A guide to papers citing antitrust cases involving standards or certification

NBSIR 79-1921

December 1979

U.S. DEPARTMENT OF COMMERCE
National Bureau of Standards
Office of Engineering Standards

NBSIR 79-1921

A GUIDE TO PAPERS CITING ANTITRUST CASES INVOLVING STANDARDS OR CERTIFICATION

Carol Chapman Rawie

Office of Engineering Standards
National Engineering Laboratory
National Bureau of Standards
U.S. Department of Commerce
Washington, D.C. 20234

December 1979

U.S. DEPARTMENT OF COMMERCE
Luther H. Hodges, Jr., *Under Secretary*
Jordan J. Baruch, *Assistant Secretary for Science and Technology*
NATIONAL BUREAU OF STANDARDS, Ernest Ambler, *Director*

CONTENTS

A GUIDE TO PAPERS CITING ANTITRUST CASES INVOLVING STANDARDS OR CERTIFICATION

Abstract

Since at least 1912, standards and certifications for products ranging from lumber to milk cans have been at issue in antitrust cases. Studying these cases may provide information about the economic effects of standards and certifications based on standards -- in particular, their impacts on competition and innovation. This paper describes several articles and reports which examine the antitrust history of standards. It is intended as a research tool to help economists and others decide which (if any) antitrust cases they should study to learn more about the economic effects of standards.

Introduction

For over 75 years, trade associations, standards organizations, professional societies, and other private sector groups have been writing standards for products, processes, and test methods. These standards, and certifications based on

them, have benefited industry and other parts of society in many ways, but in some instances they have also had anticompetitive consequences. Since at least 1912, standards and certifications for products ranging from lumber to milk cans have been at issue in antitrust cases. While standards-setting and related activities have not been the main focus of these cases, they have been cited as contributing to restraint of trade.

Several attorneys have examined the legal history of standards in order to point out antitrust pitfalls of voluntary standards work and/or to suggest ways to improve the voluntary standards system. This paper describes some of the conclusions of these studies, taking them in chronological order, and then very briefly describes specific antitrust cases cited in the studies. It is intended as a research tool. The purpose is to help economists and other researchers determine which -- if any -- antitrust cases they may wish to study in order to learn more about the economic effects of standards. 1/

It should be emphasized that this is <u>not</u> a legal search (the author is an economist, not a lawyer), but merely a survey of articles and reports by attorneys who have searched the legal literature.

Overview

This section provides an overview of selected papers concerning antitrust aspects of standards.

Timberlake Article, 1944

In 1944, E.C. Timberlake published an article on antitrust aspects of standards which cited a large number of cases either completed, in litigation, or under investigation. [2/] He concluded that, in general, standards activities would be subjected to a rule of reason when there are antitrust questions. Benefits to consumers resulting from standards would probably have great weight in court decisions, according to Timberlake; however, if standards were part of a price-fixing scheme or boycott (per se violations), they would be held to be unreasonable as a matter of law, regardless of the surrounding circumstances.

Timberlake pointed out that agreements to adhere to standards might well be considered illegal under a "rule of reason," although they are not illegal per se. For this reason, he said, standards development groups should make it clear that all parties are completely free to follow or ignore standards as they choose.

King Paper, 1972

One of the most comprehensive reviews of the antitrust cases involving standards is an unpublished paper written by Jon King while he was a research associate at the Federal Trade

Commission. According to King, standards setting is most likely to lead to antitrust abuses if:

* Standards setting is used to limit production or aid in product withholding agreements.

* It is used to aid price fixing.

* It leads to agreements not to sell non-standard products.

* There are due process problems in the standards development; or

* Standards are unreasonably rigid or arbitrary, thereby excluding competition.[3/]

The paper contains a careful review of antitrust cases involving standards.

Harter Memorandum, 1972

In 1972, Philip J. Harter wrote a paper on the antitrust implications of standards which was published as an Appendix to a report prepared by Battelle Laboratories for the National Bureau of Standards. [4/] Harter concluded that unless standards are used to support other illegal activities, standards efforts are likely to be free of antitrust problems so long as they meet "rule of reason" criteria concerning their reasonableness and method of creation.

