

FEDERAL TRADE COMMISSION v. WARD BAKING COMPANY.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF THE ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket No. 21—April 8, 1919. Order modified September 2, 1919.

SYLLABUS.

Where a corporation engaged on a large scale in the manufacture and sale of bread and cake gave and offered to give bread free of cost to purchasers and prospective purchasers, with the tendency and effect of stifling and suppressing competition in the manufacture and sale of bread:

Held, That such gifts and offers to give, under the circumstances set forth, constituted an unfair method of competition in violation of section 5 of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that the Ward Baking Co. of New York, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint stating its charges in that respect on information and belief as follows:

PARAGRAPH 1. That the respondent, Ward Baking Co., of New York, is now, and was at all times hereinafter mentioned, a corporation organized and existing under and by virtue of the laws of the State of New York, having its principal office and place of business in the city of New York, in said State, and is now, and for two years last past has been engaged in the manufacture, shipment, and sale of bread and cake in commerce among the several States of the United States.

PAR. 2. That with the intent, purpose, and effect of stifling and suppressing competition in the manufacture and

sale of bread, the respondent, in the course of such commerce, at periods of several consecutive days during the past two years, has daily given gratis to each purchaser of its bread in certain places in the United States, a quantity of bread equal to the amount of bread daily bought and paid for by such purchaser from the respondent, during the period bread is so given gratis; and the respondent still continues the practice of giving bread gratis as aforesaid with like intent, purpose, and effect.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having issued and served its complaint herein, wherein it is alleged that it had reason to believe that the above-named respondent, The Ward Baking Co., has been and now is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that a proceeding by it in respect thereof would be to the interest of the public, and fully stating its charges in that respect, and the said respondent having entered its appearance by Eugene H. Hickok, its attorney, and filed its answer to said complaint admitting certain allegations therein contained and denying certain others thereof, and the issues so raised having pursuant to due notice given to said respondent, come on for hearing, and the Commission having appeared and introduced its evidence in support of its said charges, and the respondent having appeared and introduced its evidence in denial thereof, and all testimony heard at said hearing having been reduced to writing and, together with the evidence received, having been filed in the office of the Commission, and the Commission and respondent having through their respective attorneys submitted briefs and made oral argument herein, the Commission, being fully advised in the premises and upon consideration thereof, now makes this its report and findings as to the facts and conclusions.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, The Ward Baking Co., is now, and was at all times hereinafter mentioned, a corporation organized and existing under and by virtue of the laws of the State of New York, having its principal office and place of business in the city of New York, in said State, and is now and for two years last past has been engaged in the manufacture, shipment, and sale of bread and cake in commerce among the several States of the United States in direct competition with other persons, firms, copartnerships, and corporations similarly engaged; that respondent is one of the largest bakery companies in the United States, and has many branch bakeries and offices located in numerous States of the United States from which it distributes its bread locally and in commerce among the various States of the United States; that respondent because of its large financial resources is able to operate its business at a loss for a long period of time and by this means undersell and eliminate most of its competitors.

PAR. 2. That with the intent, purpose, and effect of stifling and suppressing competition in the manufacture and sale of bread, in interstate commerce, the respondent, in the course of such commerce, at periods of several consecutive days, and particularly during the month of May, 1917, did, in conducting a so-called free bread campaign, daily give to each purchaser of its bread, in certain places of the United States, a quantity of bread equal to the amount of bread daily bought and paid for by such purchaser from the respondent during the period bread was so distributed free of charge.

PAR. 3. That respondent, during the said month of May, in the year 1917, for a period of about four weeks in the cities of New Bedford and Fall River, in the State of Massachusetts, and other towns and cities in said State, and also in the towns of North Tiverton and Stone Bridge, in the State of Rhode Island, did give to all who purchased bread from it an amount of bread equal to the amount so purchased, with the intent and purpose of suppressing and stifling competition in the sale of bread in the towns and cities named in the State of Massachusetts and the State of

Rhode Island, and that all the bread so sold and given away in the State of Rhode Island, during said period when said free bread campaign was being so conducted, was manufactured at the city of Cambridge, in the State of Massachusetts, and shipped by the said respondent from the city of Cambridge to the city of Fall River, both in the State of Massachusetts, and from said city of Fall River was distributed by wagons, trucks, and other conveyances across the State line and into the State of Rhode Island, in the vicinity of North Tiverton and Stone Bridge, and there given away to purchasers of bread from said respondent, in the manner and form aforesaid, and that said bread so given away and distributed in the State of Rhode Island was transported and sold in interstate commerce across the State lines dividing the State of Massachusetts and the State of Rhode Island, for the purpose and with the effect of stifling and suppressing competition in interstate commerce, as aforesaid.

PAR. 4. That bakery companies, other than the respondent company, were engaged in the manufacture, distribution, and sale in interstate commerce of bakery products in competition with said respondent company at and during the time that its free bread campaign was being so conducted, and that the business of such other companies in the State of Massachusetts and in the vicinity of North Tiverton and Stone Bridge, in the State of Rhode Island, was injuriously affected by said free bread campaign so conducted by the respondent as aforesaid; that during the time that respondent was conducting its said free bread campaign it sold its bakery products at less than the cost of production, and lost large sums of money in the vicinity where such campaigns were carried on; that during said time respondent greatly increased its shipments of bread from Cambridge to Fall River, and local bakeries sustained a decrease in the number and amount of the sales of their products locally, and at the Rhode Island municipalities hereinabove mentioned.

