

Complaint.

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FEDERAL TRADE COMMISSION
v.
GENEVA CUTLERY CORPORATION.

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

Docket 772—March 14, 1922.

SYLLABUS.

Where a corporation competitively engaged in the manufacture and sale to wholesalers of razors packed in individual containers, at the request of its customer dealers conspicuously marked upon the containers of razors sold by it at prices ranging from 39 cents to \$1.25 each, the legend "Price \$3.00 to \$3.50," "Price \$4.00" or "Price \$5.00," respectively; knowing that said marked prices were substantially in excess of those at which such razors were intended to be sold to the ultimate purchasers by retailers and mail order houses; thereby enabling and assisting the latter, by selling at less than the figure indicated, to mislead and deceive the public into believing that it was obtaining the razors at a greatly reduced price:

Held, That such mislabeling, or misrepresentation of price, 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 the Geneva Cutlery Corporation, hereinafter referred to as the respondent, has been and is using 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," 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 is a corporation organized and existing under the laws of the State of New York, with its principal place of business in Geneva, in said State.

PAR. 2. That the respondent is engaged in the business of manufacturing and selling razors, and causes razors sold by it to be transported to the purchasers thereof, from the State of New York through and into other States of the United States, the territories thereof, the District of Columbia and foreign countries, and carries on such business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 3. That the respondent in the course of its business described in Paragraph Two hereof, sells at wholesale razors manufactured by it packed singly in cases upon which it conspicuously prints false, fictitious and misleading price marks, well knowing that the prices so marked are not the prices at which its customers, the retailers and mail order houses sell or expect to sell said razors at retail and well knowing that such prices do not represent the true value or the actual or usual retail prices of said razors but that said false, fictitious and misleading price marks are used for the purpose of deceiving the public, who purchase such razors in said cases at retail for personal use, into the belief that they are obtaining, at a greatly reduced price, a razor which ordinarily sells for a much higher price; that among other false, fictitious and misleading prices so marked by the respondent on its razor cases are the following: Razors which it sells at wholesale at from 39¢ to 46¢ are marked by the respondent "Price \$3.50"; razors which it sells at wholesale for about 50¢ are marked by it "Price \$4"; and razors which it sells at wholesale from \$1 to \$1.25 are marked by it "Price \$5"; that the respondent well knows that the said razors are to be offered for resale at prices much less than those printed on the case and that said price marks are to be used to deceive purchasers; that in selling razors so marked the respondent comes in direct competition with other razor manufacturers who do not mark their razors with such false, fictitious and misleading prices, and the said respondent by the means aforesaid aids, abets and assists retailers and mail order houses engaged in interstate commerce to whom it sells such razors so marked, to use unfair methods of competition against others similarly engaged but who do not sell razors marked with false, fictitious and misleading price marks.

PAR. 4. That by reason of the facts recited the respondent is using an unfair method of competition in commerce, within the intent and meaning of Section 5 of an Act of Congress entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

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, Geneva Cutlery Corporation, charging it with unfair methods of competition in commerce in violation of the provisions of said Act.

The respondent having entered its appearance by its attorneys and filed its answer herein, hearings were had and evidence was there-

Findings.

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upon introduced in support of the allegations of said complaint and on behalf of the respondent before Warren R. Choate, a Trial Examiner of the Federal Trade Commission, theretofore duly appointed.

And thereupon this proceeding came on for final hearing and the Commission having duly considered the record and 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 is a corporation organized and existing under the laws of the State of New York, with its principal place of business in Geneva, in said State.

PAR. 2. That the respondent is engaged in the business of manufacturing and selling razors, and causes the razors sold by it to be transported to the purchasers thereof, from the State of New York through and into other States of the United States, territories thereof, and the District of Columbia and foreign countries, and carries on such business in direct active competition with other persons, partnerships and corporations similarly engaged.

PAR. 3. That the respondent in the course of its business sells in wholesale quantities to wholesalers, razors manufactured by it, packed singly in cases or containers upon which it conspicuously prints false and misleading price marks, knowing that the prices so marked are not the prices at which the razors will be sold to the ultimate purchasers.

PAR. 4. That the respondent marks prices on the containers only on special orders from its customers and in these cases respondent's name does not appear upon the razor or its container nor is any contract or agreement made fixing a resale price. That razors which it sells at wholesale at from 39 cents to 46 cents apiece are marked by respondent on the container "Price \$3.00 to \$3.50"; that razors which it sells at wholesale for about 50 cents apiece are marked by it "Price \$4.00"; those sold for from \$1.00 to \$1.25 apiece are marked "Price \$5.00"; that the retailer and mail order houses in selling razors marked as above described, sell them for sums materially less than the price marked on the container, and the respondent knows, at the time that it prints such prices on such containers, that the retailer will sell such razors at such less prices and the respondent by so doing puts it in the power of, and assists the retailer and mail order house to mislead and deceive the public.

Order.

PAR. 5. That razors so marked with such false and misleading prices come into direct competition in interstate commerce with razors which are not so marked; that the respondent did not originate this practice of printing false and fictitious proposed retail prices on the razor containers, but followed the custom which has grown up in the razor trade of marking razors with false and fictitious prices, as aforesaid, at the request of dealers, in order that the misleading prices marked upon the razors may be undercut by the retailer and the razor still sold at a substantial profit, and yet at a price materially less than that [with] which it is marked, thereby misleading and deceiving the public into believing that it is obtaining, for a much less price, a razor worth at least the price marked on the boxes or containers.

CONCLUSION.

That 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 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."

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 and its conclusion that the respondent has violated the provision 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,"

It is now ordered, That the respondent, the Geneva Cutlery Corporation, its officers, directors, agents, servants and employees, cease and desist from marketing in interstate commerce razors bearing upon the containers in which said razors are packed, any false, fictitious or misleading statement of or concerning the price of said razors, or any false, fictitious or misleading statement as to the value of said razors.

It is further ordered, That the respondent within sixty days after the date of the service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth by the Commission.

Memorandum.

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The Commission also made similar findings and order in the case of The J. R. Torrey Razor Company (of Worcester, Mass., Dock. 773), decided March 14, 1922, in which the facts involved appear to have been identical, or substantially identical, with those in the preceding case.

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