Hoffman Chapter in The Solar Market, 1978

In a chapter published in the proceedings of an FTC symposium, The Solar Market, Joel Hoffman provided a good

overview of the antitrust aspects of standards and certification. [5] Like others who have looked into the subject, he pointed out that unless standards fall into the categories of activities considered by the courts to be illegal per se (price-fixing, horizontal market allocation agreements, group boycotts, certain tying agreements, and agreements to limit production), the legality of standards would have to be challenged under a "rule of reason." A standard would be illegal only if it were found to create an "unreasonable" restraint of trade.

FTC Report on Standards and Certification, 1978

In 1978, the Federal Trade Commission published a report, Standards and Certification, in conjunction with a Proposed Trade Regulation Rule.[6] The report criticized private sector standards and certification activities as sometimes being anticompetitive and/or misleading. It cited specific examples of allegedly improper activities, including practices which led to antitrust lawsuits.

Cases

This section describes specific cases involving standards or certification.

Before 1930

Standard Sanitary was a 1912 case which dealt with sanitary enamelware. In this case, manufacturers were charged with price fixing and it was held that standards were used to illegally eliminate "seconds" from the market. [7] In the Tile Manufacturers' Credit Association case, resolved in 1923 with a consent decree, the tile makers were charged with price fixing, including a conspiracy to standardize tile and eliminate many current products. Timberlake interpreted the court opinion as allowing standardization only so long as there was no agreement to adhere. [8] And in Trenton Potteries (1927), the trade association was charged with price fixing supported by an effort to exclude second-grade pottery from the market through standards. [9]

In Appalachian Coals (1933), the Supreme Court tacitly approved standard classifications for coal in order to prevent misrepresentation. [10] The order entered in Joseph Dixon Crucible (1939) allowed standards programs for pencils so long as there was no agreement to eliminate non-standard items. [11]

1940-45

Some cases involving standards have been settled with consent decrees. In Southern Pine Association (1940), the trade association was enjoined by a consent decree from excluding nonmembers from standardization and grade-marking (a form of certification) activities. [12] In National Lumber Manufacturers (1941), another consent decree enjoined grade

marking of lumber when not carried out in good faith to promote competence in rendering inspection services. 13/

The Carpet Manufacturers consent decree, entered in 1941, specifically prohibited agreements to make only standard items or to eliminate items. 14/ The Associated Marble consent decree (1941) allowed standards so long as they did not discriminate against any competitor or restrain the sale of marble; the standards could not forbid production of non-standard marble. 15/ And in the 1941 Synthetic Nitrogen case, standardization was alleged to be a means of price fixing. The consent decree prohibited fixing the kind of nitrogen-bearing fertilizer to be bought or sold. 16/

Some FTC complaints were still pending when Timberlake described them in his article. One of these was Tennessee Products. In that case, a 1941 FTC complaint indicated that the FTC thought standardization of packages for charcoal was illegal when done in connection with price fixing. 17/ In the 1941 Crepe Paper complaint, standard colors and sizes were challenged as being part of a price-fixing conspiracy. 18/ Soon after that, the Crouse-Hinds complaint claimed that standardization helped support a conspiracy to fix prices on traffic signal devices. 19/ A similar situation was alleged in the Liquid Tight Paper Container Association complaint in 1942. 20/ According to Timberlake, in 1943, FTC issued a cease and desist order In the Matter of the Electrical Alloy Section which directed respondents to stop fixing prices and to stop setting uniform resistance standards for wire where the purpose was to fix prices. 21/

An indictment brought in 1942 in the American Brass case charged that a trade association's standardization program aimed to exclude non-members from the market for flexible metal hose and tubing. The trial of the case was postponed for the duration of the war, according to Timberlake. 22/.

