U. S. District Judge Gerard L. Goettel, denied both companies' motions for preliminary injunctions.

"If any injunctive relief were called for," Judge Goettel stated in his written opinion, "it would be an order requiring both parties to remove from their advertisements any implication that their products are the most effective available, for they are really nothing more than the most acceptable adaptations for female users." The decision allows both companies to keep on making their own ad claims.

No change. So P&G can still say that Wondra, which has a 5% share of the skin-lotion market, is superior to all other lotions; Chesebrough can continue to assert that no other leading lotion beats Vaseline Intensive Care Lotion, which has the largest market share, 16%. In essence, says a Chesebrough spokesman, the judge decided not to rule.

"We're disappointed, needless to say," he says. "We still feel the merits of the case are on our side. The decision doesn't rule on the truth of either company's claims." P&G isn't completely satisfied, either. Says a company spokesman, "We have a twofold reaction. First, we're pleased the decision allows us to continue to run Wondra's superiority claim. On the other hand, we would have preferred a more clear-cut decision."

Methodology. In his written opinion, Judge Goettel said the case was simply an argument over testing methods, with neither company capable of proving fraud, deception or bad faith on the other's part. In August 1983, P&G ran ads saying that tests showed New Wondra worked better than any other leading lotion on rough, dry hands. Chesebrough attacked these tests on the basis of, among other things, their statistical analyses. It also argued against P&G's so-called *ad libitum* tests, which permit people to use the product as often and as much as they want. These kinds of tests, Chesebrough says, don't establish a cause-effect relationship. Instead, Chesebrough says it used a controlled test to try to regulate as many variables as possible.

P&G says it used *ad libitum* tests because they are the most meaningful, allowing people to use the product as they would at home. And P&G attacked Chesebrough's December 1983 testing, saying the subjects weren't representative users of skin lotions and that the treatment period was too short.

Although he has advanced training in statistical cases, Judge Goettel found much of the seven-day testimony of the expert witnesses—statisticians, dermatologists, chemists and physicists—almost incomprehensible. "Indeed, it is doubtful that there are many, if any, trial judges who could fully comprehend the testimony," he remarks. "Courts generally lack the expertise of the Federal Trade Commission when it comes to evaluating advertising practices."

The judge questions whether it's the obligation of a court to decide winners and losers in cases like this. To do so, he reasons, the court would have to become a policy maker for consumer-product testing. And he concludes, "One does not have to oppose judicial activism to recognize that the role that these parties ask the judiciary to play exceeds that which the judiciary has the power to accept under our form of government. We are dealing with rough tests that have no certifiable standards and that rest upon nothing more than subjective evaluations of skin conditions."□

wrap-up

OCAW talks remain in limbo

BASF Wyandotte locked almost 400 union workers out of its Geismar, La., plant after labor contract renewal talks between the company and members of the Oil, Chemical and Atomic Workers (OCAW) Local Union 4-620 collapsed June 15. The action has triggered accusations of "union busting tactics" from OCAW representatives, who say federal labor rules prohibit employers from denying workers access to their jobs during labor negotiations except for economic reasons. Union members say they may file a complaint with the National Labor Relations Board.

A spokesman for BASF says that no new collective bargaining sessions are planned and that the plant will be operated by salaried employees, with no disruption of production schedules. The company says that negotiators were unable to agree on a number of issues. BASF had proposed a 1.5% pay cut for the first year of a new three-year contract, restoration to present levels the second year and a 1.7% increase during the third year. In addition, workers would have to pay about 15% of health-care costs that are now fully covered and accept limitations set on job assignment transfers. An OCAW spokesman says BASF's proposals are evidence of an "antiunion attitude" it has displayed at other plants.

No cancer epidemic

The findings of a North Carolina Health Dept. study released last week indicate that residents in Cherokee and Macon counties, N. C., are not experiencing a cancer epidemic triggered by picloram, an ingredient in Dow Chemical's Tordon herbicide. Allegations arose in 1982 that the product was responsible for an increase in diagnosed cancer cases in the areas, despite a lack of supportive scientific data.

The new study indicates that there is no evidence of a cancer epidemic and that the increase in diagnoses appears to be the result of an influx of retirees and better detection of malignancies through improved medical procedures.

Onstream. The on-site sodium chlorate plant at Olin's HO Process joint venture at Alabama River Pulp's Claiborne, Ala., pulp mill is now onstream and delivering the mill's full requirements of sodium chlorate. The 14,000-tons/year plant is the first project for HO Process, the partnership formed by Olin and Huron Chemicals. The new alliance will make use of Huron's sodium chlorate manufacturing process and Olin's chlorine dioxide processing techniques.

Plant acquisition. Great Lakes Chemical will purchase the Newport, Tenn., chemical production facility of Syntex Chemicals (Palo Alto, Calif.). The company plans to produce specialty compounds at the site, including brominated flame retardants and agricultural and pharmaceutical intermediates. Sales generated from the Newport plant could be in the range of $30-50 million, says Great Lakes.

More polyolefin films. Ohio Poly, a Goodyear subsidiary, says it will raise production capacity for polyolefin films by 25% when it completes a multimillion-dollar expansion in mid-1985. Much of the increase will be for making coextruded films. Ohio Poly produces films for the chemical, automotive and medical markets, among others.