

SPI

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THE SOCIETY OF THE PLASTICS INDUSTRY, INC.

250 PARK AVENUE • NEW YORK, NEW YORK 10017 • 212/687-2675

MINUTES

ANNUAL MEETING

PLASTIC BOTTLE INSTITUTE

Marco Beach Hotel
Marco Island, Florida

November 29 & 30, 1973
9:00 a.m.

Present:

Mal Cooper, Chairman, Owens-Illinois, Inc., P. O. Box 1035, Toledo, Ohio
Ray Abramowitz, Hooker Chemical Corp., River Road, Burlington, N. J. 08016
Alan Bailey, Diamond Shamrock Chemical Co., P. O. Box 191, Painesville,
Ohio 44077
Rome P. Busa, Progressive Plastics Inc., 3321 W. 140th Street, Cleveland,
Ohio 44111
S. B. Barteau, American Can Co., American Lane, Greenwich, Ct. 06830
Robert D. Bishop, IMCO Container Co., 4240 Blue Ridge Blvd., Kansas City,
Missouri 66206
Donavon F. Beaver, Vistron Corp., Prospect Avenue, Cleveland, Ohio
Donald R. Brinkley, Vistron Corp., 1650 Midland Bldg., Cleveland, Ohio 44115
Robert K. Croll, Allied Chemical Corp., P. O. Box 53006, Baton Rouge, La.
Hugh Cornay, Marquis Products Co., Inc., P. O. Box 52452, Lafayette, La.
Clement J. Cornay, Marquis Products Co., Inc., 931 E. Convent St., Lafayette,
La. 70501
Harry Eberheim, Continental Can Co. Inc., 633 Third Ave., New York, N. Y.
Lewis P. Green, Borden Chemical Inc., 511 Lancaster St., Leominster, Mass.
J. J. Giachetto, U. S. I. Chemicals Co., 99 Park Ave., New York, N. Y. 10016
Frank M. Harris, Aim Packaging, Inc., P. O. Box 278, Port Clinton, Ohio 43452
F. W. Hallowell, Consupak, Inc., One Cory Road, Morristown, N.J. 07960
Kevin J. Howard, Flexible Plastics Corp., 132 So. Maple Ave., So. San Francisco,
California 94080
Jerome H. Heckman, SPI General Counsel, Keller and Heckman, 1150 - 17th St.,
N.W., Washington, D. C. 20036
Jack Jaglom, Pantasote Co. of New York, 26 Jefferson St., Passaic, N. J. 07055
Carl H. Johnson, Diamond Shamrock Chemical Co., 1100 Superior Avenue, Cleve-
land, Ohio 44077
G. Kappas, U.S.I. Chemicals Co., 99 Park Avenue, New York, N. Y. 10016
R. P. Kittredge, Fabri-Kal Corp., 3303 E. Cork St., Kalamazoo, Michigan 49001
Frederic S. Kaufman, Jr., Sinclair-Koppers Co., Product Development, Monaca,
Pennsylvania 15061
Don Lewis, Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, Missouri
John M. McDonald, Jr., Continental Can Co., 633 Third Avenue, New York, N. Y.
Tom Mosser, Burson-Marsteller Assocs., 866 Third Ave., New York, N.Y. 10022
Thomas W. Mullen, Consupak, Inc., One Cory Road, Morristown, N. J.
Roy E. McBride, Spokane Pres-to-Log Co., Terminal Annex 2766, Spokane,
Wash. 99200
Kenneth G. Michel, Continental Can Co., 633 Third Avenue, New York, N. Y.

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Thomas J. Mahoney, Allied Chemical Corp., P. O. Box 53006, Baton Rouge, La.
John C. Murphy, American Can Co., American Lane, Greenwich, Conn. 06830
Lewis L. Otterson, Dura Containers, Inc., 3428 W. 48th Place, Chicago, Ill.
Don Pollock, Consupak, Inc., One Cory Road, Morristown, N. J. 07960
David E. Paxson, Kerr Glass Manufacturing Co., Manheim Pike, Lancaster, Pa.
William E. Risch, Anchor Hocking Corp., 189 Container Place, Cincinnati,
Ohio 45246

Sam Rupert, Uniloy Division, Hoover Ball & Bearing Co., 135 E. Bennett St.,
Saline, Michigan 48176

J. M. Ryder, Owens-Illinois, Inc., P. O. Box 1035, Toledo, Ohio
Joseph D. Stephens, American Can Co., American Lane, Greenwich, Connecticut
Guy E. Sutherland, Phillips Petroleum Co., Sixty-Six Bottle Div., Rt. 303,
Orangeburg, N. Y. 10962

Joseph J. Salva, B. F. Goodrich Chemical Co., 6100 Oak Tree Blvd., Cleve-
land, Ohio

Frederic A. Sacks, Diamond Shamrock Chemical Co., P. O. Box 191, Painesville,
Ohio 44077

Richard F. Sands, IMCO Container Co., 4240 Blue Ridge Blvd., Kansas City, Mo.

Matthew E. Smith, Owens-Illinois, Inc., P. O. Box 1035, Toledo, Ohio 43602

Robert M. Ulmer, Kerr Glass Mfg. Co., P. O. Box 4000, Lancaster, Pa.

Robert L. Walter, Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, Mo.

K. E. Walker, Pantasote Co. of New York, 26 Jefferson St., Passaic, N. J.

Thomas J. McGrath, Director of Packaging Services, SPI, 250 Park Avenue, New
York, New York 10017

Guest Speaker

Jim Gillie, Assistant to the Manager, Public Affairs Department, Phillips
Petroleum Co.

Quentin Looney, Office of Energy Programs, Department of Commerce

OPENING REMARKS

Chairman Mal Cooper welcomed the attendees to our Semi-Annual Meeting. He said that he was sorry to report that Wally Howells, Official Representative from Hooker Chemical Co., and a member of the Executive Committee, had suffered a heart attack, however, he is progressing nicely and is expected back to work in the near future.

Following the usual self-introduction of the attendees, he inquired if there were any corrections to the minutes of our September 14, 1973 meeting. There were no corrections and the minutes were accepted.