1945-1960

In the Milk and Ice Cream Can case (1946), the court held that standardization of can models and sizes facilitated price fixing. 23/

The 1948 Coupon Book Manufacturers consent decree was one of several cases cited by King where standardization was expressly allowed so long as it did not have the effect of restraining sale of nonstandard items. 24/

In U.S. Gypsum (1948), the Justice Department claimed that producers had standardized gypsum board in order to eliminate competition and that they had tried to prohibit sales of nonstandard sizes. However, while reversing on other grounds, the Supreme Court did not disturb the District Court's finding that the evidence did not show improper standardization. 25/ And in the 1949 Tag Manufacturers case, standardization was found to benefit consumers, since it allowed them to make better purchasing decisions. 26/

In the 1949 Bond Crown case, the FTC charged that standardization of commodities was used to promote a price fixing conspiracy; its cease and desist order, upheld in

courts, found excessive uniformity of products, even down to the matter of decoration. [27] Similarly, in C-O-Two Fire Equipment (1952), the court attacked "artificial" standardization of fire extinguishers where this was associated with price fixing and other illegal activities. [28]

A number of cases which centered on price fixing conspiracies were settled in the 1950's through consent decrees. The decrees enjoined attempts to limit production of nonstandard items. Cases cited by King include General Electric Company (1953; restrictions on lamp quantities or types were forbidden) [29]; Cincinnati Milling (1953; defendents were forbidden to agree on sizes or types of milling machinery) [30]; Vertical Turbine Pump (1954; manufacturers were prohibited from agreeing to establish uniform size selection charts, efficiency evaluation charts, etc., for vertical turbine pumps) [31]; and Roll Manufacturers Institute (1955; only standards which would have the purpose or effect of preventing sale of nonstandard rolls were prohibited) [32].

According to Harter, National Malleable Steel (1958) is one of the few antitrust cases dealing with compatibility standards (as opposed to standards for minimum quality). It involved alleged price fixing on railroad couplers. However, the standardization of railroad couplers was found to be legal because there was: (1) competition in railroad couplers, (2) a strong safety benefit from the standard, and (3) no boycott to enforce the standard (members were free to accept or reject). [33]

1960-1970

Hoffman cited Roofire Alarm v. Royal Indemnity (1963) to support his statement that standards have been upheld as reasonable in most of the cases where they were the crux of the matter.[34]

Harter cited Application of ASTM (1964) to support his statement that independent organizations whose standards may be used as a basis for certification are safe from antitrust liability if they set reasonable standards, acting in good faith. (ASTM was named as an unindicted co-conspirator in the Johns-Manville case; following ASTM's application, the court held that ASTM was not a co-conspirator and that the defendants had not effected anticompetitive standards under ASTM's auspices.)[35/]

In Radiant Burners (1961), a manufacturer of ceramic gas burners was denied an American Gas Association (AGA) certification seal on its product. Since utilities would not supply gas for nonapproved burners, the effect was to exclude Radiant Burners from the market. Radiant Burners' complaint was dismissed by the District Court for failure to state a cause of action. This decision was reversed by the Supreme Court, which held that Radiant Burners had stated a sufficient cause of action when it alleged that there was refusal to supply gas for approved burners.[36/]

In National Macaroni (1965), a trade association agreed to keep the content of an expensive type of wheat, durum, to 50%, in macaroni. FTC charged that the agreement was a per se illegal attempt to depress the price of durum wheat. The court upheld FTC's cease-and-desist order. 37/

In Structural Laminates (1968), a plywood association was sued for failing to revise a plywood standard to keep up with technical change. But the court found that in the absence of a bad purpose, mistakes in standards setting did not themselves create antitrust liability. 38/

The 1978 FTC report describes cases where certification programs based on standards have treated foreign and domestic producers differently. One of these was Johns-Manville (1967), in which a certification requirement for special testing of foreign-made asbestos cement pipe was accepted as legitimate by the court because it was reasonable to expect that damage might occur during shipment. 39/

After 1970

Another case involving certification of foreign-made products is U.S. v. ASME, et al (1972). In this case, the National Board of Boiler and Pressure Vessel Inspectors was indicted for limiting certification to domestic producers. In a consent decree, the Board agree to set up a program for foreign producers. 40/

The FTC Report mentioned three private suits brought against certifiers on antitrust grounds, but in all three cases, the complaint was either withdrawn or dismissed. 41/

Conclusions

From the case reviews, we see what kinds of standards activities are most likely to be challenged under antitrust law. The following observations are based on the reports and articles described above.

