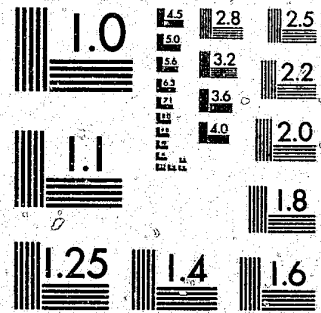


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THE CONSUMERS' ADVISORY COUNCIL

The Consumers' Advisory Council, established by KRS 367.130, is composed of sixteen members, appointed by the Governor, for one year terms. The Attorney General is an ex-officio member of the Council and serves as its Chairman. The Council is presently divided into two committees, Education and Legislation, through which most of its important functions are performed.

The Staff Attorneys and Consumer Protection Specialists in the Attorney General's Consumer Protection Division provide much of the information and research necessary for the Council's activities. The Consumer Education Specialist serves as the administrative assistant to the Council.

The Council met on five separate occasions in 1979. In addition, the Council's Legislative Committee met five times and its Education Committee met on one occasion.

KENTUCKY CONSUMERS' ADVISORY COUNCIL

1979

The Honorable Robert F. Stephens, Attorney General, who resigned as of 12-79.

The Honorable Steven L. Beshear, Attorney General, Chairman.

Mr. James Allen, Martin, Kentucky, who replaced Jesse C. Mansfield, Bowling Green, Kentucky, whose term expired as of 12-8-79.

Mr. Jesse Alverson, Paris, Kentucky

Mrs. C'Allen Chauvin, Louisville, Kentucky

Mr. Harry Haake, Villa Hills, Kentucky

Mrs. Everett Hall, Shelbyville, Kentucky

Mr. Edward F. Hessel, Louisville, Kentucky

Mr. John D. Hinkle, Georgetown, Kentucky

Mrs. Nelle P. Horlander, Louisville, Kentucky

Mr. Richard L. Hurst, Lexington, Kentucky

Mr. E. W. Kessler, Louisville, Kentucky

Mrs. Mary McBrayer, Lexington, Kentucky, who replaced Thomas J. Rusch, Jr., Louisville, whose term expired on 12-8-79.

Mrs. Evelyn Page, Morgantown, Kentucky, who replaced Avil McKinney, Louisville, whose term expired on 12-8-79.

Dr. Shirley M. Snarr, Lexington, Kentucky

Mrs. Mary Summe, Ft. Mitchell, Kentucky

Mrs. Carol Vance, Lexington, Kentucky, who replaced Margaret Simon, Louisville, whose term expired on 12-8-79.

PROPOSALS

In 1979, the Consumers' Advisory Council recommended a legislative package to the 1980 General Assembly which included eleven specific remedies for consumer problems. The proposals were made only after in-depth research by both Consumer Protection staff members and the Consumers' Advisory Council. The Council considered a host of proposals not included in the legislative package.

The specific legislative proposals focused on the following topics:

1. New Car Lemon Bill
2. Auto Repair Bill
3. Small Claims "Clean Up" Bill
4. Small Claims Post-Judgment Collection Bill
5. Materialmen's Lien Bill
6. Automobile Recall Bill
7. Health Spa Bill
8. Buying Club Bill
9. Dance Studio Bill
10. Plain Language Bill
11. Usage Tax Concept

Each bill failed to pass the General Assembly.

ATTORNEY GENERAL'S DIVISION OF CONSUMER PROTECTION

Kentucky's Consumer Protection Division was established by legislative mandate in 1972. The Division's duties are outlined in the Consumer Protection Act as follows:

- A. the administration and enforcement of that portion of the Consumer Protection Act which prohibits "unfair, false, misleading, or deceptive acts or practices": [KRS 367.170]
- B. the investigation of consumer matters: [KRS 367.150(3)]
- C. the review, mediation, and compilation of consumer complaints: [KRS 367.160(6)]
- D. the intervention before rate-making and regulatory bodies on behalf of consumers' interest: [KRS 367.150(8)]
- E. the organization and promotion of consumer education: [KRS 367.150(7)]

The Consumer Protection Division is divided into four main sections: fraud litigation, consumer services, consumer education, and utility intervention. Each section has separate and specific functions, yet works in close cooperation with each of the other sections.

STAFF OF THE CONSUMER PROTECTION DIVISION

Robert F. Stephens	Attorney General (Appointed to Kentucky Supreme Court, 12-79)
Steven L. Beshear	Attorney General
Robert V. Bullock	Assistant Deputy Attorney General (Transferred 12-79)
Maurice A. Byrne, Jr.	Assistant Deputy Attorney General
Ruth H. Baxter	Assistant Attorney General (resigned 12-79)
Glenda Beard	Assistant Attorney General
Michael Beiting	Assistant Attorney General (transferred 7-79)

Mark Dobbins	Assistant Attorney General
Barbara Hynson	Assistant Attorney General
Richard L. Masters	Assistant Attorney General
John Miller	Assistant Attorney General
Leslie Patterson	Assistant Attorney General (resigned 7-79)
Richard Raff	Assistant Attorney General
Kay Randall	Assistant Attorney General
Barbara Willett	Assistant Attorney General
Richard O. Wyatt	Assistant Attorney General
Marc Craft	Investigator
Susie G. Oldham	Investigator
Jeanie Owen-Miller	Consumer Education Specialist
Jarmilia Booker	Consumer Protection Specialist
Barbara Browne-Burnette	Consumer Protection Specialist
Wayne J. Clarke	Consumer Protection Specialist
Judy Chaney	Consumer Protection Specialist (resigned 5-79)
Nancy S. Farley	Consumer Protection Specialist
Thomas Lee Gentry	Consumer Assistant
Ramona Ramsey Ross	Consumer Assistant
Ben Douth	Utility Analyst
David P. Grise	Administrative Intern
Maria S. Zaboronak	Administrative Intern (resigned 8-79)
Darlyne Azbill	Legal Secretary
Anna Boggess	Senior Clerk Typist
Gelonda Bond	Legal Secretary
Carol Cunningham	Chief Clerk Typist (resigned 7-79)
Sarah Duncan	Legal Secretary
Susan Foster	Legal Secretary
Ruth Furnish	Legal Secretary
Juanita Glass	Clerical Staff Supervisor
Terry Kyle	Chief Clerk Typist
Marguerite Lowery	Legal Secretary
Marrater Randolph	Legal Secretary (transferred 3-79)
Kim Smith	Clerk Stenographer
Mary Warfield	Legal Secretary
Donna Williams	Chief Clerk Typist
Betty Wilson	Clerk

LITIGATION SECTION

Twenty-two (22) new actions were filed by the Office of the Attorney General pursuant to the Kentucky Consumer Protection Act during 1979. Litigation continued on another twenty-nine (29) actions filed in previous years by the Litigation Unit, thus making a total of fifty-three (53) actions that were litigated by the Office during the year.

