



## **Journal of Historical Research in Marketing**

### **Emerald Article: Marketing academics at the FTC: the inside story**

William L. Wilkie, Patrick E. Murphy

#### **Article information:**

To cite this document: William L. Wilkie, Patrick E. Murphy, (2013), "Marketing academics at the FTC: the inside story", Journal of Historical Research in Marketing, Vol. 5 Iss: 1 pp. 124 - 140

Permanent link to this document:

<http://dx.doi.org/10.1108/17557501311293398>

Downloaded on: 06-02-2013

References: This document contains references to 25 other documents

To copy this document: [permissions@emeraldinsight.com](mailto:permissions@emeraldinsight.com)

Access to this document was granted through an Emerald subscription provided by Emerald Author Access

#### **For Authors:**

If you would like to write for this, or any other Emerald publication, then please use our Emerald for Authors service. Information about how to choose which publication to write for and submission guidelines are available for all. Please visit [www.emeraldinsight.com/authors](http://www.emeraldinsight.com/authors) for more information.

#### **About Emerald [www.emeraldinsight.com](http://www.emeraldinsight.com)**

With over forty years' experience, Emerald Group Publishing is a leading independent publisher of global research with impact in business, society, public policy and education. In total, Emerald publishes over 275 journals and more than 130 book series, as well as an extensive range of online products and services. Emerald is both COUNTER 3 and TRANSFER compliant. The organization is a partner of the Committee on Publication Ethics (COPE) and also works with Portico and the LOCKSS initiative for digital archive preservation.

\*Related content and download information correct at time of download.



# Marketing academics at the FTC: the inside story

William L. Wilkie and Patrick E. Murphy

*Department of Marketing, University of Notre Dame, Notre Dame, Indiana, USA*

## Abstract

**Purpose** – The purpose of this article is to present an inside look at the history of a little-known but interesting initiative in the marketing field, one that involved the infusion of marketing thought into public policy decision-making in the USA. It aims to trace the interesting tale of how marketing academics came to be included in the activities of the US Federal Trade Commission (FTC) through the FTC's "Marketing Academic Consultancy Program" (MACP) during the 1970s. This story also aims to include descriptions of the contributions made by those marketing academics and how those scholars were later phased out of the FTC.

**Design/methodology/approach** – An autobiographical approach is used since each of the authors was personally involved in the MACP. As participants in the program and as scholars whose careers were thereafter tremendously affected by that participation, these personal accounts provide considerable insight into the impact on both FTC operations and on marketing academic thought itself.

**Findings** – Over the decade of the 1970s some 30 marketing academics participated in this program, with considerable impact on both FTC operations and on marketing academic thought itself. Reflecting positive impact within public policy, for example, was a massive increase in the FTC budget for marketing and consumer research activities – from essentially zero at the start of the program to some \$ 1 million in 1978. Benefits also flowed back into academia, as this program formed a prime basis for the development of today's "Marketing and Society" research area.

**Originality/value** – Although there are histories of the FTC, this is an original, first-hand account of a little-known era during which marketing academics and public policy decision-makers were given a unique opportunity to work together and learn from each other. It offers personal insights into the workings of this innovative program and the benefits that accrued for both the FTC and for the marketing discipline.

**Keywords** Federal Trade Commission, Consumer protection, Marketing academics, History of marketing thought, Marketing and public policy history, Consumer research, Marketing and society, Marketing consultants

**Paper type** Viewpoint

## Introduction

This article presents an inside look at the history of a little-known but interesting initiative in the marketing field, one that involved the infusion of marketing thought into public policy decision making in the US. This occurred in the 1970s, when the "Marketing Academic Consultancy Program" was launched at the US Federal Trade Commission (FTC). The FTC is the nation's primary regulator of marketing activities, but had been staffed by attorneys and economists, with little awareness of the marketing field. When President Nixon pressured the agency to increase its consumer protection efforts, FTC officials decided to discover whether marketing academics might help. Initial results were positive. A formal consultancy program was begun, in which marketing academics would take university leaves of absence to work inside the FTC as consultants, then recruit their replacements so as to maintain a continuing presence of the field at work on commission matters.



---

Over the ensuing ten years some 30 marketing academics participated in this program, with considerable impact on both FTC operations and on marketing academic thought itself. Reflecting positive impact within public policy, for example, was a massive increase in the FTC budget for marketing and consumer research activities – from essentially zero at the start of the program to some \$1 million in 1978. Benefits also flowed back into academia, as this program formed a prime basis for the development of today’s “Marketing and Society” research area.

### **A brief background on the FTC**

The US Federal Trade Commission (FTC) is an independent regulatory agency broadly charged with the responsibility for providing a “fair competitive environment” for the nation’s economic system. As such, it is the primary regulator of marketing activity in the US. The FTC is run by five commissioners, with no more than three from a given political party, appointed on a rolling basis for seven-year terms that are designed to cross presidential administrations. The FTC has three major Bureaus – Competition, Consumer Protection and Economics, reflecting the span of its work. Founded in 1914, its mandate, apart from administering several specific acts, is surprisingly vague. Section 5 of the Federal Trade Commission Act originally declared “unfair methods of competition in commerce” to be unlawful and was later amended to include “unfair or deceptive acts or practices” in this category. These statements historically have been interpreted as assigning responsibility and authority in areas of industry structure (competition) and trade practices (consumer protection). In part due to openness of its charter, the FTC has seemingly always been controversial: across its history critics have often questioned commission activities, charging at times that it was regulating with too heavy a hand, and at other times that it was not giving nearly enough attention to harmful abuses occurring in the dynamic US economy (an excellent review of the FTC’s first 50 years, written by a historian, is available in Zuckerman(1990)).

The decades of the 1970s and 1980s were just such a turbulent time for the FTC, with both activism and deregulation successively holding center stage. A number of new and important concepts of marketing regulation were developed during this time. It is the case that marketing academics played a significant role in advancing these, although they had been largely, if not entirely, absent at the FTC prior to this time (as a law enforcement agency the FTC was staffed almost entirely by some 300 attorneys, complemented by a staff of PhD economists). In this paper we will trace the interesting tale of how marketing academics came to be included, the sorts of contributions they made, how they were phased out, and when they back. Our style will be relatively informal, in order to provide some personal, first-hand accounts of these developments.