In the past, when standards efforts led to antitrust suits, it was almost always because they were part of a larger effort to restrain trade. Most often, they were challenged as part of a scheme to limit production and/or to fix prices. Standards efforts seemed in most danger of being prohibited if they supported a per se violation such as price fixing, while otherwise a "rule of reason" was used to determine their legality. However, in some of the more recent lawsuits, standards and certifications seem to have been the central element under scrutiny.

Courts have sometimes considered economic and technical merits of standards, including their safety or other benefits to consumers. But because a standard is technically poor does not necessarily mean it is illegal.

How standards are enforced has been of great importance to courts. A boycott of non-standard products is likely to be illegal, and agreements to adhere to standards in order to eliminate non-standard items are also likely to be prohibited. But even if firms do cooperate in setting standards, and then follow the standards, it does not automatically mean they have agreed to adhere to the standards.

Courts have also frowned on standards which discriminate against some firms such as non-members of the promulgating and/or inspecting association, and at least some private suits have been brought by manufacturers claiming their products were unfairly excluded from the market by certification requirements.

REFERENCES

1. The reports and articles described in this paper appear to be the most comprehensive and/or up-to-date on the subject. However, there are also a number of other writings which deal with the antitrust aspects of standards, including the following: David Hemenway, Industrywide Voluntary Product Standards, Cambridge, Ma: Ballinger, 1975, pp. 76-8; Karl E. Bakke, U.S. Dept. of Commerce Gen'l Counsel, address before the American Bar Assn's Nat'l Institute on Antitrust Law, Hollywood, Fla., Feb. 27, 1975; U.S. Federal Trade Commission, Preliminary Staff Study (Precis): Self-Regulation -- Product Standardization, Certification and Seals of Approval, 1972; American Nat'l Standards Institute, "Antitrust Implications of Metric Conversion," (pamplet), 1971; The National Commission on Product Safety, Final Report, 1970, pp. 58-59; Richard McLaren, Assist. Attny Gen'l, Letter to Arnold B. Elkind, Chairman, Nat'l Commission on Product Safety, June 17, 1969; Edwin M. Zimmerman and Richard W. McLaren, Letters to Malcolm W. Jensen, Chief, Nat'l Bureau of Standards Office of Weights and Measures, Nov. 27, 1968, and March 4, 1969, respectively; T. Richard Witmer, "Consumer Goods Standards and the Sherman Act," in Dickson Reck, Ed., National Standards in a Modern Economy, New York, Harper & Bro., 1956; and Ralstone Irvine, "The Legal Implications of Standardization," presented at the Sixth Nat'l Conf. on Standards, Washington, D.C., Oct. 24, 1955.

See also statements filed in connection with FTC's 1979 hearings on the proposed Trade Regulation Rule for Standards and Certification: the Association of Home Appliance Manufacturers (AHAM), Comments on Proposed Federal Trade Commission Trade Rule on Standards and Certification, March 16, 1979, pp. I-3 through I-5; American Society for Testing and Materials, letter to Henry Cabell, Federal Trade Commission, re "Proposed Trade Regulation Rule: Standards and Certification, Public Record No. 215-61: "Standards and Certification Rule Comment," March 15, 1979, pp. 16-17, 23; Underwriters Laboratories Inc., Statement of Underwriters Laboratories Inc. on FTC Proposed Trade Regulation Rule on Standards and Certification, May 1979, Exhibit IV-6. On pp. I-3 and I-4 of its comments, AHAM cites two cases involving standards which were not mentioned in the literature reviewed for this paper: U.S. v. Consolidated Laundries, 291 F. 2d 563 (1961) (activities of standards developers that exclude equivalent products are actionable under the Sherman Act); and Professional Golfers Assn, 358 F. 2d 165 (1965) (allegation that standards exclude inferior products when less restrictive alternatives are available can and will be judicially considered).

