue regulations which specify the kind, size, and location on the label or labeling of statements required by this section.”

That is all that would be needed to bring the information on contents and weights out from behind the veil of tiny type in noncontrasting inks or pastel colors and let the consumer really read what the package is supposed to contain. This will not end the attempts at cheating in package sizes, but it will give the conscientious consumer who wants it at least a fighting chance to make a comparison. And perhaps then we can educate more consumers to read the labels and make the arithmetical computations, and if enough of us do that and get mad enough about the conspiracy of cruelty to the consumer represented by these fractionalized quantities, we can do something about it by refusing to buy products in packages made up deliberately to mislead us on size and weight.

The language I have just cited as necessary to strengthen the Food, Drug, and Cosmetic Act in regard to enforcement of the information requirements on food labels is a paragraph out of a 41-page bill being H.R. 1235 which I introduced on January 3 of this year to completely rewrite whole sections of the Food, Drug, and Cosmetic Act and close a variety of loopholes, some of which have been in the act since it was passed originally in 1938.

SPECIAL INTEREST EXEMPTIONS

For instance, and just as a simple illustration of the special interest provisions which still permeate the law after all of these years, you may be surprised to learn that soap is not subject to regulation under the act as a cosmetic (although some special purpose soaps might occasionally qualify as regulated drugs under certain circumstances). We use soap primarily to get clean, and that, it seems to me, is a pretty fundamental cosmetic use. Moreover, if you believe the soap advertisements, you would also suspect that many soap products have magic qualities to make us beautiful besides. But, regardless of all that, soap is not a cosmetic under the 1938 act. It is certainly not a food. And it is usually not

a drug. It is therefore, in most instances, a nothing under this act—it is by and large therefore not subject to labeling requirements of the act.

And if you think food packaging is confusing and misleading as to weight and size and contents, try, just try, to figure out the price per ounce or the comparative cost of two competing brands of soap in the stores.

We have always since 1938 had strict laws covering notice of presence of artificial coloring matter in foods and drugs. But not in ice cream, butter, or cheese. That special interest exemption, like soap's, has been in the act from the beginning.

SERIOUS HAZARDS TO HEALTH SAFETY

The illustrations I have just cited of loopholes in the act involve primarily economic considerations—being able to read the label information on size and weight of contents for purposes of comparative shopping. Much more important to the consumer, however, are the loopholes which jeopardize the health of the public.

For instance, we have a strong law now on the pretesting of chemicals used in or on foodstuffs to establish their safety before use. Last year, we passed a law requiring the pretesting for safety of all color additives, not just the coal-tar colors. Color—artificial color—is an important ingredient in most cosmetics. It is, however, the only ingredient in cosmetics which we require must be pretested for safety before marketing. Hence, we have never had an effective safe cosmetic law.

We have tried, consumers have tried, since 1938 to make the Food, Drug, and Cosmetic Act effective insofar as cosmetics are concerned—effective in preventing harmful beauty-aid products from reaching the market. But all we can do now, unless the culprit ingredient is an artificial color, is to wait until some or many consumers are hurt or burned or disfigured or caused great distress or serious illness by a new cosmetic product in order to take it off the market.

Illicit traffic in barbiturates and pep pills is a national danger and disgrace. Our laws for coping with this traffic are weak and inadequate. How many people must die in head-on collisions on the highways or commit suicide from sleeping pills before we really crack down on the widespread bootlegging of these dangerous drug items?

When section 507 of the Food, Drug, and Cosmetics Act was written some years ago to require certification of the antibiotic "wonder drugs," we knew of only five of them. The law specifies that every batch of these five antibiotics or their derivatives must be certified as to potency and purity by the Food and Drug Administration. However, we now have a number of additional antibiotics. But unless they are made in combination with one of the five specified by name in the act, they do not have to be certified. Yet the certification tests from time to time have uncovered instances of improperly manufactured batches of antibiotics which would be either useless or fatal if used as prescribed by the physician.

Our factory-inspection law is full of holes.

Therapeutic devices are being marketed without proof of efficacy and—worse than that—without required pretesting for safety. New drugs must be proved safe before they are marketed but they don't have to be proved efficacious.

Because of the loopholes in factory inspection in the drug field, many doctors hesitate to prescribe by common or generic terms, fearing that unless they specify a brand name (which often costs far more) the patient may get a substandard product turned out by a fly-by-night manufacturer.

PIECEMEAL APPROACH TOO SLOW IN MAKING LAW EFFECTIVE

My purpose in listing some of the glaring loopholes and faults in the Food, Drug, and Cosmetic Act is twofold:

First, I am seeking, of course, to point out an effective course of action in correcting the situation involving deceptive or misleading or inadequate labeling information which you have been spotlighting in these hearings. I think one section of my bill, H.R. 1235, would go far toward solving that problem.

More than that, however, I want to point out that this is only one part of a vastly broader problem of protecting the consumer from a variety of practices and conditions in the marketplace affecting not only our pocketbooks but our health and our lives. Sure they involve primarily inadequacies or loopholes in the Food, Drug, and Cosmetic Act, I think all of these problems should be solved legislatively in one big comprehensive package, in a consumer bill, instead of in the piecemeal fashion Congress has been following on consumer legislation since 1938.

For instance, in 1953 we partially closed one of the loopholes in the factory-inspection law. In 1954 we passed a pesticides residue control bill. In 1957, we finally succeeded in establishing compulsory Federal inspection of poultry. In 1958 we passed the Food Additive Act. In 1960 we passed the Color Additives Act. Presumably, in that same pattern of a little bit at a time, we could get a safe cosmetics bill through next year, unless the situation as regards certification of antibiotic drugs or the factory inspection loopholes or fake cancer remedies or unsafe therapeutic devices or barbiturates and amphetamines or new drug sanctions or some other single issue should win priority in committee consideration. This is not to criticize either the House or Senate committees handling changes in the Food, Drug and Cosmetic Act. They have performed notable service to the consumer in many ways.

H.R. 1235 SEEKS COMPREHENSIVE CHANGES IN STATUTE

It just seems to me we can no longer settle for the piecemeal approach. You have spotlighted the problem of deceptive packaging and misleading or inadequate labeling. And of course it is a serious problem to the consumer. It can be solved quite readily, I think, through simple amendments to the basic statute. All I am urging is that we keep in mind, in seeking a solution for this one problem, that with very little additional effort—assuming enough consumers can be aroused to the need—we can go on to make the Food, Drug and Cosmetic Act the bastion of our health and the protector of the consumer it was intended to be when originally drawn and before the compromises had to be made to achieve passage in the atmosphere of 1938. We must make of this law the device Dr. Wiley intended it to be more than a half century ago when the original pure food law was passed in 1906.

I have prepared this statement in the hope that I can enlist the support of the Senators on this subcommittee, and of the witnesses who have appeared, and of all of the consumers who are interested in the facts you are bringing to light—enlist your support behind H.R. 1235, an omnibus bill I have introduced this year to meet some of the problems you have brought out in your hearings here as well as a great many other important problems affecting the consumer. (The bill is on file with the committee.)

STATEMENT BY THE SOCIAL AND ECONOMIC ISSUES COMMITTEE, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

The Social and Economic Issues Committee of the American Association of University Women is gratified to know that the Antitrust and Monopoly Subcommittee, under the chairmanship of Senator Philip Hart, has been holding hearings on packaging and labeling practices. Our interest in the consumer problem is one of long standing. We recognize that the consumer of the depression is far different from the consumer of the affluent sixties. Today the consumer is presented with a bewildering array of choices resulting from the changes in our mass production economy. New techniques in marketing have produced tremendous changes in packaging. The desire for a safe, clean package has a built-in appeal for the consumer but is one which can be easily exploited by the merchandising process designed to promote sales in a competitive economy. The line is difficult to draw between legitimate practice and intention to deceive the consumer.

The 142,000 members of the American Association of University Women are part of the consuming public. As consumers, many of them are actively concerned with safety and need for more adequate labeling but getting their money's worth is a common concern. Women resent being misled. They may be "taken in" by deceptive packaging at first but they will not be fooled indefinitely and continue to buy items which are not what they seem to be. Our attention as a committee of the association to the problems, with which your subcommittee is involved, is an indication of growing concern of our members. We await with interest the outcome of these hearings.

STATEMENT OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS ON CONSUMER GOODS PACKAGING AND LABELING PRACTICES

The AFL-CIO is gratified at the investigation the Hart subcommittee is conducting into deceptive trade practices in general and into "deceptive packaging" in particular.

Our 13½ million members and their families represent a large portion of the consuming public and I suspect are among those most victimized by the subtle cheating that has become a fine and profitable art in the vending of packaged products in the modern self-service grocery stores and drugstores. We are not "professional consumers," but a high degree of professionalism would seem to be a prerequisite for buying in today's retail markets.

The sale of products in packaged form has grown enormously in the last several years. But for the ordinary buyer, the new packages place a premium on keen eyesight, endless patience, and the ability to perform magic tricks with mental arithmetic.

Unfortunately, the modern technology that has contributed so extensively to new packaging techniques has not yet produced a consumer-sized electronic device for sighting hidden net weight statements, nor a handy calculator (the slide rule is not suitable for general use) for figuring out best buys per ounce among a myriad of total weight-price combinations for competing products or economy sizes of the same product. Also needed is a pocket-sized X-ray machine for determining whether a cereal or cracker box is three-fourths full or only half full.

A trip through any up-to-date grocery store will document a few of the more obvious difficulties that the present-day buyer faces in attempting to obtain maximum value for his money. For example, a shelf of what appears to be standard 1-pound cans of shortening turns out to have one brand with a 14-ounce weight in exactly the same size can.

With its "introductory offer" of 3 cents off, the price of the 14-ounce can is the same or less than that of competing brands, although, in fact, its contents remain more expensive per ounce. Instant coffee retails in 2-, 6-, 8-, 10-, and 12-ounce bottles, but there is one brand selling in a 5-ounce size, a difference from the 6-ounce size apt to be overlooked by the customer.

Giant sizes of the abrasive cleansers (the ordinary size of 14 ounces) come in weights of either 1 pound, 5 ounces, or, inexplicably, 1 pound, 5½ ounces. Frozen food packages have a number of curious variations around the expected 10-ounce weight.

Boxes of detergents simply leave one's head spinning. A random assortment of the "giant" sizes of four different brands gives the following weight-price combinations:

(a) Two pounds, 15 ounces, for 82 cents, with "15 cents off"; (b) 3 pounds, 6 ounces, for 79 cents, with "10 cents off"; (c) 3 pounds even, for 61 cents; and (d) 3 pounds, 5½ ounces, for 79 cents. All come in the same size packages.

The "king" size of one well-known brand, containing 5 pounds, 12 ounces, comes in a distinctly larger box than the "king" size of a competing brand weighing in at 5 pounds, 11 ounces. These boxes are so unwieldy that a shopper would not go to the trouble of lifting and turning them over very much to find the net weight statements.

I hardly need add that net weight or quantity statements, except on some occasions when they are used as part of the advertising of a "giant" or "super" size, are frequently very difficult to locate—appearing sideways in small print on the side of the package or on the margin of a label.

We hope that your investigation will document and reveal the full dimensions of these and other deceptive practices in the packaging field and, most importantly, point the way to remedial legislation.

The hard-pressed and busy worker's family has little time to spare in outwitting the packaging industry, even though the tax on family earnings from failure to do so may add up to substantial amounts of money over a period of time. We hope that responsible manufacturers will also support your investigation, so that some kind of reasonable ground rules can be worked out to restrain competition by deception and to halt the victimizing of the consuming public.



STATEMENT OF THE AMERICAN VETERANS COMMITTEE, INC., PREPARED BY J. ARNOLD
FELDMAN, EXECUTIVE DIRECTOR

The American Veterans Committee deeply appreciates the opportunity to state its views on packaging and labeling practices to this distinguished subcommittee for inclusion in the record of these hearings.

Packaging and labeling practices have become an important element in the competition for consumer dollars. The advent of larger and larger self-service, retail stores has made packaging and labeling more and more important.

We believe that most companies package and label to attract the consumer. However, there is a great concern about some practices.

The consumer should be able to make rational choices in the selection of the products he purchases. This is made difficult when weight of contents is "hidden" by the use of small print or by printing weight in a different shade of the same color as the background upon which it is printed. The use of odd weight measures in packaging also makes consumer choice difficult. The practice of reducing contents in the same size package as recently done by a few companies is obviously for the sole purpose of misleading the consumer. Such practices are abhorrent.

The practices described above are not only unfair to the consumer but are also unfair to those companies who do not practice these various forms of deceit in competing for consumer dollars.

We would favor the regulation of packaging and labeling to protect both the consumer and honest business firms from misleading packaging and labeling practices.

Thank you.

STATEMENT OF THE COOPERATIVE LEAGUE OF U.S.A.

(Prepared by Jerry Voorhis, executive director, Cooperative League of U.S.A.)

The Cooperative League is a national federation of consumer, supply, and service cooperatives. It includes in its membership most of the consumer-goods cooperatives of the United States, a number of the major farm supply cooperatives and numerous other consumer owned and oriented enterprises. Hence one of the primary duties and purposes of the Cooperative League is effective defense of the interest of all the people as consumers.

Part of that task consists of (1) preventing so far as possible "sharp" or deceptive practices which confuse or deceive the consumer and (2) attempting to inform consumers honestly and fully respecting products and services they buy.

Most cooperative stores and markets offer large numbers of items under the "CO-OP label." Wherever this is done the label gives full, accurate, and carefully prepared information about the contents of its package. Great care is taken not to claim for the contents of a can or package any values or virtues which it does not actually possess.

It is natural that this should be so.

For cooperative businesses by definition and by their form of organization always belong to the same people who are their patrons and customers.

And there is no point in deceiving oneself.

The principal cooperative institution providing food and other consumer goods on a nationwide basis is National Cooperatives with headquarters at Albert Lea, Minn. National is a member of the Cooperative League. National Cooperatives controls, through a registered trademark, the label "CO-OP." It belongs to some 25 regional wholesale cooperatives in the United States and Canada. These wholesales in turn supply the local consumer and farm supply cooperatives of the two countries.

At the outset therefore it is pertinent to quote here the statement of policy of National Cooperatives.

"In the consumer-user's interest * * *

"The label on a commodity, like the advertising of a commodity, can be extremely useful to consumers in selecting products of most economical and satisfying use. As set forth in the official statement of policy governing the labeling of CO-OP products, the fact that Cooperatives are owned and controlled by member-patrons puts them in the position of being the only merchandisers who can speak in behalf of the ultimate consumer.

"In order to speak most authoritatively, with greatest effectiveness and consistency, however, a clear-cut policy outlining overall aims and responsibility is

necessary. This, in brief, is the reason for writing a policy with respect to labeling.

"National Cooperatives, Inc., is the central purchasing and distributing organization for 25 regional Cooperative wholesales serving CO-OP member-patrons from coast to coast. In addition, it has successfully entered the manufacturing field—CO-OP electric water heaters, milking machines.

LABELING POLICY ON CO-OP PRODUCTS

"1. National Cooperatives will at all times present the consumer's, the user's, point of view—giving accurate, honest, and where practical, complete specifications on the label. When in the user's interest, we shall give the limitations as well as the advantages of a given product. (Cooperatives being owned and controlled by the member-patrons, are the only merchandisers who can speak in their behalf.)

"2. Product identity will be emphasized to facilitate product selection by patrons. The consistent use of the CO-OP trademark will be encouraged in order to build acceptance in all areas.

"3. The integrity and the good name of CO-OP brand will be zealously protected and responsibility assumed for increasing its acceptance in the communities we serve.

"4. When the CO-OP label appears on a product it will represent a definite consumer use and value for the purpose for which it is intended.

"5. Goods which have patron demand but which are to our knowledge uneconomical in use, "shoddy," wasteful, harmful, or for any reason represent a poor value, shall be denied the CO-OP label. Such goods will be made available, but will not bear the CO-OP label.

"6. Where it is in the consumer's interest to offer several qualities of the same product, the highest quality will be identified, whenever practicable, with the CO-OP red label; the second quality range, the CO-OP blue label; and if a third quality range, with the CO-OP green label.

"7. To win acceptance for the CO-OP label on a national basis all regionals shall abide by the standards and specifications as set by National Cooperatives."

There is ample reason for cooperatives to act as they do—both for positive reasons and also for the reason that they must attempt, in the consumers' interest to counteract, by their competition questionable packaging and labeling practices which are becoming more and more common in the general trade.

For example: Hyde Park Consumer Cooperative which operates the largest single food market in Chicago makes a practice of noting changes in packaging and labelling of nonco-op products for the information of its members and customers. In the past 18 months only, the following such changes, almost all calculated to confuse or deceive the consumer have been noted:

"Brand A strained baby fruits and vegetables were 5 ounces but they changed to a new jar in spring, 1960, and reduced contents to 4¾ ounces and 4½ ounces. The price remained the same. Brand B peanut butter was 13 ounces; is now 12 ounces. Brand C shredded wheat cereal has a larger box but the contents were reduced from 12 ounces to 10¼ ounces. Brand D cake mixes, 2 layer devils' food etc. dropped from 1 pound 4 ounces to 1 pound 3 ounces when the box was changed. Brand D plain angel food cake mix changed from 1 pound 1 ounce to 15 ounces; Brand E plain angel food cake mix from 1 pound 1 ounce to 1 pound. Prices on these products did not go down. The price either remained the same with the reduced weight or the price increased.

"There have been many changes in package sizes. Brand E cake flour used to come in 2 pound boxes but is now available in a 'new handy size' of 1½ pounds. Catsup bottles that seem to be the same size could be 12 or 14 ounces. Brand F liquid detergent is no longer available in a 'large' size; now there is an 'economy 1 pint 6 ounce bottle and king size quart.' Brand G cleanser is no longer available in a 'large' size; now there is a 14 ounce and giant 1 pound 5½ ounce container. Brand H cleaner no longer comes in a 'large' size; now there is a 1 pound box and a giant 3 pound 6 ounce box. Frozen vegetable packages look about the same but the weight can be 12, 10, 9, or 8 ounces depending on the vegetable and packer."

The Berkeley California Consumers Cooperative has a staff of three home economists whose job it is to "watchdog" the products sold in the cooperatives stores and to keep members and patrons as well informed as possible respecting real values. Commenting on her job the head home economist has this to say:

"The consumer is supplied certain basic information which is required by law on packaged foods shipped in interstate commerce, namely the net weight and

ingredients listed in order of predominance. Some States do have laws that require standardized weights for certain foods such as milk and bread. Beyond this the consumer gets very little helpful information. There is such a multiplication of sizes, such an assortment of odd weights, changes in weight, confusing sales and gimmicks, that the shopper has a very hard time comparing the value of different items in a supermarket. There is also a great deal of misleading nutritional information in advertising and on labels. My impression is that most of the nutritional claims on food labels and in food and vitamin advertising are misleading. (I have made no actual count.) The situation is so bad that I tell people not to believe any nutritional claim unless they have some proof it is true. Nutritional statements in advertising are even worse than on labels. Part of this may be due to differences in the laws, but it is also because Federal Trade Commission has not been as serious about eliminating false statements as has the Food and Drug Administration.

"Many nutritional claims are misleading and capitalize on people's fears of not being well nourished. Examples: (a) Advertising claiming 'power protein' in breakfast cereal when a large service (1 ounce) of oat cereal will only provide 4 grams of poor quality protein, or less than 6 percent of the recommended daily allowance for an average man. (b) Bread advertising that says, 'Builds bodies 12 ways.' This may be true but it is also meaningless. Most foods contain a variety of nutrients which have many different functions in the body. (c) 'Hi-C' used as a brand name for fruit drinks which are usually more than two-thirds water and rather than being high in vitamin C, as implied, contain only 40 percent as much vitamin C as canned orange juice. Some of the products with the least to offer nutritionally, are the ones with the most extravagant claims. (d) Biscuit or cake mixes that use very large letters for PURE VEGETABLE SHORTENING in the list of ingredients. Many people think that this must be healthier than other types of shortening. There is no mention on the label that the shortening is hydrogenated, and is chemically very much like animal shortening."

DOWNGRADING OF BRAND NAME

A few years ago, the Dodge automobile came out with a model named the Coronet. It was the best car in the Dodge line. After a couple of years at the top, when people associated Coronet with the best, Dodge decided to apply the name to its six-cylinder economy car. We understand this is not uncommon practice for automobile makers.

Fruit of the Loom trademark used to mean quality among many consumers of cotton goods. In the last few years, the brand has been placed on short-cut, ill-fitting garments and no longer represents a good buy. Cannon towels and washcloths used to come in only the best quality. Now consumers must buy this brand with care, because Cannon produces various grades of products with the same label.

What I am trying to say is that what we once depended on for superior quality may not be superior or even good. Manufacturers in many cases, who have built a reputation for quality over the years, are letting consumers down.

It is rather obvious that by buying "nationally advertised brands" the consumers run, to say the least, a high risk of actually paying for a good deal less real product than she is led to believe she is buying.

The National Conference on Weights and Measures, composed largely of State and local weights and measures enforcement officers recently met in Washington. It called upon the President to appoint a consumers counsel as one of his principal advisers. This would be a constructive step, but one less likely to produce the desirable result of real protection of the consumer than the proposal of Senator Kefauver to establish a Department of Consumer Interests in the Cabinet itself. The weights and measures officials noted with vigorous and unanimous disapproval the appearance of 7-ounce cracker boxes, instead of the understandable half-pound and the reputed early appearance of 13-, 14-, and 15-ounce "pound" cans of coffee.

