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[Federal Trade Commission Needs to Strengthen Rules on Financial Disclosure]. HRD-78-141; B-103987. July 10, 1978. 3 pp.

Report to Michael Pertschuk, Chairman, Federal Trade Commission; by Gregory J. Ahart, Director, Human Resources Div.

Issue Area: Law Enforcement and Crime Prevention: White-Collar Crime (509); Consumer and Worker Protection: Consumers Protection from Unfair or Deceptive Trade Practices, Advertising, and Warranties (913).

Contact: Human Resources Div.

Budget Function: Commerce and Transportation: Other Advancement and Regulation of Commerce (403); Law Enforcement and Justice: Federal Law Enforcement and Prosecution (751).

Organization Concerned: Civil Service Commission.

Congressional Relevance: House Committee on Interstate and Foreign Commerce; Senate Committee on Commerce, Science, and Transportation.

Authority: =5 C.F.R. 735. =16 C.F.R. 5.

Civil Service Commission regulations state that employees who are responsible for making a decision or taking action which can have an impact on the interests of a non-Federal enterprise are required to file financial interest statements. Staff attorneys and paraprofessionals in the Federal Trade Commission's (FTC's) Bureau of Competition and staff economists in the Bureau of Economics are regularly involved with complaints against and investigations of private, non-Federal enterprises where their decisions and actions have an economic impact. FTC neither requires nor is currently proposing to require personnel in these positions to file statements of financial interest. The FTC should take steps to insure that all employees who perform duties which could influence the direction, scope, and results of its regulatory activities be required to file annual financial disclosure statements. (Author/HTW)

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

HUMAN RESOURCES
DIVISION

B-103987

JULY 10, 1978

The Honorable Michael Pertschuk
Chairman, Federal Trade Commission

Dear Mr. Pertschuk:

Our Office is currently reviewing the antitrust enforcement activities of the Federal Trade Commission's (FTC's) Bureau of Competition. One aspect of the review concerns the role and function of FTC staff attorneys, paralegals, and economists. We have noted that

--staff attorneys and paralegals in the Bureau of Competition and staff economists in the Bureau of Economics are regularly involved with complaints against and investigations of private, non-federal enterprises where their decisions and actions taken may and do have an economic impact on the interests of non-federal enterprises, and

--FTC neither requires nor is currently proposing to require staff attorneys, paralegals or staff economists to file statements of financial interest.

Service Commission regulations (5 C.F.R. 735.403(b)) state that employees classified at GS-13 or above who are responsible for making a Government decision or taking an action in regard to

--regulating or auditing private or other non-federal enterprises, or

--other activities where the decision or action taken has an economic impact on the interests of any non-federal enterprise,

are required to file financial interest statements. Section 735.403(d) provides that persons below GS-13, who otherwise meet the criteria described above, must also be required to file financial statements.

HRD-78-141

FTC's current standards (16 C.F.R. 5.32(a)) require incumbents of only a few positions to file financial statements. Proposed revisions to these standards, approved by FTC on June 1, 1978, and transmitted for approval to the Civil Service Commission on June 5, 1978, expand the financial reporting requirements to include additional positions. Occasionally, incumbents of these positions may be in grades below GS-13. For example, current standards for the Bureau of Competition require only the Bureau Director and Assistant Bureau Directors to file financial statements. The proposed standards would also require the Deputy Directors, Associate Directors, Deputy Assistant Directors, Executive Assistants to the Director, Assistants to the Director and Assistants to the Deputy Directors to file financial statements. The current and proposed standards, however, would require a financial statement to be filed based on the title of an individual's position rather than the individual's responsibility. Under these requirements it is possible that a GS-15 lead attorney or GS-12 staff attorney with major responsibility for an investigation would not be required to file a financial statement.

Our Office has found a great variance among Federal agencies as to the levels of responsibility of incumbents of positions which must file statements. Some agencies require no one below GS-13 to file; others go as low as GS-5. We believe that requirements for filing financial statements should be based on the responsibility of a position and not the grade level or title of a position.

Our review shows that FTC staff attorneys, economists, and some para-professional staff perform duties which could have an adverse impact on the economic interests of private industries. Such duties include gathering data through voluntary and compulsory processes to identify possible violations of antitrust and other statutes, conducting non-public hearings with industry officials, conducting economic studies of industries which could lead to investigations and legal action, and recommending that legal action be initiated to stop anticompetitive practices.


Decisions and recommendations resulting from the above activities are initiated by staff members who are not required to file financial statements. Higher level supervisors who are responsible for initiating actions based on such recommendations may see only what is brought to their attention, whereas the most serious effect of a conflict of interest might be an omission of important information.

We recommend that FTC take steps to insure that all employees, regardless of title or grade level, who perform duties which could influence the direction, scope, and results of FTC's regulatory activities be required to file annual financial disclosure statements.

We would appreciate receiving your comments on the above recommendation. Also, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this letter to the Chairmen of the Civil Service Commission; House Committee on Government Operations; Senate Committee on Governmental Affairs; Subcommittees on the Departments of State, Justice, Commerce, the Judiciary, and Related Agencies of the House and Senate Appropriations Committees; Subcommittees on Consumer Protection and Finance and Oversight and Investigations of the House Committee on Interstate and Foreign Commerce; Consumer Subcommittee of the Senate Committee on Commerce, Science, and Transportation; Subcommittee on Monopolies and Commercial Law of the House Judiciary Committee; and Subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee.

Sincerely yours,


Gregory J. Ahart
Director