2. E.C. Timberlake, "Standardization and Simplification Under the Antitrust Laws,"29 Cornell Law Quarterly 301 (1944).

3. Jon E. King, "Antitrust Laws and Standardization--What Role the Trade Association," unpublished ms., FTC, circa 1972 pp. 35-36.

4. Philip J. Harter, "Antitrust Implications of Industry Standards Requiring Intermanufacturer Capability," in Battelle Columbus Laboratories, Study of Strategies for Market Aggregation, National Bureau of Standards, 1973.

5. Hoffman, Joel, "Antitrust Issues in Setting and Enforcing Product Standards," in F.T.C., The Solar Market: Proceedings of the Symposium on Competition in the Solar Energy Industry, Washington, D.C., U.S. GPO, 1978.

6. 43 FR 57269, Dec. 7, 1978.

7. Standard Sanitary Mfrg Co. v. U.S., 226 U.S. 20 (1912); King, p. 36; Hemenway, p. 76 (see footnote 1 above).

8. U.S. v. Tile Mfrs Credit Assn, et al (S.D. Ohio, 1923); Timberlake, p. 310.

9. U.S. v. Trenton Potteries Co., 273 U.S. 392 (1927); King, p. 36.

10. Appalachian Coals, Inc. v. U. S., 288 U.S. 344 (1933); Timberlake, p. 305.

11. In the Matter of Joseph Dixon Crucible Co., et al, 29 F.T.C. 749 (1939); Timberlake, pp. 314-15.

12. U.S. v. So. Pine Assn, 1940-43 Trade Cas. para. 56,007 (E.D. La. 1940); FTC Report, p. 209; Timberlake, p. 310.

13. U.S. v. Nat'l Lumber Mfrs Assn., C.C.H. Trade Reg. Srvc. (9th Ed.) Par. 52,593 (D.D.C. 1941); Timberlake, p. 311.

14. U.S. v. Institute of Carpet Mfrs. of America, Inc., CCH Trade Reg. Service (9th ed.) Par. 52,517 (S.D.N.Y. 1941); Timberlake, p. 310.

15. U.S. v. Associated Marble Cos., et al., CCH Trade Reg. Srvc. (9th ed.) Par. 52,612 (N.D. Ca. 1941); Timberlake, p. 311.

16. U.S. v. Synthetic Nitrogen Products Corp., et al., CCH Trade Reg. Service (9th ed.) Par. 52,700 (S.D.N.Y. 1941); Timberlake, p. 311.

17. In the Matter of Tennessee Products Corp., et al., FTC Dkt 4535 (issued 1941, pending 1944); Timberlake, p. 312.

18. In the Matter of Nat'l Crepe Paper Assn. of America, et al, FTC Dkt 4606 (issued Oct. 7, 1941, pending in 1944); Timberlake, p. 312.

19. In the Matter of Crouse-Hinds Co., et al, FTC Dkt 4610 (issued Oct. 9, 1941, pending in 1944); Timberlake, p. 312.

20. In Re Liquid Tight Paper Container Assn 40 FTC 630 (1945); Timberlake, p. 313; King, footnote 146.

21. In the Matter of the Electrical Alloy Section, et al, FTC Order No. 4558 (March 16, 1943); Timberlake, p. 313.

22. U.S. v. American Brass Co. et al. (S.D.N.Y.); Timberlake, p. 306.

23. Milk and Ice Cream Can Institute, 152 F.2d. 478, 482 (7th Cir. 1946); King p. 40.

24. In Re Assn of Coupon Book Mfrs, 45 FTC 219 (1948); King pp. 38-9.

25. U.S. v. U.S. Gypsum Co., 67 F. Supp. 397 (D.D.C. 1946), rev'd on other grounds, 333 U.S. 364 (1948); King p. 38; Timberlake, p. 305.