### **The sparking of FTC activism**

The entrance of marketing academics to the FTC can be traced to a sharp change in the political context enveloping the agency in the late 1960s. In accord with the general societal unrest accompanying the unpopular war in Vietnam, increasing questioning appeared of both big business and big government institutions. Included here was an impetus for more active regulation of marketers, which came from a diverse set of institutions and represented a strong set of forces. Quite prominently, a book by the “Nader’s Raiders” consumerist group harshly criticized the FTC’s low profile during the 1960s (Cox *et al.*, 1969). Among its allegations, the group pointed out that at this

point the FTC was issuing less than 70 complaints a year against deceptive promotional practices in the entire nation. Cast against the massive promotional activity of the American economy, it was obvious that the chance of detection and prosecution was extremely slim (Pitofsky, 1977). The President of the US, Richard Nixon, then requested the prestigious American Bar Association (ABA) to appoint a blue-ribbon taskforce to investigate these charges[1]. Its detailed report (ABA, 1969) provided findings similar to those of Nader's group. It concluded that drastic changes within the agency were needed. If such changes were not made, moreover, the ABA report called for disbanding the entire FTC and assigning its tasks to other agencies. President Nixon and the Congress decided to support the changes. The head of the ABA Report, Miles Kirkpatrick, was named FTC Chairman, new appointments were made inside the agency, and the agency's budget was increased substantially[2].

During the ensuing decade the FTC emphasized new powers and programs. Advertising was a major target: new proposals were advanced on such topics as advertising substantiation (Cohen, 1980), corrective advertising (Wilkie *et al.*, 1984), comparative advertising (Wilkie and Farris, 1975), affirmative disclosure (Wilkie, 1982), and advertising to children (Mazis, 1979; Ratner, 1978), and advertising code barriers (e.g. opening more advertising in such areas as eyeglasses, drugs, and the professions). The net effect during the 1970s was to create a much more powerful regulatory agency, supported by a 500 percent budget increase over the decade (Murphy and Wilkie, 1990). However, the increase in power and activity sparked a strong back-lash from the business community, and the 1980s were marked by restrictions on FTC powers in several regulatory areas (a development we shall discuss later).

### **The FTC's "Marketing Academic Consultancy" program**

President Nixon's decision to increase the scope and level of FTC's marketing regulatory activity also brought to consciousness the possible need for additional expertise to be used by the FTC. In particular, Commissioner Mary Gardiner Jones was quite active in advancing this view. She confronted some resistance from those with legal backgrounds, who were comfortable working with other attorneys and still gaining experience working with the quite different thinking advanced by economists. However, Commissioner Jones persisted, and decided to begin the process by adding to her personal staff of advisors (Jones, 1990). In 1970 she contacted George S. Day, then an assistant professor at Stanford, about his willingness to serve as an in-house consultant. Day was unavailable but recommended his former student, Murray Silverman (currently on the faculty of San Francisco State University), who took the initial position as an advisor to Commissioner Jones.

### **William L. Wilkie's FTC experience**

Due to the legal environment of the FTC as a law enforcement agency, the commissioners at points serve in judicial capacities when deciding on cases before them. This means that they (and their advisors) cannot interact with the staff of the FTC on the preparation of a case. Thus, Silverman found that he was unable to offer useful insight to much of the work going on in the agency at the time. With the support of Commissioner Jones, he therefore asked his former Stanford doctoral classmate, William L. Wilkie, about his interest in serving in an advisory role, now for the staff of

---

the FTC. It happened that, at that time the Sears-Roebuck Foundation had agreed to fund a new initiative of the American Assembly of Collegiate Schools of Business, the “AACSB Federal/Faculty Fellowship Program.” This program was intended to familiarize business school faculty members with the purposes and operations of government (a year-long program on public policy was hosted by the Brookings Institution as part of the program), while also offering government agencies assistance in obtaining new advances in management practices from the business community. At the time Wilkie was in his second year as an Assistant Professor on the faculty of Purdue University. The Purdue administration was enthusiastic about the faculty taking part in the program, and approved his leave of absence to participate. He thus joined the faculty program in Summer 1972, and was retained as an in-house consultant reporting to the Director of the Bureau of Consumer Protection at the FTC, Robert Pitofsky.

At the time of his arrival the FTC, as a law enforcement agency, was staffed almost entirely by attorneys with a staff of PhD economists offering academic insights on many issues. The agency was inexperienced in using expertise regarding the marketing and consumer research fields, and provided Professor Wilkie with an office, an assistant, and considerable flexibility across the organization. He reports on his experience as follows.

It’s useful to remember that I arrived at the very beginning of this type of work at the commission, so things were very flexible. Also, it’s important in my case to look beyond my time spent there, as I continued my activities after returning to the university world. So I’ve divided my recollections into these two zones. Let’s start with my time in residence at the FTC, which commenced in June of 1972 (I learned later that my wife and I were moving into our Alexandria, VA apartment the same night that the Watergate burglars were breaking into those offices!). The FTC was quite interested in what our field might contribute to its work, and I agreed to pursue four projects during my tenure there.

#### *Four primary projects while in-house at the FTC*

*Project 1. Corrective advertising:* This was a controversial new remedy being developed by the FTC. It was in response to recognizing that some consumers could be deceived by an advertising campaign, which itself would later be stopped by an FTC order, yet the deceived consumers might never be informed of the actual facts and might continue to rely on the earlier misinformation. This would be harming not only these consumers, but also honest competitive marketers who would otherwise have benefited from their purchases. There were many complexities to be addressed here (the remedy eventually was upheld in the Federal courts in the famous *Listerine* case), and I worked on them generally as well as in the context of specific cases in which the remedy was applied. Among my contributions was the proposal of a new approach to the remedy, in which the FTC would take itself out of the business of creating the corrections themselves, allowing consumer research to be used to ensure that consumers were no longer misled – this proposal was employed in the *Hawaiian Punch* case, and was praised by both conservatives (an editorial in the *Wall Street Journal*), and liberals (reports from “Nader’s Raiders”). If anyone is interested, they can find much detail on this program in an article I later wrote, entitled “Marketing’s Scarlet Letter . . .” (Wilkie *et al.*, 1984).