Litigation of these consumer protection actions continued under the auspices of the Special Prosecutions Division, Consumer Protection Litigation Unit with close liason with the Consumer Protection Division. Effort was made, furthermore, to coordinate civil and criminal prosecutions of consumer frauds with the assistance of state Commonwealth and County Attorneys. Attorneys from the Consumer Protection Litigation Unit participated in three criminal proceedings for consumer frauds.

Moreover, 1979 marked the first prosecutions under the Kentucky Business Opportunity Act, KRS 367.801 es seq., by the Consumer Protection Litigation Unit. The Act, which became effective June 18, 1978, requires all persons selling business opportunities to register with the Kentucky Department of Banking and Securities, post a \$25,000 bond, and disclose certain financial information about its business opportunity. Civil and criminal remedies are available to the Attorney General and to local prosecutors. In 1979, the Consumer Litigation Unit sought and obtained six (6) criminal indictments for violations of the Business Opportunity Act in Daviess and McCracken Counties. Civil suits for violating the act were filed in Franklin and Warren counties. Expanded prosecution under this Act is expected with the assistance of the Commonwealth Attorneys.

The following list explains in detail the subject matter and status of all cases currently being handled by the Litigation staff:

ABAC PEST CONTROL, et al. (1976) Kenton Circuit Baxter

In February, 1978, the Commonwealth was awarded a judgment against the defendant for violation of the Consumer Protection Act. The Court found that the defendant has misrepresented his intentions to sell contracts for termite control to consumers and the nature and extent of damage in their homes. A civil penalty of \$1,000 was awarded. This case is pending.

ACCENT HOSIERY, INC. (1979) Warren Circuit Miller

Suit was filed in mid-November, 1979, against this seller of business opportunities. The Commonwealth alleges that the defendant has failed to register with the Division of Securities and its agents have misrepresented to consumers the earnings potential of distributorships. This case is pending.

ALL FURNITURE SALES (1978) Fayette Circuit Baxter

A permanent injunction was entered against the defendant for his refusal to deliver appliances and furniture. Defendant appealed this injunction and all of his appeals were dismissed. Restitution hearings are still pending in circuit court.

BUDGET MARKETING, et al. (1976) Oldham Circuit Baxter

The Kentucky Supreme Court, in a unanimous decision, upheld the Court of Appeals' decision finding the Kentucky Subscription Sales Act constitutional. The Court deemed KRS 367.510-.540 within the "police powers" of the state and not in violation of the commerce clause.

CONCERNED CITIZENS COMMITTEE (1978) Fayette Circuit Willett

Complaint alleged the defendant engaged in charitable solicitations in violation of the Charitable Solicitations Act and the Consumer Protection Act. A temporary restraining order was granted December 15, 1978. Defendant has been charged with violating the temporary restraining order. Partial hearing to determine whether the defendant should be cited for contempt was heard on November 28, 1979, and has been continued to February 5, 1980.

COSMOPOLITAN SPA (1978) Fayette Court Baxter, Dobbins

Suit was filed against this company for false advertising, high pressure sales tactics, sale of contracts for health club and health spa memberships, and unfair collection methods. The Commonwealth is seeking an injunction, restitution, and civil penalties as well as a revision of the Spa's contract and disclosures prior to the sale of a membership. The case is pending.

COTTONGIM DRUG (1979) Whitley Circuit Baxter

This law enforcement action was filed pursuant to the Kentucky Generic Drug Law and the Consumer Protection Act for alleged violations of each act. Discovery has been taken and the case is pending.

ETHERIDGE ELLIOTT (1979) Lincoln Circuit Dobbins

Attorney General alleges that Etheridge Elliott altered the mileage shown on the odometer of the vehicle he offered and transferred. Agreed order entered into.

GELLER STORES COMPANY, INC. (1979) Hart Circuit Miller

Commonwealth alleged that defendant held a going-out-of-business sale for five months without obtaining a license and while bringing in additional goods to sell. An Agreed Judgment was entered assessing a civil penalty of \$1,200, which has been paid. A permanent injunction was also issued and the case is closed.

GENERAL MOTORS CORP. (1978) Franklin Circuit Bullock

The Commonwealth alleged that General Motors violated the Consumer Protection Act by placing Chevrolet engines in vehicles designated as Oldsmobiles. Similar switches of engines and "other major parts" were made of vehicles manufactured by General Motors. An agreement was obtained prohibiting such practices and providing for restitution in the amount of \$200 per consumer. Extended warranties were also provided to owners. Approximately 900 consumers have received restitution.

HAMILTON PRODUCTIONS (1979) Fayette Circuit Dobbins

Violations of the Charitable Solicitations Act were alleged as well as unfair and deceptive conduct in the unauthorized solicitations on behalf of charitable organizations. The defendants have moved to dismiss on the grounds that the Charitable Solicitations Act is unconstitutional. The case is pending.

JIM HANNON OLDSMOBILE (1975) Jefferson Circuit Bullock

The Commonwealth alleged the defendants were overcharging consumers on automobile usage tax. Agreement was made providing restitution to all overcharged consumers.

iii BEEF OF ADAIR COUNTY (1976) Adair Circuit Dobbins

Fraud in the sale of securities by an agricultural cooperative was alleged by our office. The case is pending.

iii BEEF OF ESTILL COUNTY (1976) Estill Circuit Miller

Fraud in the sale of securities by an agricultural cooperative was alleged by our office. Judgment against two defendants was entered November 8, 1978. A receiver has been appointed to collect assets for restitution to consumers and civil penalties. Auction of defendant's real property should occur in early 1980. A corresponding criminal action was prosecuted by the office and the defendant was found guilty and sentenced to prison.