26. Tag Manufacturers Institute v. FTC, 174 F.2d 452, 462 (1st Cir. 1949); King, footnote 129.

27. Bond Crown and Cork Co. v. FTC, 176 F.2d 974 (4th Cir. 1949); King, p. 40.

28. C-O-Two Fire Equipment Co. v. U.S., 197 F.2d 489 (9th Cert. 1952), cert. den., 344 U.S. 892 (1952); King, p. 40 and footnote 155.

29. U.S. v. General Electric Co., 115 F. Supp. 835 (D.N.J. 1953); King, footnote 145.

30. U.S. v. Cincinnati Milling Machine Co., 1954 Trade Cas. Par. 67,733 (D.Mich., 1954); King, footnote 145.

31. U.S. v. Nat'l Assn of Verticle Turbine Pump Mfrs, 1954, Trade Cas. Par. 67,803 (D.Cal. 1954); King, footnote 145.

32. U.S. v. Roll Mfrs Institute, 1955 Trade Cas. Par. 68,110 (W.D.Pa. 1955); King, footnote 145.

33. National Malleable & Steel Castings Company, 1957 Trade Cases Par. 68890 (N.D.Ohio, 1957) aff'd per curiam 358 U.S. 38 (1958); Harter, p. 4.

34. Roofire Alarm Co. v. Royal Indemnity Co., 202 F. Supp. 166 (E.D.Tenn. 1962), aff'd 313 F.2d 635 (6th Cir. 1963), cert. den. 373 U.S. 949 (1963).

35. Application of A.S.T.M., 231 F. Supp. 686 (E.D.Pa. 1964); Hoffman, p. 72, and Harter, p. 10.

36. Radiant Burners, Inc. v. Peoples Gas Light & Coke Co., 364 U.S. 656 (1961); Hoffman, p. 68; Harter, p. 12; and King, p. 43.

37. Nat'l Macaroni Mfrs Assn v. FTC, 345 F. 2d 421 (7th Cir. 1965); Hoffman, p. 71 and King, p. 37.

38. Structural Laminates, Inc. v. Douglas Fir Plywood Ass'n, 261 F. Supp. 154 (D.Or. 1966) aff'd 399 F.2d 155 (9th Cir. 1968) cert. den. 393 U.S. 1024 (1969); Harter, p. 8.

39. U.S. v. Johns-Manville, 1967 Trade Cas. Para. 72,184 (E.D.Pa. 1967); FTC Report, pp. 207-8, King p. 45.

40. U.S. v. ASME et al, 1972 Trade Cas. para. 74,028 (S.D.N.Y. 1972) (consent decree); FTC Report, p. 207.

41. In one case, it was alleged that the standard for backflow preventers (a plumbing product) excluded the plaintiff's product. However, this suit was withdrawn. Watts Regulator Co. v. U. of So. Ca., No. W76 881-RF (C.D.Cal., filed March 18, 1976); FTC Report pp. 143 and 175-6; and conversation with Bob Schroeder, FTC, July 1979. The suit was dismissed in Wheeling-Pittsburgh Steel Co. v. Underwriters Laboratories, Inc. (No. 74-C-3697, N.D.Ill., dismissed 1978), FTC Report, pp. 170-171 and Underwriters Laboratories, Statement, footnote 1, above, p. IV-b. The suit was also dismissed in Assoc. Certification Inc. v. Underwriters Laboratories, Inc. (No. CA 4-74-69, N.D.Tex; dismissed, 1974), FTC Report, pp. 216-7 and U.L. Statement, p. IV-15. On p. 214, the FTC Report also mentioned another antitrust action -- Eliason Corp. v. Nat'l Sanitation Foundation (No. 36-353, E.D.Mich, filled Dec. 2, 1974) -- but did not describe the charges.

