petently and objectively, exhibiting a restraint derived not only from scholarship but from experience. Little is said that has not been said before, but they have said it in an interesting and useful context. Their book deserves to be more widely read than, in all probability, it will be.

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ADVERTISING AT THE CROSSROADS: FEDERAL REGULATION VS. VOLUNTARY CONTROLS. By Max A. Geller. New York: The Roland Press Company, 1952. Pp. xi, 335. $5.00.

THIS is a surprising book about the regulation of advertising. From the publisher's handouts and from the stuff on the jacket, and from the author's background too (he is a fabulous combination of advertising man-lawyer-Ph.D.-business executive), you expect an angry blast at the wicked bureaucrats. You know before you start where the signposts at those well-worn cross-roads point. One—the one labelled "Federal Regulation"—is the road to regimentation and socialism. The other—the one labelled "Voluntary Controls"—leads to free enterprise, gently and beneficently guided by trade associations.

No such thing. Dr. Geller is in favor of free enterprise all right. And he wishes advertisers would restrain themselves. But he demonstrates dispassionately that there are persistent strains of untruth and deception and bad taste in advertising. They are not entirely the product of fly-by-night operators either. The author points out that the Federal Trade Commission in one year, 1951, issued orders to refrain from deceptive practices against "such major advertisers as Sterling Drug, Bristol-Myers, Emerson Drug, P. Lorillard Company, Reynolds Tobacco Company, Miles Laboratories, American Tobacco Company, and many others."[1]

Far from denouncing the FTC, which has the heaviest responsibilities of the various federal agencies engaged in regulating advertising, he urges that its appropriations be increased so that its staff can be enlarged. He notes that the lapse of time between the beginning of a proceeding and the effective date of an order (six months at least, and much longer if an appeal is taken) makes it possible for an advertiser to embark on a deceptive campaign with every prospect of winding it up before he is caught. Indeed, the FTC reminds you of the police in a stereotyped murder mystery, always one body behind the killer. To eliminate this kind of paper-chase, Dr. Geller suggests some substantial extensions of the FTC's authority, notably rule-making power backed up by penal sanctions, and a right to temporary injunctive relief in the District

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1. P. 258.

Courts—not just in food, drug, and cosmetic cases, as the law stands presently, but in all false advertising cases.

Even within the FTC's present powers there is room, Dr. Geller thinks, for a daring extension of the scope of its orders. Noting that the Commission has taken some hesitant steps toward citing advertising agencies as well as advertisers, he cheers it on. Then he sets off a bombshell that should have rocked Madison Avenue:

> "Newspapers and magazines should definitely be made respondents in proceedings against false and deceptive advertising. Since they have the unquestioned right under their contracts with the advertiser to reject such copy, they need have no difficulty in adhering to standards of decency and propriety. What has been said about periodicals applies equally to making radio and television stations respondents."[2]

It is a matter of FTC "policy," Dr. Geller was advised, not to include media in its orders; and he voices a mild "suspicion that the failure to include the periodicals in the proceedings because of policy is due more to a fear of the Fourth Estate than to any lack of power to do so."[3] The only trouble with this recommendation is that it would swamp the FTC with respondents' attorneys. One complaint against an advertiser, its agency, and even a representative collection of networks, magazines, and other major media would make the crowded investment bankers' antitrust case look like a rural police court on a dull day.

In addition to the regulation of deceptive advertising, this book is also concerned with the paradox of rising advertising outlays in a period of inflation and short supplies. Dr. Geller was writing during a phase of the rearmament (1951) when the curtailment of consumption seemed more urgent than it does now, and when high taxes (as they still do) made advertising bills look painless, compared to the wry choice of turning over the same dollars to the government in excess profits tax. To the author (and to me) there is something perverse, whatever the tax situation, in leaving such an inflationary engine unchecked. He consequently examines with interest a controversial proposal for a tax on advertising made in 1951 by the staff of the Congressional Joint Committee on the Economic Report (*not* by the Committee itself; Dr. Geller here fell into a common error). He reports that the threat of a similar tax in England led in 1948 to a voluntary plan for reducing advertising outlays in which the government apparently concurred; but his conclusion is unfavorable to such a tax. Instead, he makes a remarkable recommendation for explicit Congressional limitation of the amounts advertisers can deduct as a reasonable expense for income tax purposes. These limitations should be tightened during inflations and relaxed during a deflation. I wish the author had pursued

2. P. 266.
3. *Ibid.*

this suggestion further, because there is a practical difficulty about his plan that he, as a businessman, might be able to resolve. The trouble is that the volume of advertising varies so much from industry to industry that an overall limitation bearable by the soapmakers would be no limitation at all for anybody else. But if you impose different limitations on one industry than on another, perhaps using an historical basis, you introduce factors requiring administrative discretion. To whom should it be entrusted? Under what legislative standards?

Dr. Geller's reform proposals are not all directed against the advertisers. He comments on the present overlaps of jurisdiction between the Post Office and the FTC, and between the FTC and the Food and Drug Administration. He advocates a more liberal use of advisory opinions, especially by the FTC if it is given more stringent sanctions. I am inclined to agree that this is a field where prior clearance is administratively feasible and desirable, in contrast to its limitations in restraint of trade cases. But I would require full disclosure to the Commission of all relevant facts, and even then I would make prior clearance a bar only to injunctive and penal sanctions. The Commission should always be free to enter a cease-and desist order if public outcry or unforseen hazards (such as the flammable sweaters of last winter) come to light.

In my admiration of the general tone of this book, I do not want to overpraise it. Taken as a whole, it is a quite elementary survey of the advertising industry and the chief regulatory agencies. It would be about right for a college course in Consumer Economics. Though there are extended discussions of the commerce power and the postal power as they apply to the FTC and to mail fraud respectively, the book is not intended, and would have no value, as a legal reference work.

Its value lies in the standing of the author. Were he only a Ph.D., the book would probably have been ignored, or denounced as ivory-tower system-wrecking. But Dr. Geller is no long-hair. He is simultaneously president of his own successful advertising agency and of the ancient New Haven Clock and Watch Company. He is not, so far as I know, being cut dead at the Advertising Club; nor should he be, because his conclusions are presented judiciously and with adequate evidence.

I revert to one other matter mentioned at the beginning of this review. The publisher of this book gives in the accompanying publicity a rather misleading impression of it. This is of course a stale complaint by reviewers who have read the work they are discussing, and a trap for those who haven't. I should like to see the FTC pounce on some publishers for misbranding, both of books and magazines. In the latter field I have particularly in mind a well-known journal of quite decided opinion that persists in calling itself "The Weekly Newsmagazine."

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