CONCLUSIONS.

That the methods of competition set forth in the foregoing findings as to the facts in paragraphs 2, 3, and 4, and each

and all of them, are, under the circumstances therein set forth, unfair methods of competition, in violation of the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission, having issued and served its complaint herein, wherein it is alleged that it had reason to believe that the above-named respondent, the Ward Baking Co., has been, and now is, using unfair methods of competition in interstate commerce, in violation of the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that a proceeding by it in respect thereof would be to the interest of the public, and fully stating its charges in this respect, and the respondent having entered its appearance by Eugene H. Hickok, its attorney, and filed its answer to said complaint, admitting certain allegations therein contained, and denying certain others thereof, and the issues so raised having, pursuant to due notice given to said respondent, come on for hearing, and the Commission, having appeared and introduced its evidence in support of its said charges, and the respondent, having appeared and introduced its evidence in denial thereof, and all testimony heard at said hearing having been reduced to writing, and, together with the evidence received, having been filed in the office of the Commission, and the Commission and respondent having, through their respective attorneys, submitted briefs and made oral argument herein, and the Commission, being fully advised in the premises, and upon consideration thereof, having made its report in writing, wherein it stated its findings as to the facts and its conclusions that the respondent has violated the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and

which said report is hereby referred to and made a part hereof; Now, therefore, '

It is ordered, That the respondent, the Ward Baking Co., and its officers, directors, agents, servants, and employees cease and desist from directly or indirectly:

1. Giving or offering to give free of charge to purchasers or prospective purchasers of its bread or other bakery products, whether such gift is made for the purpose of advertising respondent's products, or inducing dealers to purchase from it, or for any other purposes whatsoever, bread or other bakery products.

2. Selling, or offering to sell, its bread or other bakery products upon the condition, understanding, or agreement that it will give, free of charge, bread or other bakery products for the purpose of advertising respondent's products, or inducing dealers to purchase from it, or for any other purpose whatsoever.

MODIFIED ORDER TO CEASE AND DESIST.

The Federal Trade Commission having issued and served its complaint herein, wherein it alleged that it had reason to believe that the above named respondent, Ward Baking Co., had been and was at the time of the issuance of the said complaint using unfair methods of competition in interstate commerce, in violation of the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that a proceeding by it in respect thereof would be to the interest of the public, and fully stating its charges in that respect, and the respondent having entered its appearance by Eugene H. Hickok, its attorney, and having filed its answer to said complaint admitting certain allegations therein contained and denying certain others thereof, and the issues so raised having, pursuant to due notice given to said respondent, come on for hearing, and the Commission having appeared and introduced its evidence in support of its said charges, and the respondent having appeared and introduced its evidence in denial thereof, and all testimony taken at said hear-

ing having been reduced to writing, and together with the evidence received having been filed in the office of the Commission, and the Commission and respondent having, through their respective attorneys, submitted briefs and made oral argument herein, and the Commission, being fully advised in the premises and upon consideration thereof, having made its report in writing, wherein it stated its findings as to the facts, and its conclusion that the respondent has violated the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and the Commission having heretofore, to wit, on the 8th day of April, 1919, entered and served its order upon the respondent requiring it to cease and desist from certain practices, as reference to the said order being had will more fully and at large appear:

And it appearing to the Commission, upon reconsideration of the matter, that said order should be modified in certain respects:

Now, therefore, the Federal Trade Commission, on its own motion, under and by virtue of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," hereby orders that the order to cease and desist heretofore made in this proceeding on the 8th day of April, 1919, be, and the same is, hereby modified, so that, as modified, said order shall read as follows, to wit: Now, therefore,

It is ordered, That the respondent, Ward Baking Co., its officers, directors, agents, servants, and employees, cease and desist from directly or indirectly initiating or carrying on, in the course of interstate commerce, any so-called free-bread campaign or any practice of supplying bread free of cost to retail dealers in quantities equal to those purchased from respondent by such dealers, or in any other quantities, where such practice is calculated to or does stifle or suppress competition in the manufacture and sale of bread.

FEDERAL TRADE COMMISSION *v.* BALTIMORE
HUB-WHEEL & MANUFACTURING CO., AND
THE HOLLAND-BADEN-RAMSEY CO.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF
SECTION 5 OF AN ACT OF CONGRESS, APPROVED SEPTEMBER
26, 1914.

Docket No. 197.—April 9, 1919.

SYLLABUS.

Where two jobbers of automobile accessories, with the intent, purpose, and effect of embarrassing, harrassing, hampering, and obstructing retail competitors, threatened a manufacturer of such accessories that, unless it ceased allowing to such retailers the same rate of discount as it allowed to them, they would cease to purchase from it:

Held, That such threats, under the circumstances set forth, constituted an unfair method of competition in violation of section 5 of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Baltimore Hub-Wheel & Manufacturing Co. and the Holland-Baden-Ramsey Co., hereinafter referred to as the respondents, have been and are using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH 1. That the respondents, Baltimore Hub-Wheel & Manufacturing Co. and the Holland-Baden-Ramsey Co., are now and were at all times hereinafter mentioned corporations organized, existing and doing business under and by virtue of the laws of the State of Maryland, having each its principal office and place of business in the city of Baltimore, in said State, and are now and for many years last past have been engaged in the purchase and sale of automobile accessories.