*Project 2. Cigarette warning statements:* This was another very controversial area, as it had been less than ten years previously that the nation had firmly decided that cigarette smoking carried grave health dangers and that people should know this. Prior to my arrival, then, many steps had been proposed, and some implemented, including the required health warnings on every pack of cigarettes and in every ad. My role was to contribute to the continuing assessment of the FTC's possible role going forward, and this was a fascinating assignment. I brought more structured analysis to the issues through the use of formal communication models as well as theories of consumer behavior, but also learned a lot about the law, politics, government constraints, and public health from these discussions and meetings (which included private sessions with the Surgeon General of the US and with the FTC Commissioners). As is the case with much of my activities there, this was confidential, and I have never written about this topic. For those readers who are interested, however, this is still a major area of dispute now 40 years later. The Food and Drug Administration has now been granted power over cigarette marketing (viewing them as akin to a drug), and its proposal for very strong, graphic consumer warnings has been in the courts for a number of years. There should be easily available accounts of this battle in the popular press.

*Project 3. Service as the "behavioral science expert" for the legal staff of the Bureau of Consumer Protection:*

A quick aside on this: Bureau Director Robert Pitofsky (a brilliant man who later became Chairman of the FTC and Dean of Georgetown Law School) called me into his office to discuss this role, and asked me if his draft announcement introducing me to the hundreds of legal staff (the FTC has over 500 attorneys today, and there are seven divisions within the Bureau of Consumer Protection) would suffice. I noticed that he'd called me a "Behavioral Science Expert," and politely demurred, saying that I surely didn't deserve that title. He then patiently explained that in Washington, DC people only listened to two types of persons – those with power, and those with expertise. Since it didn't appear that I possessed power. . . I thought it over quickly, then agreed to the draft announcement, and became an "Expert."

The FTC staff was young, brilliant (mostly from Ivy League law schools), idealistic, and motivated to bring and win cases. I met with many attorneys, and at all stages of their cases, from background investigation to in-court cross-examinations (I was not allowed to speak to the court, but could sit beside the lead attorney and provide him or her with advice). I didn't keep track of how many attorneys I dealt with (some only briefly, and others for extended periods on a particular case), but it could well have been 60 to 100.

It was clear that the fields of marketing and consumer behavior were quite central to these issues, and while at times I didn't have much to offer, I do believe that I made significant contributions to many of the cases. One of the early ones was a potential deceptive advertising case involving a major firm, on which there was staff disagreement – was this advertising actually deceptive or not? I proposed that we pay for an ad copy test to see how consumers were reacting. This was a budget item that (amazingly!) I do not believe had ever been expended by the FTC previously. I worked on the precise design and had the test conducted by a nationally-recognized market research firm that was pleased at the opportunity for future potential work with the FTC and quoted a rock-bottom price of only \$2,000 for the work. The results came back and were eagerly scrutinized by everyone involved. They indicated little likelihood of deception, and the potential case was dropped. This was an appropriate result, I think,

---

and also proved to be a notable start for copy-testing at the FTC, a practice that has been frequently employed since that time.

Another notable memory from this work was the case I worked on with Ben Stein, who has become a television and Hollywood star today (and Ferris Buehler's memorable teacher!). At that time he was my age, a young attorney at the FTC, having graduated from Columbia, then Yale Law School. His father was the Chairman of the Council of Economic Advisors for President Nixon, so he was well connected in Washington (I believe he became a presidential speechwriter shortly thereafter). I recall him as very bright: a pleasant colleague who was actually interested in some of the ideas coming from my field of work and willing to try them out. We worked together very well on the case at hand.

Again, all of my work with the staff was confidential, so I have never written directly about it. I did, however, give talks to my field about the FTC at academic conferences, and wrote a journal article with David Gardner (a marketing professor from the University of Illinois who began serving at FTC's Office of Policy Planning while I was still in residence) entitled, "The role of marketing research in public policy decision making" (Wilkie and Gardner, 1974). This appeared in the *Journal of Marketing* and reached a broad market, who received it with much interest. It was sought out for reprinting in three readings books, and was later named as among the "50 most-cited marketing articles" written during the decade of the 1970s.

*Project 4. Creating a continuing marketing and consumer research presence at the FTC:* Led by Commissioner Mary Gardiner Jones' advocacy for our area, the FTC was interested in how to best plan for a continuing presence of our field within their work. Hiring Murray Silverman was the first step, bringing me on board was the second, and shortly thereafter the new Office of Policy Planning reached out and brought a third marketing professor, the previously mentioned David Gardner (U. of Illinois) in as a consultant on their staff. Murray, David, and I continued discussions as we learned more about the policy setting and types of needs there. We were concerned that creation of a permanent staff or division might diminish the quality, and certainly the independence, of insights provided to the FTC. In contrast, we believed, that a number of fine researchers would be interested in working with the agency and contributing to resolving the problems being addressed. However, because our field's doctoral education typically avoids exposure to public policy issues, distant relationships might not work well either – the marketing people likely would not truly understand the problem setting.

We therefore instituted "Project MAC," a continuing "Marketing Academic Consultancy" at the FTC in 1972. Each year the FTC would bring two (hopefully prominent) marketing professors in-house, one in the Bureau of Consumer Protection and one in the Office of Policy Planning. These persons would be expected to undertake the same sorts of tasks that David and I were undertaking within the FTC. In addition, we wanted them to serve as external liaisons to the marketing academic community (as we had been) by delivering conference talks and writing papers on public policy issues. Finally, they were to identify their replacements and keep the program rolling. I still remember how very pleased I was when Professor Harold Kassarijian from UCLA, a major figure in consumer behavior, agreed to take my place in BCP, and Neil Beckwith (a fine quantitative researcher, then of Columbia, later Wharton and Notre Dame) agreed to replace Dave in OPP (and to move into the wonderful Alexandria apartment where Barbara and I had been living!).