FINANCIAL REPORT

Mr. McGrath reported that the Institute as of October 31st had total income of \$55,855.87 with expenditures of \$21,710.85, leaving a balance in the fund as of October 31st of \$34,175.02.

In comparing our expenses to budget all looks well and he closed his report by stating that we are in sound financial condition.

SPI-23970

(Please Note: A copy of the Institute's income and expenditure statement from June 1, 1973 thru October 31, 1973 and the expense to budget statement covering the same period is attached to the minutes.

LEGAL COUNSEL REPORT

Jerome Heckman, Esq., SPI General Counsel, and Counsel for the Plastic Bottle Institute, reported that Senator Jackson's energy bill has been passed. We are most appreciative that the bill makes reference to the needs of petrochemical industry. The members are to be congratulated on their efforts in having this important reference included in the bill.

He reported that the people in Vermont are rebelling against their container deposit bill and are making their purchases in other states.

The situation with the Minnesota Pollution Control Board is still in a "state of flux" as they have not yet developed an applicable set of guidelines regarding the introduction of "new" packaging.

There will be a meeting with the Environmental Protection Administration on December 13 at their request to discuss the Battelle Study on PVC incineration and corrosion.

Mr. Heckman reported that we are still in negotiations with the Federal Trade Commission regarding their proposed complaint. He is of the opinion that we can negotiate a consent order. He reported that we will probably conduct flammability research and the urethane industry will be looking for total plastic industry support.

He apologized to the members of the Market Development Committee for not having the product liability guidelines ready, however, he stated that he has been extremely busy with other matters which carry greater importance. Also, the situation regarding product liability is rapidly changing which has complicated the preparation of the draft. However, he will make every attempt to have a set of product liability guidelines ready for the Market Development Committee's next meeting.

He reported that our comments regarding the migration of vinyl monomer into PVC liquor bottles has been filed with the Food and Drug Administration. We are hopeful that they will accept our comments.

At this point in Mr. Heckman's report mention was made about the Manufacturing Chemist Association Study of the affects of a saturated atmosphere of vinyl chloride monomer on rats. It would be most helpful for us to obtain the results of this study, and it was recommended that we contact Clarence Neher of Ethyl Corporation, who is Chairman of the MCA plastics group.

In closing his report, Mr. Heckman reported on the activities of the Ad Hoc Nitrile Resin Committee. This Committee is preparing an Environmental Impact Analysis Report for the Food and Drug Administration on plastic carbonated beverages. He advised that the Impact Analysis Statement will be filed on

December 6. A copy of the written material without appendixes will be sent to all members of the Plastic Bottle Institute. However, if they want the complete report, which is mammoth in size, he requested that they either contact the Food and Drug Administration and request that they reproduce it, or contact Tom McGrath at the SPI.

Tom McGrath will review the cost necessary to duplicate the complete document and establish a price.

STATISTICS COMMITTEE

Statistics Committee Chairman Harry Eberheim reported.

(Please Note: A copy of Mr. Eberheim's report is attached to the minutes as Exhibit A.)

(Please Note: A copy of the Census Report of plastic bottles and total weight of bottles shipped for August, 1972 compared to August, 1973 is attached to the minutes as Exhibit B.)

WASTE MANAGEMENT COMMITTEE REPORT

Committee Chairman Fred Kaufman, Sinclair-Koppers Co., reported.

(Please Note: A copy of Mr. Kaufman's report is attached to the minutes as Exhibit C.)

SPI TRANSITION COMMITTEE

Ken Michel, Chairman of the SPI Transition Committee advised that at the Public Affairs Council's last meeting they voted to disband. In its place will be a new Public Affairs Committee of the SPI Board of Directors. The following individuals comprise the Public Affairs Committee of the SPI Board.

Fred C. Sutro, Chairman, USS Chemicals
Robert Daily, Vice Chairman, Calanese Plastics Co.
Vernon Larson, Treasurer, Union Carbide Corp.
William Kennel, Chairman, Technical Committee,
Amoco Chemicals Corp.
Donald Bryan, Chairman, Public Relations Committee,
Mobay Chemical Co.
Malcolm Cooper, Owens-Illinois
Clarence Neher, Ethyl Corp.
Jean Malone, B. F. Goodrich Chemical Co.
C. E. O'Connell, Gulf Chemical Co.
Harold Smith, Illinois Tool Works

Ken reported that a ballot has been sent out to the SPI members requesting that they approve the necessary changes in the SPI Bylaws to incorporate the new Public Affairs Committee.

He mentioned the importance of the SPI maintaining all its members. It is difficult to determine how many members may resign because of the new dues increase, however, all efforts should be taken to minimize the loss in membership.

closing his remarks he stated that each year the Promotion Committee has had a difficult time in obtaining approval of its program. While he personally has some concern over the PLASTIC BOTTLE EXPERT, he believes that the remainder of the program is excellent and urged its endorsement.

The members of the Institute did approve the promotion program and the suggestion that the Promotion Committee consider ways of expanding its program where they feel it's needed.

(Please Note: A copy of the Plastic Bottle Institute's 1974-75 Public Relations Program is attached to the minutes.)

1974-75 BUDGET

Tom McGrath presented the proposed budget for June 1, 1974 through May 31, 1975. He advised that he was requesting a budget some \$10,000.00 lower than the previous year's budget because several budget items involving publications were not spent during the previous fiscal year because the brochures have not yet been completed. He advised that these items will be carried as part of the budget for accounting purposes only, and, therefore, he requested approval of a budget of \$83,775.00 for fiscal 1974-75.

A motion was made, seconded and unanimously carried that the budget be approved.

(Please Note: A copy of the budget is attached to the minutes.)

GUEST SPEAKER

Mal Cooper introduced our guest speaker, Mr. Richard R. Salzman, Directing Editor of the Research Institute of America, who gave a stimulating talk entitled "The Economy The Real Challenge."

DATE AND PLACE OF NEXT MEETING

It was approved that we tentatively schedule our next meeting on September 19 in New York City.

(Please Note: Subsequent to the meeting a conflict arose, and the next meeting will be held on September 10, 1974 in New York City.)