TOM ISAACS, et al (1977) Franklin Circuit Bullock

Commonwealth alleged in complaint in lower court that the defendant was engaging in an unfair practice as an owner of an apartment complex by threatening to evict tenants who complained about living conditions. It was further alleged that the defendants failed to promptly return security deposits. The case was dismissed in lower court for mootness because the tenants eventually moved out. The Court of Appeals reversed the lower Court, holding that the matter was not moot. Case remanded and pending before Circuit Court.

IMOCO, et al. (1979) Franklin Circuit Baxter

Defendant's failure to deliver mail order merchandise and the use of "gift certificates" is the subject matter of this action. A default judgment was obtained against one of the five defendants. The case is pending against the remaining defendants.

KENTUCKY HOME PORTRAITS, et. al. (1975) Willett
Jefferson Circuit

Defendant's practices of respresenting "special offers" for nonexistent color portraits, and failure to deliver photographs within prescribed time was the subject of Commonwealth's complaints. The case has proceeded through discovery and is pending.

KENTUCKY SOUND COMPANY (1978) Fayette Circuit Dobbins

Suit was filed jointly with the Commonwealth Attorney, 30th Judicial District, for an alleged violation of KRS 367.170, which prohibits unfair, false, misleading, or deceptive acts or practices, in accepting stereo equipment for repair and then closing the establishment without any effort to return the equipment or to notify the owners of the establishment's closing. Equipment owners were unable to get possession of their property. By order of the court, the majority of equipment owners were able to obtain their property. Case is still pending.

JAMES R. LAMASTUS, d/b/a CARPET CITY (1979) Baxter
Muhlenburg Circuit

Defendant's failure to register for a "going-out-of-business" sale resulted in this action for injunctive relief. A restraining order was obtained prohibiting business during the pendency of the case, and a default judgment hearing is pending.

LEATHER CHEST (1979) Daviess Circuit Baxter

This case represents the first prosecution by the Attorney General under KRS 367.801, et seq. Indictments were obtained by the Commonwealth pursuant to the Business Opportunity Act against three defendants for their failure to register with the Kentucky Department of Banking and Securities as required by the Act. Extradition procedures are now pending.

LEXINGTON DODGE V. COMMONWEALTH (1977) Baxter
Fayette Circuit

Plaintiff sued the Commonwealth requesting a court injunction forbidding the Commonwealth from filing suit. The Consumer Protection Division investigated plaintiff for possible violations of the Act and was prepared to sue. The Commonwealth filed a counter-claim against the company for violations of State Consumer Protection Act and odometer rollback laws. The case is pending.

DALE MEREDITH d/b/a HEALTH GLOW (1977) Baxter
Fayette Circuit

As a result of a Federal District Court bankruptcy proceeding, the Commonwealth was limited to seeking only

injunctive relief against defendant Meredith for alleged misrepresentations in the sale of business opportunities. A permanent injunction was obtained prohibiting future sales in the Commonwealth, and the case was closed.

MOHAWK MARKETING (1979) McCracken Circuit Baxter

The Commonwealth Attorney, 2nd Judicial Circuit, obtained criminal indictments with the assistance of the Attorney General's Office against three defendants for violation of the Kentucky Business Opportunity Act. Indictments were also obtained for theft by deception and false advertising. The Commonwealth has been unable to locate the defendants for extradition at this time.

MOTEL TRAINING COMPANY OF AMERICA (1974) Bullock
Jeffersson Circuit

Complaint alleged defendants were engaged in misrepresentations concerning nature and character of its motel-hotel training programs, employment opportunities, salaries, and advancement potential of those who complete the course. Trial was held March 17, 18, and 19, 1976, and an injunction was issued. Restitution was obtained and forwarded to consumers in 1979.

MR. TRANSMISSION, et. al. (1976) Jefferson Circuit Baxter

An Agreed Order was entered by the parties in 1976 in which defendants were permanently enjoined from "bait and switch" advertising. Further restitution was awarded to consumers who had unauthorized repair work performed. Civil penalties were granted to the Commonwealth. All consumers have received their monies under the terms of the order, and the case is closed.

NATIONAL BUYERS CO-OPERATIVE, INC. (1979) Patterson
Fayette Circuit

Complaint alleged false savings claims in connection with defendants' sale of advance fee memberships in the buying service. The case was settled and \$3,977.25 has been paid to consumers in restitution. Additional restitution is to be completed when escrow funds are released by the Master Commissioner.

NATURAL PORTRAITS (1979) Montgomery Circuit Baxter

Defendants' failure to deliver oil portraits sold by door-to-door sales resulted in this suit. Following an injunction proceeding, an Agreed Order was reached whereby defendants were enjoined from failing to deliver ordered portraits as promised, and restitution was made to those consumers who had not received their pictures.

NEW VENDING (1979) Franklin Circuit Baxter

A Civil Action was filed under the Business Opportunity Act for defendants' failure to properly register and subsequently amend their registration statement as is required pursuant to KRS 367.801 et seq. A restraining order was granted prohibiting the defendants from doing business in the state until compliance with the statute has been met. The case is pending.

NORTH AMERICAN VAN LINES (1977) Jefferson Circuit Baxter

The Kentucky Court of Appeals reversed the Jefferson Circuit Court decision that dismissed the Attorney General's action for violation of the state Consumer Protection Act. The Court ruled that the Attorney General could sue whenever he had reason to believe a violation of the statute had occurred regardless of the status of the alleged victim. The Kentucky Supreme Court has agreed to review the decision.

ORKIN EXTERMINATING CO. (1977) Jefferson Circuit Baxter

An administrative proceeding before the state Department of Natural Resources and Environmental Protection was sought by the Commonwealth to revoke the company's authority to do business in the state for alleged violations of the state pesticide statute. Hearings were held over a five month period and the administrative judge ruled that, while violations of the act had occurred, the company's license would be renewed. Subsequent contempt action against the company for violations of the 1977 Jefferson Circuit Court Agreed Order are pending.