*Wilkie's continued consultation with the FTC*

The issues I was encountering while at FTC were big, important, and continuing in nature. Thus, such consulting did not end when I returned to Purdue, then to Harvard and the Marketing Science Institute (both of which invited me because they were specifically interested in my work in the public policy area), then to the University of Florida, and finally back to Notre Dame – I worked for many years thereafter as an outside FTC consultant, sometimes paid, sometimes *pro bono*. Beyond specific cases, here are three interesting programs/projects with which I was involved.

*FTC rulemaking:* In 1974 Congress passed the Magnuson-Moss Act, which directed the FTC to add rule-making activities to its previous legal case-by-case approach to marketing regulation. This was intended to add efficiency to the competitive marketplace – positive rules (say, for example, in the funeral industry's marketing activities) could guide all competitors in an industry as to appropriate actions, and consumers would benefit from both better information and fewer questionable marketing schemes in the marketplace. During the 1970s, rule-making processes were initiated on a range of topics, including product labeling, life insurance, used cars, funerals, advertising to children, and other areas in which evidence showed that consumers would sometimes encounter problems and/or that better information might improve purchases or save money. Together with Professor Joel Cohen, I did extensive research on possible rules (again all confidential, so no publications on these). Interestingly, our research contributed to stopping one of the initiatives and advancing another. As a set, however, the rule-making activities generated huge political controversy which reached Congress, and the rule-making processes were essentially ended by about 1980.

*The FTC consumer information taskforce.* As the 1970s progressed, it was becoming increasingly clear that FTC remedies involving consumer information were to be preferred when possible. Not only does this comport with economic theory (in our competitive marketplace buyers are assumed to hold sufficient information about their alternatives as to be capable of making good purchasing decisions for themselves, and these in the aggregate will guide allocations within our society), but it also tends to be a relatively less intrusive option for the government in its relations with the businesses it regulates. Nonetheless, this is still a complex area since it involves consumers' processing issues, technical concerns involving the precise measurement and characterization of product or service attributes, and myriad legal issues, such as freedoms accorded to a marketer in our economic market system (e.g. freedom of speech).

Accordingly, the Commission launched a blue-ribbon "Consumer Information Taskforce" toward the end of the decade, charged to provide a comprehensive review of knowledge in this area, and a set of guidelines for the FTC follow in the future. As I recall, it was comprised of some FTC internal attorneys and economists, as well as a few leading academics from each of the fields of Law, Economics, Psychology, and Marketing. After leaving the FTC, I had done quite a bit of research on consumer information, and was one of the three or four people from Marketing invited to serve on the taskforce. The discussions were stimulating, and I learned a lot (and contributed some as well) – everyone there was an expert in his or her area.

In addition to the formal FTC session reporting on the findings, a large volume entitled "Consumer Information Remedies" was issued (FTC, 1979). I used that volume



---

for many years in the PhD seminar on Marketing and Public Policy that I taught at the University of Florida. The students responded to it with great favor, as it combined high levels of theory with real issues in the public policy, marketing, and consumer protection domain (It was thick, and printed with a bright yellow cover. They called it “The Yellowback,” and my personal supply dwindled across time as some of its PhD borrowers “forgot” to get it back to me). I did not personally write any direct follow-up articles on this in the academic journals, but others did, which led to considerable impact on research in our field during the 1980s.

*The affirmative disclosure project.* As I mentioned above, our field’s work was clearly central to many of the FTC’s activities, and this became increasingly recognized as the decade progressed. Following completion of the consumer information taskforce, the marketing academics in residence at FTC (Michael Mazis and Kenneth Bernhardt) approached me to see if I was willing to take on a large evaluation research project on the topic of “affirmative disclosure.” Affirmative information disclosures are a class of regulatory actions in which a marketer is required to inform consumers of certain facts about a product or service. They can take on a variety of forms, including provision of basic information about product characteristics, qualifications of product claims, warnings of risks with use of a product, how to reduce risk, and so forth (the corrective advertising program discussed earlier is thus a form of affirmative disclosure). I agreed, and set about to work under the terms of a formal contract. It turned out to be a massive undertaking – an investigation of some 225 case dockets, for all of which the FTC had ordered some form of affirmative disclosures to be made to consumers because there was reason to believe that they had been deceived by an earlier marketing effort. This took me a long time, as I needed to ensure that I understood the nature of the case, the product or service, the consumers involved, as well as examining the exact remedy that had been ordered, then how it had been implemented in the marketplace. Some efficiency was available because of relationship among some cases (e.g. when a particular disclosure would be ordered for a set of firms in an industry, such as cigarettes or weight loss). Still, it was a massive undertaking, and I spent many weekends in Washington headquarters diving through the docket rooms. Fortunately, it was very interesting, and I again learned much. My final report was voluminous, and apparently quite helpful: I understand that it became assigned reading for FTC staff contemplating using these remedies for their cases.

Sometime after the report was finished, I received a phone call from Professor Thomas Kinnear (University of Michigan), who had recently started a new publication, the *Journal of Public Policy & Marketing*. He asked if I was planning to write a journal article on the project. I replied that I probably would not, as I didn’t see any way to condense it down to the limited pages for a journal. He then offered the possibility of a series of articles (reflecting the chapters of my FTC report), as well as the assistance of his talented copy editor, if I would place the work into his new journal. We agreed that one article per year would work, and did so over the ensuing years. At the end, there were five articles, and these did have significant impact on researchers wishing to study consumer information issues (Wilkie, 1982, 1983, 1985, 1986, 1987). When *JPP&M* instituted its “Outstanding Article Award” in 1992 or so, the Editorial Board went back to the 1985 Affirmative Disclosure article and voted it as the outstanding article to have appeared in the first five years of the journal’s publication.

### **The program's progress during the 1970s**

#### *The initial years: 1971-1974*

The FTC leadership was pleased with the contributions it had been receiving from the marketing academic consultants, and agreed to implement our plan for a rotating consultancy. Two slots were allocated, one for the Bureau of Consumer Protection (BCP) and one for the Office of Policy Planning and Evaluation (OPPE). David and I worked hard to locate strong replacements, and as mentioned earlier, were pleased and proud that Neil Beckwith (Columbia) and Harold Kassarian (UCLA) agreed to succeed us in our positions[3].