DATE AND PLACE OF SEMI-ANNUAL MEETING

The Institute's Semi-Annual meeting will be held on November 20, 21, and 22, at Mountain Shadows in Arizona.

ADJOURNMENT

There being no further business to transact, the Plastic Bottle Institute's Tenth Annual meeting was adjourned at 11:50 a.m.

Respectfully submitted,

Thomas J. McGrath
General Manager

TJMcG/pb

SPI-23973

THE NEW ROLE OF THE TRADE
ASSOCIATION--Is It Now A
QUASI-GOVERNMENTAL ENTITY?

JEROME H. HECKMAN
KELLER AND HECKMAN
INDA GENERAL COUNSEL

"CHENG-TEH, LI-YUH, HOU SHONG." No, THIS IS NOT PART OF THE WATERGATE TRANSCRIPT. IT IS INTELLIGIBLE AND DEVOID OF EXPLETIVES. IT IS THE THEME OF THE CHINESE EXHIBIT AT EXPO '74 AND MEANS: "ONE MUST WITH PERFECT VIRTUE, SERVE THE REASONABLE REQUIREMENTS OF THE PEOPLE AND ENRICH THEIR LIVES." IT SEEMS A SENSIBLE MISSION FOR GOVERNMENT, INDUSTRY, AND EVERY MAN IN A RELATIVELY FREE SOCIETY. PROVIDED THE WORD REASONABLE IS UNDERScoreD, IT EVEN SEEMS ACHIEVABLE.

THE VERY USE OF THIS THEME WOULD APPEAR TO INDICATE THAT MANKIND ALL OVER THE REST OF THE WORLD STILL BELIEVES IN ITSELF, AND IN THE RULE OF REASON. YET A LOOK AT THE EVOLUTION OR REVOLUTION WHICH HAS TAKEN PLACE IN THE UNITED STATES IN THE PAST TEN OR TWELVE YEARS MAKES ONE WONDER WHETHER OUR "FREE SOCIETY" HAS LOST SIGHT OF WHAT FREEDOM

Presented at the Sixth Annual Meeting of the International Nonwovens and Disposables Association, Montreal, Ontario, May 15-17, 1974.

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IS IN ALL ITS ASPECTS. PERHAPS OUR PERSPECTIVE HAS BECOME SO DISTORTED THAT WE ARE HAVING A TYPE OF NATIONAL SCHIZOPHRENIC NERVOUS BREAKDOWN, AS A NUMBER OF WRITERS HAVE SUGGESTED.

WHAT IS REASONABLY CLEAR IS THAT MANY OF THOSE WHO LOUDLY INSIST ON MORE PERSONAL FREEDOM OR LICENSE (DEPENDING ON YOUR POINT OF VIEW), ARE ALSO BUSILY PROSELYTING THE NOTION THAT GOVERNMENT MUST REGULATE SO Pervasively AS TO ASSURE LONG LIFE, PERFECT HEALTH, NO SO-CALLED "RIP-OFFS," AND PLAYPEN OR PADDED CELL TYPE SAFETY TO THE CITIZENRY.

THE CRY IS FOR "ZERO DEFECTS" WHERE PRODUCTS, MANUFACTURERS, AND THEIR ASSOCIATIONS ARE CONCERNED. IT IS A NOW DEMAND, NOT AN "AS SOON AS POSSIBLE OR REASONABLE" ONE. IN SOME IMPORTANT RECENT INSTANCES RETROACTIVE PROTECTION IS BEING CALLED FOR; FORMAL CHARGES FOR LACK OF TWENTY-TWENTY HINDSIGHT COULD BE THE WAVE OF THE IMMEDIATE FUTURE. ALL THIS AT A TIME WHEN OUR BASIC GOVERNMENTAL INSTITUTIONS SEEM LESS, RATHER THAN MORE CAPABLE OF COMMANDING PUBLIC RESPECT. THEIR ANSWER IS TO PASS THE BUCK TO INDUSTRY AND, EVER INCREASINGLY, TO TRADE GROUPS LIKE YOUR OWN. THIS, OF COURSE, IS WHAT PRESENTS THE DILEMMA SUGGESTED BY THE TITLE OF THIS TALK BECAUSE SUCH BUCK-PASSING CAN LEAD TO DIRECT CONFLICTS BETWEEN CONSUMER PROTECTION RESPONSIBILITIES AND ANTITRUST LAW PROSCRIPTIONS ON GROUP ACTION.

TRADE ASSOCIATIONS IN THIS COUNTRY HAVE HERETOFORE BEEN BUSINESS LEAGUES OR GROUPS OF COMPETITORS WHOSE MAIN LEGAL PREOCCUPATION WAS AVOIDING THE RUNNING AFOUL OF THE ANTITRUST LAWS. ASSOCIATIONS LIKE THIS ONE HAVE ALWAYS BEEN AN IMPORTANT PART OF THE FREE ENTERPRISE SYSTEM PROVIDING SUCH NEEDED SERVICES AS INSTITUTIONAL ADVERTISING AND MARKET PROMOTION OF PRODUCTS IN GENERAL, IMPROVING CONSUMER RELATIONSHIPS, PRODUCT STANDARDIZATION, PUBLIC EDUCATION, AND GOVERNMENT LIAISON. TRADITIONALLY, THE MAIN LEGAL CONCERNS OF SUCH ORGANIZATIONS AROSE FROM THE FACT THAT TRADE ASSOCIATIONS ARE COMPOSED OF COMPETITORS AND MOST ANTITRUST VIOLATIONS INVOLVE CONSPIRATORIAL ACTIVITY BY COMPETITORS. ASIDE FROM PER SE ANTITRUST VIOLATIONS SUCH AS PRICE FIXING AND MARKET ALLOCATIONS, MOST TRADE ASSOCIATION ACTIVITIES ARE NOT PROSCRIBED BUT, INSTEAD, ARE GOVERNED BY THE "RULE OF REASON." THUS, ASSOCIATIONS MAY ENGAGE IN A WIDE VARIETY OF PROGRAMS AS LONG AS THEIR EFFORTS, UNDER THE "RULE OF REASON," DO NOT UNREASONABLY RESTRAIN TRADE, UNFAIRLY IMPEDE COMPETITION, AND ARE NOT DISCRIMINATORY OR EXCLUSIONARY REGARDING NON-MEMBERS.