In some products the consumer who asks for a small-sized package, finds himself being sold the "large" size, because "large" is the smallest size there is—the others being "giant," "jumbo," or "colossal."

Why? The question answers itself. The largest consumer cooperative business in the United States is Greenbelt Consumer Services which operates more than a dozen shopping centers in the Washington-Baltimore area. At the request of the Cooperative League, of which it is a member, Greenbelt submitted the following statement for incorporation in this testimony:

"Greenbelt Consumer Services, Inc. supports the labeling policy of National Cooperatives, Inc., which pledges 'at all times to present the consumer's, the user's point of view—giving accurate, honest, and where practicable, complete specifications on the label and, when in the user's interest, to give the limitations as well as the advantages of a given product.'

"GCS follows this policy in buying its own private label merchandise. It endeavors, through its Newsletter, issued weekly to its membership, and through publicity in its 11 supermarkets, pharmacies, and service stations in the Washington metropolitan area, not only to educate the public against unscrupulous practices of suppliers and manufacturers, but to offer information on the best consumer buys in the cost-weight-quality area.

"The steadily rising volume of false and misleading advertising, packaging and labeling of products, however, makes the task of educating the public one which GCS cannot hope successfully to achieve singlehandedly. And since the food and drug industries obviously are unable to police themselves, although they have used the promise to do so as a defense against Federal regulation since the introduction of the Wiley food and drug bill early in the century, it is high time that the Federal Government took over the task. The experience of GCS indicates that regulation is badly needed in the following areas:

"WEIGHTS

"1. A requirement that weight of contents be imprinted on the front of packages in type which is at least one quarter the size of the largest type used on the label.

"2. A requirement that weights of like products be standardized.

"3. A regulation outlawing the fractionalization of ounces in the content weight of food products.

"PACKAGING

"1. Regulation of package sizes, indicating the relationship of contents weight to size of package. For instance, permitting packaging in only three sizes, specified by name, possibly small, large, and economy, with the content weight of the large size being exactly twice the content weight of the small size, and the content weight of the economy size being exactly three times the weight of the small size.

"2. Regulations requiring manufacturers to submit to the regulating agency the cost which packaging of any given item bears to the cost of the product contained therein, and empowering that agency to set up standards which will protect the consumer from buying a disproportionate amount of packaging in relation to the product.

"SPECIFICATIONS

"Enforceable regulations requiring that accurate, honest, and where practical, complete specifications be given on the label, including any limitations the product may have, the lack of knowledge of which may tend to mislead the consumer.

"ADVERTISING

"Enforceable requirement that advertising claims be tailored to the specifications on the label of the product being offered for sale."

The Cooperative News Service, which the Cooperative League operates as a service to its members and to other publications which subscribe to it recently ran the following story in which the subcommittee finds a grim note of humor but which illustrates our point very well indeed:

"ALL THAT'S HOLEY NOT SWISS

"WASHINGTON (CNS).—It takes more than holes to make Swiss cheese, Food and Drug men said as they seized 2,700 pounds of Swiss cheese with 'artificial' eyes. FDA standards require that Swiss cheese have large shiny holes or 'eyes' that develop during curing. 'Blind Swiss' has no 'eyes' and is both less expensive and inferior in quality. It is most useful as a flavor.

"Now FDA finds some companies have been putting artificial eyes in inferior Swiss cheese and labeling it as natural Swiss. Some companies have wrapped the cheese with a real slice of Swiss next to the cellophane wrap, but with inferior cheese in the middle of the package.

"The whole scheme of foisting off the inferior article is a deliberate one calculated to give the perpetrator a few cents a pound additional profit at the expense of the consumer," FDA officials said.

"One woman working in a Wisconsin cheese factory told FDA men she puts holes in Swiss cheese with a melon scoop.—E.A."

Two facts should, in fairness, be pointed out. The first is that American industry provides to consumers a far wider variety of products and generally of better quality than has ever been conceived in any previous historical period in any country. The second is that the sharp practices and extravagant and questionable selling devices of modern business have come about at the most logical of times. They have come at a time when it has been made stylish to be wasteful and indulgent and when in the minds of many people the measure of a person's worth is found not in quality or strength or excellence of character but in the amount of his wealth and income, however acquired. At such a time we cannot blame the trade alone for these practices. We must also blame ourselves.

The law is clear enough. Section 403(d) of the Pure Food and Drug Act provides that "a food shall be deemed to be misbranded if its container is so made, formed, or filled as to be misleading." It is obvious that this section of the law is being violated right and left in the food, drug, detergent, and other trades today. The Pure Food and Drug Administration faces a monumental enforcement task. We predict the day will come, with the rapidly increasing awareness among people of their consumer interests, when that Administration will be given the means and the personnel to do an effective enforcement job.

Meanwhile, if, as a result of the work of this subcommittee there can be more effective protection of consumers from confusing and deceptive packaging and labeling, that result will be welcomed by the Cooperative League. It will be one more instance of where the voluntary organization of the people in their own interest will have provided an example, a leadership, and a competition which has led to the spreading of benefits to the whole of society which were once possessed by cooperative members and patrons alone.

STATEMENT OF CAROL MALSTROM (Mrs. A. I.), EXECUTIVE VICE PRESIDENT, FEDERATION OF HOMEMAKERS, ARLINGTON, VA.

Senator Hart and members of the Antitrust Subcommittee, I am Carol Malstrom, executive vice president of the Federation of Homemakers, a nationwide organization of housewives. This is a nonprofit group whose board members volunteer their time and efforts to obtain federation objectives. The federation's board wishes me to express its appreciation for this opportunity to present the views of its members regarding certain dubious packaging and labeling practices employed by some manufacturers in the food and general grocery fields, and to commend this Senate subcommittee for permitting captive consumers and their consumer organizations to testify about a deplorable situation which seems to be growing more general—the creating of false and misleading impressions through deceptively designed packaging, labeling omissions, difficult-to-decipher labeling, and extravagant and exaggerated claims.

This federation was incorporated by concerned housewives after attending hearings on both the Food Additives Act, and the chemical preservatives labeling bill (which eliminated the consumers' right to know of the postharvest preservative treatment most fruits and produce now receive). Our members believe housewives must be informed of the chemical treatment virtually all foods now receive and warned of the possibly harmful cumulative and synergistic effects which might result from ingesting residues of said chemicals. First, so that these informed homemakers can express their concern and anxieties to their Congressmen and appeal for corrective legislation and its enforcement. Second, so that shoppers can exercise intelligent judgment in selecting wholesome and nutritious diets for their families. Surely this is a constitutional right—this prerogative of choosing and selecting purchases—whether a car, furniture, or food for our families. In fact, modern methods of processing, packaging, and selling make it imperative that food labels contain detailed and specific information about the product to be purchased if the housewife is to be granted freedom of choice.

In this critical time for our country when its citizens are being called upon to assume increasing tax burdens for stepped-up defense programs, purification of dangerously polluted water and air, additional appropriations for education,

and millions of dollars for medical research on both a national and international level—housewives should shop wisely to receive full value for all money spent on grocery items.

Testimony has been given before this subcommittee that baby food jars with specially designed caps which come down lower on the containers conceal the fact that there is less food in these jars. Committee members have been informed of slack-filled cookie and cracker packages, unnecessary dividers in candy boxes, extra paper padding added to expand the size of many items. Further, it appears to be the rule to print essential information about products in small print on the backs of boxes and containers, which are often defaced and obscured by the stamping on of the price.

Naturally, it has been discouraging to learn that these unscrupulous but financially successful methods of acquiring profits have presumably forced certain well-known and previously ethical manufacturers to stoop to similar subterfuges. No doubt, consumers, as a whole, have appeared indifferent by accepting these tricks—but we point out here that an ever-increasing proportion of our shoppers are young mothers with small children to supervise as they wheel their carts up and down the long aisles of our modern supermarkets. It must be difficult—perhaps impossible—to keep an eye on the youngsters and still select the best values as to price, quantity, and quality—when only the price is plainly displayed. It is usually necessary to turn containers and boxes over several times to locate the information quantity—this is particularly true of instant coffee jars.

For the record, a striped cellophane bag, now standard for wrapping carrots, has been attached to the statement of Chairman Hart. Only a few years ago, carrots came in bunches with the tops attached. Then consumers could judge freshness by observing the carrot tops. Now carrots are detopped, washed, perhaps dipped in a preservative and covered by those red-striped bags—which give them an attractive, rosy appearance Nature sometimes omits. It is disappointing sometimes to discover the carrots are actually of an anemic and knobby appearance. It is irritating and frustrating, also, for housewives to discover that the chops on top are far superior in cut and quality to the ones concealed on the bottom of the prewrapped meat packages. Surely this is deception, too.

Many housewives may be surprised to learn that the orange juice in the waxed dairy-type cartons has not been freshly squeezed and rushed to the store's refrigerated shelves but may have been heat stabilized to retard spoilage months before, frozen and later thawed and poured into the cartons so attractively decorated with pictures of juicy, ripe orange halves. This information is not on the cartons. Only recently, FDA inspectors seized adulterated orange juice which had been diluted 50 percent with water and sugar—although this pertinent information was not divulged on the cartons.

A well-known dairy in this area, to introduce a new orange drink, distributed free samples of this beverage to its customers. The accompanying circular emphasized that no preservative had been added to this drink. A close perusal of the small pale green print on the paper cap revealed this orange drink was composed of orange concentrate, water, sugar, citric acid, orange oil, artificial color, and sodium benzoate—a preservative. Unsuspecting housewives probably would accept the statements of the advertising circular and not strain their eyes to verify its truthfulness by checking the ingredients listed. This seems to be a universal practice—to have the circular convey misleading, deceitful information but to truthfully list all the ingredients on the cover of such drinks. FDA recently seized a concentrated frozen orange juice which contained both sugar and citric acid though neither ingredient was listed on the container. Diabetics consuming this improperly labeled frozen concentrate could suffer disastrous consequences.

Housewives were jolted to discover that smoked hams can legally contain 10 percent of added water and when not moving in interstate commerce may retain 30 percent of their curing liquid. Next, homemakers learned that certain Swiss cheese manufacturers have resorted to boring holes in "blind" Swiss cheese and then concealing in packages these inferior slices between slices of a superior quality, properly aged. We have read of pancake mixes removed from store shelves by FDA inspectors because they contained fake blueberries. Distressing though it may be to learn of these unethical and deceptive practices—it is necessary for the public to be informed so that appeals can be made to its elected representatives for protective legislation. Perhaps homemakers have

been relaxed and overconfident in the mistaken belief that our Federal food laws are being fully enforced and that our designated Federal agency is adequately staffed, well equipped, and properly housed to cope with the mounting problems and responsibilities recent food legislation has placed upon it. Women's magazines have contributed to this false feeling of confidence displayed by most housewives by advising their readers to purchase brand names only as a guarantee of product quality.

Our members speculate about the quality of many processed foods now that the Food Additives Act of 1958 permits so many recently developed additives to be incorporated in foods as preservatives, stabilizers, emulsifiers, and flavorings. What are families ingesting? "Food" as defined by the dictionary, i.e., "nutritive material taken into an organism for growth, work, or repair, and for maintaining the vital processes." With the indiscriminate use of additives today, the nutritive value of many products must be negligible. Sacrifice of quality is another method of making a profit. It is impossible for housewives to check on the quality and nutritive value of processed foods unless all ingredients are listed on the labels. Then an informed housewife can avoid those products which contain cheap thickeners and artificial flavors. By the addition of color (previously regarded as harmless but now hoped to be safe in the amounts permitted) flavoring and cheap synthetic emulsifiers, an inferior food item can masquerade as superior. This is a deceit which not only robs the purse but may eventually impair the health. Therefore, Mr. Chairman, our members hope your subcommittee will consider the role adulteration plays in deceiving and misleading trusting housewives. We have drifted a long way from the days of honesty and integrity when a gentleman's word was his bond. No wonder the confidence of informed housewives is being rudely shaken by the evidence of chicanery to which certain manufacturers have stooped.

At this hearing it has been suggested that consumers will have to be educated to read labels intelligently and to examine packages carefully for knowledge of amount of product contained therein. A good beginning might be to require instruction in marketing methods with special emphasis on reading of labels in the home economic courses of our junior and senior high schools.

It has been brought out at this hearing that housewives, as a rule, do not know where to take their marketing problems for a fair solution. This federation suggests that a permanent Senate committee for consumers be set up to appraise and evaluate consumer problems and from time to time to hold public hearings. The publicity accorded these hearings would inform the public and might act as a conscience for wayward manufacturers. The operation of such a consumer committee would be far less costly than the setting up of another Federal agency.

In conclusion, this federation wishes to express confidence in the good judgment, wisdom, and courage of the members of this committee and is certain it will arrive at a just and workable solution for this difficult problem.

STATEMENT BY THURSTEN CLARKE, EDITOR, FOOD AND DRUG PACKAGING,
NEW YORK, N.Y.

Senator Hart and gentlemen of the subcommittee, deceptive packaging exists today in America just as this and other forms of less-than-honest business activity have prevailed in the world since the dawn of commerce. Extent of the undesirable practice of sometimes wilfully and often carelessly confusing the consumer via packaging size, shape, or marking, varies by geographical marketing area, product category, and with the passage of time.

There is, however, no concrete evidence available at this time—to our knowledge—that deceptive packaging is practiced by any more than a small number of manufacturers. Deceptive packaging annoys and at times angers the consumer. It besmirches the integrity of the vast majority of honest manufacturers. It should be watched, and held to a minimum.

A general inquiry into packaging practices, however, can be as deceptive as deceptive packaging—just as can a study of solicited responses from the buying public.

What is deceptive packaging? What constitutes a misleading package? How does one determine the difference between an oversized package created to deliberately deceive, and a package seemingly oversized because of product shrinkage or settling, or because of necessity protective partitioning, cushioning, etc., for product protection?

These questions render almost useless a general response from the public to matters concerning deceptive packaging practices. How many consumers are aware of the fill problem on the packaging line—the difficulty of obtaining maximum settling of a dry product via vibrator or other means, without slowing packaging line speed and efficiency to the point of impracticality?

Legal minds in the executive branches of the Federal Government—such as the Food and Drug Administration, and in the Justice Department, as well as on the benches of our district and appellate courts, do not agree entirely on what constitutes a misleading or deceptive package.

In a recent action, for example, Justices Biggs, Goodrich and Forman of the U.S. Court of Appeals, Third Circuit, declared: "The question was not whether the ordinary purchaser would expect to find a particular number of individual candies in the box, but whether such a purchaser would expect to find more of the box filled.

"For example, the purchaser of a crate of apples opens the crate and finds it half filled. To determine whether he was deceived, we do not ask whether he expected to find a particular number of apples in the crate. We do ask whether he expected to find more of the crate filled. This is the pertinent question."

Charged with responsibility to check illegal packaging practices, the Food and Drug Administration is experiencing continuing difficulty in proving whether a particular package actually deceives the purchaser. In any case where *prima facie* proof might be established, this would not indicate at all whether or not a deception was deliberate on the part of the packager. That would become an entirely different matter for legal argument, if a prosecution sought to pursue it.

There is a tendency for manufacturers to so construct their packages that they will obtain maximum attention on the shelf. The tall, wide (but slender in depth) package is an example of this. Such packaging in itself is not deceptive, since its handling immediately advises the prospective purchaser that it is what it is—a tall, wide but slender package. Further proof of actual content is found by perusal of content statistics required by law.

This tendency is held in check by retailers who are constantly confronted with the problem of finding sufficient shelf space to stock the items most wanted by their customers. Increasing facing area of the individual package often reduces the number of retail shelf facings granted from three to two or from four to three. This in itself is a strong deterrent to the exaggerated growth of package sizes.

Modern retailing practices, the self-service store, accentuates the age-old problem of pilferage. The smaller the product or container, the easier it is to slip into pocket or purse. Packagers employ several means to discourage this practice. One is the carding of small products—fastening them to cards by wire staples or plastic blisters.

Sometimes these cards can be fitted into a purse, but the miscreant hesitates, lest the still packaged item be detected. It would be virtually impossible to prove that an uncarded item had not been purchased at another store, or some days before.

Similarly, there is a tendency for packagers to produce larger or odd-shaped packages for small products or small quantities—also as a deterrent to the lightfingered.

The question of product and quantity designation on label or package is indeed intricate. It is concerned with all promotion practices—advertising in all media; magazines, newspapers, radio, television, billboard, etc.

The customer sitting at the restaurant counter in the coffee shop or drugstore usually finds food selections described as "crisp bacon," "crisp lettuce," "fresh tomatoes," with beverages seldom just "hot" or "cold," but more likely "piping hot" or "ice cold." Few restaurants today serve warm tomato juice, yet somehow the phrase "chilled tomato juice" sounds so much more appetizing, especially on a warm day.

This is a discussion of phraseology, of course. But there is nothing improper in referring to lettuce as "crisp," even though one would hardly expect a customer to want a salad or sandwich containing limp or wilted lettuce.

Similarly, to employ words such as "giant," "huge," "colossal," et cetera, in relation to package sizes, or even quantity designations such as pints and quarts, could hardly fool anyone but a fool. They sound good—and all of us like to hear what sounds good. Those of us who are seldom deceived by even well-intentioned flattery nevertheless like to be flattered.

With or without invitation to do so, a large number of shoppers will always delight in finding fault with packages, products, retail store arrangements, et

cetera, and enjoy communicating them by mail to manufacturers, or retailers, or publications, or other groups soliciting them. Where valid complaint is received by business from substantial numbers of the public, business finds it must move toward rectification of what is decried.

Considerable anger has been aroused by a propensity on the part of some manufacturers to reduce quantity while maintaining price. This is a perfectly legitimate method of easing the burden of inflation which constantly plagues our economy. So long as the quantity and the price are known to the purchaser before buying, there can be no dishonesty—and it is the responsibility of the shopper to determine these just as it is the duty of the vendor to provide them.

We face the same problem in our tax practices. No government—Federal, State or municipal—broadcasts the fact that in many States the driver pays as much as 90 cents tax on every 10 gallons of gas. This point is sometimes raised for political purposes, and is often stressed by taxpayer associations—but incumbents who voted for or tolerated the taxes, or who might be compelled by economic circumstance to press for additional taxes, seldom talk about hidden taxes, or even the total tax burden on any item, gasoline or otherwise.

This is no more illegal, unethical, or deceptive than the packager who prefers to take an ounce from package content so as to avoid having to raise the price in accordance with the gradual national inflation.

There are areas in every phase of all of our daily lives in which no amount of legislation or regulation can direct or protect the individual. Traffic regulations sharply curtail accidents, but do not and never can prevent the careless or reckless pedestrian or driver from endangering his own life and the well being of others.

Similarly, when purchasing anything—from a house or mansion down to the smallest five-and-dime store product, the onus remains with the buyer not only to insure that he is getting his money's worth, but that he is not accidentally or deliberately shortchanged. Indeed, it is also the buyer's responsibility to insure that he really wants and needs the item itself.

Sales pressure, whether orally from a skilled sideshow barker, or by advertising or packaging design, is legitimate so long as it is not actually false. Grandiose descriptions, lurid colors, large letters, maximum use of the superlative phrase will ever be with us, and it is up to the public to regulate them by buying what it wants and only what it wants.

Much amusement arises periodically when fun is poked at Hollywood movie descriptions. Just as the circus did in earlier days, movies are often sensational, wringing with pathos, colossal, gigantic, enormous, superbly dramatic, etc. Yet the thinking public selects what it really wants to see.

What is needed in packaging is not actual legislation or regulation to govern package design, content designation (already covered by laws enforced by Government), or product or content description—but close cooperation between Government and manufacturer in setting up a code of ethics which business will voluntarily impose upon itself.

With a majority of all producers of consumer goods adhering to this code, the public can better protect itself, as it will always have to protect itself through adherence to the time-worn yet constantly important counsel: *caveat emptor*.

And with Government and business working together voluntarily through self-regulation and sound advice as replacement for hard, cold, and ineffective if powerful legal statute, the American public, daily becoming more discerning in its tastes and more careful in its shopping habits, will achieve ever greater assurance of the ability to buy exactly what it wants, and at a fair price.

STATEMENT OF GENERAL FEDERATION OF WOMEN'S CLUBS, WASHINGTON, D.C.

The General Federation of Women's Clubs is an organization with 5 million members in 15,000 clubs in every community of the United States. The club members are the homemakers. One of the main interests of the members of this organization is the welfare of the family. This, of course, means the consumer.

The general federation has its organization set up in committees which are duplicated in every State federation, and then in every club. One of the committees is consumer interests.

Through this committee we deal with problems that affect the consumer.

This statement deals with the labeling of packaged products. The club-women are concerned about packaging foodstuffs, regardless of what they are, because women like to select their own food. But the practice of packaging:

products is very deceptive and confusing, because all too often the package is not full. When prices have increased, processors have not reduced the size of the package but have put less in the package. This is deception. Then, too, if the package is labeled as to the amount or number of ounces in the package, this label is placed in a spot where it stands out the least and can easily be overlooked. Furthermore, we have found that some advertising is misleading because it states there is an economic saving in buying economy-size packages when, in fact, the number of ounces listed belie this statement.

The general federation, in support of the welfare of the consumer, believes that the dealers and processors have a moral obligation to be absolutely honest with the consumer. Products that are marketed should be honestly labeled in a manner which the purchaser can see without having to search for the label. Deception should not be practiced in any degree whatsoever.