Including the three of us (Murray, David and me), 22 marketing academics served in the rotating residency program at the FTC during the 1970s (the following section is drawn from Murphy, 1990). During the initial period, 1971-1974, these academics participated in the following positions:

- Murray Silverman (Advisor to Commissioner Jones).
- William L. Wilkie (Bureau of Consumer Protection (BCP)).
- David M. Gardner (Office of Policy Planning and Evaluation (OPPE)).
- Harold H. Kassarian (BCP).
- Neil E. Beckwith (OPPE).
- H. Keith Hunt (OPPE).
- John U. Farley (OPPE).
- Norman Kangun (BCP, National Advertising Div.).
- William A. Staples (OPPE).
- Ralph L. Day (BCP, National Advertising Div.).
- E. Laird Landon (OPPE).
- Alan Shocker (OPPE).
- John A. Miller (OPPE & BCP, Nat'l Advertising Div.).

The program was growing and working well at this time. As experience grew inside the Bureau of Consumer Protection, the FTC leadership began to place the its arriving academics into its Division of National Advertising, a center of considerable case activity as the agency sought out new remedies. The Office of Policy Planning and Evaluation, meanwhile, was finding the marketers' training and insights very useful for its activities, which included systematically assessing the consumer marketplace to identify areas most in need of FTC action.

#### *The highlight years: 1975-1979*

The passage of the 1974 Magnuson-Moss Act added impetus to FTC activity during the later years of the decade. The marketing academics during this time, in addition to pursuing cases, were also working on the development of prospective Trade Regulation Rules (TRR's). TRR's represented a major shift in FTC processes, from the previous emphasis on legal development of a case against a single firm, to a new effort to develop useful rules that all firms in a given product/service category would legally be obliged to follow. These TRR's were intended to improve the performance of the marketplace, and to assist consumers and honest competitors. High-ticket items and

---

and/or vulnerable segments were initially targeted: early rulemaking efforts were begun on such areas as children's advertising, life insurance sales, and the marketing of funeral services. The development processes were long and complex, and clearly required marketing and consumer research inputs. During this period some of the earlier marketing academics continued to work with the commission staff, now as outside consultants, and nine new marketing academics joined the rotation program between 1975 and 1979.

- (1) John Eighmey (Division of National Advertising).
- (2) Michael B. Mazis (BCP and OPPE).
- (3) Dennis L. McNeill (Division of National Advertising).
- (4) Debra Scammon (Division of Food and Drug Advertising).
- (5) Ivan Preston (Division of National Advertising).
- (6) Richard Mizerski (Division of National Advertising).
- (7) Gary T. Ford (Bureau of Economics (BE)).
- (8) Ronald Stiff (BCP Office of Impact Evaluation).
- (9) Kenneth L. Bernhardt (BCP Office of Impact Evaluation).

The level of activity became very high, and increased budgets flowed to marketing and consumer research projects. Michael Mazis had moved to American University in Washington and became a fixed source of influence. He was instrumental in the creation of the Office of Impact Evaluation within BCP. In 1978, that office was run by program participant Kenneth Bernhardt, whose \$1 million budget for contract research supported 22 research studies that year (Bernhardt, 1990). This was certainly a long way from the \$2,000 study that Wilkie had championed only six years earlier, but is a good measure of the extent to which marketing academic contributions had come to be appreciated by the agency during the time of the academic consultancy program.

### **The program's shift in the 1980s: denouement**

Two significant events occurred at the dawn of this decade. First, the FTC's spirited pursuit of a variety of TRR's had led the business community to join together and head to the US Congress, demanding relief from such activities. Congress had reacted, and placed a threatening set of constraints on the commission, which now was in the process of backing away from much of these TRR undertakings. Second, the 1980 Presidential election swung the nation from the previously liberal policies of President Carter, now to the distinctly conservative policies of Ronald Reagan. The Reagan administration brought sharp changes to the top appointed positions at the FTC, and over time the "Chicago School" of economics began to dominate the actions of the agency. It was no surprise to discover that these economists perceived no large needs for insights from marketing academics, and both the roles and numbers of the academics rotating in residence declined during this time, coming to an end early in decade. Six marketing academics worked at the FTC during this time, as follows:

- (1) Thomas J. Maronick (BCP, Office of Impact Evaluation).
- (2) Edward Popper (Division of Advertising Practices).
- (3) Joshua Wiener (Bureau of Economics).

- (4) John E. Calfee (Bureau of Economics).
- (5) Gregory T. Gundlach (Bureau of Competition).
- (6) Patrick E. Murphy (BCP, Office of Management Planning).

A quick perusal of the assignments of this group clearly indicates the shifts that were occurring within the FTC, away from spirited activity in the consumer protection area (especially advertising) and toward a deregulatory approach to the marketing world. It is also clear that consumer and marketing research was also being largely supplanted by economic analysis. The shift is further clarified by the backgrounds of these six individuals. Of the six, only Murphy and Popper were “classic” marketing academics. Maronick, while recently having been trained in a marketing doctoral program, was also an attorney who could call upon this training in carrying out his responsibilities. The other three persons could perhaps not be strictly included as participants in the Marketing Academic Consultancy program, though all fit due to their later actions. Gundlach was a law student working as an FTC competition policy intern when he was assigned a project to summarize findings in the area of vertical distribution restraints. This brought him into close contact with marketing academic research, and he recognized a strong personal appeal in carrying this further. He then entered a Marketing doctoral program to complement his law degree, and undertook an academic career in Marketing (which, incidentally, began by joining our department at the University of Notre Dame in 1987). Wiener and Calfee, meanwhile, held PhD’s in Economics, not Marketing, and were hired to carry out economic analyses at the FTC (having discovered academic marketing issues in their FTC work, however, they also later chose to join the academic marketing community, and along with Gundlach became central figures in the development of the Marketing and Society research area).

### **Patrick E. Murphy’s FTC experience**

While Wilkie’s in-house FTC work had occurred at the start of the program (1972-1973), Professor Patrick Murphy’s tenure (1980-1981) occurred near its end. A more detailed look at his experiences thus provides us with further insights into marketing’s contributions to the FTC, and also how they had changed over the some ten years of the rotating consultancy program. Here is his personal summary.