IMPLICITLY RECOGNIZING THE EFFECTIVENESS OF THE TRADE ORGANIZATIONS, FEDERAL LEGISLATION AND FEDERAL REGULATORY AGENCIES HAVE BEEN INCREASING THEIR RECOGNITION OF TRADE ASSOCIATIONS AS VALUABLE SOURCES OF INFORMATION.

THUS, THE FOOD AND DRUG ADMINISTRATION IN NOTICES TO INDUSTRY REQUIRING THE FILING OF ENVIRONMENTAL IMPACT ANALYSIS REPORTS ACTIVELY SOLICITED THE VIEWS OF TRADE ASSOCIATIONS. IN SECTION 6 OF THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973, PROVISION IS MADE FOR THE FEDERAL ENERGY OFFICE TO MEET WITH "REPRESENTATIVES" OF INDUSTRY SO AS TO OBTAIN THE DATA NEEDED TO DEVELOP PROPOSED REGULATIONS; THE UNDERLYING LEGISLATIVE INTENT HERE WAS TO ELICIT THE VIEWS AND COMMENTS OF TRADE ASSOCIATIONS. IN A RECENT SPEECH, THE DIRECTOR OF THE BUREAU OF COMPETITION OF THE FEDERAL TRADE COMMISSION ADVOCATED THAT TRADE ASSOCIATIONS ENCOURAGE THEIR RESPECTIVE MEMBERS TO IMPLEMENT INDIVIDUAL COMPANY RAW MATERIALS ALLOCATION PROGRAMS SO AS TO COMBAT THE PROBLEM OF MATERIALS SHORTAGES.

IN A PROVISION OF THE CONSUMER PRODUCT SAFETY ACT CONCERNING THE ESTABLISHMENT OF CONSUMER PRODUCT SAFETY STANDARDS, AN OPPORTUNITY EXISTS FOR THE DEVELOPMENT OF STANDARDS BY OFFERORS OUTSIDE OF THE COMMISSION WITH THE UNDERLYING LEGISLATIVE INTENT BEING THAT OFFERORS WILL MORE OFTEN THAN NOT BE TRADE ASSOCIATIONS. ALSO UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT, CONSENSUS SAFETY STANDARDS WERE ADOPTED SHORTLY AFTER THE EFFECTIVE DATE OF THE ACT WITH THESE STANDARDS BEING DEVELOPED BY STANDARDS-MAKING ORGANIZATIONS SIMILAR IN NATURE AT LEAST TO TRADE ASSOCIATIONS.

THIS KIND OF INCREASED RECOGNITION OF THE ROLE OF THE TRADE ASSOCIATION IS LEADING TO THE IMPOSITION OF GREATER RESPONSIBILITIES ON SUCH GROUPS, HOWEVER. THE "RULE OF REASON" IS NO LONGER AN ADEQUATE GUIDE FOR THE TRADE ASSOCIATION BECAUSE RECENT CASES, THE SCOPE OF WHICH ARE STILL TO BE FULLY DEFINED, ARE CASTING UPON GROUPS LIKE THIS ONE THE NEED FOR CONCERN ABOUT WHETHER THEIR ACTIVITIES CAN LEAD THEM INTO EXPOSURE FOR ANY HARM CAUSED MORE DIRECTLY BY THE USE OF INDIVIDUAL MEMBER COMPANIES' PRODUCTS. NOW TRADE ASSOCIATIONS, PER SE, CAN AND ARE BEING CHARGED IN PRODUCTS LIABILITY AND DECEPTIVE ADVERTISING CASES THOUGH THEY NEITHER MAKE OR SELL GOODS, AND PROBABLY CANNOT OBTAIN PRODUCTS LIABILITY INSURANCE.

WITNESS THE NOW FAMOUS "BLASTING CAPS" CASE, HALL V. E. I. DUPONT DE NEMOURS & CO., INC., BROUGHT IN 1972. IN THIS CASE, SUIT WAS BROUGHT AGAINST SIX MANUFACTURERS AND THEIR TRADE ASSOCIATION FOR INJURIES SUFFERED BY CHILDREN RESULTING FROM VARIOUS BLASTING CAP ACCIDENTS. AS A SIGNIFICANT PART OF THE CASE, THE PLAINTIFFS CHARGED THAT THE DEFENDANT MANUFACTURERS HAD ACTUAL KNOWLEDGE THAT CHILDREN WERE FREQUENTLY INJURED BY BLASTING CAPS AND THROUGH THE TRADE ASSOCIATION KEPT STATISTICS REGARDING THESE ACCIDENTS. THE DEFENDANTS' USE OF PLACARDS AND PRINTED NOTICES TO WARN USERS OF THESE CAPS AND THE GENERAL PUBLIC AS TO THE

HAZARDOUS NATURE OF THE PRODUCTS WAS HELD BY THE COURT TO BE INADEQUATE. INSTEAD A PROGRAM OF LABELING THE BLASTING CAPS WITH DANGER WARNINGS WAS VIEWED AS NECESSARY TO PROVIDE AT LEAST A MINIMAL REQUIREMENT REGARDING SAFETY; HOWEVER, THE DEFENDANTS NOT ONLY REJECTED THAT POSSIBILITY BUT LOBBIED AGAINST LEGISLATION THAT WOULD HAVE REQUIRED SUCH LABELING.

IN HOLDING FOR THE PLAINTIFFS, THE COURT IMPOSED A SEVERE DUTY OF CARE ON THE DEFENDANTS, INCLUDING THE DEFENDANT TRADE ASSOCIATION. THE COURT HELD, IN EFFECT, THAT THE TRADE ASSOCIATION ACTED CONTRARY TO THE PUBLIC INTEREST AND WAS, THEREFORE, LIABLE IN A PRODUCT LIABILITY SUIT FOR NEGLIGENCE. UNDERLYING THIS DECISION WAS THE CONCEPT OF A NEED FOR JOINT OR GROUP RISK CONTROL, I.E. THE NEED TO DETER HAZARDOUS BEHAVIOR BY GROUPS OR MULTIPLE DEFENDANTS AS WELL AS INDIVIDUALS; AND THE NEED FOR ENTERPRISE LIABILITY.