Clubwomen know they must pay for what they buy but it seems to be necessary to pass national legislation so as to insure them that they get what they pay for.

We urge passage of legislation which will insure that the consumers will be able to know what they buy and how much is in the packages they buy. Let the consumer interest be paramount in the products that are for sale. We are sure if the products are worthy the consumer will use them, although because of the high prices they may have to take less than the best, or less than they want. We think it is the consumer's right to decide for himself.

STATEMENT OF LLOYD STOFFER, EDITOR, MODERN PACKAGING MAGAZINE,
NEW YORK

Senator Hart and committee members, Modern Packaging magazine was established in 1927 as the first medium for the exchange of information on packaging among all package-using industries. It is the oldest, the largest, and still the only magazine embracing all types of packaging in all industries. It is an independent publication, with paid subscribers, whose only responsibility is to its 34,000 readers. I have been the editor of Modern Packaging for the last 18 years, and I believe, therefore, that I am qualified to speak for the packagers' viewpoint.

We, as a magazine, and the packaging field generally, heartily welcome and commend this inquiry by your committee.

The phrase "deceptive packaging" can be interpreted in almost any way. Packaging and labeling have been operating for years in a legal vacuum, because of lack of definition of this and other terms. Lacking a clearly defined standard to which all could adhere, it is entirely possible that in the heat of competition some packagers have slipped into practices which in the most extreme interpretation of the word could be called "deceptive."

No packager, except a stupid one, would be intentionally dishonest. But like all businessmen in our competitive, free-enterprise system, a packager will go as far as the law allows in meeting competition. The trouble here is that there has been no law and no rule that will say: "This is deceptive; this is not."

The consumer complaints you are hearing are, I am sure, based not on dishonesty of the package, but on failure to understand certain technical limitations and requirements of packaging and merchandising, and, in the final analysis, on failure to read the label. For every label must, by law effective in every State of this Union, honestly state the weight, volume, or quantity of contents or else the merchandise is subject to seizure and the packager to heavy penalties under existing law. This happens rarely, and only then you can be sure, because of some mechanical malfunction in weighing or filling.

My purpose here is to explain certain technical reasons why some packages appear to be incompletely filled; why packages must in some cases be made considerably larger than their contents, and why there is sometimes a seemingly confusing range of sizes and prices among competitive products. I would not defend any package which is deliberately misleading or deceitful.

Over many years we have found that the most frequent consumer complaint is over cartons of certain products, such as cereals, which upon opening reveal an inch or two of empty space at the top. The consumer erroneously believes either (a) that she is receiving short weight, or (b) that the packager has deliberately made the carton overlarge to deceive her.

Neither assumption is correct. The fact is that certain products, such as corn flakes, will settle appreciably after the package is closed and shipped, despite the best efforts of the packager.

Vibratory devices are employed in almost all such cases to settle the contents so far as possible before the package is closed. However, no such device can duplicate the effect of shipping and handling, which settles the product further, and accounts for the void seen by the consumer.

Theoretically, it would be possible to vibrate such packages on the filling line long enough to reach the ultimate settling point. But if this were done, the speed of packaging would be so reduced and the cost of the product so increased that very few of us could afford to eat corn flakes.

Any suspicion that the corn flakes manufacturer wants to use an oversize carton is simply not realistic. Profits on such a product are figured in a fraction of a cent per package, and if the packager could eliminate 1 square inch of carton board, he certainly would do so.

A second technical reason for oversize packages in some cases is the need for cushioning to prevent breakage of frangible products. I need only cite the case of Delson's Thin Mints, packaged by the Delson Candy Co., of New York. It is true that nearly half the space of this package is taken up with cardboard dividers which the company says is necessary to separate the mints and prevent breakage. The Food and Drug Administration, quite understandably, has seized upon this as a test case. But the Federal District Court in Newark, just this week, has reaffirmed its judgment that the packager's position is sound and reasonable, notwithstanding an opinion to the contrary by the circuit court of appeals.

Here, again the consumer must remember that without the cushioning devices he might receive a product that was broken and unacceptable, and he must bear in mind that the packager is not apt to spend money for cushioning beyond that he find to be necessary.

A third factor affecting the size of packages is, ironically, the dishonesty of a certain number of consumers themselves. Pilferage in self-service stores is such a costly problem that most stores will simply refuse to handle any package small enough to be concealed in pocket or purse. I have heard that at least one large chain food store organization has a flat rule that any store manager who experiences pilferage losses in excess of 3 percent of sales (a not unusual figure) will be summarily fired. Naturally, there is pressure on packagers to make packages big enough to discourage pilferage.

A very common complaint of consumers is that they have found a package slightly reduced in size and content without reduction in price. Before condemning the packager for deceptive practices, the consumer must consider that the packager, in these times of rising costs, probably faced a choice of reducing the package or increasing the price. Which should it be? If the net content of the package is stated on the label—as it must be—the packager is certainly not guilty of dishonesty. And the consumer is free to make comparisons of content and price with other competitive products.

If the average conscientious packager can be criticized on any point, it is that the contents statement is often relegated to small type on the back side of the package. Here, the packager is following a design trend, and following the practice of his competitors. If a standard were fixed by law, requiring that the contents statement appear in type of a specified size at a specified position on the label, giving all packagers an equal standard, I'm sure all would cooperate. Such a law is, in fact, effective in Canada.

As a spokesman for the packaging industry, I shall be glad to cooperate with your committee in your continued hearings, and to answer any questions to the best of my ability.

STATEMENT OF ANGUS McDONALD, ASSISTANT DIRECTOR OF LEGISLATIVE SERVICES
DIVISION OF THE NATIONAL FARMERS UNION

Mr. Chairman and members of the committee, on behalf of the officials and members of the National Farmers Union, I wish to express our gratification and appreciation for the investigation being carried on by Senator Hart, who was recently authorized by the subcommittee to direct a complete study of trade practices relating to packaging and labeling practices of food commodities which are detrimental to the consumer.

Farm families consume more food than other segments of the population. It is well known that farm families are larger than urban families and that they engage in more strenuous and laborious activities than many other groups employed in other occupations. The farmer also has another interest in this investigation. When the consumer is bamboozled, the consumption of the products the farmer produces is adversely affected. Many consumers believe that unduly high grocery bills are the result of price support and subsidy programs.

Nothing could be more untrue. A look at figures of farm net income indicate that the farmer has been receiving over the years less income than any other segment of the population. Farm income has declined from over \$17 billion in 1947 to about \$12 billion in 1960. The consumer has not benefited from this decline in farm net income. At the same time that farm income was falling, the retail cost of food increased. According to the Bureau of Labor Statistics, the prices of farm products in April 1961 stood at 88.1 percent of farm prices during the base period of 1947-49. The prices of processed food stood at 109 percent. Thus prices of processed food increased 9 percent, whereas the price of farm products declined 11.9 percent during the last 12 years.

Figures in the Department of Agriculture's "Marketing and Transportation Situation" of April 1961 indicate that consumer prices had increased during the period farm prices decreased. Attention is called to figures selected from table I, page 5, of this publication which indicate that between February 1947 and February 1960, the farm-retail spread had increased from \$444 to \$644.

The farm food market basket

[Selected years]

Year and month	Retail cost	Farm value	Farm-retail spread	Farmers' share of retail cost
				<i>Percent</i>
1947.....	\$911	\$467	\$444	51
1950.....	1,003	445	558	44
1957.....	1,007	401	606	40
1960—October.....	1,062	413	649	39
1961—February.....	1,070	426	644	40

Source: The Marketing and Transportation Situation, April 1961.

These figures are based on USDA's estimate of what a typical family will spend in a year for food. The Department estimated that in 1947, the family spent \$911. By February 1961, the typical family was spending at the rate of \$1,070 a year for food. The farm value of the \$911 expenditure was \$467 or 51 percent. By February 1961, the farmer's share had declined to 40 percent. During the previous 2 months, December 1960 and January 1961, the farmer's share was only 39 percent.

Between February 1947 and February 1960, the farmer's share of the typical family's expenditure dropped by \$200. The cost of food went up \$159, thus there is \$359 not accounted for. We suggest that most of this money went into pockets of middlemen and food processors, who, by various clever devices, deluded their consumers. The poor housewife, confronted with a multitude of misleading labels and advertising gimmicks, found that even though the prices of unpackaged and unprocessed foods had not gone up, that total expenditures for food was constantly increasing. This, we suspect, was due to the fact that she was buying less food in the cleverly designed packages and paying just as much or more.

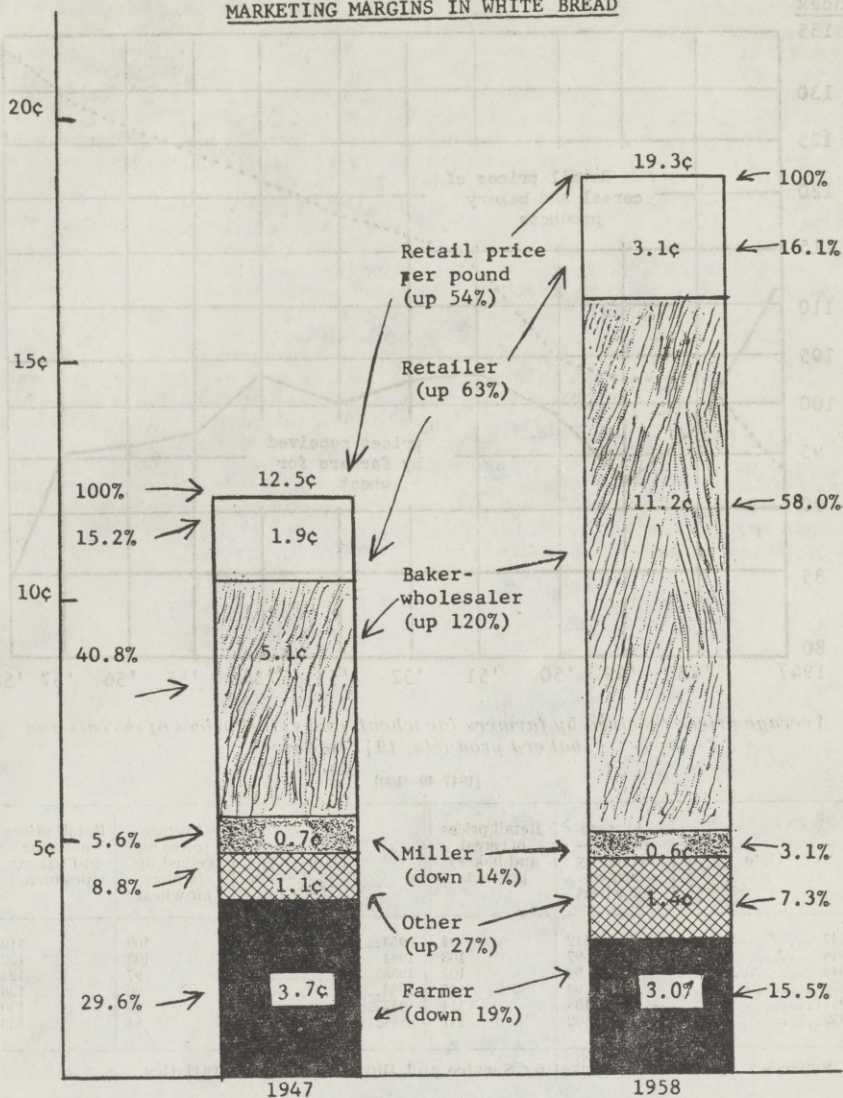
Attention is called to the publication of the Department of Agriculture entitled "Marketing Margins in White Bread," Miscellaneous Bulletin No. 712, and a publication of the House Committee on Agriculture entitled "Food Cost Trends." We are reproducing two charts here taken from those two pub-

lications. It is seen that the farmer's share in consumer expenditure for a loaf of bread has declined from 30 to 15 percent. The consumer has been paying more and the farmer has been getting less. The chart taken from "Food Cost Trends" shows that the price of bread has been going up over a period of years at the same time that the price of wheat has been declining. Specific figures account for the strange behavior of the line on the chart. In April 1961, the price of bread in Chicago stood at 143 points on the Bureau of Labor Statistics index. The price of flour in Minnesota stood at 96.2. Hard Red Winter wheat No. 2 in Kansas City, Mo., stood at 84.1. Prices of other commodities behaved similarly. We wish to belabor the point that the farmer is not exploiting the consumer, that the farmer himself is being exploited and that the farm value of farm commodities falls often below the cost of production. In the last few days, a congressional committee has discovered that tomatoes sold to the consumer in a fancy package at exorbitant prices did not yield the farmer cost of production. Farmers got only 1 or 2 cents per pound, while the consumer paid as much as 40 cents per pound. Many other instances of the fantastic farm-retail spread could be given. We will mention only a few.

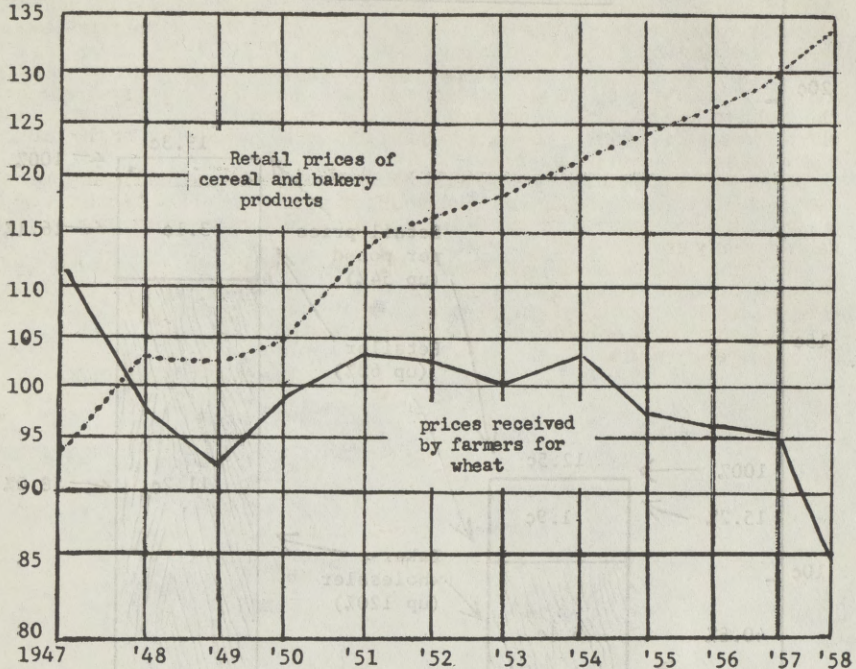
Farm value of processed fruits and vegetables in January-March 1961 was \$21.56 (the amount a typical family would consume in a year), while the retail value was \$97.10. During the same period the consumer paid 13.2 cents for an 8-ounce package of corn flakes. In January 1961, the consumer paid 20.9 cents for a pound loaf of bread; the farmer got less than 3 cents of this.

The committee will no doubt uncover many instances of deception and misrepresentation. We are hopeful that resultant publicity will do much to correct these abuses and that food processors and manufacturers who want to give the consumer full value for his money will, by fair competition, help mitigate these deceptive and misleading practices.

MARKETING MARGINS IN WHITE BREAD



Source: AMS, USDA, marketing margins in white bread, Misc. Bulletin No. 712.

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Average prices received by farmers for wheat, and retail prices of cereals and bakery products, 1947 to date

[1947-49-100]

Date	Average prices received by farmers for wheat	Retail prices of cereal and bakery products	Date	Average prices received by farmers for wheat	Retail prices of cereal and bakery products
1947.....	112	94	1953.....	100	119
1948.....	97	103	1954.....	103	122
1949.....	92	103	1955.....	97	124
1950.....	98	105	1956.....	96	126
1951.....	103	114	1957.....	95	130
1952.....	102	117	1958.....	84	133

Sources: Agricultural Marketing Service and Bureau of Labor Statistics.

VEGETABLE GROWERS ASSOCIATION OF AMERICA,
Washington, D.C., June 28, 1961.

Hon. PHILIP A. HART,
Senate Judiciary Antitrust Subcommittee,
U.S. Senate, Washington, D.C.

DEAR SENATOR HART: The Vegetables Growers Association of America, the only national association representing the commercial vegetable producers, is in support of your subcommittee's investigation of mislabeling of products.

Our association, representing 54 local and State affiliate associations with membership in 30 States, passed a resolution at our last annual meeting which sets forth the views of our association on mislabeling and misbranding of vegetables. This resolution was passed by the official delegate body on December 1, 1960, in Milwaukee, Wis.:

"10. Misbranding and mislabeling of vegetables.

"There is a certain amount of misrepresentation of vegetables in the marketplace, brought about by deliberate mislabeling or the failure of the retail establishment to place any label upon the produce.

"We feel that the housewife has the right to know in which State or country a product was grown. Also, although not quite as glaring an abuse, she has the right to be sure she is purchasing the desired variety or type of vegetable she prefers. The right of knowing is being denied by mislabeling or the failure of having any label on the produce.

"We, therefore, petition the Federal Trade Commission to undertake an investigation into misbranding and mislabeling of fresh vegetables, to bring a stop to this misrepresentation of shipped-in produce and foreign-grown produce for sale as locally grown.

"We firmly believe, as the U.S. Court of Customs and Patent Appeals has held, 'that goods should be marked so that at the time of purchase the ultimate purchaser may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such marking should influence his will.'"

Sincerely yours,

ROBERT M. FREDERICK,
Executive Secretary.

THE NEW YORK TIMES ANNOUNCES THE GROCERY RESEARCH WORKSHOP

A new service for the grocery industry, conducted for The New York Times by the Institute for Motivational Research, under the direction of Dr. Ernest Dichter.

The New York Times, in association with Dr. Ernest Dichter and his Institute for Motivational Research, has established The New York Times-Grocery Research Workshop Panel.

Its purpose will be to help grocery advertisers achieve greater effectiveness with their advertising and marketing efforts in the New York market through deeper and more intimate knowledge of its most influential customers.

The Workshop will be a continuing research project. It will explore in depth basic problem areas of grocery products and services. These include packaging, advertising, pricing, flavor and appearance, and broad company images. The research will be conducted among panels of women readers of The New York Times under the supervision of Dr. Ernest Dichter. Employing techniques of motivational research pioneered by Dr. Dichter, these panels will probe for the reactions of women to your product or service.

The women who read The New York Times, and their families, comprise a rich market for the expanded sale and use of a wide variety of grocery products. Their economic, social and cultural level makes them not only a large and profitable market in themselves but also an influential market. What

these women think, how they live, what they buy have much to do with how other families in New York and elsewhere throughout the country live and buy.

How can you use the Grocery Research Workshop?

You submit your question to your New York Times representative. He will forward it to the Institute where it will be included in an appropriate panel. Panels will be held on a monthly basis. The findings on your problem will be covered in a confidential report from the Workshop. The facilities of the Institute for Motivational Research are furnished at no cost to you. The Workshop is a service of The Times, available to any interested grocery advertiser, at the manufacturer or retail level.

By taking part in the Institute's research projects you will be benefiting from the same facilities used by many of the largest and most important U.S. companies. You need *not* be an advertiser in The New York Times to submit a question for study. However, The New York Times reserves the right to limit questions to be considered as dictated by the facilities of the Institute for Motivational Research.

For further details about The New York Times Grocery Research Workshop please contact your local New York Times representative.

PACKAGE LABELING

(Address by J. L. Littlefield, Chief, Foods and Standards Division, Michigan Department of Agriculture, Before National Conference on Weights and Measures, Washington, D.C., June 12-16, 1961)

It is certainly a pleasure for me to attend this conference and to appear on the program. It certainly affords all of us from across the Nation an opportunity to promote uniformity in commercial transactions.

Problems in prepackaging—as far as weights and measures are concerned—are always with us. With the progress being made in marketing and the trends toward prepackaging of just about every item we consume, we will very likely be continually faced with new problems in weights and measures in connection with prepackaged commodities.

One of the major problems at the present time is misleading terms in connection with the quantity declaration. The model law adopted by this national conference provides:

Any commodity in package form introduced or delivered into or received in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration of (1) the identity of the commodity; (2) the net quantity of the contents in terms of weight, measure, or count; and (3) the name and place of business of the manufacturer, packer, or distributor: *Provided*, That in connection with the declaration under clause 2, neither the qualifying term “when packaged” nor any words of similar import, nor any term qualifying a unit of weight, measure, or count (for example “jumbo,” “giant,” “full,” and the like) that tends to exaggerate the amount of commodity in the package, shall be used.

Furthermore, section 28 provides that no commodity in package form shall be so wrapped, nor shall it be in a container so made, formed, or filled, as to mislead the purchaser as to the quantity of the contents of the package, and the contents of the container shall not fall below such reasonable standard of fill as may have been prescribed for the commodity in question.

For quite some time the foods and standards division in Michigan has been vitally concerned about the labeling and advertising which attempts to mislead the public, especially as to the quantity of contents. Furthermore, the conspicuousness of the labeling can be criticized. On many containers the contents declaration can be found on the back of the cartons, in folds of wrappers, or almost any place where it won't be found with ease. The consumer must actually hunt for the declaration on many packages.

The old saying “caveat emptor” (let the buyer beware) is indeed prevalent. We find that some manufacturers reduce the product content without cutting the price or container size. Others apparently give less product than specified on the package because of misleading terms which are not representative of the quantity. As a graphic example of this is the cartoon which appeared in various publications recently about the bewildered husband who walked into a drugstore and asked for a small tube of toothpaste. The druggist handed him a package marked “large.”