PADUCAH HEALTH & SWIM CLUB (1977) McCracken Circuit Miller

The Commonwealth filed suit in November, 1979, alleging defendants solicited and procured purchases of memberships in the club through misrepresentation. The club never opened. The case is pending.

PEYTON HOMES, INC. et at. (1976) Hopkins Circuit Baxter

Action against a builder who failed to honor warranties given on new homes was dismissed, since the individual quit the construction business.

PIONEER MOTORS, INC. (1979) Mercer Circuit Miller

Suit was filed in October, 1979, against this used car dealer alleging numerous odometer rollbacks. The case is pending.

POWERS TRANSMISSIONS (1979) Jefferson Circuit Willett

Complaint filed July, 1979, charging the defendant with bait and switch practices, improper repairs and unauthorized repairs on transmissions. Discovery is being conducted and the case is pending.

PRESCRIPTION SHOPPE (1979) Whitley Circuit Baxter

Defendants' alleged failure to comply with the Kentucky Generic Drug Act was the subject of this suit. A motion for summary judgment on the issue of liability only is currently pending.

PROGRESSIVE FARMER, INC. et. al. (1979) Baxter
Scott Circuit

Defendants engaging in the advertising, offering for sale, and selling of memberships in a buying service through which members, upon payment of an initial fee, may purchase farm supplies and equipment, household furnishing, and other merchandise were sued by the Commonwealth. This case was set for trial in May, 1979, but was continued until spring, 1980.

QUALITY HOME ALUMINUM, et al. (1978) Willett
Jefferson Circuit

Commonwealth has alleged that defendants have misrepresented their home improvement services and products, and also violated the Kentucky Referral Sales Law and Home Solicitation Law. The case is pending and still undergoing discovery.

RENTEX, INC. (1976) Jefferson Circuit Willett

Final Agreed Order obtained prohibiting defendants from advertising rental property and collecting service fees

when the rental property was unavailable. Defendant has left state and the case is closed.

ROYAL AMERICA CHINCHILLA (1979) Oldham Circuit Dobbins

Commonwealth alleged that defendant misrepresented quality of animals, possible profits and buy back agreement. Case still pending.

SAFETY CLUB OF AMERICA (1979) Fayette Circuit

Misrepresentations in the sale of business supplies to small businesses resulted in the filing of this action by the Commonwealth against the five defendants. The case is pending.

ST. MATTHEWS DODGE, INC. (1975) Patterson
Jefferson Circuit

The Commonwealth alleged that consumers were overcharged on usage tax in connection with the purchase of new automobiles. The defendants agreed to reimburse those persons overcharged and the case was closed via an Agreed Order.

TACKETT'S FURNITURE (1979) Greenup Circuit Baxter

The Commonwealth received a restraining order against the defendant for his failure to obtain a license for a going-out-of-business sale. The case was subsequently settled when defendant ceased doing business in the Commonwealth.

TOPPER'S USED CARS (1979) Hardin Circuit Willett

The complaint, filed in July 1979, alleged that Topper Davis, conducting business as a used car salesman, had violated the Consumer Protection Act by making false representations on the contract for sale of automobiles such as overcharges for license and transfer fees and charges for automobile insurance, when such automobile insurance did not exist. A trial date has been set.

TOYOTA OF LEXINGTON (1979) Fayette Circuit Patterson

Restitution, injunctive relief, and civil penalties were obtained for defendant's overcharges of sales tax in the sale of motor vehicles. The company's business practices were also ordered as a condition of settlement of this action.

ULTRAGUARD, et. al. (1979) Fayette Circuit Miller

An illegal pyramid sales scheme and misrepresentations to investors and consumers is the subject matter of this action filed against two Tennessee corporations in October, 1979. The case is currently pending in Fayette Circuit Court.

U.S. ELECTRONICS CORP. (1978) Fayette Circuit Baxter

Defendants were engaged in the business of selling alleged security devices to merchants in the Commonwealth. Suit was filed and a restraining order issued prohibiting them from failing to disclose the true nature and extent of the materials that they sold prior to the time of the sale. Default judgments were obtained against all four Defendants and the suit for restitution is pending.

VANGUARD OF LEXINGTON (1978) Fayette Circuit Baxter

Suit was filed by the Commonwealth for defendants failure to obey a Civil Investigative Demand issued by the Attorney General. Default Judgment was awarded to the Commonwealth when the defendants failed to reply to the suit and a permanent injunction was entered prohibiting them from doing business in the state until they complied with the demand. The case was subsequently closed when defendant furnished the requested information and agreed to cease doing business in the Commonwealth.

VANGUARD OF LOUISVILLE (1978) Jefferson Circuit Baxter

Suit was filed by the Commonwealth for defendants failure to obey a Civil Investigative Demand issued by the Attorney General. Default Judgment was awarded to the Commonwealth, when the defendants failed to reply to the suit and a permanent injunction was entered prohibiting them from doing business in the state until they complied with the demand. Efforts to collect the \$5,000 civil penalty assessed continued throughout the year to no avail.

VENTURE PRODUCTS, et al Jefferson Circuit Cullen

The Commonwealth is attempting to collect on the judgment awarded in 1975 for \$272,571.15 for defendants' violation of the Kentucky Consumer Protection Act.

VOLUNTEER BRAILLISTS, INC. (1975) Fayette Circuit Baxter

The complaint alleges a charity fraud in which defendants misrepresented their association with various handicapped

and/or veteran groups. An Agreed Order was entered into with the Commonwealth in which defendants relinquished all of their assets to the Lexington Braille Guild. Suit against the remaining defendant is pending.

JIM WALTER HOMES, INC. (1978) Baxter, Dobbins
Perry Circuit

An Agreed Order was entered into by the parties in 1978 providing restitution to all homeowners with construction defects of houses built by defendants. The Order provided for inspections of all homes and the issuance of a ten (10) year warranty on defects corrected. Inspections on some 860 houses have been completed and post agreed order inspections have been made to assure compliance with the Agreed Order.