WHAT THIS DECISION INDICATES IS THERE IS A DUTY OF ASSIGNING THE FORESEEABLE COSTS OF A POTENTIALLY DANGEROUS ACTIVITY TO THOSE IN THE MOST STRATEGIC POSITION TO REDUCE THE RISKS. BY FINDING THAT THE TRADE ASSOCIATION KNEW OF THE DANGEROUS ACTIVITY AND, AS THE COURT SAW IT, ACTED INADEQUATELY TO REDUCE THE HAZARDS ASSOCIATED WITH THE ACTIVITIES OF THAT INDUSTRY, IT WAS CONCLUDED THAT THE TRADE ASSOCIATION DID NOT FULFILL ITS DUTY TO ACT IN THE PUBLIC INTEREST.

THE SECOND SIGNIFICANT DEVELOPMENT IN THIS AREA IS THE PROPOSED COMPLAINT ISSUED BY THE FEDERAL TRADE COMMISSION INVOLVING CELLULAR PLASTICS PRODUCTS USED IN CONSTRUCTION AND HOME FURNISHINGS. IN THIS CASE, A STANDARDS-MAKING ORGANIZATION, TWENTY-SIX MANUFACTURERS, AND THE MANUFACTURERS' TRADE ASSOCIATION WERE NAMED AS PROPOSED RESPONDENTS. THE VIOLATIONS CHARGED HERE WERE IN THE NATURE OF THE DECEPTIVE ADVERTISING OF PRODUCTS, AS THESE SELLING PRACTICES RELATED TO THE DEVELOPMENT AND USE OF TEST METHODS AND DESCRIPTIVE TERMINOLOGY UTILIZED IN CONNECTION WITH THE FLAMMABILITY TESTING OF CERTAIN TYPES OF PLASTICS. THE COMMISSION CHARGED THAT THE RESPONDENTS KNEW THAT THE TEST STANDARDS PERMITTING THESE PRODUCTS TO BE DESCRIBED AS "NON-BURNING" AND "SELF-EXTINGUISHING" WERE INVALID FOR DETERMINING HOW THE PRODUCTS BEHAVED IN ACTUAL FIRES.

AS PART OF THE CASE, IT ALSO CHARGED THAT THE TRADE ASSOCIATION ACTUALLY KNEW OR SHOULD HAVE KNOWN THAT THE TESTS AND STANDARDS WERE INACCURATE AND INVALID AND THAT PRODUCTS SOLD USING THE CLASSIFICATIONS OF THESE TESTS AND STANDARDS WERE BEING DECEPTIVELY ADVERTISED. A VERY POSSIBLE AND MOST UNFORTUNATE INFERENCE WHICH MIGHT BE DRAWN FROM THE FTC CHARGES WAS THAT THE TRADE ASSOCIATION SHOULD HAVE REFRAINED FROM PARTICIPATING IN DISCUSSIONS ABOUT THE

PROMULGATION OF THE TESTS AND STANDARDS DESPITE THE FACT THAT THEY WERE PROMULGATED BY AN ESTABLISHED INDEPENDENT STANDARDS-MAKING ORGANIZATION, OR ACCEPT AN AFFIRMATIVE DUTY OF DISCLOSING TO THE PUBLIC THE HAZARDOUS NATURE OF THE INDUSTRY'S PRODUCTS IN REAL FIRE SITUATIONS EVEN BEFORE THE PROBLEMS WERE THOROUGHLY STUDIED AND SCOPED. THIS CASE, WHICH COULD BE SETTLED BY A CONSENT ORDER SO THAT IT MAY NEVER BE LITIGATED, COULD NONETHELESS HAVE SUBSTANTIAL PRECEDENT-SETTING IMPACT BEARING ON THE DUTIES AND CHARACTER OF TRADE ASSOCIATIONS.

AS A RESULT OF THE INCREASED SIGNIFICANCE OF AND RELIANCE PLACED ON TRADE ASSOCIATIONS AS SOURCES OF INFORMATION FOR FEDERAL AGENCIES, AND BASED ON TRENDS THAT MAY BE ARISING OUT OF THE "BLASTING CAPS" CASE AND THE FTC COMPLAINT I HAVE DISCUSSED, IT APPEARS THAT THE NEW OBLIGATIONS BEING PLACED ON TRADE ASSOCIATIONS TO ACT IN THE PUBLIC INTEREST MAY ACTUALLY BE ELEVATING THEM TO THE STATUS OF QUASI-PUBLIC ORGANIZATIONS. THUS, IT MAY NO LONGER BE SUFFICIENT FOR A TRADE ASSOCIATION TO FOLLOW THE ANTITRUST LAW "RULE OF REASON" CONCEPTS AND AVOID RESTRAINING TRADE WHILE REPRESENTING THE INTERESTS OF ITS MEMBERS AS AN ADVOCATE.

IT IS PERHAPS A LITTLE EARLY TO PREDICT WITH ACCURACY BUT A GREAT DEAL OF SOUL SEARCHING WILL PROBABLY

BE TAKING PLACE IN SOME ORGANIZATIONS LIKE THIS ONE AS TO WHETHER THEY SHOULD EITHER ABSTAIN FROM ENGAGING IN TRADITIONALLY ACCEPTED ACTIVITIES RELATING TO THE MARKETING OF PRODUCTS OF MEMBER COMPANIES (E.G. DEVELOPMENT OF A STANDARD "WIDGET" SIZE AS OR THROUGH A STANDARDS-MAKING ORGANIZATION), OR HAVING ONCE DECIDED TO ENGAGE IN SUCH ACTIVITY, RECOGNIZE THEY TAKE ON THE BURDEN OF ACTING "IN THE PUBLIC INTEREST" BY DISCLOSING ALL HAZARDOUS ASPECTS AND FOSTERING SAFE USE APPLICATIONS OF SUCH A PRODUCT. IN OTHER WORDS, IT MAY BE THAT ONCE A TRADE ASSOCIATION ACTIVELY PARTICIPATES IN SOME TYPE OF PROMOTIONAL ACTIVITY REGARDING A GIVEN PRODUCT, THAT ORGANIZATION UNDER THE NEW "BUREAUCRATICS" MAY HAVE TO TRY TO ANTICIPATE AND DISCLOSE ALL POSSIBLE PUBLIC SAFETY AND HEALTH PROBLEMS ASSOCIATED OR POTENTIALLY ASSOCIATED WITH THE PROMOTION OF THAT PRODUCT.