“Wait a moment,” he said. “I asked for ‘small’—this is ‘large’.”

“That's right, sir” was the answer. “They come in three sizes—large, super, and giant—large is the smallest we have.”

This problem has developed overwhelmingly since the tobacco people came out with a king size cigarette. This gimmick in advertising has caught on by leaps and bounds in other industries. We went from the king size cigarette to the long gallon to the long mile and now to the big gallon in gasoline. We went from regular gas to super-regular gas. Power became extra power, and extra power became super extra power. “King size” was getting small so it became super king size. As time wore on, even super king size got small and became a giant size. The quart became a full quart, a jumbo quart, and finally a giant imperial quart.

The pound is no longer an ordinary pound as we knew it years ago. It is now a full pound. It appears that all these past years the consumer has not been getting 16 ounces to the pound. In some instances we will agree with this. And we can say the same thing about the full quart.

Small, medium, and large are becoming a thing of the past. The standard units of weights and measures are being warped beyond recognition. They are being camouflaged by descriptive terms which tend to deceive, mislead, and distort the actual meaning of true net weight or measure. They want the

consumer to believe that my pound is bigger than your pound, and that my quart is a full quart and the other manufacturer's is not.

The dictionary says that to deceive is to make a person believe as true something that is false. And it further says that to mislead is to lead a person to think what is not so. It appears that manufacturers have wanted more money for their merchandise but they want the consumers to think they are getting more for their money. Therefore, they are both misleading and deceiving.

Advertising agencies will admit that they found it necessary to try to outgim-mick one another but that there are still just 16 ounces to a pound. Recently we took one day's local newspapers and clipped advertisements with such misleading terms and statements. Following are examples of those taken from just one day's newspapers (one morning and one afternoon edition):

Giant size quart	Queen size
Jumbo quart	Giant imperial quart
Starter size	Giant economy size
Full quart	Giant size full pound
Full pound	Full 12 ounces
Big 2-ounce	Full 14 ounces
Giant package	Sixteen full glasses
One-third bigger than king size	Home laundry size
King size franks	Extra large
Large 52-ounce family size	Longfellow
Large 21-ounce	96-ounces—that's 18 glasses
Jumbo 24-ounce can	Huge
Giant chocolate bars	Large 22-ounce size
Extra long	Gigantic
Tall 24-inch	Colossal
Not regular 10-ounce, but big 12 ounce	Big 13-oz. vacuum can
Hi-boy	Two big glasses
King size TV cookies	

A law on our statute books prohibits any false weights or measures, stating that it is illegal to deliver less than the quantity represented in any commodity. Further, our weights are based on net weight, excluding wrappers and other material packed with an article. The packing referred to includes not only wrappers that may be included with the product but also the weight of the container itself and any other outside package. For example, tea bags packed in a carton: the statement of contents should deal with only the net weight of the tea in the package exclusive of the tare weight of the bags themselves and the box container.

Another problem is the matter of drained weight in place of the total weight. An accurate method of computing such content must be utilized. A number of methods have been suggested and some USDA and FDA standards provide for fill of container but in some instances the nature of the product itself may make modification of methods essential.

The object of any quantity requirement is to convey accurate information of the quantity in the package. If this purpose is accomplished, the contents may be expressed in even a combination of terms. In the exercise of this description, however, the manufacturer must satisfy one comprehensive requirement and that is that the statement be set forth in terms generally used and understood by consumers to express quantity for that particular product.

However, such combination declarations on labels may get manufacturers into difficulty. We recently had occasion to investigate cans of pear halves. The label, in addition to declaring the contents at one pound, said the container held four servings, but the consumer found only two halves. A statement that certainly would not give an accurate expression of the quantity is "four servings" or "serves four." The question immediately comes to mind, "What is an average serving?" If the can contains only four halves then you know upon opening such a can that each consumer was to have one half. However, before opening the can, what would you consider a "serving"? If the container said "four halves" and "four servings," and then contained only two halves, each serving would only be a quarter of one pear. I'd still be hungry.

Statements of numerical count should merely supplement the recognized method of designating contents; however, it would certainly be false when it is so misleading as to indicate four servings and contain only two halves.

The ordinary buyer is guided to a considerable degree by a visual appraisal of size by the comparative dimensions of a package. Few take the trouble to read and compare quantity declarations. Manufacturers appear to be capitaliz-

ing on this knowledge of consumers' purchasing habits by utilizing containers which apparently enhance the size and hence the value of the commodity. Take soap and detergent packages as an example. Some may have a large container but within that container there may be a gift which doubtless has been figured in the cost, and although the consumer is buying this product and perhaps paying a higher price, she feels she is getting the largest size.

We recently made a survey on the weights and price of soaps and detergents. Fifteen brands were compared—the declared weight against the net weight, the unit price and the price per pound. Note was made as to whether any gifts were included and the location of the weight declaration. All the packages were labeled "giant" except two. All were labeled in various ways but had identical height and width but varying depths. None had the contents declaration on the front panel. Nine of the fifteen had fractional ounces in the net weight. The highest cost per pound was 87.3 percent more than the lowest.

At the 1955 national conference, the committee on methods of sale of commodities reported that such terms as jumbo, king size, Texas pint, and others were subtle in their intent for what psychological effect they may have. Designations of this kind are quite in the same category as the use of such terms as "full pound," which often appears in advertisements of certain types of vendors merchandising such items as cakes, candy, and potato chips. Webster's dictionary defines the adjective word "jumbo" as "huge of its kind." Obviously you cannot have a huge standard measure container. Such containers either hold their declared rated capacity within the tolerances permitted or they are not correctly marked.

While on the subject of potato chips and the subject of the confused housewife, it might be well to bring up the subject of the full pound as encountered by our State in the metropolitan area of Detroit. On a project in conjunction with the city weights and measures division, we ran head on into the use of "full pound" on potato chips. To begin, it would be well to relate the source of the problem to further understand the manner in which this problem grew.

The potato chip industry in Michigan is dependent upon our local potatoes to furnish the bulk of the raw material. However, as this supply vanishes, the industry must seek other sources. They begin by buying southern potatoes and follow the crop up as the warmer weather comes north. They have also begun to purchase potatoes in the West. From an economical standpoint, the price of potato chips is lower when they use Michigan potatoes at about \$2 a hundred pounds. However, when they are using southern potatoes at \$8 or \$9 a hundred, including shipping, they must alter the size of packages and prices of their products.

They have solved this problem by leaving the bag without a weight declaration. They use what is termed a saddle similar to an overlabel. On these saddles they mark the weights and prices and staple them to the top of the packages. The saddles are printed locally or can be obtained very easily on short notice. Therefore, when some of the competition come up with an adjective to describe the contents, such as "full pound," the remaining companies fall in line to maintain their sales, or they might even go the competition one better, as one company did, and have saddles printed stating, "Giant Size Full Pound, 59¢ Pound," "Giant Size Full Pound, 69¢ Pound," and "Giant Size Full Pound, 79¢ Pound." He was ready for any and all challengers.

This problem is not confined to the potato chip industry, however, as the use of the "full pound" is now to be found in the sausage industry. The term "full pound" was found on packages manufactured by various sausage dealers in the area. Their point was that so many of their competitors had begun packaging a 12- and 14-ounce package of the various luncheon meats and sausage products, they should get their point across to the shopper that their's contained 1 pound of product rather than the smaller amount of 12 or 14 ounces. Therefore, they felt the term "full pound" was justified. The next logical step in this type labeling would be for the competition to label theirs as "full 12 ounces" or "full 14 ounces."

Other items include cookies. We now have a "king size TV cookie." The question is whether it is a "king size cookie," or a cookie to eat while watching a "king size TV program."

The products mentioned are not necessarily the only ones that are described with such misleading and deceptive terms nor will they be the last. The problem now is, Where can the line be drawn and what is the solution?

Almost 6 years have passed and we have not been successful in stamping out these misleading terms in promoting the sale of various commodities. This

type of misrepresentation is not confined to Michigan, as I stated before—this is a nationwide problem. I think we should all support the action of previous national conferences and take immediate action to prevent the continuance of such misleading labeling and advertising. We should voice our objections to the misuse of such terms wherever possible. As a purposeful organization meeting here this week, I urge that we unify ourselves and leave this conference with the full intent and purpose of stamping out the use of such misleading terms on a national scale. The time for action is now. There is deceptive packaging, we know, and to much of it. This evil will not depart automatically. Someone has to dispel it, as Food and Drug Packaging stated early this year. This magazine is to be complimented for the statements on the vital problem of deception in its January 5, 1961, edition, which reads:

"Packagers must police themselves as well as they can or risk Government control, which would lean heavily toward packaging standardization. What is needed is a bold approach to the problem—organization of a dynamic, fearless packaging association willing to stand up to outside interference, unafraid to slap its own members down when they breach business ethics or propriety. This must be done in 1961 to preserve the independence, growth, individuality, and full marketing value of packaging."

It is not only deception in the advertising gimmicks which attempt to white-wash consumers but other means such as slack-filled packages. The recent Federal case on "slack filled" packages of mints has been in the news for some time. The reopening of this case has brought about the question again as what the term "slack package" means under the FDC Act. The case involved the FDA charge that the manufacturer was using cushioning material and headspace to produce an elongated container which misled consumers into the belief that they were purchasing more mints than the package actually contained. The manufacturer contended this was necessary to protect the product.

The labeling must be honest. Some relatively unimportant factor cannot be played up in big type while more vital factors are relegated. Magnificent product illustration, commendable graphic design, brand and product name, instructions for use, and opening directions seem to place the net contents declaration into obscurity.

A Michigan firm recently packaged "individual martinis." Each drink was carefully mixed, embellished with an olive, covered with a special plastic wrap, sealed to be spill proof, and then placed in a printed box with a styrafoam form to fit the shape of the cocktail glass. It will become a bartender's nightmare if this idea gains popularity. I wonder about the weights and measures official's task in checking the contents of such a commodity without opening the inside package! There was no contents declared except one martini and how are we to tell if the glass holds 3 or 4 ounces?

In September 1960 I forwarded to all weights and measures officials in the United States copies of my correspondence with the Federal Alcohol Tax Division regarding the use of such terms as "king size," "giant," and "big" in connection with the contents and asked each jurisdiction to notify me if any action had been taken to prevent such misleading labeling and advertising. Replies were received from 10 States, 1 county, and 2 city jurisdictions. The replies would indicate that the nationwide sentiment is toward elimination of such advertising and labeling practices. Following are brief extracts from the replies:

"* * * only plagued with 'full pound' on baked goods. Prompt action eliminated this condition and prevented spread of such items. In recent years have attained enough notoriety to attract attention of printers and lithographers. With their interest in protecting accounts, they have also disseminated proper information to their clients."

"* * * We, too, are quite interested in deceptive marking of prepackaged products. Our laws skirt the subject as to infer we may have the powers now but legal minds advise that we spell out these laws, if and when both personnel and travel appropriates are provided."

"* * * We are also interested in finding some way to attempt to stop labeling and advertising which is misleading to the public, but so far we have not made much progress."

"* * * We certainly agree with you that labeling commodities in terms of 'king size,' 'big,' 'giant' and similar statements is in violation of the intention of State laws and action taken by the national conference * * *. We have done some work * * * to discourage this practice; however, at the present time we do not have sufficient law to correct it entirely. We will continue to discourage qualifying statements of weight contents so far as we are permitted under our present law."

"* * * I agree with the statements. I shall be very glad to assist you in this endeavor."

"* * * Wholeheartedly approve and congratulate you on your action and accomplishments in the instances where you have stopped these practices."

"* * * As a result of your letter * * * I made a field trip to survey the labeling which you mentioned * * * As a result of my findings, I have written to the offenders * * * I feel a concerted effort by a number of States will bring results. Be assured we are willing to cooperate to the extent that our personnel and man-hours will permit."

"* * * We have recently established a package-control division and are very active in the control of all our packages."

"* * * I do not know of any problem that faces weights and measures that would be more destructive than this one. I am wholeheartedly in agreement with you that there should be unified action in regard to this subject on all commodities sold by weight and measure, particularly in the food field."

"* * * I fully agree that the use of such terms is an attempt to mislead the buying public into believing it is receiving more than it does. For this reason, some definite action should be taken to bring about a discontinuance of the practice."

"* * * Our department is new; therefore, we have not as yet delved too much into the misrepresentations and malpractices of advertising. I am sure the points brought out in your letter have merit, but I would refrain from making comments at the present time."

"* * * The use of such terms * * * has been considered, to some extent, by our department. Our attorney feels that the use of these terms is not a direct violation of our weights and measures law. We all feel that, to some extent, it is deceptive and that the terms should not be used, but our attorney feels we would have a nearly hopeless case under our laws to stop the use of them. We have been so busy stopping direct and unmistakable violations of the law that we have not thought it worthwhile to go into such a matter as this unless we had a law that directly prohibited such terms. We sympathize with what you are trying to do and hope you are successful."

"* * * We are statewide in operation and would like to say that over 60 percent of our time is devoted to keeping down violations, of labeling, and short weight to a very low minimum."

To accomplish the objectives of the action officially adopted by this national conference in previous years, I feel weights and measures officials throughout the Nation should do whatever they can within their respective jurisdictions to promote uniformity by bringing about the successful conclusion of any action adopted by members of the conference. Of course, I realize that there is the problem of some local ordinances, regulations, or laws preventing action in a particular jurisdiction, but I definitely feel that conference action should be given full consideration by all persons in permissive jurisdictions.

If necessary, I would urge that conference restate the position taken in previous years as a means of emphasizing the intent to eliminate misleading terms in advertising and labeling which practically result in deceptive packaging.

There is room for great improvement in package labeling. The significance of the words "conspicuously labeled" seems to have been lost in the maze of product promotion to a point the consumers can no longer easily determine how much of a given commodity they are purchasing.

We sincerely appreciate the continued cooperation we receive from officials in other States and assure you that we will continue to do our utmost to serve the people of our State and to protect the interests of all persons or firms doing business within our boundaries.

I close with this thought. There isn't a job in the world that can't be done better than it's being done. A man isn't doing the best he can for the agency that employs him, the people he serves, or for the world if he goes through life without looking for that better way.

LABELING AND ADVERTISING OF FOODS

(Address by J. L. Littlefield, Chief, Foods and Standards Division, Michigan Department of Agriculture, Association of Food & Drug Officials of the United States 65th Annual Conference, Washington, D.C., June 18 to 23, 1961)

The consumption of food in America is rising, and predictions are that it will continue to rise. There will be more products to be packaged next year than ever before, and there will be more men, methods, materials, and machines to package them. The problems posed are staggering if we take time to examine them. Packaging has become a challenge to everyone and daily we note progress and innovations in all fields.

As food and/or drug officials, we must continually work toward standardized descriptive labeling. This program could easily get out of hand, and already I feel it has in some areas. The purpose of such a program, as has been indicated by some organizations, is not to standardize consumers' tastes nor to control their individual preferences but to facilitate the individual's free selection of packaged foods in an intelligent manner.

Since most packaged products cannot be examined by the eye, it is necessary that an appropriate label describe them so accurately that, in effect, the label puts a window on the product. We continually find that pictorial material tends to deceive and mislead the consumer while the required information is buried where the consumer must search to find the true facts.

Good descriptive labeling should:

- (1) Provide detailed descriptions of the product, giving all the information possible for discriminating choice.

- (2) Provide the opportunity for the purchaser to select freely the product to fill her specific needs.

- (3) Provide specific information so that when several qualities and sizes of a product are packaged by the same manufacturer, the consumer can determine for herself by reading the label how they differ and then choose the one she wants.

- (4) Provide qualities and characteristics of the product on the label so it is not necessary to memorize tables to buy intelligently.

- (5) Provide the labeling information in simple, everyday language without glorified terms to deceive and mislead the purchaser.

- (6) Enable the purchaser to judge each product as to equality and quantity.

We are all familiar with the many ways used by those who purposely intend to do so to deceive or mislead the purchaser as to the quality or quantity of the product, such as:

- (1) Picturing on the label the product in a quality or color superior to the product contained therein.

- (2) Misleading the consumer with complicated and even false claims as to the nutritive value of vitamins, minerals, and calories in the product.

- (3) Using terms which cannot be understood by consumers as to the quantity, such as "tall," "giant," "king size," "economy size," and "extra large."

- (4) Using technical language that is not understood by consumers and tends to confuse the purchaser. In this instance, the multiplicity of food additives have created listings of ingredients which are meaningless, complicated, technical terms which are noninformative to consumers. Such words as "nordihydroguaiaretic acid," "butylated hydroxytoluene," and many, many like them are ominous looking and frightening. They induce in the minds of consumers a fear of the unknown. It would appear that the addition of a voluntary statement of the functional purpose of such ingredients would be more informative labeling than such technical terms.

Ingredients and their declaration are getting so complicated, the consumer must be a chemist to determine what she is buying. Here is the list of ingredients from a new nondairy product identified as a perfect blend for coffee: Pasteurized blend of water, hydrogenated vegetable oils, dextrose, sucrose, enzyme modified casein, mono and di glycerides, protein stabilizers, salt, artificial color and flavor." I believe the only ingredients the average consumer identified

are water, salt, artificial color and flavor, but she doesn't know what the colors or the flavors are because of the use of generic names.

We must recognize that we are in a new era in the production and distribution of food, with revolutionary changes since World War II. The concept has changed from home production to a factory assembly line. If each of us would watch closely the foods that are produced in our respective States, following them through their entire processing and labeling procedures, the joint responsibilities we share would be much easier when goods from one State pass into the hands of consumers in another State. We might be able to avoid many of our harsh regulatory actions. We all know that we cannot perform this task with education alone. Practical experience has shown that the best program for compliance is a well-rounded educational approach seasoned with enough regulatory activity to make it appreciated and palatable. The educational approach and the regulatory approach in any program for compliance are inseparable. One without the other is not likely to succeed.

We must first attempt to secure voluntary compliance with the letter and spirit of the law for an honestly labeled food supply. As enforcement officials, we must stand ready to deal with the transgressor who is concerned about his public responsibility only from the standpoint of trying to determine the extent he can ignore legal requirements without facing serious legal difficulties.

The magazine, *Food and Drug Packaging*, is to be complimented for their statements on the vital problem of package deception in its January 5, 1961, edition, which reads:

"Packagers must police themselves as well as they can or risk Government control, which would lean heavily toward packaging standardization. What is needed is a bold approach to the problem: Organization of a dynamic, fearless packaging association, willing to stand up to outside interference, unafraid to slap its own members down when they breach business ethics or propriety. This must be done in 1961 to preserve the independence, growth, individuality, and full marketing value of packaging."

There are two terms to be considered under the subject of "labeling": (1) label, and (2) labeling. There is definitely a distinction. Each of these words is possessed of its own distinct significance and application. The word "label" is the narrower of the two in meaning. Generally speaking, it is that part of the display confined to the product itself. On the other hand, the "labeling" of a food deals not only with the label on the article but also with the descriptive and other matter accompanying it.

The label indicates any display of written, printed, or graphic matter—however it may be affixed—which appears on the immediate container of the article. The immediate container is considered to be that receptacle which immediately holds or confines the product. In a sense, it is the basic packaging unit delivered to the ultimate purchaser. We have a responsibility to see that the essential information on the label of a package of food is not encased in an outside container which defeats the attempts to carry required information on the immediate container. Subterfuge of this nature is not uncommon.

Special attention must be directed to the use of graphic matter on labels. For example, where the pictorial representation on a label shows olives of a large size, whereas the olives were of smaller proportions—this product could be deemed to be misbranded. We have taken steps to eliminate the use of a fresh orange shown dripping into a glass which would make the product appear to be manufactured from fresh orange juice or comprised solely of fresh juice when the product itself contained little, if any, fresh orange juice. A can of mushroom chow mein showed a dinner plate serving of the product covered with mushrooms while an examination of numerous cans in our laboratory showed the addition of a maximum of three small pieces of mushrooms to each can and some contained none.

Our controls extend to advertising, too, such as posters, tags, pamphlets, circulars, and booklets which can be considered labeling since they accompany the food. It is reasonable to conclude that placards, signs, and showcards set up in proximity to the food on the retailer's counter are construed to be part of the labeling of a product. It can be accepted that any printed matter which physically accompanies the food product, either in its transportation in interstate commerce or while it is being held for sale after such movement, constitutes "labeling" within the statutory definition of Federal and most of our State requirements. Advertising can be also considered labeling because actually the two are indistinguishable.

I believe most of our requirements characterize food as misbranded if the labeling is false or misleading in any particular. Our law declares that food is misbranded if the package or label bears any statement, design, or device regarding the article or the ingredients or substances contained therein which shall be false or misleading in any particular.

Examples have been given of false labels and labeling. The provisions of our laws would be defeated if the information required by law were not displayed with sufficient prominence and in such terms and expressions as to be readily legible and intelligible to the ordinary purchaser of food. A label may contain all the necessary information yet the manner of its display fails to prevent a false or misleading impression in the mind of the average purchaser.

It should not be necessary for the consumer to read the entire label to learn what type of a product she is buying, and consumers should not be required to dissect the label with a dictionary at hand. Labeling should be so arranged that the mandatory information is not subordinated to other statements appearing. In considering this subject, we should agree on that:

(1) The informative statements should appear on the part or panel of the container which is presented or displayed under the usual conditions of sale, known as the main display panel.

