

Complaint.

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FEDERAL TRADE COMMISSION

v.

EVERYBODY'S MERCANTILE COMPANY.

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

Docket 598.—September 14, 1920.

SYLLABUS.

Where a corporation engaged in the sale and distribution of coffees at wholesale gave and offered to give to customers, as an inducement to secure their patronage, certain personal property of unequal values, which was intended to be, and was, distributed to ultimate purchasers by lot or chance:

Held, That such distribution of gifts, under the circumstances set forth, constituted an unfair method of competition.

COMPLAINT.

The Federal Trade Commission having reason to believe from a preliminary investigation made by it that Everybody's Mercantile Co., 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 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 respondent, Everybody's Mercantile Co., is now and was at all times hereinafter mentioned a corporation organized, existing, and doing business under and by virtue of the laws of the State of Iowa, having its principal factory, office, and place of business located in Sioux City, Iowa.

PAR. 2. That respondent now and for more than two years last past has been engaged in the roasting and selling to the trade its brand of coffee, known as Honest Value coffee, packed in pound containers, among the several States of the United States, Territories thereof, and the District of Columbia, in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 3. That for more than one year last past the respondent, Everybody's Mercantile Co., in the distribution and sale of its products as aforesaid, has given and offered to give, and is now giving and offering to give customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates, which were and are redeemable in various prizes or premiums, consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot.

PAR. 4. Respondent is a manufacturer and wholesale grocer, and is engaged in interstate commerce by selling and distributing its goods to retailers in the States of Iowa, Nebraska, South Dakota, Minnesota, and other States. It sells goods both by traveling salesmen and by mail orders. It resorts to various sales schemes to promote its business among these States. It adopted and put into effect one from February 20, 1920, to March 20, 1920, as follows: It offered and sold to the trade its brand of coffee known as Honest Value coffee, packed in pound containers, and in each container it inclosed a coupon calling for certain free goods or prizes to be distributed by the retail merchant to the ultimate purchaser or consumer of these goods. Each 50-pound lot of coffee contained 45 coupons calling for one bar of candy, value 10 cents; 2 coupons calling for one package of O. U. Jell powder, value 10 cents; 2 coupons calling for 1 pound of baking powder, value 25 cents; and 1 coupon calling for one 4-pound package of pancake flour, value 35 cents. The merchants bought from the respondent the goods called for by these coupons and handled them in trade. Upon the presentation of these coupons by the purchasers of the coffee they were redeemed by the retail merchant by the delivery of the goods called for and sent in to the respondent to redeem them in cash according to the values above recited, and were so redeemed by respondent.

PAR. 5. That by reason of the facts set out in the foregoing paragraphs of this complaint the respondent has been guilty of unfair methods of competition in commerce as defined and prohibited by 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."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, Everybody's Mercantile Co., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

Findings.

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The respondent having entered its appearance and filed its answer herein, and both parties to this proceeding being desirous of expediting the disposition thereof, signed and executed an agreed statement of facts subject to the approval of the Commission that said statement of facts shall be taken by the Commission with the same force and effect as if testified to upon a hearing regularly had in this proceeding, and the respondent having stated that it did not wish to file any brief or make any oral argument in said case, and thereupon this proceeding came on for final hearing; and the Commission being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Everybody's Mercantile Co., is now and was at all times hereinafter mentioned a corporation organized, existing, and doing business under and by virtue of the laws of the State of Iowa, having its principal factory, office, and place of business located in Sioux City, Iowa.

PAR. 2. That respondent now and for more than two years last past has been engaged in the roasting and selling to the trade its brand of coffee known as Honest Value coffee, packed in pound containers, among the several States of the United States, in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 3. That respondent, Everybody's Mercantile Co., in the distribution and sale of its products as aforesaid has given and offered to give customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes or premiums consisting of personal property of unequal value, the distribution of which was and is determined by chance or lot. Respondent is a manufacturer and wholesale grocer, and is engaged in interstate commerce by selling and distributing its goods to retailers in the States of Iowa, Nebraska, South Dakota, Minnesota, and other States. It sells goods both by traveling salesmen and by mail orders.

PAR. 4. Respondent adopted and put into effect from February 20, 1920, to March 20, 1920, a plan or scheme as follows: It offered and sold to the trade its brand of coffee known as Honest Value coffee, packed in pound containers, and in every container it inclosed a coupon calling for certain free goods or prizes to be distributed by the retail merchant to the ultimate purchaser or consumer of these goods. Each 50-pound lot of coffee contained 45 coupons calling for one bar of candy, valued at 10 cents; 2 coupons each calling for 1

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package of O. U. Jell Powder, value 10 cents; 2 coupons each calling for 1 can of Honest Value baking powder, value 25 cents; and 1 coupon calling for one 4-pound package of pancake flour, value 35 cents. The merchants bought from the respondent the goods called for by these coupons, and handled them in trade. Upon the presentation of these coupons by the purchasers of coffee they were redeemed by the retail merchant by the delivery of the goods called for, and sent in to the respondent to redeem them in cash according to the values above recited, and were so redeemed by respondent.

PAR. 5. The quality of such products so manufactured, sold, and distributed by respondent is substantial and forms an important item of commerce among several States of the United States.

CONCLUSION.

The practices of the said respondent, under the conditions and circumstances described in the foregoing findings, are unfair methods of competition in interstate commerce and constitute a violation 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."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, the testimony and evidence, and the Commission having made its findings as to the facts with its conclusion that the respondent has violated the provisions 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":

It is ordered, That the respondent, Everybody's Mercantile Co., cease and desist in the distribution and sale of its products from giving or offering to give to its customers or prospective customers, as an inducement to secure their trade and patronage, any papers, coupons, or circulars redeemable in prizes or premiums consisting of personal property of unequal value, the distribution of which was and is determined by chance or lot.

It is further ordered, That the respondent, within 60 days after the date of the service upon it of this order, file with the Commission a written report of the manner in which it has complied with the terms hereof.

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FEDERAL TRADE COMMISSION DECISIONS.

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