IT CERTAINLY APPEARS THAT THE TRADE ASSOCIATION OF THE FUTURE IS NOT ONLY GOING TO BE CHARGED WITH ACTING IN THE INTERESTS OF ITS MEMBERS, BUT MAY ACTUALLY BE ELEVATED TO THE POINT WHERE IT ASSUMES QUASI-PUBLIC INSTITUTION STATUS. NOW, APPARENTLY, WHERE THE DEVELOPMENT, PROMOTION, AND SALE OF PRODUCTS ARE CONCERNED, AND AT LEAST WHERE THE PUBLIC SAFETY AND HEALTH MAY BE INVOLVED, TRADE ORGANIZATIONS MAY HAVE TO OBSERVE A TYPE OF JUDICIAL, OR AT LEAST QUASI-REGULATORY AGENCY POSTURE. THIS IS GOING TO PRESENT

ANY NUMBER OF PROBLEMS, THE SCOPE OF WHICH WE'VE ONLY BEGUN TO IMAGINE. IT WOULD SEEM THAT TRADE ASSOCIATIONS WILL BE REQUIRED, IN SOME WAY OR ANOTHER, TO PUBLICIZE ANY PROBLEMS ENCOUNTERED AND, IN GENERAL, OPERATE IN A FISHBOWL. WHEN A PROBLEM COMES UP IN THE ASSOCIATION, IF ANY TYPE OF HAZARD IS APPARENT OR SEEMS POSSIBLE, IT LOOKS AS IF THE ASSOCIATION IS GOING TO HAVE AN AFFIRMATIVE DUTY TO MAKE DISCLOSURE AND PUBLICIZE ANY ANTICIPATED TOXICITY, FLAMMABILITY OR OTHER HAZARDS POTENTIALLY RELATED TO THE USE OF ITS MEMBERS' PRODUCTS.

IN SHORT, I THINK THAT ORGANIZATIONS LIKE THIS ONE ARE BEING VIEWED AS QUASI-PUBLIC BODIES AND IN DUE TIME WE MAY VERY WELL HAVE THE SITUATION IN THIS COUNTRY THAT HAS PERSISTED ELSEWHERE AROUND THE WORLD, WHERE TRADE ASSOCIATIONS ARE VIRTUALLY AN INFORMAL ARM OF THE GOVERNMENT, AND ACT IN MANY RESPECTS AS A WAY TO COVER INABILITY OF GOVERNMENT TO DEAL WITH COMPLICATED PROBLEMS.

OBVIOUSLY, THERE ARE MANY, MANY QUESTIONS THAT HAVE TO BE RESOLVED IF THIS IS TO BE THE CASE. IT'S AN OPENING ARENA; IT'S FRIGHTENING IN MANY RESPECTS AND WILL BRING INTO PLAY A NUMBER OF DILEMMAS FOR THOSE LIKE US WHO ADVISE YOU IN THE FUTURE. IT IS NOT EASY, FOR EXAMPLE, TO IMAGINE PUBLICIZING SOME OF THE DRAWBACKS OF PRODUCTS AND AVOID ANTITRUST, LIBEL AND SLANDER, OR OTHER SUITS BY INDIVIDUAL

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MEMBERS OR NON-MEMBERS WHO ARE THEREBY INJURED. THIS IS ONE OF THE DILEMMAS THAT WE HAVE TO TRY TO RESOLVE.

IF NOTHING ELSE, I THINK, YOU WILL HAVE TO AGREE THAT YOU ARE NOT THE ONLY ONES WHO HAVE SOME CHALLENGING TASKS AHEAD. WE DO, TOO. WE ARE GOING TO TRY TO DEAL WITH THEM AND TO HELP YOU SORT THEM OUT SO THAT INDA CAN CONTINUE TO FUNCTION EFFECTIVELY IN THIS BRAVE NEW WORLD. MY MAIN PURPOSE TODAY WAS TO POST YOU ON THE PROBLEM; IN THE FUTURE, WHEN SOME OF THE DUST HAS SETTLED, WE WILL CONTINUE TO TRY TO ADVISE YOU ON VIABLE SOLUTIONS AS SPECIFIC INSTANCES ARISE.

THANK YOU VERY MUCH.

SPI-23984

PLASTIC BOTTLE INSTITUTE

TRAFFIC REPORT

May, 1974

At the Executive Committee Meeting in New York on February 21, 1974 two proceedings were emphasized as being important to the plastic bottle industry.

First, the Central and Southern effort to eliminate plastic bottles from the liquor commodity rates was discussed. This carrier action was successfully protested by the Society of Plastics Industry and the Distilled Spirits Council of the United States. At the present time Central and Southern has a Petition for Reconsideration and Vacation of Suspension before Division 2 of the Interstate Commerce Commission, hoping to reverse the Suspension Board's decision.

The second matter of importance discussed was the New England Classification proposal. A great deal of time has been spent in an effort to protect plastic bottle manufacturers from adverse changes in the subject classification; Martin Bercovici (S.P.I. Counsel), Derrill Dunkman (Monsanto), and Les Pierce (Owens-Illinois) attended one meeting and two hearings pertaining to this matter. The first hearing at Burlington, Massachusetts was not successful. An appeal and appearance made by these individuals before the General Rate Committee on May 8th appears, at this time, to have convinced the Committee of the merits of our position. Hopefully, no further action will be required.

The motor carrier industry persists in attempts to increase the truckload costs to plastics manufacturers through a variety of methods. Members of the Plastic Bottle Institute traffic committee have been alert to several items published in various tariffs.