(2) Where the package has several parts or panels, any of which is apt to be the side displayed, the informative statements should be repeated on each of such available panels.

(3) Similarly, enough label space should be allotted to assure that the informative statements are conspicuously displayed. In this connection, not only the size of the label affixed but the area assigned to the mandatory statements is important.

(4) The size and style of type employed should advance the prominence of the mandatory information rather than defeat its purpose.

(5) The background of the label should distinctly contrast with the printed matter, thus plainly setting it forth. We find considerable difficulty with labels on the aluminum-foil-type wrappers and pliofilm bags. Have you ever tried to read pale yellow printing on such wrappers? We recently had cans of soft drinks printed in one color, the labeling being of a deeper color than the background. The packer's explanation for the use of the one color was a cheaper can cost. He has agreed to change the labels on the next order of lithographed cans. This is true, too, when the word "flavored" must appear on the label. The manufacturer frequently puts this in small type without the correct contrast in color of print or size of type.

As regulatory officials, it is not necessary for me to define any law for you. Neither is it within my prerogatives to tell you how to handle your regulatory problems in your own jurisdictions. However, if I should outline some of the problems we have encountered in the State of Michigan, perhaps they will bring to light some areas in labeling and advertising wherein we might strive for uniformity and materially assist one another with our mutual programs. Packers have a tremendous problem complying with all of our requirements for the 50 States and the Federal Government. For that reason, I feel we have a tremendous responsibility to the packers, as well as our own statutes, to secure as much uniformity in enforcement, interpretation, and understanding as the latitude of our own statutes will allow.

I was amused by the following letter received from a national distributor in reply to a recent letter regarding the contents declaration on their frozen corn:

"Concerning the use of the word 'full' in connection with the net weight, we agree with you that this is unnecessary and probably exceeds the limits of propriety. We can only account for this due to the over enthusiasm of our advertising agent. New labels are now being run with the word 'full' deleted.

"One point, however, that we would like to make is the tendency on the part of some State officials to make interstate commerce rather difficult. For example, our _____ label was sent to Washington, D.C. and approved for design and wording by the USDA in order to use their shield, indicating continuous inspection. Now if each and every one of the 50 States takes it upon themselves to make a change or two, we would wind up without the word 'corn'."

This is a graphic example of the problems faced by industry in attempting to comply with all of our requirements, but I sincerely feel that if we would work together to follow uniform labeling requirements, within the latitude of our statutes, the consumer will benefit and the packers' tasks will be easier, resulting in a closer cooperation.

From the evidence we have, the misrepresentation of food products is not confined to Michigan. The old saying "caveat emptor" (let the buyer beware) is indeed prevalent. For quite some time we have been vitally concerned about the labeling and advertising which attempts to mislead the public as to the quantity or quality of contents. We find that some manufacturers reduce the product content without cutting price or container size. Others apparently give less product than specified on the package because of misleading terms which are not representative of the quantity. A graphic example of this is the cartoon which appeared in various publications recently about the bewildered husband who walked into a drugstore and asked for a small tube of toothpaste. The druggist handed him a package marked "large."

"I'm afraid you didn't understand," the buyer said. "I asked for a small tube."

"That's right, sir," was the answer. "It comes in three sizes: large, giant, and super. Large is the smallest we have."

This problem has developed overwhelmingly since the tobacco people came out with a king size cigarette. This gimmick in advertising has caught on by leaps and bounds in other industries. Of course, we realize there is little we can do about nonstandard packages, but a quart is a quart regardless of labeling and advertising which states "full quart," "jumbo quart," and finally a "giant imperial quart." "Small," "medium," and "large" are becoming a thing of the past. The standard units of weights and measures are being warped beyond recognition. They are being camouflaged by descriptive terms which tend to deceive, mislead, and distort the actual meaning of true net weight or measure. They want the consumer to believe that my pound is bigger than your pound, and that my quart is a full quart and yours is not.

The dictionary says that to deceive is to make a person believe as true something that is false. And it further says that to mislead is to lead a person to think what is not so. It appears that manufacturers have wanted more money for their merchandise but they want the consumer to think she is getting more for her money. Therefore, such terms are both misleading and deceiving.

Advertising agencies will admit that they found it necessary to try to out-gimmick one another but there are still just 16 ounces to a pound.

The ordinary buyer is guided to a considerable degree by a visual appraisal of size by the comparative dimensions of a package. Few take the trouble to read and compare quantity declarations. Manufacturers appear to be capitalizing on this knowledge of consumers' purchasing habits by utilizing containers which apparently enhance the size and hence the value of the commodity. Buying by container size, the consumer feels she is getting the most of a product. However, a small package right beside it may hold more product at a cheaper cost per ounce.

Such terms as "jumbo," "king size," "Texas pint," and others are subtle in their intent for what psychological effect they may have. Designations of this kind are quite in the same category as the use of the "full pound." We found potato chips labeled "jumbo 2 ounce." Containers either hold their declared rated capacity within the tolerances permitted for the standard measure or they are not correctly marked.

Vinegar has experienced difficulty in Michigan. We find a misrepresentation of the type of product through improper identification of the type.

We have found butter cookies without any butter and required the label to eliminate any reference to the use of the term "butter." If the shortening ingredient were exclusively butter, the label would be correct. We accepted the term "butter flavored cookies" when the amount of butter was sufficient to contribute flavor to the finished product, with the ingredient listing disclosing the fact that most of the shortening is other than butter.

Following are examples of other products which we would deem misbranded for reasons indicated:

"Banana fingers" and "banana turnovers" where the list of ingredients fails to mention bananas.

"Cheese twirl-ees" which should properly be labeled "cheese flavored twirl-ees" because even the list of ingredients stated "cheese flavor."

"Chocolate peppermint cookies" should be "chocolate peppermint flavored cookies" where the list of ingredients stated "artificial flavor."

"Almonettes," a cookie which declares in the ingredients cashews—no almonds.

"Lemon cream sandwich," with no lemon or cream declared—just powdered skim milk and flavor.

"Pineapple filled oatmeal cookies" without any filling and no declaration of pineapple on the label.

"Walnut strudel" with no declaration of nuts and the flavor listed as "fruit flavor."

"Strawberry gelatin dessert" determined by our laboratory to be an artificially colored, gelatin-type dessert with a strawberry-like taste, containing small pieces of peach, pear, and pineapple fruit. The same type of product was labeled "raspberry dessert" which had a raspberry-like taste with the small pieces of fruit.

"Vanilla wafers" with artificial flavoring declared.

"Chocolate chip cookies" with a label declaring pure and/or certified flavors and colors, rolled oats, molasses, fruit, jelly, cocoa or nuts.

"Old fashioned sweet milk biscuits" declaring nonfat dry milk and dry sweet whey.

"Chocolate nut bar" with cocoa listed as the only source of chocolate flavor.

There are many, many such examples of misleading labeling of food products including gimmick names for food products which are not the common or usual name and do not adequately or accurately describe the product. I have reference particularly to soft drinks with coined names not carrying any description of the flavoring or proper identification of the product. Manufacturers seem to feel that such a product will soon become identified in the minds of buyers and users so the name should generally be acceptable as the common or usual name of the article.

It is continually obvious that with more and more of our food being canned or packaged, the labels must give the information necessary for the consumer to make the right choice when shopping. The label must be the spokesman for the product and its manufacturer, and the overenthusiasm of advertising agents and label designers must be restricted so that the labels, labeling, and advertising are truly representative of the product.

A descriptive label and advertising does not mean a false label or false advertising. Playing up relatively unimportant factors in oversize type while more vital factors are relegated to tiny type requiring a magnifying glass to read is deceptive.

A free interchange of ideas among regulatory officials will bring fewer misunderstandings among both producers and consumers as to labeling practices. Unnecessary and avoidable frictions in carrying out our obligations should be lessened through interstate cooperation. Voluntary compliance will be increased when we regulatory officials come to uniform understandings of interpretations, as far as local requirements will permit. We have established requirements, and we should establish better lines of communications for the benefit of consumers and packers for whose interests the laws must be enforced. We need better lines of communication between regulatory officials, and between the officials and the industries we serve. Through these lines information on the application of the law in new situations can be channeled and we, in turn, can receive information on the developments and problems in industry.

Cooperation and communications are extremely important words in our language in the enforcement of the foods and standards laws of our States and the Nation.

Truthful labeling and advertising should be our goal. As Winston Churchill once said: Truth is incontrovertible. Panic may resent it, ignorance may deride it, malice may distort it, but there it is.

GROCERY MANUFACTURERS OF AMERICA, INC.,
New York, N.Y., June 26, 1961.

Hon. PHILIP A. HART,
Chairman, Antitrust and Monopoly Subcommittee,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: We are familiar with your assignment as chairman of the Senate subcommittee to make a study of packaging of grocery products as they affect consumers, and also with the hearings which you have scheduled and the people who will testify.

In this connection we want to go on record that we support any effort which is designed to protect the American people and honest business dealings.

The membership of this organization includes about 300 manufacturers who produce very largely the packaged food and grocery products on the grocery store shelves throughout the Nation. These manufacturers recognize that in

order to soundly build a lasting business that their products must continuously satisfy the consumers so that they will buy them again and again. Without such repeat orders, a business cannot survive.

We have always strongly supported the Federal food, drug, and cosmetic law, as well as the weights and measures laws because of their intended purposes to protect the public. These are good laws, and, when effectively enforced, give the consumer the greatest protection of anywhere in the world.

As it applies to variations in sizes, they are made available to satisfy consumer preferences and vary with the size of families, shopping habits, and nearness to stores. For its own guidance, management uses consumer panels and other facilities to ascertain consumer desires and reactions and is largely influenced in adopting sizes by the information it receives from these sources. And, under our free enterprise competitive system of doing business, there is nothing wrong with making available a variety of sizes so long as the information on the label and other conditions are in compliance with existing laws.

I might add that two of your representative investigators came in to see us some time ago, and we extended to them our fullest cooperation in connection with your study. If we can be additionally helpful, please feel free to call on us.

Cordially yours,

PAUL S. WILLIS, *President.*

DR. DICHTER AND THE INSTITUTE FOR MOTIVATIONAL RESEARCH

In the fall of 1946, Dr. Ernest Dichter formed his own organization for psychological research in marketing and communications. Since then the Institute for Motivational Research has completed more than 1,000 studies for clients in almost every area of manufacturing, advertising, and selling; and today, the Institute's president, Dr. Dichter, is recognized here and abroad as the leading exponent and practitioner of motivational research.

IN EUROPE

Ernest Dichter was born in Vienna in 1907 and attended school there until the age of 15 when he left in order to work and help support his family. Later he took a special examination established by the government to allow impecunious but intelligent students to enter a university provided they could show they had mastered subjects at the gymnasium level (equivalent of American high schools). Having passed the examination, he enrolled in the University of Vienna to study psychology. Among his teachers was Paul Lazarsfeld. He received his doctorate from the University of Vienna in 1934 and earned his *Licencie ès lettres* at the Sorbonne, working his way toward these degrees as a tailor's assistant, a window decorator, male secretary and translator and whatever else was needed. He returned to Vienna and there established a private psychoanalytic practice, tutored on the side, and spent a year and a half doing commercial market research. He applied for a visa to the United States several months before the invasion of Austria and arrived in this country in 1938.

IN AMERICA

It was Dr. Dichter's idea, even before he arrived in the United States, that psychological and social scientific techniques could and should be applied to the study of consumer buying habits. His first study was on Ivory soap for Compton and he did a study on *Esquire* readers shortly after that. But the big break came when he interested Chrysler and its agency, J. Stirling Getchell, in motivational research on Plymouth cars. Reporting on the Plymouth ad campaign in its March 25, 1940, issue, *Time* magazine referred to Getchell's enterprise in hiring "small, neat, emphatic" Dr. Dichter and added:

"Next month, J. Stirling Getchell, Inc., plans to issue its first completely Dichterized advertisement, for Plymouth cars. Probable motif: the subconscious lure of adventure on the open road, the deep passion to master a machine."

Dr. Dichter remained at J. Stirling Getchell for 4 years and conducted more than 30 surveys of nationally known products and commodities.

At the suggestion of Dr. Frank Stanton, he joined CBS as a research psychologist and later was given the post of psychological consultant on programs. He collaborated on such wartime programs as "Operation Crossroads," "Assignment Home," and "The Eagle's Brood." He also made the first full-scale investigation of television programs and commercials, the results of which

were reported in a series in Time magazine in 1945. He left CBS in 1946 to establish an independent research organization.

INSTITUTE OPERATIONS

Today, the Institute for Motivational Research operates from a 26-room field-stone mansion located on top of Prickly Pear Hill, the highest peak in Croton-on-Hudson, N.Y. This exurbanite setting includes a spectacular view of the Hudson River and the surrounding valley. The chestnut-paneled offices house more than 60 full-time employees, among whom are psychologists, economists, statisticians, and specialists in marketing research, in advertising, in publications, sales, and merchandising. A field staff of psychologically trained interviewers conducts investigations in every market in the United States and interviewers in 15 countries gather data for the institute's clients abroad.

Research material from all parts of the United States and from institute offices in France, Switzerland, England, Canada, Australia, and South Africa is sent to our Croton Research Center for analysis. Specific research projects have been completed for clients in these countries and also in Holland, Spain, Italy, Sweden, North Africa, Mexico, and Samoa. These foreign operations, initiated under Dr. Dichter's direction, offer the institute the opportunity to play the role of comparative cultural anthropologist and have already provided the institute with a sharper focus into people's attitudes toward their lives, and toward the products and services they use. It is a cross fertilization which has also provided new insights into American products and buying habits.

In addition to work done for clients engaged in the production of consumer goods, the institute has done work on American voting habits for the city of Portland, Maine; on how to get out the vote, for the American Heritage Foundation; on why people donate to charities, for the Community Chest; and why they do not donate blood, for the American Red Cross; on the relationship between doctors and patients, for the Alameda-Contra Costa Medical Association in California.

In all the work the institute undertakes, Dr. Dichter operates with a humanistic bias, believing that every product designed, advertised, and sold should be presented with the idea that a person is involved in its purchase and use. With this valuable bias, the institute is able to interpret to the manufacturer or advertiser the desires and needs of the ultimate consumer which are the basis of all institute research. Dr. Dichter is a member of the American Psychological Association. He is the author of numerous articles which have appeared in academic and trade journals and in consumer magazines. He is the author of "Successful Living," published by Barnes & Noble. He is publisher of Motivations, monthly psychological reports for business and advertising. "Strategy of Desire," a new book by Dr. Dichter, was published by Doubleday & Co., New York, in September 1960. It will also be published in England, Denmark, France, Germany, and Holland.

BIOGRAPHICAL SKETCH OF THOMAS P. WHARTON, PRESIDENT, PACKAGING CONSULTANTS, INC.

Graduate of the University of Maryland with B.S. degree in civil engineering; graduate of packaging course of Forest Products Laboratory.

Four years with the U.S. Engineer Office, Washington, D.C., in military construction and engineering planning. Three years of military duty with the U.S. Army, Corps of Engineers, in engineering and military packaging. Six years with the Department of the Army general staff as Chief of Packaging Section, Vice Chairman of Army Packaging Board, Army member of the Panel on Packaging of the Research and Development Board, and Army member of Federal Packaging Committee. Seven years with Container Laboratories, Inc., packaging consultant firm, as vice president and manager of its Washington division, where he was responsible for directing numerous package engineering studies performed for the Government and for Government prime contractors. Founded Packaging Consultants Inc. in 1959.

A few of the major projects and programs which he has planned and supervised include: the preparation of a comprehensive manual on preservation and packaging of ordnance equipment; conducting of packaging and carloading training courses for ordnance personnel; numerous military packaging design and development projects; preparation of packaging data sheets for repair parts; studies of the standardization of packaging; development of standard test pro-

cedures for packaging materials and containers; logistic surveys and handling, storage and distribution studies; preparation of sections of the "Guided Missile Packaging Handbook"; preparation of a comprehensive outline for a proposed "Package Engineering Design Handbook"; survey of the storage and handling of military explosives; studies of cushioning materials and interior packaging design; design of commercial packages for merchandising.

Has prepared miscellaneous military specifications, instructions, directives and manuals, and magazine articles in packaging trade journals. Lecturer of packaging course at Rutgers University and SPHE Short Courses at MIT, NYU, Illinois Tech, and Temple University. Developed Aminco-Wharton pliability tester to measure the resistance of wrapping materials to being conformed about an item.

Chairman of Packaging and Handling Division, American Ordnance Association; member of Missiles and Astronautics Division, American Ordnance Association; member of Ad Hoc Packaging Committee of National Security Industrial Association; member of Committee D-10 on Shipping Containers, American Society for Testing Materials; member, American Materials Handling Society; member, National Defense Transportation Association; former secretary of National Institute of Packaging, Handling and Logistic Engineers; former secretary, Washington chapter of Society of Packaging and Handling Engineers.

U.S. SENATE,
July 10, 1891.

Mrs. GLADYS MONTIER,
Chief Clerk, Senate Antitrust and Monopoly Subcommittee,
Senate Office Building, Washington, D.C.

DEAR MRS. MONTIER: I am enclosing a copy of a letter sent by one of my constituents, Dean Charles T. Duncan of the School of Journalism, University of Oregon, Eugene, Oreg., to Lagendorf United Bakeries, Inc., 1711 SE. 10th Avenue, Portland, Oreg.

It is my hope that this letter may be included in the printed edition of the recent hearings on the labeling and packaging of consumer goods. I am sure it would prove of general interest.

Sincerely,

MAURINE B. NEUBERGER, *U.S. Senator.*

UNIVERSITY OF OREGON,
SCHOOL OF JOURNALISM,
Eugene, Oreg., July 3, 1891.

LANGENDORF UNITED BAKERIES, INC.,
Portland, Oreg.

GENTLEMEN: I recently purchased a loaf of the bread which is offered for sale in the enclosed bag. Now that our family has eaten the loaf, I wish to ask these questions:

1. Of what does the "new process" consist? I expected something noticeably new and different but, quite frankly, found this product disappointingly similar to all other bakery bread now on the market.

2. Why is the weight 1 pound, 6½ ounces? It seems to me that bread used to come in 1-pound, 1½-pound and 2-pound loaves. What's the point of the 6½ ounces? Why not a pound and 8 ounces? Did the price come down when you decreased the weight, assuming you once sold a 1½-pound loaf?

3. Finally—and of less importance but as a matter of curiosity—what part of speech is "energy" as used in the phrase "ovenly fresh energy white bread"? Is it an adjective modifying "bread," an adverb modifying the adjective "white," a noun standing on its own, or what? And while we're at it what does "ovenly fresh" mean? Is your bread any fresher, or any more ovenly, than other breads?

This letter was not inspired by Senator Neuberger's recent participation in the Senate hearings but inasmuch as that matter is now in the news I'm sending Mrs. Neuberger a copy of this letter for her information.

Sincerely,

CHARLES T. DUNCAN, *Dean.*

TEXT OF PREPARED STATEMENTS BY WITNESSES

STATEMENT OF PROF. COLSTON E. WARNE, PRESIDENT OF CONSUMERS UNION OF THE UNITED STATES, INC.

Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York for the purpose of providing information and counsel to consumers about goods and services and about the management of family expenditures. Consumers Union publishes a monthly magazine, "Consumer Reports," and issues, from time to time, other publications on related subjects. The financial support of the organization comes from its 900,000 members, subscribers, and newsstand buyers of its publications. Consumers Union accepts no support from any commercial organization. "Consumer Reports" carries no advertising. The samples used for testing are bought anonymously at retail.

In addition to testing and reporting test results on products, "Consumer Reports" provides information on other aspects of the consumers' problem in making the best use of family resources. Nearly every issue contains articles on such topics as drugs and health questions, economic matters as they affect the marketplace, and legislative and other Governmental developments which consumers ought to know about for their own protection. A full and detailed description of the history and functioning of Consumers Union is submitted here as exhibit A.

Since Consumers Union is the largest organization in the United States devoted specifically to providing information for consumers, we also function as a center for consumer complaints as a byproduct of our activities. Letters from our readers constitute one of the broadest feedbacks of retail market experience that is available today. We at Consumers Union use these reader responses to guide us in the choice of material to publish. Not infrequently this flowback to us delineates problems in the day-to-day market experiences of individuals that have broad implications for the economy as a whole. This is to be expected. The assumptions that lie behind our free-enterprise system rest on a single, vital, pivotal point; namely, the belief that the ultimate consumer, through his free and informed choice, will steer production toward the socially desired goal of the greatest good for the greatest number. Weighing his utilities with discernment, the consumer shapes and reshapes the market. Thus, upon the sum of the myriad, tiny, directional nudges given by each final buyer exercising his consumer sovereignty, we all depend, for insurance, that our resources will be utilized with the best possible efficiency.

Sprawling reality, of course, has seldom, if ever, patterned itself in a glove fit to neat and tidy theory. Consumers have never been so wise as they would need to be to bear, perfectly, the burden of choice our economic assumptions have placed upon them. But to the degree that consumers do exercise rational choice in the marketplace, the use of our resources is husbanded. And, on the contrary, when the final buyer's ability to exercise rational choice is inhibited, our economic directional sense is confused and the threat of waste and malpractice looms larger. Thus, careless or irrational choice on the part of the consumer threatens not only the family budget but undermines the efficient and honest merchant by robbing him of those sales which, by his competitive efforts, he has merited. In short, when a consumer is a sucker, when he pays more than he need, when he chooses the worse, not the better, part, the efficient producer is punished while the inefficient is rewarded.

