

IN THE MATTER OF
CHERRY BLOSSOMS MANUFACTURING COMPANY

MODIFIED ORDER TO CEASE AND DESIST

Docket 1542. Order, Apr. 27, 1931

Order modifying order in 13 F. T. C. 124, relating to use of the words "Cherry Blossoms" or "Cherry" as a corporate or trade name, brand, label, etc., in connection with the sale of an artificially colored and flavored concentrate, and beverage made therefrom, containing neither product of the cherry or cherry blossom, though with the taste and appearance of such a beverage; as in said order set forth.

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission, the answer of the respondent, and testimony and evidence submitted; and the Commission having made its findings as to the facts and adopted its conclusion that respondent has violated 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 the Commission having heretofore, to wit, on the 16th day of December, 1929, entered its order upon the respondent requiring it to cease and desist from certain practices; and it appearing to the Commission upon reconsideration of the matter that said order should be modified:

Now, therefore, the Federal Trade Commission, 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 be, and the same is hereby, modified so that as modified said order shall read as follows, to wit:

It is now ordered, That respondent, Cherry Blossoms Manufacturing Co., its representatives, agents, servants, employees and successors, forthwith cease and desist, in interstate commerce, from:

(1) Using the words "Cherry Blossoms", or the word "Cherry", independently or in conjunction or combination with any other word or words, as its corporate name, or as a trade name for its product or the beverage made therefrom; or using the words "Cherry Blossoms" or the word "Cherry", independently or in conjunction or combination with any other word or words in advertising, or on labels of its product or the beverage made therefrom, except when

Modified order

15 F. T. C.

limited to a statement in substance that the product or the beverage made therefrom resembles cherry in flavor or coloring, but contains no juice or coloring matter of cherry or of cherry blossoms.

(2) Furnishing or causing or authorizing to be furnished to others, labels, posters, placards, bottle caps or crowns, containers or advertisements bearing the words "Cherry Blossoms" or the word "Cherry", independently or in conjunction or combination with any other word or words, except when limited to a statement in substance that the product or the beverage made therefrom resembles cherry in flavor or coloring, or both, but contains no juice or coloring matter of cherry or of cherry blossoms.

(3) Representing, or providing others with the means of representing in any way that its product or the beverage made therefrom contains any of the juice, or extract, or coloring matter of cherry or of cherry blossoms.

It is further ordered, That the said respondent shall, within 60 days after the service upon it of a copy 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.

Complaint

IN THE MATTER OF
COTY, INCORPORATED

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 1688. Complaint, Aug. 23, 1929—Decision, Apr. 27, 1931

Where a corporation engaged in importing perfumes, extracts, essences, powders and other cosmetics from France, and in packing and selling same to wholesale and retail dealers in various States; in pursuance of a policy adopted and directed to the maintenance and enforcement of prices suggested by it for resale of said products by customers,

- (a) Announced said policy publicly and furnished vendees with suggested prices for observance by wholesale and retail dealers and made it generally known to the trade through letters, telegrams, and interviews that it expected and required its dealers to maintain said prices;
- (b) Insisted upon such maintenance to wholesale and retail dealers brought to its attention as price cutters in their respective cities or territories and secured their agreements to maintain prices in the future; and
- (c) Refused to sell to price cutting wholesale and retail dealers failing to give assurances of price maintenance in the future and supplied names of those thus cut off to dealers maintaining its prices, and actual or potential sellers in territory served by aforesaid price cutters, and advised former of discontinuance of sales by it to latter by reason of their price cutting and failure to give assurances of future price maintenance;

With direct result of substantially lessening and suppressing competition between dealers in distribution and sale of its products, constraining them to sell same at prices fixed and established by it, preventing them from selling same at such lower prices as they might desire, and depriving their purchasers of advantage in price and otherwise, obtainable from natural and unobstructed flow of commerce in said products under conditions of free competition among such dealers, and of unduly hindering and obstructing competition in sale and distribution of said products in interstate commerce, and with tendency so to do:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. Robert H. Winn for the Commission.

Coudert Brothers, of New York City, for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent Coty, Inc., a Delaware corporation engaged in the importation of perfumes, extracts, essences, powders and other cosmetics from France, and packaging and sale thereof to wholesale