Admiral-Merchants published a minimum weight restriction that would require a 24,000 pound minimum for our products. Imco protested this publication which was suspended and subsequently withdrawn (I&SM 27595). Our present classification minimum weight is 10,000 pounds for most plastic bottles.

Central and Southern published a "Minimum Charges" item which would have resulted in a 16,000 pound minimum weight for our products. This provision was protested by S.P.I. and Imco, resulting in a deferred effective date to allow the bureau time to justify its position (Suspension Board Case No. 60771).

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PLASTIC BOTTLE INSTITUTE

TRAFFIC REPORT

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Southern published in three tariffs a "Capacity Load Minimum Charge Rule" which would result in higher charges at the higher rate basis numbers. This publication was protested by the S.P.I. and Imco and has been suspended by the Commission.

Central States tariff bureau published a proposal in their docket to eliminate the exception rating earned for plastic bottles. It is noteworthy that through communication from the traffic committee and S.P.I. Counsel, the bureau was persuaded to leave the exception item in the tariff and allow individual carriers to elect whether or not to participate in the rates through independent action procedures. This action is positive and very significant.

Eastern Central published an item to become effective on June 1, 1974 (unless suspended) whereby seven large carriers would require a 12,000 pound minimum weight on plastic bottles. This item is unique in that plastic bottles are specifically designated. Eastern Central also has requested and will publish rate increases on the controversial "capacity load" provision which exceed the increases applicable to truckload rates. This is another effort to effect higher increases on low density products.

The above examples are not exhaustive. There have been many other actions taken by the traffic committee and its' members pertaining to a variety of subjects at the bureau levels, and subjects indirectly related to plastic bottles.

The Traffic Committee is scheduled to meet June 5th, 6th, and 7th at Scotsland Resort, Oconomowac, Wisconsin. Many proceedings and projects affecting the entire plastics industry will be discussed and resolved at these meetings.

Respectfully submitted,


Wayne Clevenger, Chairman
Traffic Committee
Plastic Bottle Institute

WC/pb

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TECHNICAL COMMITTEE REPORT

First -- thanks to everyone for the backing we have received from member companies. We have had excellent attendance and cooperation in both the sub-committees and Technical Committee. As Tom mentioned earlier, we have overrun our budget as this is due to the increase of member attendance. At our Technical meeting last month we had 25 percent.

A big factor in our ability to respond to the projects and to complete them has been mainly through the excellent work done on the sub-committee level. This in turn has kept the Technical Committee better informed from their reports, and also enables us to spend more time on other areas. In fact at our last meeting, we had a guest speaker -- Miss May Bender, a designer -- who was well received. We are arranging to hold our next meeting in Toronto, and we will have a speaker to discuss what is taking place in the Canadian conversion to the metric system, in that they have approximately a year of the system under their belt. We also have received a report on the status of the Australian metric conversion for the next meeting. We were able at our last meeting to also have Tom give us a review on status of the Vinyl Chloride situation. We also had handouts on the update of the Universal Product Code and were able to spend time discussing areas which may effect us concerning the product identification.

In all, I want to thank you for the backing we have received and excellent work being done by our sub-committee chairmen.

A. DIMENSIONAL RESEARCH SUB-COMMITTEE Chairman Ken Sampson (Owens-Illinois)

1. Child Resistant Closure Supplement to the SP-400 Finishes. This proposal has been difficult to tie down mainly due to the many new caps. We also

reviewed this with GCMC and were not able to get a clear statement to cover all of the possibilities. On the last ballot received, we had one negative vote and this we think is now resolved. The present form is as follows:

"Proposed additional 'Note' on SP-400
Finishes of PBD-2

Many two-piece child-resistant closures rely on a downward motion of the outer shell for their proper function. The SP-400 finishes do not necessarily provide physical space for this motion. A special min. and max. H-dimension or, as an alternate, a max. bead diameter must then be specified. In addition, to avoid closure contact between adjoining packages during shipment, the bottle diameter should be greater than the largest diameter of the outer shell of the closure assembly. Since these limiting specifications vary between types of two-piece child-resistant closures, any user should obtain them from the specific closure manufacturer."

This is now ready for re-ballotting.

2. Deep Skirted Metal Cap Finishes. This project is one which we proposed to GCMC in a joint meeting as needing a new plastic bottle finish combining GCMC 445 and 480. GCMC Task Force Committee implied they might follow our example if we can develop such a finish. In turn, they will standardize the caps to fit.

We now have this developed into what we feel is a new standard which will be SP-445. We are now setting up a meeting with GCMC to evaluate our proposed standard which should be in next few weeks.

3. Metric Conversion. As you may recall we are adding equivalent metric dimensions to all of our standard finishes on PBD #2. We have approved in the Technical Committee a basic format for the layout of the new specifications. The work of redrawing is now in progress.

B. TEST METHODS, POLY-OLEFINS

Chairman Pat Gibbons (Continental Can)

1. This committee has been very active and in fact yesterday and today are

having a day and a half meeting in order to complete the many projects they have under way. As you may recall, we are rewriting and updating all of our present technical bulletins. They are all being done in the same format which was adapted from ASTM.

2. PBD #1 "Visual Color Evaluation" and PBD #3 "Vertical Compression Test" have been completed by the sub-committee and presented to the Technical Committee. These have been reviewed by professional editing and are now going to ballot.
3. A new Technical bulletin "Decoration Adhesions Test for Plastic Bottles" is also completed and edited and going out for ballot.
4. PBD #4 "Drop Impact Test Method" is essentially finished waiting a final draft from the PVC test method sub-committee so that this bulletin will encompass all types of bottle resins.
5. The Stress Crack Test Method has been doing very well in regards to the round robin tests conducted by the participating companies. This is now in its final draft and should shortly be submitted to Technical Committee for balloting.

C. CARTON AND CLOSURES SUB-COMMITTEE Bill Seubert (Consupak, Inc.)

This committee as you may recall, is winding down and when present work is completed will phase out unless something specific develops to work on in future. This sub-committee has three new bulletins:

SPI DEAD LOAD TEST SPI COMPRESSION TEST FOR BOXES
SPI STACKING PATTERN FACTOR

These three bulletins have been submitted for editing and are to be sent out for balloting.