There is a widespread general sense that this is so. Advertisers, for example, frequently refer to a brand choice as a product vote. And Consumers Union receives a number of letters regularly, some from businessmen, complaining that corporate immorality is, indeed, the fault of the consumer. If consumers would refuse to buy the mislabeled, the slack-filled, the deceptively packed goods, runs the theme of these communications, then and only then could honesty become the best commercial policy. Let me read you a recent letter—one that is about the issue before this Senate committee today—which comes from a reader in California. He puts it this way:

"* * * I would like to point out that the consumer is the main culprit in deceptive packaging. In a free economy the consumer is free to pick the pretty package or the quality product * * *."

"Similarly we can build better appliances, garden hoses, and so forth, so the consumer can get more for his dollar. Some companies have even tried doing this. Most of them went broke * * *."

"In short, corporate morals lead to corporate death. The free economy which we enjoy dictates that only those who satisfy consumer demand will survive and prosper.

"In short, drive home the message that the consumer has a major responsibility in the economy beyond his immediate and shortsighted self-interest."

I doubt if our correspondent, however, even though he may have been a reader of *Consumer Reports* for years, is fully aware of how the problem of rational choice, expanding at a geometric rate, tends continually to outstrip the ability of the consumer to deal with it adequately. Not because consumers are dumb or stupid, but because of the dynamic character of the modern economy. Modern industrial technology has, in a few short generations, sent a mass migration from the countryside into the cities, from agricultural and handicraft pursuits onto assembly lines and into giant distributive arteries. This rapid and profound alteration, in a way of life which changed us from a nation where 90 percent lived in rural areas to one where 90 percent now live in urbanized areas, wiped out a backlog of familiarity with goods that was based on custom and family lore. The grandsons of the farmer who sold as well as bought and used commodities in standard weights and measures no longer handle gallons, quarts, pounds, pints, ounces, pecks, and bushels as part of their daily routine. And the granddaughters, who for a longer time used these standard weights in buying, now wheel carts along endless aisles in supermarkets stacked high with pre-packaged goods. A way of life is eroding what was once a hard-won heritage, the widespread knowledge and use of standard weights and measures.

There is no need to elaborate for this committee the great significance of standard weights and measures in the development of orderly trade and commerce over the past 2,000 years. Nor is there need to call upon history to testify to the role that trade and commerce have played in the enrichment of Western civilization, or to evidence the debility that sets in when a civilization's trade and commerce is undermined by a loss of faith between buyer and seller. And there is not time here to describe how institutional controls have been devised over the years to foster those practices which build good faith—standard coinage, standard weights, standard terminology, commodity grades, standardized accounting and billing, laws prohibiting misrepresentation, and so on. As emergent market practices have reflected changing techniques and methods, changing institutional controls have, of course, been called into play. But there is always a time hiatus between a new problem and its answer. During that time the problem weighs heavily upon us. We are in such a time today with respect to practices in packaging. Fortunately, however, the time during which bad practice continues to drive out good in the field of packaging may be lessened by this committee's deliberations and by the angry awareness of a growing number of consumers over deceptive packaging.

In the whole of *Consumer Union's* 25 years there has been no single subject upon which we have received more letters than upon this. In the past year, for example, we have received about 500 letters. These are typically "this happened to me" letters. Quite often they contain old and new boxes labeled (most inconspicuously) with the old and new weights and with the identical price stamped on both boxes. And the number of commodities complained about is wide. Though the letters bulk heaviest for such goods as detergents, candy, cake mixes, cookies, paper products, bread, and meat, the actual number of different commodities mentioned is over 100 and runs the gamut from baby food to liquor.

I would like to read you a few samples of these letters to illustrate how the consumer comes upon the problem and to indicate how he feels about it. This is one from Park Forest, Ill.:

"DEAR CONSUMER UNION: * * * Not too long ago I purchased a glass container of X brand because our current supply was dwindling. I was attracted by the bright yellow splash on the label of what I thought was the 14-ounce size we normally buy, which read 'New price 25 percent lower.' When I returned home, I was immediately startled to note that the jar was smaller than the jar on our shelf, and even at a cursory glance I could see that there was less than a 25-percent difference in the prices. A few minutes of somewhat disgusted calculation informed me that I had fallen for a baldfaced lie, amounting to 14 cents.

"The new container held only 12 ounces instead of the usual 14 ounces and sold for 67 cents, as compared with the 83 cents I had previously paid. Without repeating my calculations, I will only state that the price, even in the deceptive, smaller container, at the advertised reduction should have been 53 cents. Knowing that prices are usually determined by the retailer according to a relatively fixed percentage, I blame the manufacturer for the lie rather than the retailer.

"I cannot decide which is worse: to be cheated out of 14 cents by a glaring lie or to be subtly deceived by a change in the size of the package. Both are outrageous and certainly ought to be subject to legislative action * * *."

This is a letter we received from Sacramento, Calif.:

"DEAR CU: The enclosed bag for a macaroni product is an example of the '14-ounce pound.' The recipes on the back speak of '1 pound,' while the front label reads '14 ounces.'"

The next one came from Bridgeville, Pa.:

"DEAR CU: Until now deceptive packaging hasn't affected me too much because I've been able to change brands whenever I've felt that I was being gypped. But I've been taken by a product I've used for 10 years—X brand for automatic washers—now put out by Z company.

"It has been 10 pounds for \$2.65 for a long time and often was packed in a box marked — cents off (from 10 to 20 cents). Obviously they had a problem.

"August 16, I bought X brand in an attractively redesigned box (very nice) with finally a regular price stamped \$2.45 and a free measuring scoop inside. At home I noticed the new box was larger than the one I had on hand. Sure enough, the new X brand is labeled, 'jumbo,' and measures 12 inches by 8½ inches by 4¾ inches. The old box is 11½ inches by 8½ inches by 3¾ inches. But the jumbo box only holds 9 pounds 13 ounces net weight. This includes the scoop.

"The new X brand had a fresher smell so I read the information on the box for an explanation. I found new instructions to use more X brand per load of wash:

"New—about one-half cup per load.

"Old—about three-eighths cup per load.

"In effect I had bought a larger, more attractive box containing less X brand and a 'free' measuring scoop (to make it easier for me to use more X brand per load) at a higher price per pound. I wonder what they will fill the box with when the supply of scoops runs out.

"I'll continue buying the product because I've tried others and found X brand works best in my washer.

"However, I'm unhappy with the feeling that somebody planned to put something over on me without my catching on. It's degrading and I don't understand the reasoning behind it at all."

And here is one from Milwaukee, Wis.:

"DEAR CU: One method of packaging especially irritating to me is the recording of net weight on obscure locations and in fine print. A typical example which I believed would make a better case in court is the instant mashed potatoes package which appears twice the size of its competitors', yet on closer (much closer) examination, one finds less net weight by 5 to 10 percent."

This one came from Los Angeles, Calif.:

"DEAR CU: Could you possibly do something about the weight of bread? Recently I went to the grocers to buy a large loaf of bread. One brand cost 31 cents and one brand cost 32 cents. I have always bought the 31-cent loaf (they measure the same size in height and length). This day I looked for the weight—extremely difficult to find, I might add. The 31-cent loaf weighed 15½ ounces. The 32-cent loaf weighed 1 pound 6½ ounces. Since both loaves were the same size, I definitely feel this is deceptive packaging—similar to the example of some cake mixes which are put out in the same size boxes but contain much less cake mix."

The package changes in cake mixes, by the way, as I mentioned earlier, have drawn a large number of letters. And consumer complaints about this product are seconded by such professional observers of merchandise as the Hyde Park Cooperative Society, Inc., of Chicago, Ill., one of the largest consumer cooperatives and also one of the largest single supermarket grocery stores in the Chicago area. Miss Barbara Goede, home economist for the Hyde Park Cooperative, submitted to CU a report to be used in testimony before this committee which read in part:

"Brand X cake mixes—2 layer devil's food, etc., has dropped from 1 pound 4 ounces to 1 pound 3 ounces.

"Brand X plain angel food cake mix changed from 1 pound 1 ounce to 15 ounces.

"Brand Y plain angel food cake mix from 1 pound 1 ounce to 1 pound.

"Prices on these products did not go down. The price either remained the same with the reduced weight or the price increased.

"Brand Y now carries single layer cake mixes for banana-nut, chocolate-nut, and date-nut cakes. The boxes of these new mixes appear at quick glance

to be the same size as their two-layer cake mixes. But the brand Y single layer cake mix boxes [hold a good deal less].

"The two-layer cake mixes sell for 39 cents; the single layer brand Y cake mixes sell for 39 cents. I have had many complaints from homemakers who shopped in a hurry or with impatient children and took a [single layer] mix expecting to get two layers because the box seemed to be the same size as the regular two-layer cake mixes."

Here is a letter we received from Baltimore, Md.:

"DEAR CU: I have been a consumer of X brand cereal for the past 56 years, rarely missing a single day. (I like it.)

"I recall they used to be manufactured by the Z company [before the Y company took them over].

"I had misgivings at the time this transfer took place, insofar as it concerned my breakfast food, and subsequent happenings have verified my intuition.

"First and foremost were the gradual price increases to the consumer. Now, as of April 15, I note a change in packaging, a reduction from 12 ounces to 10 $\frac{1}{4}$ ounces, for the same price, which constitutes another price increase.

"I resent and protest this rape of the public's pocketbook, though there is little I can do about it. I most certainly shall institute a one-man boycott against all Y company's products which is the only way in which I can retaliate for the injustice I feel has been done."

This letter comes to CU from Macon Ga.:

"DEAR CU: * * * It takes much longer when I stop to read the fine print, and finding the weight on boxes, packages, jars, etc., is a real accomplishment. I have a particular 'for instance' in mind: I picked up one box of cheese crackers, costing 29 cents. In the next aisle I saw a similar cheese cracker, only in a smaller box. I thought I'd just check to see if my larger box was a better buy. They were same net weight, and same price. Had to look on all six sides of the box to finally spot the weight, printed on just one side in very small letters. * * *

Here is another letter from Milwaukee, Wis.:

"DEAR CU: * * * While on a recent grocery-shopping trip, we had occasion to purchase some X brand cucumber pickles. We noticed that these pickles were being marketed in a new bottle very similar in size and shape to the old bottle. As there happened to be one of the old bottles still on the shelf, we compared the two bottles to see if they were the same as to net contents. Alas, the price was the same as the old bottle but the net contents were less. The old bottle contained 15 ounces and the new bottle contained 13 $\frac{3}{4}$ ounces. Needless to say, we purchased the old bottle, but in the future we will be forced to purchase the new bottle containing less pickles. The decrease in net contents in this case surely is not great but more than likely Y company will reduce the net contents again in the future. The small decrease was obviously small so that the consumer would not notice it. I am sure we would not have noticed any decrease in net contents had there been no supply of the old bottles on the shelf.

"Almost invariably, when a new package appears on the grocer's shelf one can assume that it will contain fewer net contents than the old package, at the same price. Oftentimes a manufacturer will come out with a new package at a different price but when one compares it with the old package, on a unit price basis, the new package is always more expensive. I personally find the latter situation more prevalent than the former. The situation is getting so bad that a person almost has to carry a slide rule to the store with him in order to determine which package of a given size to buy."

This one is from Yonkers, N.Y.:

"DEAR CU: For the past several years I've enjoyed many of the X brand candies. However, my principles for honest merchandising deprive me from now on of this pleasure.

"I purchased them at the, in this vicinity, prevailing price: 49 cents per 1-pound bag. I've considered it a fair price.

"It happened the other day that I needed a quick reference to convert avoirdupois to the metric system. Remembering that on the Spanish labeling the net weight is given in the metric to four decimals, I wanted to use that as a reference. Only then did I notice that the bag contained only 15 ounces of the product. I purchased that bag also at the price of 49 cents.

"Oh, it is perfectly legal, and all that, still I felt myself cheated. Now I do not accuse Z company with cheating. It was I who was cheated by my own complacency for I don't know how long.

"The hidden price rise of 6½ percent was based on this complacency and on mass psychology: the (brand loyal) consumer led into confidence by an apparently reliable firm does not look for the weight on the label at each instance when buying the same product, especially when there is no change in the physical appearance of the container.

"Thus, Z company preferred to hoodwink the consumer by absolutely legitimate means rather than to face admitting a rise of price. But the rise of price is there just the same.

"Unfortunately I am not in the position to give this matter the proper publicity it deserves. * * * I trust Consumers Union shall recognize the importance of this matter."

In a number of instances our correspondents have also written to the manufacturer concerned and have sent us the letters they have received in reply as well as their own complaints. Let me read you a few samples of what the manufacturers have answered.

This one is from a large food company which also makes candy:

"DEAR SIR: We appreciate your letter * * * concerning our recent package change on X caramels. * * *

"In the candy business the 9's—19 cents, 29 cents, and 39 cents—are considered the most acceptable consumer pricing range and for many years we have produced a 1-pound net weight bag of caramels and attempted to so price this product that it stayed within the 39-cent price range and still afforded us as manufacturers the profit necessary to conduct our business and the retailer his normal profit. This 1-pound package was packed in a cellophane material that did not keep the product as well as some of the newer films. * * *

"This finding made a complete repackaging program, involving modifications and additions of machinery, in all of our confection plants necessary, plus a higher cost for packaging materials than we incurred in the old pound bag. As a company we had two choices: One to reduce the net weight of the bag to correspond to the retail price we hoped to achieve, or two, to continue marketing the pound bag and increase the retail price to 42 cents or 43 cents. As you probably know, there has been considerable publicity connected with the increase in food prices, and we felt that our established customers would prefer, first, to have a fresher caramel and, second, to have slightly fewer pieces rather than have to pay a premium and this dictated our change from 1 pound to 14 ounces.

"I might further add that we found it necessary in some of our products to reduce even more than the 2 ounces in the caramel pack. In the case of Y brand candies, we reduced from 15 to 12 ounces, and we are also experimenting with a lower net weight unit of caramels for sale at 29 cents in some test markets. * * *

The consumer who sent us this letter felt insulted as well as injured, he wrote, because it appeared that the Z company thought he would not understand that a drop in quantity at the same price was a price increase.

Let me read you another and even franker description of the policy of packaging to price. This letter is from one of the very largest breakfast cereal, cracker, and cookie manufacturers:

"DEAR SIR: I have received your recent letter commenting on the packaging of our products. * * *

"Although we do not set retail prices, we do control the wholesale price to the retailer. And in doing so, we can exert a little influence in what the final retail price will be.

"Note that today, most food products sell at 19 cents, 29 cents, 39 cents, and so forth. This is what is called a psychological price, and people will buy items at 29 cents when they won't buy at 28 cents, 38 cents, etc., even if the price is cheaper.

"Now, if we are going to try to price in a way that the retailer can finally come out to 29 cents or whatever, we can only put so much product into the package. In short, as a manufacturer, we begin by figuring what kind of a retail price we can get, and we work back from that point to determine what weight of product we can put in the package. Not only do we do this, but every other company in the grocery business does the same. * * *

Here is the nub of the matter. Note that this prominent manufacturer states flatly that not only does Z company merchandise its products by packaging to price but that "every other company in the grocery business does the same." When you tie that observation together with another; namely, that the net weights contents on most food packages are so placed, and in such a size and color of type, that they are all but impossible to find, you can readily see that

it becomes quite difficult for the consumer to exercise his major responsibility to the economy by buying rationally.

One of the quite surprising things about the samples of letters from manufacturers that have been sent in to us, is how far removed from the consumer point of view these makers of consumer products appear to have drifted during these last boom years. Repeatedly some such sentiment as this appears: "Dear Consumer: We are sorry you are unhappy at the change in product but, you see, either we had to raise the price of the product or fitch a few ounces out of your package, and we decided to do the latter." There are some cases, however, where the manufacturer places the blame on the retail trade. Here is a letter from an English importer of marmalade whose jar size was recently dropped from 1 pounds to 12 ounces:

"DEAR SIR: We are sorry you have had reason to complain, particularly since you are a regular user of X brand products, but we must point that you have been misled in thinking that the product is being marketed by us at the same price as the old 1-pound jar.

"We changed our pack for X brand because the former pack was old fashioned and the cap hopelessly out of date. It was difficult to remove and almost impossible to replace to give an airtight seal.

"The new pack, however, has a cap which does give a completely airtight seal and yet is easy to remove and reseals again efficiently. The container itself has a reuse value in the home. More and more American domestic manufacturers have changed to the 12-ounce pack and a survey showed us that most consumers prefer this slightly smaller size.

"We have no doubt that you approve of the new pack and the new seal but object to the price. May we assure you that although we and our agents in America have reduced our price for the pack and are doing our utmost to prevail upon the chains to reduce the consumer price in proportion, there is no reason why they should not make this reduction and we hope they will all do so shortly * * *.

"Please believe us that there is no intention at all of deceiving our customers and in fact we placed the indication of the weight of the contents of the jar on the label instead of on the cap to insure that it should be more clearly visible while on the shelves to an intending purchaser.

"We have asked our agents to send you some jars which we would like you to accept with our compliments and which may keep you supplied for a little while until we have succeeded in our efforts to persuade the stores to pass on to the customer the reduction in price which we have made * * *."

Lacking the support of informed consumers, the honest packager cannot be expected to withstand the inundation. That is why we at Consumers Union have been somewhat surprised to hear from some manufacturers and trade associations that the articles which have appeared in Consumer Reports on this subject in the past year are damaging to industry. To us it appears that consumer awareness of this problem cannot do other than help industry to help itself. More than that, it seems to us that until our readers spoke up, industry was not fully aware of the extent to which package manipulation had developed on the marketplace. Certainly, we at CU were unaware of the situation until we began, 2 years or so ago, to get an increasing number of letters of complaint about changes in package sizes without corresponding changes in prices. In order to gain a further insight into how much interest there was in such deceptive packaging, we included that topic in our 1959 questionnaire.

CU's charter requires that once a year subscribers and members be circulated with a questionnaire through which the management of the organization may be more fully informed about what readers want in the reports. These annual questionnaires of CU's constitute one of the single largest samplings of consumer opinion on specific consumer problems in the country. More than 150,000 subscribers respond by filling out three pages of answers to detailed questions. One section of the questionnaire each year lists topics and asks readers to check one of three boxes with respect to each topic. These topics include both products and problems, such as: automobiles, advertising, electric appliances, health and medicine, sports equipment, furniture, selling tactics, food, credit costs, and so on. The three boxes to be checked are labeled "More Emphasis" (in the magazine), "Same as Now," and "Less Emphasis." In the 1959 and 1960 questionnaires, the topic "deceptive packaging" was included in this fairly lengthy list of subjects of interest, and each time the vote for more emphasis on this problem was higher than that for any other subject. Much higher. For example, in the 1959 questionnaire the response

on electrical appliances (always one of our most popular reports) was a 40-percent vote for more emphasis. On deceptive packaging, however, the "More Emphasis" category was checked by 54 percent of those answering the questionnaire. In 1960, the "More Emphasis" vote remained a high 52 percent.

Although the extent of the problem and the widespread interest in it seems to us at Consumers Union to be overwhelmingly evident, we have heard comment both from industry and from some other sources who should know better, that might be summed up in the flip phrase, "So what?" All right, so there is an ounce less in the liquid detergent bottle, a half-ounce less in the baby food jar, $1\frac{3}{4}$ ounces less in the cereal box, 4 ounces less in the dishwashing machine detergent, 6 ounces less in the cooking fat can, so what? Who cares? Who is going to worry about an ounce here and an ounce there?

You gentlemen are aware, I am sure, that the average family spends something close to 30 percent of its income in the grocery store. But let us take just one category, grain products. The per capita consumption of grain products in the United States is 148 pounds a year. Multiply that by the total population and our annual domestic consumption of grain products amounts, roughly, to more than 30 billion pounds a year. One ounce taken from each of those pounds provides a total of 1.9 billion pounds—a husky haul. And supposing those pilfered pounds were worth one cent each, such a haul would bring in \$19 million. Or put it another way. The total domestic expenditure for food amounts to a rounded estimate of \$85 billion a year. One percent, one one-hundredth, of that is \$850 million. That is how a multiplied hundred of thousands of packaging nibbles—just an ounce from a package—mounts up to bigtime money.

A newspaperman once told me that he and a lawyer friend spent many long evenings during the depression days over 3.2 beer contemplating this intriguing question: Could the two of them figure out a way to take from each American family just 1 penny a year—a sum the family would not miss but would make millionaires of the two of them? Times improved and the interests of these two schemers were turned into less exhilarating channels. But the scheme they failed to devise has been perfected and the payoff upped. We witness it in operation daily on supermarket shelves and what it actually costs each American family cannot be calculated. It is surely a good deal more than a penny a year. But whatever the cost may be in dollars and cents, there is a greater loss that cannot be figured in money—the loss of confidence. These dealings we have with each other on the marketplace, these daily work-a-day relationships, wield an often unseen but profound influence over our lives, our values, our social integument. No large social group can long tolerate with impunity the loss of good faith and good will between and amongst its various members. The tone of bewildered outrage that marked so many of the letters we received was, we feel, a response proper to the provocation. "I know it was only an ounce and three-quarters," wrote another reader, "but we must begin somewhere, mustn't we?"