I joined the FTC in the Summer of 1980 while I was a faculty member at Marquette University. I also took part in the Sears/AACSB Federal/Faculty Fellowship Program, and was placed in a new Office of Management Planning within the Bureau of Consumer Protection at the FTC. The office was headed by Steven Kelman, who was on leave from the Kennedy School of Government, at Harvard. The other professional in the office was Dee Pridgen, an attorney, now at the University of Wyoming Law School.

The first of three major projects that I was involved in used a depth interview technique with 20 opinion leaders about the environmental trends affecting the FTC at that time. Of these experts, 13 were marketing professors who had worked or consulted with the Commission. The others were three law professors recommended by Commissioner Robert Pitofsky and four consumer group leaders. Among the consumer protection problems identified by the interviewees were: new technologies, energy, services, non-store marketing, deception in local advertising, the aging of the population and marketing to minorities and immigrants. As seems to frequently be the

---

case with respect to the FTC and its activities, it is uncanny how many of these issues remain ones of concern over 30 years after this initial report was written.

My second project was a study of changing consumer lifestyles and their implication for FTC activities. An attempt was made to identify significant long-term lifestyle changes that would have impact on consumer behavior and may heighten the dangers from deceptive marketing activities. One issue in particular is worth noting: the “current emphasis on healthy lifestyles,” which is also a focal point of much marketing now that we’ve reached the second decade of the twenty-first century.

My third project involved a major survey of consumers in Montgomery County, MD (the county that abuts Washington, DC on the North) concerning their experiences with heating and air conditioning firms. Analysis of the survey afforded us the possibility of publishing a list of “recommended” heating and air conditioning firms in the area (based on actual reports of consumer satisfaction). The report was covered by the *Washington Post*. The purposes of this project were two-fold:

- (1) To have a federal agency work effectively with a local office of consumer affairs.
- (2) To implement and highlight the importance of positive information in the market. One of the points of emphasis of the Office of Management Planning was to look for ways of accentuating positive information about companies rather than bringing cases against firms for their illegal activities.

I left the FTC during the Summer of 1981 to go on sabbatical. Soon after my departure, President Reagan appointed a new Chairman of the FTC, James Miller, who promptly disbanded the office. Kelman returned to Harvard and Dee Pridgen was reassigned within the Bureau of Consumer Protection. Although many might consider the office that lasted less than two years a failure, we were able to bring a more strategic attitude to the Bureau (see Murphy, 1984).

### **Conclusions and implications**

#### *Contributions to public policy decisions*

In summary, over a period of just about ten years, some 30 marketing academics entered the Federal Trade Commission as members of its staff, and had considerable impact on its operations. As Murphy (1990) summarizes, among the roles that they played were the following:

- advising the leaders of the FTC (Commissioners and Bureau Directors);
- advising attorneys on cases;
- administering FTC contract research;
- conducting planning studies;
- contributing insights to policy review sessions;
- providing economic analyses of cases and of potential trade regulation rules; and
- serving as experts in rulemaking.

Beyond the changes within the FTC itself during the early 1980s, there was another important factor behind the cessation of the rotating academic consultancy program. It should be understood that our coverage of the rotating consultancies did not fully

capture the extent of marketing academic inputs that were occurring at the FTC as time went on. The earlier participants also often continued working with the staff, now as outside consultants on specific matters, and other marketing academics also became involved, especially as expert witnesses for specific cases and rulemaking actions. Thus, there was somewhat less need for the rotating program over time, especially when Michael Mazis decided to join American University locally, and work on a continuing part-time basis with the FTC. This local talent relationship expanded in the 1980s with such persons as Gary Ford (first at University of Maryland, then also at American University), with Thomas Maronick (Towson State University, Maryland), who served in the BCP's Office of Impact Evaluation from 1981 until 1997 while remaining in his position as a full-time faculty member, and with Manoj Hastak, when he also joined the Marketing faculty at American University in Washington, DC.

Thus, when comparing the state of affairs at the agency, it is clear that the FTC's comprehension and use of marketing and consumer research is much advanced from its nascent state some years ago. Much of the credit for this salutary change is due to the Marketing Academic Consultancy Program, to Commissioner Jones for her strong support in developing it, to the AACSB/Sears Program for great assistance in helping to bring business school faculty members to Washington, DC, and to the participants themselves, who worked hard both to learn the public policy setting, and to craft new and useful solutions to the issues there.

*Academic benefits: the rise of JPP&M*

Our tale does not quite end with focus on the FTC, as the program participants tended to be relatively early in their academic careers, and many used this as a learning experience from which to build future research contributions. All professors are aware that an academic infrastructure – a journal, an association, and a conference – can be crucial in the development of a vibrant research area. Although not perhaps well recognized, the FTC consultancy program played a significant role in the development of such an infrastructure for marketing and public policy research, today broadened as “Marketing and Society” research.

This occurred due in large part to the strong interest and contributions by people who had participated in that program, and now were eager to pursue their research in advancing this area. Thomas Kinnear, for example, had recently served as an external consultant to the FTC's Office of Impact Evaluation, and was well aware of the various projects being pursued by the program participants. He perceived an opportunity for future research to grow if a journal were available for this area, and worked to begin the *Journal of Public Policy & Marketing (JPP&M)* at his home school, the University of Michigan, in 1982[4]. His original editorial position stressed that the journal was targeted precisely toward public policy issues (social marketing papers were not welcome, for example, which is clearly not the case today), and the set of former FTC consultants played a very significant role in helping to run the publication, as well as providing articles for it. Kinnear ran the journal until 1986, and Patrick Murphy took over as Editor until 1992. Murphy was followed by Michael Mazis, then Debra Scammon, then Craig Andrews, then Joel Cohen, then Ron Hill, and now David Stewart. With respect to the consultancy program's impact, each of these *JPP&M* Editors across its entire history have previously served as marketing academic consultants to the FTC, as have many long-standing members of the *JPP&M* Editorial Board. Over time,

---

*JPP&M* has become a respected, niche journal in the Marketing field, and is now in its 32nd year of publication[5].