WAYNE'S AUTO (1978) Scott Circuit Willett

Complaint filed April 17, 1978, charged defendant with odometer rollback practices. In August, 1979, the parties entered into an Agreed Order with penalties and costs paid by the defendant in the amount of \$750.00

MONEY JUDGMENTS OR RESTITUTION AND CIVIL PENALTIES FOR 1979

<u>CASE</u>	<u>Amount of Restitution</u>	<u>Civil Penalties</u>	<u>Collected To Date</u>
Geller Stores Company, Inc. (1979)		\$ 1,200.00	\$ 1,200.00
General Motors Corp.	\$180,000.00		\$180,000.00
Mr. Transmission (1976)	\$ 1,026.02		\$ 1,026.02
Motel Training	\$ 33,287.52		\$ 33,287.52
Natural Portrait (1979)	\$ 1,145.00		\$ 695.00
Orkin Exterminating Co. (1977)	\$ 2,278.00	\$10,000.00 ¹	\$ 12,278.00
Rentex (1976)	\$ 428.00		\$ 428.00
St. Matthews Dodge (1975)	\$ 1,623.97	\$ 3,500.00	\$ 5,123.00
Toyota of Lexington (1979)	\$ 2,211.15		\$ 2,211.15
Volunteer Brailleists (9175)	\$ 700.00		\$ 700.00
Jim Walter Homes (1978)	\$594,932.23 ²		\$594,932.23
Wayne's Auto (1978)	\$ 750.00		\$ 750.00
TOTALS :	\$818,381.89	\$14,700.00	\$832,630.92

(1). Money paid to Commonwealth for expenses incurred in the prosecution of the action in lieu of civil penalties.

(2). \$99,462.64 of this amount was incurred in repairs done to consumers' homes.

ASSURANCES OF VOLUNTARY COMPLIANCE

Pursuant to KRS 367.230 of the Kentucky Consumer Protection Act, when the Attorney General believes it to be in the public interest, he may accept an assurance of voluntary compliance from those businesses or persons whom the Attorney General has reason to believe engaged, or are about to engage, in unfair, false, misleading, or deceptive acts or practices. These assurances are not considered admissions of violation of state law, but are agreements whereby the company will cease and desist from the acts of practices complained of by the Attorney General.

During 1979, five assurances of voluntary compliance were taken:

In the matter of Credit Bureau of Owensboro

Agency engages in the collection of delinquent accounts agreed to cease and desist from:

-utilizing certain forms in the collection of accounts that do not specify the purpose of the collection or are sent to someone other than the debtor;

-utilizing forms that threaten legal action prior to the formation of actual intent to pursue legal action; and

-failing to follow the applicable regulations prescribed by the Kentucky Consumer Protection Act and Federal Debt Collection Acts relating to credit practices.

In the matter of Factory Furniture Liquidators would cease and desist from:

-conducting or advertising any sale in a manner which induces a belief that upon disposal of the stock of goods on hand the business will cease and discontinue at the premises where the sale is conducted, unless a license is properly obtained and issued pursuant to KRS 365.410.

-using the term "Public Notice" or any term of like import or meaning in any advertisement in the Commonwealth, unless they are operating under the direction of a court.

-using the term "factory" in their name or advertisement which would induce a belief that they are agents or employees of the factory which manufactures the merchandise being offered, unless they are such agents or employees.

-using the term "liquidators" or any term of like import or meaning, unless they are operating under court order, or unless they are under contract to liquidate a manufacturer's entire stock, and the manufacturer will cease doing business.

In the matter of the Fred Astaire Dance Studio would cease and desist from not disclosing that the Fred Astaire Dance Studio is affiliated with "Holiday Social and Dance Club" or "Fun 'N' Friends Singles Club."

In the matter of Maloney's Department Stores would cease and desist from:

using a form entitled "Demand for Payment of Debt" as part of its routine debt collection procedures. This form, a feigned legal document, was utilized to threaten legal action prior to the formation of actual intent to pursue legal action.

In the matter of Playback, Inc. would cease and desist from: advertising any item for sale in Kentucky for which there is not sufficient quantity available to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement or the advertisement states that there is a limited quantity available for sale; or, issue a raincheck immediately should an advertised item not be in stock for a customer's immediate purchase. Playback agrees to post a conspicuous sign near the cash register of each Kentucky store explaining the raincheck policy.

CONSUMER MEDIATION

The Consumer Protection Division plays an important role in consumer affairs as a mediator, intent on resolving differences between consumers and business people which arise in the marketplace. Often a breakdown in communications between a buyer and a seller, or a misunderstanding about the respective rights and responsibilities of these parties results in a consumer complaint to our office. During the period from January 1, 1979, to December 31, 1979, six thousand and four (6,004) written complaints were reviewed by the mediation section of the Division.

Consumer complaints are received from personal visits, telephone calls on the statewide toll-free consumer hotline, referrals from other agencies unable to be of assistance, and written letters. An attorney or a Consumer Protection Specialist carefully reviews and evaluates each complaint to determine the nature and extent of the Division's jurisdiction over the subject matter of the problem, as well as the merit of the complaint. If the complaint is one involving unfair, false, misleading, or deceptive business acts or practices of a fraudulent nature, the matter is referred to the Litigation Section for investigation and possible litigation. In the majority of the situations, however, the Consumer Mediation staff handles the complaint and determines the most appropriate method of achieving a settlement.

Resolving consumer complaints requires the cooperation, good faith, and integrity of all parties who come to the Division. Many times when the problem is brought to the attention of the business in question and the rights and responsibilities of both parties are discussed with a staff member, a fair resolution becomes apparent and the matter is settled satisfactorily by the parties themselves. In other situations, the catalytic effect of the Division's involvement seems to be instrumental in achieving the final resolution of the complaint. Without a doubt, not all complaints are simply resolved, or are ever resolved to all parties' satisfaction. Some businesses refuse to discuss consumer problems, and the Division must tactfully insist on viewing the situation from all perspectives of the marketplace.

Complaint Mediation Statistics

The mediation section of the Consumer Protection Division keeps records of the complaints it receives in regard to the types of products involved and the business practices alleged. These records enable the Division to assess both the needs of Kentucky's consumers and the nature and extent of its own services.

The method of categorizing and reporting mediation statistics has been changed to more accurately reflect consumer concerns and to keep pace with changing priorities. Categories have been broken down in order to pinpoint specific problems. Recent changes have included the addition of particular categories and the logging of statistics on a word processor. These changes will be reflected in next year's annual report.