CU would like to express appreciation to this committee for making a beginning. The problem can be solved. The social engineering required is not elaborate. It may be tedious to work it out. But the goal of fashioning institutional controls to restore a sense of equity in quantity to the marketplace is surely one worthy of serious consideration by the Congress of the United States.

STATEMENT OF ERNEST DICHTER, PH. D., AUTHOR OF "THE STRATEGY OF DESIRE,"
PRESIDENT, INSTITUTE FOR MOTIVATIONAL RESEARCH, INC., CROTON-ON-HUDSON,
N.Y.

The modern consumer is a highly efficient judge of advertising and packaging practices. Any advertiser who has not yet become aware that the modern American consumer often has a much higher IQ than the advertiser credits him with is due for a rude awakening.

Every day, the American housewife votes in supermarkets and department stores all over the country for the products of her choice. In the process, she has become advertisingwise. Consequently, the advice which we constantly give to our clients is: don't underestimate the consumer. Today, even a 10-year-old knows that testimonials can be bought and that no breakfast cereal will really make him fly like Superman or hit like Mickey Mantle.

Packaging and labeling practices that silently presume that the consumer is a gullible moron can end up to prove the advertiser to be the moron. There-

is no doubt that whenever dishonesty occurs in packaging, the guilty manufacturer should have his fingers slapped with the hard ruler of reality. I feel however that with the increasing sophistication of the consumer—a sophistication which is developing with galloping and often unsuspected speed—the deceitful and fraudulent activities that do exist will rapidly become unprofitable.

American products are losing ground in the gigantic struggle for world markets. This is not due to the poor quality of these products, but to the poor quality of marketing, advertising, and packaging techniques. If the French or the Germans package their products more attractively, they will sell more goods and please more customers.

As I explained in detail in my book, "The Strategy of Desire," we have already reached a point where product quality is taken for granted to a degree never before attained. When people buy soap, they know that they are going to get soap. They know they do not any more have to worry about getting a piece of chalk. But because of our technological development has been so good and so fast, the fact is that almost all our products are uniformly good, so that there is in reality very little difference, in the same price category, between a product with one brand name and a product with another.

What people actually spend their money on are the psychological differences, brand images permitting them to express their individuality. This is an important point. We have reached what I in my book call: a psychoeconomic era. It is because of the improved quality and reliability of our merchandise that we can allow ourselves the luxury of making our decisions on the basis of more purely psychological factors.

Most cigarettes could probably be grouped into four or five categories. They could simply be described by number or by grade labeling. Instead there are hundred of different brands which most people in blindfold tests cannot distinguish. The same is true of alcoholic beverages. If you blindfold a man and pinch his nose, he won't know whether he is drinking the most expensive or the cheapest scotch, gin, or bourbon.

When it comes to our consumer purchasing patterns, our preferences are dictated by an evaluation of largely meaningless brand differences. What we are really selecting in our smoking and drinking are the labels and the various designs and colors on the package, much less so real differences in the products themselves.

This does not mean that we simply buy illusions. Just as the consumer in the field of refrigerators, so apparently the American voter, too, was convinced that in the end it didn't make too much difference which one of the presidential candidates he voted for. Both of them were almost comparable in their qualifications and probably would have approached national problems in more or less the same way. It was for this reason that the "image" was so important in the last presidential campaign.

The advertiser lives in a competitive world. He wants to sell his merchandise and wants to convince the consumer that his product is better. Actually, the modern consumer is highly sophisticated. In the hundreds of thousands of interviews conducted by us, one of the most frequent findings is the widespread conviction on the part of the consumer that most of the products which he uses are almost indistinguishable from one another. Yet it is the consumer who would probably scream loudest if an attempt were made to deprive him of this rather irrational and naive opportunity to express his individuality. The American consumer wants to have a maximum of choice. He does not want to be limited to five grades of cigarettes or three sizes of a Government-produced refrigerator.

It may perhaps sound cynical, but we rely less on the advertiser's pangs of conscience than on his desire to build a permanent franchise for his brand. False claims will help sell a product to a lot of people, but usually not for very long. The competitive struggle is so great that the real safeguards of greater honesty in packaging and other business practices lie in informing competitors of the weak spots of the rival brands, and in making the public aware that they are frequently influenced by emotions which may lead them astray in their purchases.

Insofar as they involve packaging, the questions with which the advertisers come to us vary a great deal. They do however all concern themselves with one basic question: Is the design a barrier to a bridge toward consumer acceptance?

In one case a company may want to put out a new product and they will want to know what name to use, and whether they should pack their products in glass

jars, plastic containers, or in tin cans. Often such choices are determined by technical considerations of freshness, preservability, and practicality of use. In other cases, sales may have slipped and the client will feel that his package may have something to do with this loss of business. Perhaps his competitor has introduced an innovation of some kind, a new and more colorful package design that is more enticing than that of our client. In that case he has to reappraise his approach and remodel his packaging in order to stay in business.

Our work with packaging falls into two basic categories. The first is the developing of rule-of-thumb guides, criteria which will aid the designer in evolving new package designs. The second is to measure the effectiveness of various designs which are submitted to us by manufacturer or advertiser. We try to find out answers to questions such as: Does the package stand out in the competitive climate of the store? Does it adequately reflect the product? Is it esthetically satisfying in terms of shape, color, layout, illustration, type face?

The research techniques we use, describe in detail in my book and in the attached brochure, known as motivational research, are based on our conviction that human motivations are often really more than appears on the surface. People cannot be asked direct questions as to why they bought a particular brand or product or voted for a particular candidate. When you ask people outright questions like that, their answer is often merely a rationalization of what really prompted them. They will tell you what they think was their reason (or what they think sounds dignified and rational) but this may not have been their real reason at all.

Knowing the real reasons for people's behavior permits the advertiser to approach his customers in a better and more efficient fashion. He can offer them the satisfactions which they really want and not just what they think they want. This knowledge has great value in the struggle for competitive survival.

Our work consists in transmitting to the advertiser and the industrialist a knowledge of his markets and his consumers. It is our specialty to concern ourselves with the psychological motivations of the consumer, to answer questions as to the why and why not of buying actions, and to deal with many other aspects of human behavior in the field of public service and politics. We also attempt to find out how to improve relations between doctor and patient, how to get more people to vote or give blood, how to get cooperation for urban renewal programs, and how to get the public to participate in the cleaning up campaigns of their cities.

In conducting a study, we first try to determine the nature of the existing circumstances. The method which we use in order to answer any one of the questions assigned to us is to first find out how people really behave. Once we know that, we can then concern ourselves with what they should be doing. This is the approach of the social scientist.

We agree with many of the goals of the various Government agencies. We quite agree that misleading advertising should be eliminated, that correct weights should be listed on packages, and that exaggerated claims should be avoided. Actually, most advertisers and businessmen agree with these goals too. Most people I have met would rather be decent and honest than to cheat. The problem is, however, much broader and more complicated than simply being against sin. Desirable goals have to be psychologically engineered rather than just postulated. The businessman does not deal with a rational and technologically sophisticated consumer who buys only what he has found to be really superior and who gathers all the facts before making a decision. In this sense, the shopper for goods is not any different from the voter, the shopper for political candidates, from the lover who picks a bride, or from the jobseeker who decides on the right kind of position or career.

In all these cases we are dealing with human weaknesses. People are not perfect, and in most relationships, all parties involved are usually equally guilty in hiding the less pleasant realities. The bride should probably tell the lover what she will look like in 10 years time and that she snores. The armed services which want to recruit personnel should inform all potential candidates of the hardships and dangers involved. Instead, they use colorful posters to tell the prospective recruit about the wonderful places he is going to see and the marvelous careers he can choose from.

A politician who would tell the public that he has doubts regarding his qualifications for office would have little chance of winning an election. Nor can a candidate afford to admit that he privately feels great respect for his rival and is convinced that the man did as good a job as was possible under the circumstances.

Some time ago we were hired to help the Cooperative League and the Greenbelt Consumer Co-ops to attract more customers. Our study showed that emphasis on the good quality of the merchandise and references to the Rochdale principles of sharing profits by eliminating the middle man offered little attraction to the modern housewife. What she was really interested in were lower prices, attractive stores, and attractive labels. When the Grand Union markets labeled their peaches as "gorgeous" and the co-ops called theirs "reasonably good," the housewife chose those sold by Grand Union. She had been trained by several decades to apply the same psychological disbelief to both statements. In other words, she felt that the Grand Union peaches were probably fairly good and that the peaches sold in the co-op stores were probably poor. Our recommendation to the co-op stores was to bring their labeling into line with the prevailing procedure of dramatization in order to meet the claims of the competition.

In work for the pharmaceutical industry, we found that even packages of drugs are often designed in such a way as to be more attractive to the physician or to suggest greater scientific care. Thus, the embellishment of products through packaging is universally practiced. Somehow, just to tell the public honestly what is inside a package is not quite honest enough. You have to dramatize honesty. In doing so you can, of course, be accused of dishonesty.

As far as I know, the law does require that the quantity packed be listed on the package. To the extent that this law is violated, such a practice is of course dishonest and should be punished. But what is even more important is that it is stupid. The point is that packages and labels can at best sell merchandise only once or twice. Once he detects an inferior product or spots a fraudulent advertising claim, the consumer will reject that product regardless of how attractive the package or label may be. Most intelligent companies have learned that what they are really spending their advertising dollar on is the creation of a solid brand image.

A brand image is like a signature on a check. No matter how elegant the signature may be, if the check bounces you are not going to do business with that person again.

Our organization, the Institute for Motivational Research, has done quite a bit of work in Europe, especially Germany. Many prominent European concerns were almost completely destroyed during the war. All their physical assets were wiped out. They had one thing left, however, and that was an intangible worth a fortune. This was their brand name, trademark, and signature, the symbol by which they were known, their image. With this alone it was possible for hundreds of these companies to reestablish themselves so that today they again represent multimillion dollar enterprises. From this it can be seen that the advertiser who jeopardizes his signature is simply very shortsighted and stupid.

Researchers like myself have no power of legislation. An advertiser can decide to cheat the public with or without our consent. He can conceivably also give an industrial designer, an advertising agency, and a motivational researcher the job of figuring out ways by which the true nature of his product will be hidden, the weight made to appear more, and the size exaggerated.

These executors of the advertiser's orders can, of course, refuse to help in such deceitful practices and they frequently do, as we would. However, when the producer has something like this in mind, he doesn't have to ask for anyone's advice. He simply puts less merchandise in his package. In all of my experience however, I have never encountered anyone who has done so.

To decry these practices, in my opinion, is not enough. It helps, of course, to expose them as is being done by this committee. But much more than that is necessary to bring about practical results.

The consumers themselves must be educated to look for the kind of information that will protect them from being cheated. This is in itself a gigantic task. The voter in an election should also be instructed not to be beguiled by the smile of the candidate, but to study his political record. It is lamentable from the viewpoint of human nature and destiny that the politician with the better smile and better rhetoric and greater handshaking ability is often the one who wins. Instead of bemoaning this state of affairs, we have to inform people as to their own weaknesses and teach them how to act more rationally.

We are often asked: "Does the public really want to know what is inside the package or the bottle or how the product is put together." Unfortunately, our answer as observers of human behavior must again be, they don't. Not many people really look under the hood of their car before they buy it, and if they did they could not really tell the difference in technological perfection.

Most people do not know what goes into one type of cleaning product as compared with a competitive brand. Tests themselves are not very conclusive either.

In order to determine whether the mileage claims of a car manufacturer are correct or not you would have to drive your own car under carefully controlled conditions, checking not only the condition of the road but also the temperature, wind, velocity, your own driving skill, and whether you are tired or fresh and scores of other factors.

When you serve people the identical coffee from three different percolators, one of them being very old and battered looking, the majority of people will be convinced that the cup poured from the old percolator tastes like real coffee and is better.

Legislation is, of course, one way of dealing with this whole area of deceit. I would respectfully submit, however, that the very techniques which can be used for purely commercial purposes can also be used to educate the public and the consumer.

Such education by persuasion techniques would mean to make the public aware of its own emotions. It is not enough to give people technical information or to invite them to become members of the Consumers' Union. They may know all the data about which car is the best one and still buy the one with the red upholstery because it is prettier. We cannot prevent people from doing this, but we can make them aware of their own motivations. If they still insist on buying an inferior car, just because the door has a heavier sound, or a house that has an intercom system rather than one with a solid basement, at least they will know what they are doing.

But possibly one of the most powerful weapons of persuasion as far as the advertiser is concerned is to convince him, and this has been our policy in our work, that honesty is smart.

An advertiser can and should begin to invite the public to look at the content of his package, to look under the hood of the car, and interest themselves in the ingredients that went into the frozen cake. Many advertisers have done exactly that and have reaped great benefits from it. They convinced the public that they are dealing fairly with them and that they gave them good value. Doing so helped build the soundness and reliability of their signature, their brand name, their image. At the same time telling the public to insist on such detailed information, they, the honest advertisers, can reverse the trend and force the few dishonest people in their ranks to change their approach.

A poor product, cleverly packaged and advertised, can have an initial success but will not be able to hold a commanding position in the market. The same is true of a good product that is poorly packaged and poorly advertised. Really successful marketing requires both a sound product and a sound psychological advertising and packaging approach.

Efficient packaging is neither an extravagance nor a waste. It is part and parcel of good business. In the years to come, it will become an increasingly important tool in the competition for internal and even more so for international markets.

STATEMENT OF J. L. LITTLEFIELD, CHIEF FOODS AND STANDARDS DIVISION, MICHIGAN
DEPARTMENT OF AGRICULTURE, LANSING, MICH.

My name is J. L. Littlefield. I am employed as chief of the Foods and Standards Division under Michigan civil service in the Department of Agriculture, with headquarters in Lansing, Mich.

It is a distinct honor and privilege for me to appear before you today. I feel the subject of advertising, packaging, and labeling techniques which are designed to deceive or mislead the purchaser is one that deserves the attention of government officials at State and Federal levels as well as packages and advertising agencies. I commend your committee for its efforts in a study of these matters of importance to all of us as consumers.

Our Michigan Legislature has vested the department of agriculture with authority to enforce laws dealing with the purity, quality, and labeling of foods and sanitation of all food establishments within the State, as well as to check the accuracy of weighing and measuring devices and the quantity of any item sold by weight, measure, or numerical count. So you might have some small concept of our responsibilities, in addition to several service sections, the Foods and Standards Division also administers over 100 laws and regulations with authority to:

(1) Regulate all places handling food to prevent filthy and insanitary conditions.

(2) Prohibit adulteration, fraud, and deception in the manufacture and sale of food and drink.

(3) Protect consumers from possible deception in the identity, quality, or quantity of food products.

(4) Remove violative foods from the market through seizure or prosecution.

(5) Prevent false advertising in the offering for sale of any food product.

(6) Prosecute violators of the laws and regulations.

At the present time our regulatory staff in one section of the Division under my jurisdiction totals 7 supervisors and 42 inspectors in the field.

The consumption of food in America is rising and predictions are that it will continue to rise. There will be more and more products to be packaged next year than ever before, and there will be more men, methods, materials, and machines to package them, according to these predictions. The problems posed by prepackaging are staggering, if we take time to examine them. Enforcement officials are continually facing these problems in an attempt to keep them under control, but there is every indication that they are getting out of hand.

As regulatory officials in Michigan, we have continually strived toward standardized descriptive labeling. However, the increase in prepackaged items which are not directly controlled under specific laws of our State has resulted in the program getting out of hand. The purpose of any such program is not to standardize consumers' tastes nor to control their individual preferences but to facilitate the individual's free selection of packaged goods in an intelligent manner.

Since most packaged products cannot be examined by the eye, it is necessary that an appropriate label describe them so accurately that, in effect, the label puts a window in the product. Many commodities are, I believe, purchased because of the package not necessarily for its contents. We continually find that pictorial material tends to deceive and mislead the consumer while the required information is buried where the consumer must search to find the true facts.

We are all familiar with the many ways used by those who purposely intend to do so to deceive or mislead the purchaser as to the quality or quantity of the product, such as:

(1) Picturing on the label the product in a quality or color superior to the product contained therein.

(2) Misleading the consumer with complicated and even false claims as to the nutritive value of vitamins, minerals, and calories in the product.

(3) Using terms which cannot be understood by consumers as to the quantity, such as "tall," "giant," "king size," "economy size," "extra large," "super," and like descriptive adjectives.

(4) Using technical language that is not understood by and tends to confuse the purchaser. In this instance, the multiplicity of food additives have created listings of ingredients which are meaningless, complicated technical terms which are noninformative to most consumers. Such words as "nordihydroguaiaretic acid," "butylated hydroxytoluene," and many like them are ominous looking and frightening. They induce, in the minds of consumers, a fear of the unknown. It would appear that the addition of a voluntary statement of the functional purpose of such ingredients would be more informative labeling than such technical terms.

As enforcement officials, we attempt to secure voluntary compliance with the letter and spirit of the law for an honestly labeled food supply. We stand ready to deal with the transgressor who is concerned about his public responsibility only from the standpoint of trying to determine the extent he can ignore legal requirements without facing serious legal difficulties.

There are two things we consider: labels and labeling. The label is that part of a display confined to the product itself. On the other hand, labeling deals not only with the label on the article but also with the descriptive and other matter accompanying it. Through a basic packaging unit delivered to the ultimate consumer, many packagers encase their product in an outside container which defeats the attempts to carry the required information on the product. Subterfuge of this nature is not uncommon. For example, a rectangular box will be used to hold a narrow bottle with indentations and even a false bottom, such as many wine and champagne bottles.

We also give attention to the graphic matters on labels. For example, a label might show olives of a large size whereas the olives were of smaller proportions—this product would be deemed to be misbranded. A can of mushroom chow mein showed a dinner plate serving of the product covered with mushrooms. Examination of numerous cans in our laboratory showed the addition of a maximum of three small pieces of mushroom to each can and some contained none.

Our controls extend to advertising, too, such as posters, tags, pamphlets, circulars, and books which can be considered labeling since they accompany the product. We feel that placards, signs, and showcards set up in proximity to the product on a retailer's counter are a part of the labeling of a product. We consider a product as misbranded if the labeling is false or misleading in any particular.

The provisions of our laws would be defeated if the information required by law were not displayed with sufficient prominence and in such terms and expressions as to be readily legible and intelligible to the ordinary purchaser. A label may contain all the necessary information yet the manner of its display fails to prevent a false or misleading impression in the mind of the average purchaser.

It should not be necessary for the consumer to read the entire label to learn what type of a product she is buying. Consumers should not be required to dissect the label with a dictionary at hand. Labeling should be so arranged that the mandatory information is not subordinated to other statements appearing. To support this, in our surveys of labels and labeling we have found:

(1) Information statements do not appear on the part or panel of the container which is presented or displayed under the usual conditions of sale, known as the main display panel.

(2) Where the package has several panels, any of which may be displayed, the informative statements are not repeated on each of the available panels.

(3) Enough label space is not allotted to assure that the informative statements are conspicuously displayed. We find overemphasis on minor matters on labels while the area assigned to the mandatory statements is relatively insignificant.

(4) The size and style of type employed does not advance the prominence of the mandatory information—it seems to defeat its purpose.

(5) The background of the label does not distinctly contrast with the printing matter to set it forth plainly. We find considerable difficulty with labels on the aluminum foil-type wrappers and on pliofilm bags. Have you ever tried to read pale yellow printing on such wrappers? We recently had cans of soft drinks printed in one color, the labeling being of a deeper color than the background. The packer's explanation for the use of the one color was a cheaper can cost.

Here are some additional problems we have encountered in the State of Michigan. Perhaps they will bring to light some areas in the labeling and advertising of some products which appear to deceive and mislead consumers.

1. We find that some manufacturers reduce the product content without cutting price or container size. Others apparently give less product than specified on the package because of misleading terms which are not representative of the quantity. This problem has developed overwhelmingly since the tobacco people came out with a king size cigarette. This gimmick in advertising has caught on by leaps and bounds in other industries. Of course, we realize there is little that we in enforcement can do about nonstandard packages, but a quart is a quart regardless of labeling and advertising which states "full quart," "jumbo quart," and finally a "giant imperial quart." Small, medium, and large are becoming a thing of the past. The standard units of weights and measures are being warped beyond recognition. They are being camouflaged by descriptive terms which tend to deceive, mislead, and distort the actual meaning of true net weight or measure. They want the consumer to believe that my pound is bigger than your pound, and that my quart is a full quart and yours is not. Advertising agencies will admit that they found it necessary to try to out-gimmick one another but there are still just 16 ounces to a pound.

I am told by manufacturers that they feel obligated to call their commodity a "full quart" because competitors use a 28-ounce bottle not readily discernible from the 32-ounce bottle. They want the consumer to know theirs is "full" quart. The next logical step would be a "full 28 ounce." The same thing has happened with the comminuted meat industry in our area. Packagers state that so many of their competitors had begun packaging a 12- and 14-ounce package of various luncheon meats and sausage products, to get their point across to the shopper that theirs contained 1 pound of product rather than the smaller amount of 12- or 14-ounces, they labeled it "full pound." The next logical step in this type of labeling competition would be to label the smaller packages as "full 12 ounces" or "full 14 ounces."

Last fall I wrote to all weights and measures officials in the United States, explaining the action we had taken regarding the use of such terms as "king size," "giant," and "full" in connection with the contents and asked each jurisdiction to notify me if any action had been taken in their jurisdiction to prevent

such misleading labeling and advertising. The replies would indicate that some of these problems are nationwide and that sentiment is toward elimination of such labeling and advertising practices. Here are just a few of the responses:

"We are also interested in finding some way to attempt to stop labeling and advertising which is misleading to the public, but so far we have not made progress."