*Academic benefits: impacts of the 1989 Notre Dame Symposium*

Following the internal dynamic changes at the FTC in the early 1980s, most marketing academics interested in public policy were essentially forced to pursue their research outside of the agency. The FTC underwent an abrupt and major change during this time, with economists gaining much influence and the mix of FTC actions shifting substantially. Over time, the public criticisms against the FTC shifted from concerns about too much activist regulation (in the late 1970s) to now criticisms about the dangers of too little regulation (in the late 1980s). The American Bar Association then commissioned another blue-ribbon taskforce, again under the leadership of Miles Kirkpatrick, who had chaired the 1969 report and had served as FTC Chairman afterwards. This report examined the FTC in detail and recommended that a series of changes be made for the future (ABA Report, 1989; see also Calkins, 1990 for an overview).

This development happened to coincide with a special symposium that Professors Murphy and Wilkie were planning to convene at the University of Notre Dame (the donor of the Business School building, Hurley Hall, had been one of the inaugural commissioners of the FTC, reflecting a long relationship between the university and this government agency concerned with providing a fair and efficient marketplace for our nation). The Notre Dame Symposium was convened in 1989, celebrating the 75th anniversary of the FTC and taking on issues for its future (centered on the recently released ABA Report). The select group of participants included past and present commissioners and high-level officials of the agency, leading attorneys and economists, members of the ABA Taskforce, and all former participants of the marketing academic consultancy program who were available to attend.

Debate was high-level, informed, and civil but intense. The event was a smashing success according to its participants, and our book covering its contents (Murphy and Wilkie, 1990) has been named as one of “Six Superlative Sources” on the Federal Trade Commission by a Library of Congress specialist on this agency[6]. As one measure of the Symposium’s impact, the FTC commissioners requested that we organize a day-long briefing session at FTC headquarters, to probe the promise of our field for future efforts of the Commission. Following that session, and with the especially strong support of Commissioner Andrew Strenio, the FTC opted to renew its support for a rotating academic consulting position for marketing faculty members, commencing in the early 1990s.

The Notre Dame Symposium also galvanized the marketing academic participants, who agreed that future meetings of this type would be most valuable. Paul Bloom and Michael Mazis volunteered to arrange academic conferences each of the next two years. These were well attended and included strong research presentations and excellent discussions, and became the annual “Marketing and Public Policy Conference.” This conference is now in its 23rd year, and is now held under the auspices of the American Marketing Association. It serves the important function of regularly bringing together marketing academics, government leaders and public policy officials to examine issues of importance both to the marketing academic community and larger policy making world.

Thus, in addition to their individual research contributions, the academic consultancy program participants played central roles in the growth of a significant journal and a significant conference, each of which was instrumental in the development of today's vibrant field of Marketing and Society research. Altogether, this is a fine record for the Marketing Consultancy Program, in which we were pleased and proud to have been able to participate!

#### Notes

1. The extent to which personal relationships might have influenced this development is unknown to us. However, this action was not one normally to be expected from President Nixon, a Republican who had been elected with strong support from a business community that did not particularly favor an active FTC. Speculation abounded that he had been lobbied by none other than Harvard Law student Edward Cox, the senior author of the Nader Report. Cox was dating Nixon's daughter, Tricia, at the time, and they were married in 1971.
2. A summary of early important changes is presented in Freer (1971).
3. It was during this time that I discovered some elements of an academic career of which I had been unaware. In discussing the possibility of joining the FTC, several younger faculty members at different schools told me that they were quite interested, but had been warned away by senior advisors, as not a "good thing" to be doing with one's career. I'm pleased that I had remained ignorant of that insight, and thank Frank Bass and Mike Pessemier of Purdue for their strong support for one of their junior people to take this on!
4. An interesting tidbit: the journal was originally called the *Journal of Marketing and Public Policy*, but Professor Kinnear received a troubling objection from the American Marketing Association (AMA), which indicated serious concern that readers would confuse it with the AMA's *Journal of Marketing* (and perhaps its *Journal of Marketing Research* as well?). He then switched the terms to avoid problems, resulting in *JPP&M*. Interestingly, he later became head of AMA and arranged for it to take over the journal and serve as its publisher, which it does today.
5. Interested readers may wish to consult a special section on the history of *JPP&M* in its Spring 2011 issue (Vol. 30).
6. Available at: [www.infography.com/content/977851617139.htm](http://www.infography.com/content/977851617139.htm)

#### References

- ABA (1969), *Report of the American Bar Association Commission to Study the Federal Trade Commission*, committee print, September 15, 1969.
- Bernhardt, K.L. (1990), "The FTC in 1978: some observations from a marketing academic", in Murphy, P. and Wilkie, W. (Eds), *Marketing and Advertising Regulation: The Federal Trade Commission in the 1990s*, University of Notre Dame Press, Notre Dame, IN, pp. 114-9.
- Calkins, S. (1990), "Counsel's summary: the ABA Special Committee's Report on the FTC (Kirkpatrick II)", in Murphy, P. and Wilkie, W. (Eds), *Marketing and Advertising Regulation: The Federal Trade Commission in the 1990s*, University of Notre Dame Press, Notre Dame, IN, pp. 7-17.
- Cohen, D. (1980), "The FTC's Advertising Substantiation Program", *Journal of Marketing*, Vol. 44, pp. 26-35.
- Cox, E., Fellmeth, R. and Schultz, J. (1969), *The Nader Report on the Federal Trade Commission*, Richard W. Baron, New York, NY.