TOP TEN COMPLAINT CATEGORIES FOR 1979 BY PRODUCTS

<u>PRODUCT</u>	<u>NUMBER OF COMPLAINTS</u>
1. Mail Order Companies	943
2. New Automobiles	583
3. Used Automobiles	224
4. Insurance Companies	175
5. Home Builders-New	158
6. Business Opportunity Companies	131
7. Utility Companies	127
8. Auto Repair by Dealers	123
9. Appliance Stores	123
10. Telephone Company	123

TOP TEN ALLEGED BUSINESS PRACTICES--COMPLAINTS FOR 1979

1. Improper installation, construction, or poor performance of product.
2. Failure to deliver product or perform service.
3. Unfair, false, misleading or deceptive advertising or practices.
4. Mail order delay and refund delay or refusal.
5. Failure or refusal to honor warranty, guarantee, or contract.
6. Failure or refusal to make refund or replacement.
7. Billing error or unauthorized billing.
8. Charges in excess of estimate, bid, or prevailing market price.
9. Incomplete disclosure of terms of transaction
10. Illegal collection practices.

SYNOPSIS OF DATA
REGARDING CONSUMER COMPLAINTS

Throughout 1979, the Consumer Protection Division recorded and categorized every written consumer complaint handled by the office. At each phase of the mediation process, the complaint's status was duly noted on a master index. Thus, the Division in preparing this report compiled the accumulated information on the status and disposition of every consumer complaint. The status of complaints received during 1979 are listed below. The amount of money returned to consumers is also listed. It should be noted that this figure (\$69,898.98) represents only monies returned to consumers and does not include services or products received or returned to consumers (for example a new refrigerator or a repair job redone would not be included in the monetary figure.)

Status of 1979 complaints at the end of the year:

Total unsolicited written complaints received during 1979
- 6,004

Referred to a federal agency	329
Referred to another Kentucky agency	373
No action necessary	324
Request for information	40
Submitted to mediation process	482
Pending	337
Referred to fraud for investigation/litigation	555
Resolved and closed	2117
Closed as unresolved-private legal matter	226
Closed as unresolved-factual dispute	724
Closed as parties refused mediation or could not agree on settlement	237
Not within our jurisdiction (referred to appropriate state)	109
Information reply only	258

MONEY RETURNED TO KENTUCKY CONSUMERS DURING 1979

January-----	\$6,606.71
February-----	\$3,973.01
March-----	\$3,683.10
April-----	\$10,075.70
May-----	\$6,983.95
June-----	\$3,804.15
July-----	\$10,486.74
August-----	\$7,034.12
September-----	\$3,516.57
October-----	\$12,876.38
November-----	\$640.00
December-----	\$218.97
<u>TOTAL-----</u>	<u>\$69,898.98</u>

ALLEGED BUSINESS PRACTICE

Unfair, false, misleading or deceptive advertising or practices	728
Bait Advertising	30
Monopolistic practices	4
False earnings' claim, business opportunity investment scheme	88
False savings' claim or discount buying service	24
Referral sale	1
Unlicensed "Going-Out-of-Business" sale	1
Unregistered home solicitation of printed material	12
Failure to honor cooling-off-period, rescind contract, or make required refund	62
Mail order delay and refund delay or refusal	459
Charges in excess of estimate, bid or prevailing market price	178
Incomplete disclosure of terms of transaction	147
Credit denial or discrimination	33
Usurious interest rates	8
Failure to deliver product or perform service	777
Improper installation, construction, or poor performance of product	1,462
Failure or refusal to honor warranty, guarantee, or contract	445
Failure or refusal to make refund or replacement	438
Billing error or unauthorized billing	432
Illegal collection practices	95
Unsafe product, service, device, or other merchandise	53
Unauthorized repairs	36
Inquiry	213
Other	278
<u>TOTAL</u>	<u>6,004</u>

COMPLAINT STATISTICS BY PRODUCT

AUTOMOTIVE

1. New Car Problems (sales & performance)	583
2. Gas Stations (not repairs)	44
3. Repair	
by dealers	123
by other than dealer	107
transmission shops	39
4. Tires	67
5. Used Car Problems (sales & related problems)	224
6. Odometer	11
7. Recalls	8
8. Other Automotive	108

FINANCIAL

1. Banks	29
2. Business Opportunity Company	131
3. Consumer Finance & Loan Company	65
4. Credit Card Company	21
5. Credit Collection Company	63
6. Franchise Selling Company	2
7. Insurance Company	175
8. Land Development Company	27
9. Multi-Level Selling Company	2
10. Real Estate Sales/Rental Company	50
11. Savings and Loan Company	7
12. Security Brokers/Dealers	6
13. Other Financial	53
14. Landlord/Tenant	91
15. Discount Buying Clubs/Coupons	17
16. Phoney Invoices	23

FOOD

1. Bulk Meat Company	13
2. Food Stores (chain)	20
3. Food Stores (independent)	10
4. Freezer Food Plan Company	1
5. Other Food Company	3
6. Restaurants and Fast Food	14

HEALTH AND PERSONAL IMPROVEMENT

1. Dentists	16
2. Doctors	33
3. Drug Stores	9

4. Hair Product/Improvement Company	36
5. Health Studios	111
6. Hearing Aid Company	12
7. Hospitals/Clinics	36
8. Other Health and Personal Improvement Establishment	22
9. Eye Glasses Company	10

HOME REMODELING, CONSTRUCTION, AND MAINTENANCE

1. Alarm Systems Dealer	8
2. Building Material/Supply/Insulation	58
3. Exterminating Service Company	32
4. Heating and Central Air Conditioning	101
5. Home Builders-New Construction Company	158
6. Home Remodeling Contractors	34
7. Mobile/Modular Home Dealers	111
8. Paving Contractors	21
9. Roofing Contractors/Roofing Materials	35
10. Siding Contractors	34
11. Swimming Pool Company	36
12. Waterproofing Company/Water Conditioners	18
13. Other Home Remodeling/Construction/Maintenance Company	64
14. Plumbers, Carpenters, Painters, Electricians	46