"We certainly agree with you that labeling commodities in terms of 'king size,' 'big,' 'giant,' and similar statements is in violation of the intention of State laws and action taken by the National Conference (Weights and Measures). We have done some work. * * * to discourage this practice; however, at the present time we do not have sufficient laws to correct it entirely. We will continue to discourage qualifying statements of weight contents so far as we are permitted under our present law."

"As a result of your letter * * * I made a field trip to survey the labeling which you mentioned. As a result of my findings, I have written to the offenders * * * I feel a concerted effort by a number of States will bring results. Be assured we are willing to cooperate to the extent that our personnel and man-hours will permit."

"I do not know of any problem that faces weights and measures that would be more destructive than this one. I am wholeheartedly in agreement with you that there should be unified action in regard to this subject on all commodities sold by weight and measure, particularly in the food field."

"I fully agree that the use of such terms is an attempt to mislead the buying public into believing it is receiving more than it does. For this reason, some definite action should be taken to bring about a discontinuance of the practice."

The dictionary says that to deceive is to make a person believe as true something that is false. And it further says that to mislead is to lead a person to think what is not so. It appears that manufacturers have wanted more money for their merchandise but they want the consumer to think she is getting more for her money. Therefore, such terms are both misleading and deceiving.

The ordinary buyer is guided to a considerable degree by a visual appraisal of size by comparative dimensions of a package. Few take the trouble to read and compare quantity declarations. Manufacturers appear to be capitalizing on this knowledge of consumers' purchasing habits by utilizing containers which apparently enhance the size and hence the value of the commodity. Buying by container size, the consumer feels she is getting the most of a product. However, a small package right beside it may hold more product at a cheaper cost per unit.

One of our key men recently went on an investigational shopping trip. Without covering every item or type of item in the store, here are just a few examples of labeling and advertising gimmicks he found which are apparently intended to influence the shopper. All of these are not food involving misbranding under our general food laws but some involve misrepresentation under the weights and measures laws or are considered matters of interest to your committee.

Cereals are a good example. One manufacturer puts out several different types of dry cereals with each box marked "large size." However, this "large size" is used to describe boxes of cereal weighing from 9½ ounces to 16 ounces. The net weight on one type was 10½ ounces, another contained 9½ ounces, another 12 ounces, and still another was marked "16 ounces" and a fifth "1 pound."

Soaps and detergents are another example. Some may have a large container but within that container may be a gift which doubtlessly has been figured in the cost. Although the consumer may select this product based on the size of the box and perhaps pay a higher price, she feels she is getting the largest size. She may be getting the largest size box but not the most product for her money.

We surveyed the weights and prices of soaps and detergents. Fifteen brands were compared—the declared weight against the net weight, the unit price, and the price per pound. Note was made as to whether any gifts were included and the location of the weight declaration. All of the packages were labeled "giant" except two. All were labeled in various ways but had identical height and width but varying depths. None had the declaration of contents on the front panel but such descriptive adjectives as "giant size," "king size," and "laundry size" were most prominent on the front display panel. Nine of fifteen had fractional ounces in the net weight declaration. The highest cost per pound was 87.3 percent more than the lowest.

In our investigation of the labeling of various sizes of soaps and detergents labeled in descriptive sizes, we decided to compare the various weights offered by one company under one brand name. Four sizes are marketed. The smallest is called "regular" containing 1 pound, 4 ounces. The next size is "giant" containing 3 pounds, 1½ ounces. The third is "king size," which would be expected to contain the most but it contained 5 pounds, 3¾ ounces. This "king size" was merely one-third as large as the one marked "home laundry size" which contained a total weight of 16 pounds, 1 ounce. Maybe this size could be labeled as "jumbo." However, three other brands used the term "jumbo" on varying sizes from 10 to 13 pounds. So this one company's "home laundry size" defies description.

Our investigational shopper found other examples of misrepresentation or misleading claims intended to deceive or mislead the consumer, such as:

Roll-on deodorant packed in a box twice the size actually needed for the product and labeled as "giant 1½ fl. oz."

Canned soups, such as "chicken noodle" labeled in the same size type with very little chicken in the actual product. The ingredient list shows "chicken stock, noodles, and chicken" in that order. The product is probably on a one-to-one ratio—one chicken to one carload of noodles.

Many brands of canned beans labeled "pork and beans" with a very minimum amount of pork. The label would indicate generous amounts of pork since the name of the product on the label gives as much prominence to "pork" as to "beans."

Various brands labeled "instant nonfat dry milk" but one was labeled "Faster than Instant."

Hand or bath soaps in bars labeled "bath size" or "personal size" with various sizes involved. Individual cakes varied in size and weight and many had no weight declaration.

Rolls of wax paper of various brands, all in the same type edge-cutter containers, with one labeled "big 125 foot roll" and another "big 100 foot roll." A third used "100 square feet" to describe the contents.

Aerosol-type containers of spray for hair, one containing 15 fluid ounces was labeled as "giant \$2.25 value reduced to 98 cents" in comparison to a competitive product labeled "special \$1.09." Both contained the same quantity. The price quotation appears to be a consumer come-on gimmick.

Toothpaste in tubes labeled as "save 36 cents over large size." This tube was labeled as 6 ounces while the "large size" contained 1½ ounces. A second product went a step further for the same size and said, "Save 37 cents over large size."

Aluminum foil in rolls. One product is labeled "quilted for strength," a second "flexible strength," and the third "super strength." What is the significance of these statements regarding strength?

On a package of instant mashed potatoes, the label indicates "including butterfat" in several places while the list of ingredients stated "dry whole milk." It would seem "butterfat" is overemphasized in that actually the whole milk is its only possible source.

Many compounded food products list ingredients some place on the back or underneath panel in print almost too small to read. This same situation is true of the net contents declarations on many food and nonfood items.

We have found butter cookies without any butter and required the label to eliminate any reference to the use of the term "butter."

"Banana fingers" and "banana turnovers" where the list of ingredients fails to mention bananas or banana puree.

"Cheese Twirl-ees" which should be properly labeled as "cheese flavored" because even the list of ingredients stated "cheese flavor."

"Chocolate peppermint cookies" where the list of ingredients included "artificial flavor" but no mention of peppermint.

An "Almonettes" cookie which declared "cashews" in the list of ingredients but no almonds. The product name implies almonds.

"Lemon cream sandwich" cookies with no lemon or cream declared—just powdered skim milk and flavor.

"Pineapple filled oatmeal cookies" without any filling and no declaration of pineapple on the label.

"Walnut strudel" with no declaration of nuts and the flavor listed as "fruit flavor."

"Strawberry gelatin dessert" determined by our laboratory to be an artificially colored, gelatin-type dessert with a strawberrylike taste, containing small pieces of peach, pear, and pineapple fruit. The same type of product was labeled

as "raspberry dessert" which had a raspberrylike taste with the small pieces of fruit.

"Chocolate chip cookies" with a label declaring pure and/or certified flavors and colors, rolled oats, molasses, fruit, jelly, cocoa or nuts.

"Chocolate nut bars" with cocoa listed as the only source of chocolate flavor.

There are many, many such examples of misleading labeling of food products and advertising gimmicks which do not adequately describe the product, its quality, size, or contents.

It is continually obvious that with more and more of our products being canned or packaged, the labels must give the information necessary for the consumer to make the right choice when shopping and the advertising must be compatible. The label must be the spokesman for the product and its manufacturer, and the overenthusiasm of advertising agents and label designers must be restricted so that the labels, labeling, and advertising are truly representative of the product.

A descriptive label and advertising does not mean a false label or false advertising. Playing up relatively unimportant factors in oversize type while more vital factors are relegated to minute type requiring a magnifying glass to read is deceptive.

I have made occasional reference to what may be considered the problem of "slack fill" of containers. A review of the responsibility of this committee indicates this matter and others of importance may be given consideration in due course.

Enforcement officials throughout our Nation should join together to eliminate deceptive, misleading, fraudulent or unfair practices in the production, processing, packaging, labeling, branding, advertising, statement of prices, and other conditions of sale, marketing, and furnishing of goods and services to consumers.

Our legislative bodies should see that we have the necessary laws, finances, and personnel to adequately handle the problems in violative labeling, packaging, and advertising.

Truthfully labeling and advertising should be all packagers' goals. As Winston Churchill once said: "Truth is incontrovertible. Panic may resent it, ignorance may deride it, malice may distort it, but there it is." Truth isn't always in the labeling and advertising but it should be.

STATEMENT PRESENTED BY MRS. SARAH H. NEWMAN, MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMERS LEAGUE, CONCERNING PACKAGING AND LABELING PRACTICES

My name is Sarah H. Newman. For the last 25 years I have been actively concerned with consumer problems and have served on many consumer committees in the District of Columbia area. I appear in a dual capacity here today. I am a member of the board of directors of the National Consumers League and am testifying on behalf of that organization. In addition, I appear as a housewife who has been tremendously bothered by the problems and abuses you are studying.

Organized in 1899, the National Consumers League has been concerned with the conditions under which consumer goods are manufactured and distributed. It has been closely associated with major reforms affecting consumers, as the Pure Food and Drug Act and the Poultry Inspection Act, for example.

We would like to congratulate the chairman and the subcommittee for undertaking this important investigation into consumer packaging and labeling practices. After carefully studying and investigating the variety of practices in this area, we hope that the subcommittee will draft appropriate legislation to correct the abuses which, unfortunately, have grown up in this long neglected field.

For over 30 years, I have had the responsibility of managing a home and family, and trying to do this as intelligently as possible within the limits of our budget. Never, in all these 30 years has the task been as difficult or as time consuming and physically exhausting as it is today. In spite of all the nonsensical propaganda about the dominance of the consumer's wishes, and in spite of the hundreds of thousands of dollars spent on consumer research, all of which comes out of her pocketbook, of course, the net result has not been to make it easier for her to make intelligent choices, but in fact, the very opposite.

In my own case, I spend more time on my shopping now, become more exhausted doing it, and have an increasing feeling of frustration and incompe-

tence. If, as has been stated by a leading consumer educator, the consumer's main responsibility in spending is to maximize her satisfactions, let me state unequivocally that present-day marketing practices make that virtually impossible.

Allow me to show you some of the practices which have led to my conclusions.

In the first place, food stores have been getting larger all the time. In great part, this is due to the multiplicity of brands, and more recently the unrestrained multiplicity of sizes which require continually increasing shelf space in the stores. If this multiplicity resulted in lower costs to the consumer, it might be at least partially justified in our free competitive system, which theoretically is supposed to work toward that end. But I find that having eight different brands of detergents on the store shelves doesn't make them any cheaper, and since the large number of brands and sizes requires so much more space, the store owner's overhead necessarily is increased, and results in increased cost to the consumer. Also, it means I have to cover that much more space when doing my shopping in the store.

Additionally, I find that some sort of game is being forced on me. I refer to the practice of having the contents in such odd amounts that only an expert with a slide rule or abacus can figure out comparative costs of the various brands, or decide among the various sizes of the same brands.

Take, for example, these two packages of chocolate chip cookies. One contains $7\frac{3}{4}$ ounces and the other $8\frac{1}{2}$ ounces. If I could learn to use either this abacus or this slide rule, and had lots of time, I might figure it out.

What is the per ounce cost of this tomato sauce which contains $7\frac{3}{4}$ ounces and sells at 2 cans for 17 cents; or this $6\frac{1}{2}$ -ounce can of tuna fish at 2 for 63 cents or this $9\frac{1}{4}$ -ounce can at 43 cents?

Notice also these packages of detergents. The packages as you can see are all the same size. One is called large, all the others are called regular. You would expect each of them to have the same contents. Instead, they range from 15 ounces to 1 pound, $5\frac{3}{4}$ ounces.

Or take these crackers varying from 8 ounces to $8\frac{1}{2}$, $9\frac{1}{2}$, $9\frac{3}{4}$, and 10 ounces. Instead of being able to decide by just comparing package price, I have to first work out the per ounce cost of each package separately. Such simple concepts as the pound and half pound have been thrown overboard, and one can only wonder why.

Surely, this cannot be as a result of ascertaining the consumer's wishes. This consumer would much prefer amounts in even multiples of ounces or pounds or pints. It would save me untold woman-hours, and make me feel I was able to do a much more competent job in making my purchases.

And while we have these detergent packages in front of us, let's look at them. Here are 5 packages, all the same size, yet they vary from 15 ounces to $21\frac{3}{4}$ ounces, almost 30 percent difference. The crackers which also are all the same size packages contain from 8 to 10 ounces, a 20 percent variation.

To make matters worse, that overrated (from the consumer's point of view) research has come up with ways of making containers appear larger while actually containing less. For example, take these instant coffee jars. The one which looks bigger contains only 5 ounces; these others which seem slightly smaller actually contain 6 ounces each.

These cola bottles are interesting. Here are two bottles. Do they seem to be the same size? Exhibit No. 20 has 12 ounces while exhibit No. 21 has 16 ounces. This can of cola which looks smaller has the same amount as exhibit No. 20. In cola bottles, confusion is made easier by the pernicious practice of pressing the size into the glass so that the dark liquid practically makes it impossible to find. Now look at these two bottles, both of which are marked very plainly and contrast sharply with exhibits Nos. 20 and 21.

Another example of this practice is these napkin packages. The cellophane package is the largest but contains 20 less napkins than this carton of 80. You can see how easy it is to mislead the consumer as to size.

The napkins bring me to a further point of discontent with today's marketing practices. To some extent we are being treated like Pavlov's dogs. As you may recall, Pavlov found that he could get certain responses from dogs by showing

them certain things. We get conditioned in the market in the same way. This carton of napkins, marked plainly 80, is a well-known product. Some time ago the label was changed slightly and the number moved. The consumer, if she noticed the change, and checked, was reassured that the contents still remained the same. Then, without any other change, the number of napkins was reduced to 70, still printed in this out-of-the-way place. Having conditioned us to think there were 80 napkins in the package, they must be hoping we will continue to think there are 80 in the package. What they don't realize is how mad it will make us to find out we've been deliberately misled. In all fairness to this napkin manufacturer, let me point out that he may have been forced to do this by the competition from this cellophane package of napkins which looks even larger than the carton but which contains only 60 napkins. This is another illustration of what effect puffing up has on competition.

Or take this package of soap pads, sold for years in this package with 12 pads plainly printed on the front. All of a sudden, without any change in size or format, the number of pads is decreased to 10, but the new amount no longer appears as plainly. I'm sure most housewives, buying this brand for years and years, continue to buy it without being aware of the change. Again this may have been forced on the manufacturer who was faced by a competitor who came out with the same size box as the 12-pad box, but containing only 10 pads. And the contents on this competitive box is so hard to find that the consumer would just give up in expectation that it was not different.

Consider these boxes of cereal. The old box contained 12 biscuits at 12 ounces. The new box still contains 12 biscuits but it weighs only 10¼ ounces.

Or these two cottage cheese cartons. We happen to use a lot of cottage cheese in our family, so I usually buy the larger package. At one time, it was always cheaper to buy things in the larger size (this is no longer to be depended upon). At any rate, these two packages are exactly the same size, and are the size which used to contain 2 pounds. One of these is an old carton and is marked 2 pounds, the other is a newer carton and now contains only 30 ounces. Again I feel that I'm being put upon. They must be hoping I won't notice the new weight since the package is the same size.

Another example of this same disgraceful attempt to fool the housewife can be seen in these two baby food jars. The older jar contained 4¾ ounces, the newer one contains 4½ ounces. If prices are going up, why try to hide it from the consumer? It reflects an attitude toward us which makes us feel cheated while at the same time belittling our intelligence.

Or take these two packages of wax paper. When stacked flat on the shelf they look alike in size. On one clearly marked is the amount, 125 feet. On the other, hidden, the amount is 75 feet. Here is another box of waxpaper by a competing company. The box has the same dimensions as the other two but it contains 100 feet of wax paper.

In order not to get fooled, one has to check each single package for content as is also true with these two cans of asparagus. Both are the 300-size can and, although different brands, both are from the same pack. Yet one contains 15 ounces while the other has only 14 ounces. Seeing them both next to each other on the shelf, one would conclude that only the price of the can need be compared.

It is no longer possible to rely on brand names. It is no longer possible to rely on outside package sizes. Each individual item, each individual brand, must be checked for content each time a purchase is contemplated. At any time, the quantity can be changed without any obvious outside change. It is no longer possible to count on the larger size being the better buy. These frozen orange juice cans show this clearly.

There is one more practice I'd like to mention which adds to the buyer's difficulties. That's another game which we apparently have to play, whether we have the time and inclination or not—it's a sort of button, button, who's got the button; or content, content, where is the content. I refer to the practice of putting the amount in such a place, and in such size type and color of ink, as to make it almost impossible to find and/or read. The cellophane packages are generally the worst offenders (candy packages) but it is also true on this can of a highly advertised cleanser, where the amount is spelled out in tiny black letters on this shiny green wrapper, and on these cola bottles.

If we had time, there are thousands of examples that could be shown to you which face the housewife every time she goes to the supermarkets. Personally, if I could afford it, I would never step into a supermarket. If I had unlimited funds, I would find myself a reliable delivery market that carried the quality of merchandise that I like, and which could be counted on to give honest treatment, and I would simply phone my orders in each week. It would be much less exhausting than walking endlessly through the huge supermarkets. The number of people who can afford such luxury is very small, however. Therefore I feel I speak for the overwhelming majority of consumers when I ask that something be done to eliminate some of the so-called progressive and modern practices in the marketplace, which are in reality hazards and obstructions for the consumer.

Since the industry itself seems to be going wild in introducing new complications every day, we must seek relief elsewhere, and we are particularly grateful to this subcommittee for your investigation.

For a moment, Mr. Chairman and members of the subcommittee, let me depart from the experiences of a housewife and deal with the problem in a historical framework. The confusion, obscurity, and complication of so-called modern packaging practices is strangely reminiscent of the chaos that prevailed in the Middle Ages when each country, each province, each city used a different type of measure in trading goods. Historians agree that one of the great steps forward was the adoption of a uniform standard of weights and measures which brought an end to the medieval chaos and encouraged trade and commerce to flourish between nations. Another great step forward, hailed by historians of the industrial age, was the standardization of products which made possible mass production of goods at prices accessible to a multitude of purchasers.

These two significant developments in the economic history of the world seem to be undermined by the curious customs and usages of modern product manufacturers. Instead of moving forward to greater precision and clarity in weights and measures and savings to the producer and the consumer through standardization of product, we find that we have moved backward into the chaos, confusion, and obscurity of the Middle Ages.

It can be argued that the medieval merchant didn't know any better; through lack of communications and facilities, he had little knowledge of the practices in other communities. This doesn't seem to be the case today. Producers have, if anything, too much knowledge of the practices of their competitors. They use this knowledge, it would seem, to confuse and demoralize the consumer. The producers can no longer claim that they are confused. But we, the consumers, do say that we are confused by the tactics, the competition of deception that are perpetrated on us.

The competition of deception must be very costly to industry. It must be expensive to produce, fill, and handle separate packages for 12-ounce, 22-ounce, and 1-quart quantities to win a pyrrhic victory in the battle for shelf space.

It must be expensive to periodically redesign packages to make them look bigger although they contain less. It must be costly to hire motivational research experts to determine which color and which design gives the consumer the illusion of better quality despite reduced quantity. It must be expensive to advertise through newspapers, television, and radio that the new package contains a new product requiring an unadvertised new higher price. This elaborate mechanism of deception and confusion must indeed be costly. It seems rather unfair to ask us, through increased prices, to pay for being deceived when we are virtually helpless to defend ourselves in the marketplace.

Not only are the increased costs of packaging passed along to us, but the very purpose of the packaging seems to be to mislead us into buying less for a higher price. Our inability to ascertain the price per unit-weight of products due to the obscurity of the placement and printing of weights and measures information and the fractionalization of the weight designations themselves when finally found and deciphered is costly to us over a period of time. We are prevented by all of this confusion and obscurity from shopping wisely in a marketplace that is increasingly more expensive.

We would therefore like to make the following recommendations in order to help the packaging industry emerge from the darkness of the new Middle Ages into the light of the modern world:

(1) Weights printed on packages are not always clearly legible or conspicuously placed. Therefore, we would recommend that all manufacturers of packaged foods and household products be required to print the weight or quantity on the main panel of the package under the brand name. The print size should be required to be proportionate to the label size.

(2) The fractional ounces and the wide diversity of package sizes are confusing to the consumer and make price-per-unit comparisons very difficult. Therefore, we would recommend that standardized package sizes and weights be developed and adopted. There is much precedent for this in such laws as those requiring standard liquor containers and defining a standard bushel and standard barrel, etc.

(3) Hidden price increases through the surreptitious reduction of product quantity is a deceptive practice. We urge manufacturers to forgo voluntarily this technique as a means of keeping faith with the consumer.

We greatly appreciate this opportunity to present our views to the subcommittee, and we congratulate you again for undertaking this important study. We will follow the course of these hearings with the greatest interest.



The following statement is a summary of the results of the study of the effect of the various factors on the rate of the reaction. It is based on the results of the experiments which were carried out in the laboratory of the American Medical Association, and on the results of the experiments which were carried out in the laboratory of the American Medical Association, and on the results of the experiments which were carried out in the laboratory of the American Medical Association.

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