

LEGISLATION AND REGULATIONS

FTC-FDA working agreement to achieve effective economical control of food, drug advertising

THE RECENT WORKING AGREEMENT between the Federal Trade Commission and the Food and Drug Administration is expected to result in more efficient control of food and drug advertising (AG AND FOOD, July 7, page 752). The working agreement points out that there is a close parallel between the provisions of the Federal Trade Commission Act which deals with advertising and the labeling requirements of the Federal Food, Drug and Cosmetic Act. This parallel has resulted in an overlapping of enforcement activities between the two agencies.

Food and Drug Act

The FDA is responsible for enforcement of the Federal Food, Drug and Cosmetic Act. The act covers foods, drugs, and devices in interstate commerce, and makes misbranded or adulterated arti-

cles illegal. Under the food and drug law an article is considered to be misbranded if its labeling is false or misleading in any way. When the FDA finds a violation of the law, a recommendation is made to the Department of Justice for seizure of the item or an injunction or criminal prosecution.

The FDA enforcement activity often requires extensive court action and expense. Injunctions and seizures usually must be approved by the courts before they can be put into effect and if the alleged violator wishes to oppose the FDA action involved court actions often result. With the recent cut in the FDA budget and personnel, the agency has announced that it will have to curtail many of its enforcement activities, and in the public interest it seems likely that the least harm would result from a curtailment of food surveillance activities.

The cooperative agreement between FDA and FTC may, however, help to fill in the gaps in the FDA program.

Federal Trade Commission Act

The enforcement procedure by the FTC is in many ways more economical for court action is usually not necessary until late in the proceedings. The FTC issues complaints against advertising which its examiners believe to be false or misleading. Following the complaint the advertiser and FTC representatives meet for a hearing on the question and as a result of the hearing the commissioners of the FTC issue an order, often to restrain the advertiser. The advertiser can then appeal this order to the federal courts. The FTC has recently adopted a policy to try to iron out its enforcement activities and prevent court appeals. The new policy calls for the FTC representatives to meet with the advertiser and get an informal agreement to modify the advertising. If the two agencies can make a reality of the working agreement, the result may be more efficient, economical supervision of labeling and advertising of food and drug products.



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