

Complaint.

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FEDERAL TRADE COMMISSION

v.

HUB HOSIERY MILLS.

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

Docket 889—November 14, 1922.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of infant's hose composed in approximately equal parts of wool and cotton, labeled, advertised and sold the same as "Infant's Australian Ribbed Merino Hose" in competition with hose composed entirely of wool and properly so labeled and described; with the capacity and tendency to mislead ultimate purchasers with reference to the composition of said goods and thereby induce the purchase thereof:

Held, That such labeling, advertising and sales, under the circumstances set forth, constituted unfair methods of competition.

COMPLAINT.

Acting in the public interest pursuant to the provisions 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," the Federal Trade Commission charges that the Hub Hosiery Mills, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce, in violation of the provisions of section 5 of said act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized under the laws of the State of Massachusetts, with its principal office and place of business in the city of Boston in said State. It is, and at all times hereinafter mentioned has been, engaged in the manufacture and sale of infants' hose, and in the conduct of its business causes infants' hose made and sold by it to be transported to purchasers thereof from the State of Massachusetts through and into other States of the United States. In the course of said business respondent continuously has been and now is in competition with other persons, partnerships and corporations engaged in similar business in interstate commerce.

PAR. 2. Respondent for more than two years last past has manufactured, and is now manufacturing, infants' hose composed partly

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of wool and partly of cotton, the proportion of cotton therein being fifty (50%) per cent or more, and for more than two years last past has labeled or branded and is now labeling and branding the packages or containers in which said hose are delivered to jobbers and other customers "Infants' Australian Ribbed Merino Hose," and for more than two years last past has advertised, sold and shipped, and is now advertising, selling and shipping said product so labeled or branded in interstate commerce as aforesaid.

PAR. 3. The words "Australian Merino" as used by respondent in labeling its product as aforesaid, signify to and are understood by a substantial part of the purchasing public to mean wool, and to many of them, wool of the merino sheep, or of other fine quality grown in Australia; and as used in its labels by respondent as aforesaid they are false and tend to mislead the purchasing public to believe that the articles so labeled are either composed entirely of wool, or entirely of wool of the merino sheep, or of other fine quality wool grown in Australia.

PAR. 4. There are a considerable number of manufacturers who make infants' hose composed entirely of wool, and many manufacturers of infants' hose composed of cotton and wool who do not use or apply to their product the labels used by respondent as aforesaid, or otherwise indicate to the purchasing public that it is composed entirely of wool.

PAR. 5. The above alleged acts and things done by respondent are all to the prejudice of the public and of respondent's competitors, and constitute unfair methods 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, Hub Hosiery Mills, charging it with unfair methods of competition in commerce in violation of the provisions of said act.

The respondent having entered its appearance and filed its answer herein and having entered into a stipulation in writing, as to the facts, in which stipulation it is admitted that certain of the matters and things alleged in said complaint are true in the manner and form therein set forth, thereupon this proceeding came on for final hear-

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ing, and the Commission, being fully advised in the premises, and upon consideration thereof, makes this its report, stating its findings as to the facts and conclusion.

FINDING AS TO THE FACTS.

PARAGRAPH 1. The respondent, Hub Hosiery Mills, is a corporation organized under the laws of the State of Massachusetts, with principal place of business at Boston in said State, and is engaged in the business of manufacturing and selling infants' hose, and causes hose sold by it to be transported to the purchasers thereof from the State of Massachusetts through and into other States of the United States; that in the conduct of such business respondent has been and is in direct, active competition with other corporations, persons and partnerships engaged in similar business in commerce among the States.

PAR. 2. For a number of years prior to 1922, and to a limited extent in 1922, respondent in the course of its business, as described in paragraph 1 hereof, manufactured and sold infants' hose composed of approximately equal parts of wool and cotton, which hose were packed in containers upon which were placed labels which contained the words "Infants' Australian Ribbed Merino Hose," which hose, in many instances, remained in such containers at the time they were offered for sale and sold to the public in the usual course of retail trade; that prior to 1922, respondent caused to be distributed to the trade in numerous States of the United States, circular letters and other advertising matter in which hose manufactured and sold by respondent were described as "Infants' Australian Ribbed Merino Hose." That respondent made no sales of its product to retail dealers or to the consuming public, but sold its product entirely to jobbers who resold same to retail dealers, who resold same to the public. That hose so labeled, advertised and sold by respondent were sold in due course of interstate commerce, in competition with hose made entirely of wool and properly labeled and described as "Wool," "Australian Wool," or with words of like import.

PAR. 3. The words "Australian" and "Merino" as used by respondent in labels, as set out in paragraph 2 hereof, signify to, and are understood by, a substantial part of the purchasing public, to mean wool of the merino sheep or other fine quality of wool grown in Australia; that such labels had the capacity and tendency to mislead the ultimate purchasers of the hose so produced and sold by respondent, and to cause purchasers in the usual course of retail trade to buy such hose under the mistaken belief that such hose were composed entirely of wool, or entirely of wool of the merino sheep or other fine quality of wool grown in Australia.

Order.

CONCLUSION.

That the practices of the said respondent, under the conditions and circumstances described in the foregoing findings, were unfair methods of competition in interstate commerce and constituted 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, and a stipulation as to the facts, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions 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 Hub Hosiery Mills, its officers, directors, agents, servants and employees, cease and desist from employing or using as labels upon infants' hose manufactured and sold by it, and not composed wholly of wool, or upon the containers in which such hose are packed and thereafter displayed to the purchasing public, which labels contain the words "Australian" or "Merino," alone, or in combination with any other word or words, unless accompanied by a word or words designating the substance, fiber or material other than wool of which the hose are composed, (e. g., Wool and Cotton) or by a word or words otherwise clearly indicating that such hose are not made wholly of wool, (e. g., part Wool).

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 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.

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FEDERAL TRADE COMMISSION DECISIONS.

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