- 
- FTC (1979), *Consumer Information Remedies*, US Federal Trade Commission, Washington, DC.
- Freer, R.E. (1971), "The Federal Trade Commission – a study in survival", *The Business Lawyer*, Vol. 26, pp. 1505-26.
- Jones, M.G. (1990), "Marketing academics at the FTC: reflections and recommendations", in Murphy, P. and Wilkie, W. (Eds), *Marketing and Advertising Regulation: The Federal Trade Commission in the 1990s*, University of Notre Dame Press, Notre Dame, IN, pp. 216-20.
- Mazis, M.B. (1979), "Overview of the 'Can and Should the FTC Restrict Advertising to Children?' Workshop", in Wilkie, W. (Ed.), *Advances in Consumer Research*, Vol. 6, Association for Consumer Research, Ann Arbor, MI, pp. 3-6.
- Murphy, P.E. (1984), "Strategic planning at the FTC", *Journal of Public Policy & Marketing*, Vol. 3, pp. 56-66.
- Murphy, P.E. (1990), "Past FTC participation by marketing academics", in Murphy, P. and Wilkie, W. (Eds), *Marketing and Advertising Regulation: The Federal Trade Commission in the 1990s*, University of Notre Dame Press, Notre Dame, IN, pp. 205-15.
- Murphy, P.E. and Wilkie, W.L. (Eds) (1990), *Marketing and Advertising Regulation: The Federal Trade Commission in the 1990s*, University of Notre Dame Press, Notre Dame, IN.
- Pitofsky, R. (1977), "Beyond Nader: consumer protection and the regulation of advertising", *Harvard Law Review*, Vol. 90 No. 4, pp. 661-95.
- Ratner, E. (1978), *FTC Staff Report on Television Advertising to Children*, Bureau of Consumer Protection, US Federal Trade Commission, Washington, DC.
- Wilkie, W.L. (1982), "Affirmative disclosure: perspectives on FTC orders", *Journal of Public Policy & Marketing*, Winter, pp. 95-110.
- Wilkie, W.L. (1983), "Affirmative disclosure at the FTC: theoretical framework and typology of case selection", *Journal of Public Policy & Marketing*, Fall, pp. 3-15.
- Wilkie, W.L. (1985), "Affirmative disclosure at the FTC: objectives for the remedy and outcomes of orders", *Journal of Public Policy & Marketing*, Spring, pp. 91-111.
- Wilkie, W.L. (1986), "Affirmative disclosure at the FTC: strategic dimensions", *Journal of Public Policy & Marketing*, Spring, pp. 123-45.
- Wilkie, W.L. (1987), "Affirmative disclosure at the FTC: communication decisions", *Journal of Public Policy & Marketing*, Fall, pp. 33-42.
- Wilkie, W.L. and Farris, P.F. (1975), "Comparison advertising: problems and potential", *Journal of Marketing*, Vol. 39, October, pp. 7-15.
- Wilkie, W.L. and Gardner, D.M. (1974), "The role of marketing research in public policy decision making", *Journal of Marketing*, Vol. 38, January, pp. 38-47.
- Wilkie, W.L., McNeill, D.L. and Mazis, M.B. (1984), "Marketing's 'scarlet letter': the theory and practice of corrective advertising", *Journal of Marketing*, Vol. 48, Spring, pp. 11-31.
- Zuckerman, M.E. (1990), "The Federal Trade Commission in historical perspective: the first fifty years", in Murphy, P. and Wilkie, W. (Eds), *Marketing and Advertising Regulation: The Federal Trade Commission in the 1990s*, University of Notre Dame Press, Notre Dame, IN, pp. 169-202.

### Further reading

- ABA (1989) in Murphy, P. and Wilkie, W. (Eds), "Report of the American Bar Association Section of Antitrust Law Special Committee to Study the Role of the Federal Trade Commission", *Marketing and Advertising Regulation: The Federal Trade Commission in the 1990s*, University of Notre Dame Press, Notre Dame, IN, pp. 412-62.

Wilkie, W.L. (1990), "The Federal Trade Commission: institution or instrument?", in Murphy, P. and Wilkie, W. (Eds), *Marketing and Advertising Regulation: The Federal Trade Commission in the 1990s*, University of Notre Dame Press, Notre Dame, IN, pp. 45-9.

#### About the authors

Dr William L. Wilkie is the Nathe Professor of Marketing at the University of Notre Dame. He has been honored by the American Marketing Association with its highest recognition, the "Distinguished Marketing Educator Award," and the "Lifetime Achievement Award" from the AMA's Marketing and Society SIG. Professor Wilkie has also served as President of the Association for Consumer Research (an international professional group with more than 1,700 members in 30 nations), and as a member of the Editorial Boards of the *Journal of Marketing*, *Journal of Marketing Research*, *Journal of Consumer Research*, *Journal of Public Policy and Marketing*, *Journal of Macromarketing*, and the *Journal of Historical Research in Marketing*. He holds his undergraduate degree from the University of Notre Dame, and his MBA and PhD degrees from Stanford University, where he was also a participant in the year-long Stanford Sloan Program in Management of the Total Enterprise. Prior to joining Notre Dame, Dr Wilkie served as a faculty member at Purdue, Florida, and Harvard universities, as an in-house consultant at the Federal Trade Commission in Washington, and as a research professor at the Marketing Science Institute, Cambridge. Dr Wilkie has also served as an expert witness in a number of legal cases specializing on consumer marketing and advertising issues, and been listed in *Who's Who in America*. He teaches challenging courses to advanced undergraduates and MBA students and in 2004 was voted the BP Outstanding Teacher Award for the Mendoza College of Business by the graduating senior class. William L. Wilkie is the corresponding author and can be contacted at: [wwilkie@nd.edu](mailto:wwilkie@nd.edu)

Dr Patrick E. Murphy is Professor of Marketing at the University of Notre Dame. He specializes in marketing and business ethics issues, as well as public policy issues in marketing. He is the 2011 recipient of the "Lifetime Achievement Award" from the American Marketing Association's Marketing and Society Special Interest Group. His recent research is focused on normative perspectives for ethical and socially responsible marketing, distributive justice as it relates to marketing decision making, emerging ethical concerns in advertising, and the ethical foundations of relationship marketing. Dr Murphy is a former editor of the *Journal of Public Policy and Marketing*, and his articles have won "best paper" awards from the *Journal of Advertising*, *Journal of Macromarketing*, and the *European Journal of Marketing*. His latest book is *Ethics in Marketing: International Cases and Perspectives* (Routledge, 2012). Professor Murphy teaches courses in business ethics, marketing ethics, and corporate sustainability, and has won several teaching awards. He has taught previously at Marquette University and spent sabbaticals at the Federal Trade Commission and as a Fulbright Scholar at University College Cork in Ireland. His PhD is from the University of Houston, his MBA is from Bradley University, and his BBA is from the University of Notre Dame.