

the corporation should be permitted to raise its prices within that period. In such case, however, the Board, in addition to its other findings, would be required to make a finding as to whether or not such an emergency in fact existed and whether or not the price increase exceeded the amount required to meet increased production costs.

If it found that the claim of emergency was not supported by the facts, the corporation would be required to rebate to every customer who paid the price increase damages equal to three times the amount of such price increase for products shipped during the notice period. In the event the ultimate purchaser of the products in question could not be ascertained, the corporation would be subject to a fine equal to the triple damages specified above. If an emergency were found to exist but it was also found that the price increase exceeded the cost increase, the triple damages rebate or fine would apply to the excess.

7. *Price reduction hearings*

The Consumer Counsel should be empowered to initiate hearings when, in his judgment, there is reason to believe that a corporation permanently or temporarily subject to the legislation should reduce the price of any of its products. This procedure is essential in order to assure the price reductions in high-productivity industries which are essential to offset unavoidable price increases in low-productivity industries. If a corporation responded to the notice of a hearing with an acceptable price reduction, the hearing could, of course, be cancelled.

8. *Subpoena power*

The Consumer Counsel would have power to subpoena witnesses, to examine them fully, and to require production of all pertinent books and records.

9. *Involvement of unions*

If a corporation claims that its proposed price increase would be required as a result of granting union demands, the Consumer Counsel would be empowered to subpoena and examine representatives of the union. Union and corporation representatives would be permitted to cross-examine each other.

10. *Other appearances*

Representatives of unions, of consumer organizations, of corporations purchasing products affected by the proposed price increase, and of interested government agencies (federal, state, or local) should be allowed to participate in the hearings voluntarily, subject to permission granted by the Board. Such voluntary witnesses would be required to submit to cross-examination and would be permitted to cross-examine corporation witnesses. All testimony taken at the hearings would be under oath.

11. *Open hearings*

All hearings should be open to the public, the press, and radio and television. (The matter of possible "confidentiality" of certain types of data should be considered in drafting the proposed legislation. It should be kept in mind in this connection, however, that the legislation is premised on the absence of price competition in the industries affected; that, therefore, there are not apt to be genuine "competitive secrets" related to costs and prices; and that the public interest is as deeply involved as in public utility rate hearings in which all pertinent facts are publicly available. If, nevertheless, it should be decided that certain types of information required for purposes of the hearings should be treated as "confidential" the Board might be empowered to go into executive session while such information was being presented and considered with the participants in such executive sessions subject to penalties for public disclosure of such information.)

12. *Findings and recommendations*

After obtaining all the pertinent facts, the Board should publish a report of its findings and recommendations, together with the facts supporting such recommendations. To assist the Board in this task, each party to the hearings—the corporation, the Consumer Counsel, and the union, customer corporations, consumer organizations and government agencies, if any are involved—might submit to the Board at the conclusion of the hearings a list of proposed findings and recommendations which the Board would consider in framing its own findings and recommendations. The Board's findings and recommendations should be published before the expiration of the notice period.