RETAIL

1. Apparel and Accessory Shops	65
2. Appliance Stores/Appliances	123
3. Department Stores	101
4. Direct Selling Company,-Encyclopedias/Books	27
5. Direct Selling Company,-Magazines	50
6. Direct Selling Company,-Photographers	12
7. Direct Selling Company,-Other/Sewing Machines	21
8. Floor Covering Stores	30
9. Gardening/Nursery Products, Company/Lawn Care	21
10. Home Furnishings Store/Furniture	76
11. Jewelry Stores/Watches	39
12. Magazines-Ordered by Mail	47
13. Mail Order Company	943
14. Music/Record Stores/Record Clubs	54
15. Photographic Process Company/Photographer	52
16. Recreational Vehicle Dealers/Boats/Bikes	32
17. Reupholstering Shops	8
18. TV/Radio/Phonograph Shops	78
19. Other Retail Stores/Shops/Company	59
20. Sporting Goods	10

SERVICES

1. Advertising Soliciting Organizations	19
2. Airlines	12
3. Appliance Service Establishments	46
4. Charity Soliciting Organizations	14
5. Dry Cleaning/Laundry Company	10
6. Employment Services	11
7. Funeral Related Services Company	17
8. Homework (Work-at-Home)	11
9. Legal Services	10
10. Market Research Company	1
11. Moving/Storage Company	26
12. Television Servicing Establishment/Cable TV	79
13. Tax Preparation Company	2
14. Telephone Company	123

OTHER

1. Trade Vocational Schools/Correspondence Schools	13
2. Travel Agencies	14
3. Utility Company-Electric/Gas/Water/Bottled Gas	127
4. Vacation Certificate Company	21
5. Other Service Establishments/Organization	67
6. Rental Car Company	5
7. Hotels/Motels/State Parks	20

MANUFACTURERS/PRODUCERS 65

WHOLESALEERS/DISTRIBUTORS 41

NOT ELSEWHERE CLASSIFIED 189

INTERVENTION BEFORE RATE-MAKING
AND REGULATORY BODIES AND COURTS

In 1979, the Consumer Intervention Division, (formerly the Utility Section), continued to perform its statutory duty of intervening in utility rate cases before the Energy and Utility Regulatory Commissions, (formerly the Public Service Commission), on behalf of the public. In addition, non-rate utility cases filed before the Commissions were also examined, with intervention following where deemed appropriate. These non-rate cases encompassed a variety of areas, including administrative hearings concerning establishment of lifeline rates for electric and gas utilities (1), discontinuance of services (1), natural gas pricing, (1), and rate structures (1), as well as cases pertaining to purchased gas adjustments (2), complaints (2), held applications (1), terminate gas service restrictions (2), budget billing exemption (8), and fuel adjustment clause reviews (58).

During the year, the Division intervened in the following major rate cases involving requests for additional revenues in excess of \$1 million.

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT GRANTED</u>
South Central Bell Telephone (No. 7314)	3,651,000	Still pending
South Central Bell Telephone (No. 7348)	44,600,000	18,232,000
Big Rivers Electric Corp. (No. 7380)	17,981,271	12,650,000
Henderson Union R.E.C.C. (No. 7383)	6,872,784	4,894,100
Green River Electric Corp. (No. 7391)	8,502,190	7,806,000
East Kentucky Power Coop. (No. 7392)	13,755,677	10,800,000
Owen County R.E.C.C. (No. 7397)	1,900,274	792,700
Salt River R.E.C.C. (No. 7404)	1,308,327	1,027,100
Jackson County R.E.C.C. (No. 7407)	1,390,656	1,091,100
South Kentucky R.E.C.C. (No. 7434)	1,589,057	1,247,400
Kentucky Power Company (No. 7489)	13,265,648	Still Pending
Sanitation District No. 1 (No. 7496)	3,125,408	2,969,360

General Telephone Company (No. 7669)	16,289,000	Still Pending
Union Light, Heat & Power Co. (No. 7675)	5,470,931	Still Pending
Jackson Purchase Electric Coop. (No. 7676)	1,246,613	Still Pending

The Division also intervened in eighty-four (84) other rate cases, each case involving a request for less than \$1 million in increased revenues, but with a combined total representing \$16,529,834 in requested revenue increases. Forty-two (42) of these cases have been decided by the Commissions representing total increased revenue requests of \$11,954,028. The Commissions awarded \$9,615,397 in these forty-two (42) cases.

The Division has appeals pending before the courts in eight (8) cases at the present time.

The Division also continued intervening on behalf of the consumer before the Insurance Regulatory Board. During 1979, intervention was made in three (3) cases involving requested increases in insurance premiums.

GASOLINE PRICING REGULATION ENFORCEMENT

On June 22, 1979, Attorney General Robert F. Stephens, in response to an inordinate number of consumer complaints, directed the Consumer Protection Division to develop recommendations to insure that gasoline stations were not overcharging. At that time, there were no federal auditors checking for violations in Kentucky. Therefore, on July 3, 1979, the Attorney General was delegated, by the U. S. Department of Energy, authority to enforce the provisions of the Emergency Petroleum Allocation Act of 1973 regulating pricing practices of independent retailers of gasoline in Kentucky.

The Consumer Protection Staff, with the assistance of the Louisville Consumer Affairs Office, made on-sight inspections of 520 stations in 32 cities and Jefferson County. During the first month of investigations, the staff found that, of the stations audited, 10 percent were overcharging. By the end of September, the percentage of violations (excluding the city of Louisville) had dropped to 4 percent. The amount of overcharges ranged from one-tenth of a cent to three and seven-tenths of a cent per gallon. The majority of the violations found were under five-tenths of a cent per gallon overcharge. On October 1, 1979, the U. S. Department of Energy assigned four full-time auditors and thirteen part-time auditors to check Kentucky dealers.

Because of the federal activity and the reduction in violations, the Consumer Protection Division ceased initiating audits on October 1, 1979. A total of 61 stations were found to be overcharging for one or more grades of gasoline. It was the Attorney General's policy to require rollbacks of dealers which overcharged so that consumers would directly benefit from the enforcement. Twenty-seven stations negotiated rollbacks while 14 stations entered into consent orders with the Attorney General's Office. Twenty cases were unresolved by this office and were referred to the U. S. Department of Energy.