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D. PVC TEST METHODS SUB-COMMITTEE

Bob Hayes (Impco)

This sub-committee is, as mentioned earlier, working on Drop Impact to combine with our present bulletin to include PVC bottles.

The main project has been the development of a test method for color evaluation of PVC containers. This is now being drafted into final form and should be ready in near future for balloting.

Work has now started on new project which is a test method for measuring clarity of PVC containers. This is in its early stages and will report progress at future meetings.

Bud Hallowell
Chairman - Technical Committee
SPI

SPI-23990

BURSON-MARSTELLER

PLASTIC BOTTLE INSTITUTE

1974-75 PUBLIC RELATIONS PROGRAM

SITUATION Many factors are currently threatening continued growth of plastic bottles. Included are the PVC situation, OSHA regulations, environmental considerations. To combat these negatives, positive programs that communicate the positive advantages of the package (safety, weight reduction, energy conservation, aesthetics, functionality, reuse) must be communicated on a continuing basis. In fact, more emphasis than ever must be given positive promotion activity to offset fears on the part of customers and consumers. Also, a program must be developed that is flexible enough to change emphasis quickly to handle any contingency that might arise. For example, should the PVC situation start to show adverse affects on other plastic bottle sales, the program must be able to switch gears quickly to handle the problem. For that reason, the techniques to be used become more important than ever. The message to be communicated via those techniques will be the basic "plastic bottle pluses" at the outset but could change as need demands.

AUDIENCES: In the past, activity has been directed at a wide variety of audiences. It has been difficult to successfully communicate to any of these audiences because of limited programs and budgets. For 1974-75 we must target key audiences and direct all efforts at those audiences. Key targets should be 1) customers 2) consumers 3) editors who reach either customers or consumers.

1. Customers - This has been and still is the most critical group of decision-makers to reach. It is this group that ultimately decides on what type of packaging is used and what material will be selected. It is recommended that programs reaching this key audience be continued.
2. Consumers - This is an audience on which we have focused little attention in the past. Now, because negative stories are reaching the consumer, the image and desirability of all plastic bottles may be in jeopardy. Consequently, a positive communications program should be conducted to hold onto what we already have.
3. Editors - Editors, communicate to both customers and consumers. By increasing our contacts and programs with editors, we reinforce our message with other audiences. And through editorial relations, we improve the image and prestige of the Institute.

PROGRAM RECOMMENDATIONS:

- A. To reach Customer as primary audience:
 1. PLASTIC BOTTLE OF THE YEAR AWARDS - Based on results and industry interest in 1973 and 1974 efforts, further expand the program and add to the prestige of the awards for the next fiscal year. Increase the number and

categories of awards so that more key customers can participate and receive recognition for their efforts.

\$12,000

2. **FEATURE ARTICLES** - Institute should prepare six new feature value stories on the individual bottle markets citing numbers, benefits, trends etc. This has been a major project of last year's campaign and initial results have been favorable. Stories would again be placed with the major verticle and horizontal trade publications. Features would also be reprinted and could be merchandised to customers.

\$12,000

B. To reach Consumer as primary audience:

1. **THE PLASTIC BOTTLE EXPERT** - Institute should hire and train a spokesperson to travel to 6 major markets to appear on local radio/TV shows to talk about the benefits of plastic bottles to the consumer, housewife etc. Spokesperson would add credibility on benefits of plastic to a large home audience. Highlights of appearances using positive statements could be prepared into news releases to attain additional coverage. Spokesperson could be Irma Jean Holloway (former Deputy Directory of Product Safety, Dept. of Health, Education and Welfare).

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Spokesperson becomes a key communications vehicle that is used throughout the consumer portion of this program.

\$12,000

2. TELEVISION APPEARANCE - Get Bottle Institute spokesperson to appear on major TV show. WHAT'S MY LINE and TO TELL THE TRUTH have expressed an interest in having the creator of plastic bottle on show. Appearance would give positive exposure to the plastic bottle to millions across the country. Would mention the Institute as the industry's organization.

\$1,000

3. NEWSPAPER MATS - Prepare 6 different consumer stories on the benefits of plastic bottles to the consumer. The six stories would cover major bottle benefits such as safety, lightweight, reuse, ecology, energy savings. Stories would be distributed every two months to more than 1,000 daily and weekly newspapers. Program reaches consumer with benefits of plastic bottles.

\$6,000

4. WIRE SERVICE STORIES - Throughout the year, prepare a series of shorts on increasing bottle production, and benefits of plastic bottles, citing the Institute as source. Effort would reinforce mat program and further identify Institute to the public.

\$2,000

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5. PUBLIC SERVICE - It is more important than ever to establish the plastic bottle as a safe package. Public service film, radio spots on home safety will help offset negatives of the PVC situations. Spokesperson can be featured in dramatic presentation of safety message. Public Service makes more sense than ever because spokesperson is also appearing in major markets talking the benefits of the package.

\$7,000

C. To reach Editors as primary audience:

1. ROUNDTABLE PRESS EVENT - Institute should organize and hold a press event discussing the effects of the energy and materials crisis on packaging, PVC situation. Event would position Institute as leading authority on plastic packaging with user trade press and would also furnish customer with information vital to his decision making on material selection.

\$1,000

2. EDITORIAL LUNCH PROGRAM - While this program was limited this past year because of various negative situations facing the Institute, this remains a key way of creating an interaction between leading Institute figures and the trade press. Program further gives Institute credibility and establishes faces to go with the names in the Institute.

\$500

3. WOMEN EDITORS CAMPAIGN - Launch intensive campaign to tell positive aspects of plastic bottle packaging via womens interest publications. Activity will include editorial contact, development of tailored feature articles for publications such as WOMEN'S DAY, FAMILY CIRCLE, GOOD HOUSEKEEPING, etc.

\$5,000

4. MEETINGS AND PRESENTATIONS - Agency participation in annual, semi-annual meetings, committee meetings.

\$2,000

	<u>AGENCY FEE</u>	<u>EXPENSES</u>
TOTAL BUDGET: \$60,500	\$30,000	\$30,500

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