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To Members of the Special Legal Committee:

There is enclosed a copy of Revised Draft III, dated February 24, 1964, of the proposed statement to the Federal Trade Commission on behalf of the Institute and its members. There is also enclosed a copy of a proposed letter to the Secretary of the Commission requesting time for the presentation of the statement, together with the required summary of the statement to be filed with that letter.

There will be a meeting of the Special Legal Committee at our offices on Monday, March 2, 1964, starting at 10:00 A.M., to review the enclosed drafts. We hope that you will be able to attend. [If any of you desire hotel reservations to be made for you for Sunday night, March 1, please let us know promptly.]

The Revised Draft III of the presentation reflects the discussion at the meetings of counsel held in New York last week. In addition, there is a substantially expanded discussion of the legislative history of the Federal Trade Commission Act, making the point that Congress did not in the Federal Trade Commission Act authorize the Commission to promulgate substantive rules such as those proposed in the Trade Regulation Rules. These additions are based upon a detailed examination of the legislative history which was completed here last week.

We have considered carefully the suggestion that a summary of the points to be made be inserted at an early point in the statement. We have concluded, on balance, that whatever advantages might be gained from such a summary would be outweighed by the danger that the summary might cause immediate interruption and intensive Commission questioning that would hinder the orderly presentation of the Institute position. Inasmuch as the summary may become available to the press in advance of the presentation, it will serve the double purpose of constituting a shorter version of the points to be made as well as a slight rearrangement and different emphasis which the proposed summary at the beginning of the statement would accomplish.

Very truly yours,

*H. Thomas Austery*

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