CONSUMER EDUCATION

The Consumer Education program is directed by the Consumer Education Specialist. The program is a multi-faceted effort involving the use of media, publications, workshops, speeches, hearings, and display booths. The Education Section is also responsible for doing research on proposals considered by the Consumers' Advisory Council. In addition, the section handles requests for information coming from other government agencies, civic or business groups, and interested individuals.

During 1979, the Consumer Education Section, in conjunction with the Consumers' Advisory Council, surveyed a sampling of the residents of Kentucky's second class cities on their attitudes toward consumer protection, the establishment of local consumer programs, and the ways they deal with consumer problems. The survey revealed that Kentuckians felt that inflation, energy, and the poor quality of products were their most pressing concerns as consumers.

Over half of the respondents had experienced problems with goods or services but did not know what to do about them. Only 15% had ever written a consumer agency for help, yet 43% knew of the services of the Consumer Protection Division. Most consumers wanted a local consumer protection agency in their community, but simultaneously would be unwilling to support a tax increase to fund such an agency.

MEDIA

The Consumer Education program utilizes news releases, interviews with media representatives, and publishes articles to educate Kentucky's consumers. Among the more routine media contacts are:

1. "Consumer Comments", a weekly newspaper column and five-minute radio program prepared by the education staff and distributed to newspapers and radio stations throughout the Commonwealth. Topics for "Consumer Comments" are chosen from questions and problems received by the Division.
2. "Consumer Focus" was aired monthly on WLEX-TV, Lexington, in coordination with the Central Kentucky Better Business Bureau in Lexington. The Consumer Education Specialist interviewed guests on various consumer topics.

3. "Consumer Watch" was aired as a five-minute segment for WFIE-TV, Evansville, Indiana, during the first six months of the year. The weekly segment was prepared by the Consumer Education Specialist as a public service to Kentuckians in the viewing area.

In addition, the Education Section was responsible for preparing informative materials for television stations on ten (10) occasions and radio stations on six (6) occasions.

PUBLICATIONS

Distribution of brochures and pamphlets contributed in large measure to the consumer education of the public. The printed materials included:

- (1) Consumer Caution
In 1979, the Consumer Protection Division distributed over 20,000 copies of the pamphlet. The pamphlet includes, in laymen's terms, the "10 Danger Signals in Buying" and "Consumer Rights and Responsibilities." The pamphlet was distributed to: school classes, county and state fair attendees, and consumers who corresponded with our office.
- (2) Kentucky's Consumer Protection Laws
This is a brochure that contains actual excerpts from the Kentucky Revised Statutes. It is an accumulation of the laws effecting consumer protection in Kentucky.
- (3) How to Use the Small Claims Division of the District Court in the Commonwealth of Kentucky
Pursuant to KRS 24A.200 et seq. distribution was made of approximately 80,000 of these brochures in 1979. Receivers include primarily Circuit Court Clerks for further distribution. School instructors, students and private individuals also received these brochures.
- (4) Small Claims: Post Judgment Collections
This pamphlet was printed to aid those who are awarded judgment in Small Claims Court in collecting those judgments. The pamphlet explains in everyday language legal resources open to those who have trouble collecting judgments awarded by the court.
- (5) Sale of Business Opportunities in the Commonwealth of Kentucky
This pamphlet is a reprint of the Chapter 367.801 the law pertaining to business opportunities.

Additional federal and regional pamphlets and brochures are distributed through the consumer education section of the Consumer Protection Division.

HEARINGS

Three public hearings were held in Louisville, Bowling Green, and Covington, to assess the need for a new car "lemon" bill in Kentucky. The bill would have defined circumstances under which some automobiles would be considered non-merchantable, entitling new car buyers to a full refund. Both consumers and businessmen were invited to testify before staff members, Advisory Council members, and State Representatives. Local television and radio stations, as well as community newspapers, cooperated in publicizing and covering the hearings. Each hearing was well attended and all those wishing to speak were given an opportunity to express their views. The hearings revealed a great need for the statutory protection of new car buyers.

A forum for gubernatorial candidates to express their views on consumer issues was held, but poorly attended.

The Consumer Education Specialist and other staff members testified before legislative bodies a total of fourteen (14) times during 1979. Most of the testimony centered around legislative proposals being considered by interim committees of the General Assembly.

WORKSHOPS AND SPEECHES

1979 witnessed a change in emphasis from routine speechmaking to holding in-depth workshops to train persons in education or consumer related fields. In addition to participating in workshops sponsored by other groups, the Consumer Education Section sponsored the "Kentucky Consumer Action Conference" held in Lexington. The Conference held sessions on forming consumer protection groups, consumer protection and the elderly, consumer education techniques, and other relevant topics. It is intended that the Conference become an annual event.

Approximately 62 speeches were made to school, civic, and governmental organizations. An estimated two thousand consumers were reached by these presentations.

DISPLAYS AND BOOTHS

A great many people were provided limited exposure to consumer education through displays and booths set up at various functions. Literature was distributed at each function by staff members who were also able to answer the questions of interested consumers.

Among other functions, the booths were placed at the State, Bluegrass, Madison, and Franklin County Fairs.

Movies on consumer topics are shown at the fairs and free litterbags, imprinted with the Division's address and phone number, were distributed.

FILMS AND SLIDE SHOWS

The Consumer Education program has several films and slide shows available to loan to interested groups. Seven copies of a slide show on the use of the Small Claims Division of the District Court were available and frequently loaned to schools and organizations in 1979. This slide show was produced, in part, by the Consumer Protection Division.

Seven separate films, on a variety of subjects, are available. Their titles are:

- (1) The Six Billion \$\$\$ Sell
- (2) Checking Accounts
- (3) Shopping for Credit
- (4) Savings Accounts
- (5) Steering Clear of Lemons
- (6) Kicking Tires is Not Enough
- (7) Food Follies

Each film was loaned out approximately five times during the year. No charge is made to those borrowing the films.

Further efforts were made toward educating Kentucky's consumers through participation in teacher-in-service programs, participation in national consumer projects and conferences, curriculum planning, and cooperative efforts with the Department of Education.

END