List of Cases in Chronological Order

Case	Page or footnote (f) number*				
	Timberl.	King	Harter	Hoffman	FTC
Standard Sanitary, 1912		36			
Tile Mfrs Credit Assn., 1923	309	f144			
Trenton Potteries, 1927		36			
Appalachian Coals, 1933	305				
Joseph Dixon Crucible, 1939	314				
Southern Pine Assoc., 1940	310				209
Nat'l Lumber Mfrs, 1941	311				
Carpet Manufacturers, 1941	310	38			
Associated Marble, 1941	311	38			
Synthetic Nitrogen, 1941	311				
**Tennessee Prod., 1941	312				
**Crepe Paper, 1941	312				
**Crouse-Hinds, 1941	312				
Elect'l Alloy Section, 1943	313	f146			
American Brass, 1944	306				
Liquid Tight Paper, 1945	313	f146			
Milk and Ice Cream Can, 1946	313	40		71	
Coupon Book Mfrs, 1948		38			
U.S. Gypsum, 1948	305	38			
Tag Manufacturers, 1949		f129			
Bond Crown, 1949		40			
C-O-Two Fire Equipment, 1952		40			
General Electric Co., 1953		f145			
Cincinnati Milling, 1954		f145			
Vertical Turbine Pump, 1954		f145			
Roll Mfrs Instititute, 1955		f145			
Nat'l Malleable Steel, 1958		34	4		
Radiant Burners, 1961		43	12	68	
Roofire v. Royal Indemn.,1963		f177	10	72	
Applicatn of A.S.T.M., 1964		45	10		
National Macaroni, 1965		37		71	
Johns-Manville, 1967		45			208
Structural Laminates, 1968		44	7	72	
ASME, 1972					207
Assoc'd Certification, 1974					216
Eliason Corp., filed 1974					214
Watts Regulator, filed 1976					143
Wheeling-Pittsburgh, 1978					170

*The page cited is generally the first page on which the case is mentioned.

**These cases were pending when Timberlake wrote his article. Date given is the year when the complaint was issued.

NBS-114A (REV. 9-78)

U.S. DEPT. OF COMM. BIBLIOGRAPHIC DATA SHEET	1. PUBLICATION OR REPORT NO. NBSIR 79-1921	2. Gov't. Accession No.	3. Recipient's Accession No.

4. TITLE AND SUBTITLE

A Guide to Papers Citing Antitrust Cases Involving Standards or Certification

5. Publication Date

December 1979

6. Performing Organization Code

7. AUTHOR(S)

Carol Chapman Rawie

8. Performing Organ. Report No.

9. PERFORMING ORGANIZATION NAME AND ADDRESS

NATIONAL BUREAU OF STANDARDS
DEPARTMENT OF COMMERCE
WASHINGTON, DC 20234

10. Project/Task/Work Unit No.

11. Contract/Grant No.

12. SPONSORING ORGANIZATION NAME AND COMPLETE ADDRESS *(Street, City, State, ZIP)*

Same as "9" above.

13. Type of Report & Period Covered

Final

14. Sponsoring Agency Code

15. SUPPLEMENTARY NOTES

☐ Document describes a computer program; SF-185, FIPS Software Summary, is attached.

16. ABSTRACT *(A 200-word or less factual summary of most significant information. If document includes a significant bibliography or literature survey, mention it here.)*

Since at least 1912, standards and certifications for products ranging from lumber to milk cans have been at issue in antitrust cases. Studying these cases may provide information about the economic effects of standards and certifications based on standards -- in particular, their impacts on competition and innovation. This paper describes several articles and reports which examine the antitrust history of standards. It is intended as a research tool to help economists and others decide which (if any) antitrust cases they should study to learn more about the economic effects of standards.

17. KEY WORDS *(six to twelve entries; alphabetical order; capitalize only the first letter of the first key word unless a proper name; separated by semicolons)*

Antitrust; certification; competition; economics of standards; law; standards;

18. AVAILABILITY ☒ Unlimited

☐ For Official Distribution. Do Not Release to NTIS

☐ Order From Sup. of Doc., U.S. Government Printing Office, Washington, DC 20402, SD Stock No. SN003-003-

☒ Order From National Technical Information Service (NTIS), Springfield, VA. 22161

19. SECURITY CLASS (THIS REPORT)	21. NO. OF PRINTED PAGES
UNCLASSIFIED	20
20. SECURITY CLASS (THIS PAGE)	**22. Price**
UNCLASSIFIED	$3.00

USCOMM-DC