

## BOOK REVIEW

BUSINESS ASPECTS OF PRICING UNDER THE ROBINSON-PATMAN ACT. BY ALBERT E. SAWYER. Boston: Little, Brown & Company, 1963. Pp. xvi, 514. \$22.50.

*George D. Reycraft* †

This book is the sixth in the Trade Regulation Series edited by S. Chesterfield Oppenheim. It is the second book of the series to deal with price discrimination under the Robinson-Patman Act.<sup>1</sup> Comparisons between this book and Frederick M. Rowe's *Price Discrimination Under the Robinson-Patman Act* are inevitable, despite their somewhat divergent objectives. The Sawyer analysis is intended to stress practical business factors which shape pricing practices under the act; presumably it is to serve as a guide for businessmen in their formulation of daily pricing decisions. On the other hand, Rowe directed his volume to the practitioner and attempted to give him "an insight into the economic setting in which a given pricing practice appears, . . . [and an appreciation of] the origins and objectives of the Robinson-Patman Act and [of] the historical trends shaping its application."<sup>2</sup>

Mr. Sawyer has attempted what may be the more difficult task of endeavoring to make comprehensible to laymen a statute which is incomprehensible to many lawyers. In pursuit of this objective, the author has utilized a number of visual aids, including diagrams pictorializing the distinctions between primary, secondary, and tertiary level injuries to competition and the distinctions between f.o.b. mill, uniform delivered price, full freight equalization, and zone systems of pricing. The appendix, which constitutes approximately one-third of the book, includes a classification of section 2(a) proceedings by "type of business situation," *i.e.*, functional level of seller, nature of competitive injury, and type of discriminatory practices. This table is a useful supplement for the practitioner who desires a quick reference to all section 2(a) cases filed between June 19, 1936, and November 30, 1961, and their disposition. Appendix B lists these cases chronologically as an added convenience to the analytical classification of Appendix A. Appendix C is reproduced from the third supplement to the book, *The Marketing of Automotive Parts*,<sup>3</sup> and is limited to price struc-

---

† B.A. 1947, Wesleyan University; LL.B. 1950, Harvard University. Member, District of Columbia Bar.

<sup>1</sup> See ROWE, PRICE DISCRIMINATION UNDER THE ROBINSON-PATMAN ACT (1962).

<sup>2</sup> ROWE, *op. cit.* *supra* note 1, at xii.

<sup>3</sup> DAVISSON, THE MARKETING OF AUTOMOTIVE PARTS (1954).

tures in the automotive industries. This appendix will not provide any generally useful guidance for businessmen outside the automotive industry, and its inclusion detracts from the general applicability of the other material in the book.

The book is characterized by extensive quotations from court and commission opinions and other published sources which disrupt the continuity of the text. At one place in the text, six pages are given over almost completely to quotations from one FTC opinion. Extensive republication of material already available seems out of place in a book which attempts to provide a "guide to pricing practices which comply with the law and make good business sense." If the book is directed primarily toward businessmen without legal training, extensive quotation from source material is inconsistent with the simplified explanation which is necessary to make the act understandable. If it is directed primarily toward practitioners, lengthy excerpts from the decided cases seem unnecessary in view of the ready availability of the complete text of the opinions. This observation does not apply to the occasional quotations from unpublished sources, such as the colloquy between counsel and the court in *FTC v. National Lead Co.*<sup>4</sup> (pp. 276-81) and the supplemental memorandum filed by the FTC following the argument of that case. (P. 281.) More extensive use of material of this type would have added to the interest of the book to practitioners, despite its apparent inconsistency with the book's main objective.

My principal criticism of this book is that it does not accomplish its goal. It does not provide a "guide to pricing practices which . . . make good business sense." The book does contain a thorough and lucid explanation of some of the leading cases, and to that extent it is a worthwhile contribution. It will not replace for most practitioners the comprehensive and scholarly analysis contained in Rowe's volume in the same series. Mr. Rowe's book will continue to be the standard in this field and other efforts will find it difficult to avoid suffering by comparison.

---

<sup>4</sup> 352 U.S. 419 (1957).