

Complaint

20 F. T. C.

IN THE MATTER OF
FEDERAL AUTO PRODUCTS COMPANY

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

Docket 2291. Complaint, Jan. 30, 1935—Order, May 1, 1935

Consent order requiring respondent, its officers, etc., in connection with the sale and offer of reconditioned or used spark plugs in interstate commerce, to cease and desist forthwith from neglecting, refusing or failing to indicate or make it known on the wrappers, boxes and cartons containing the same, or in any other way, that such spark plugs are reconditioned or used.

Mr. DeWitt T. Puckett for the Commission.

COMPLAINT

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, having reason to believe that Federal Auto Products Company, a corporation, has been and is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent is and has been since August of 1933, a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal place of business at 1621 South Michigan Boulevard, Chicago, Cook County, Illinois, and is or has been since 1933 engaged in the sale and distribution by wholesale of reconditioned or rebuilt spark plugs which respondent sells and ships to its customers and retail dealers in various States of the United States of America, from its said place of business in Chicago, Ill., and is therefore engaged in interstate commerce, and is in substantial competition with divers other individuals, firms, associations, and corporations, engaged in interstate commerce in a similar and like business to that of respondent, both as to the sale and shipment in interstate commerce of rebuilt spark plugs.

PAR. 2. Respondent has purchased from various persons reconditioned spark plugs, the said plugs having been obtained by said persons from garages, service stations, and various places, which spark plugs had been reconditioned by replacing terminal brass tops, cleaning the porcelain, cleaning the electrodes or replacing them

when necessary, sandblasting the metal parts and testing the spark plugs to the required compression in like manner as new spark plugs are tested, and respondent has offered for sale and sold said reconditioned spark plugs, in interstate commerce, without, in all instances, labeling or otherwise disclosing to the purchasing public the fact that said spark plugs were reconditioned or used spark plugs.

PAR. 3. Respondent has offered for sale and sold said reconditioned spark plugs to wholesalers, who in turn have sold same to the jobbers, who have sold said plugs to the ultimate consumer. These spark plugs have been sold by the respondent either in bulk or individually. When sold in bulk, they were placed unwrapped in cartons or wooden boxes and so delivered. When sold individually, each plug was enclosed in a carton. Three different types of cartons were used. From the beginning, a plain, white paper carton was used, upon which was stamped the word "Renewed." No other words appeared thereon. A second type of carton used was one originally designed for other purposes. On this second type of carton, nothing whatever appeared to disclose the fact that the spark plug contained therein was rebuilt or renewed. The third type of carton was a plain white paper carton. Nothing appeared on this third type of carton to disclose the fact that the enclosed spark plug had been used or reconditioned.

The foregoing methods of wrapping, selling and distributing spark plugs, in interstate commerce, have the tendency and capacity to deceive and mislead the purchasing public by causing it to believe that in the purchase of respondent's reconditioned spark plugs it is buying new and unused spark plugs, and likewise said methods have a tendency and capacity to mislead and deceive the retail merchants who order and buy in interstate commerce respondent's reconditioned spark plugs into the impression and belief that respondent was selling unused spark plugs, since nothing appeared on the cartons to disclose the fact that they were used spark plugs; and when in truth and in fact said spark plugs were not new and unused spark plugs but were used or reconditioned spark plugs, which do not give the same quality or quantity of service as do new and unused spark plugs, and when so wrapped and offered for sale, retail merchants, who purchased said used spark plugs, were and are deceived and defrauded by said nondisclosure and said retail merchants were and are thereby afforded an instrumentality for perpetrating a fraud on the buying public.

PAR. 4. Each and all of the acts of nondisclosure on the part of respondent, referred to in paragraph 3 hereof, had and have the tendency to mislead the buying public into the belief that they

were and are buying new and unused spark plugs, and to unfairly divert trade to respondent from those individuals, firms, associations, and corporations who sell in interstate commerce, new and unused spark plugs, and to unfairly divert trade to respondent from those individuals, firms, associations and corporations who sell in interstate commerce used and reconditioned spark plugs, but who honestly and truthfully represent same, and to otherwise injure its said competitors.

PAR. 5. The acts and practices set forth in paragraph 3 hereof are all to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in interstate commerce within the intent and meaning 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

This proceeding coming on for final hearing by the Federal Trade Commission upon the record, including the complaint of the Commission and respondent's answer thereto in which answer respondent waived hearing on the charges set forth in the complaint, refrained from contesting the proceeding and, pursuant to paragraph 2 of Rule 3 of the rules of practice of the Commission, as amended and revised August 20, 1934, consented that the Commission might make, enter and serve upon respondent, without evidence and without findings as to the facts or other intervening procedure, an order to cease and desist from the method or methods of competition alleged in the complaint, and the Commission being fully advised in the premises:

Now, therefore, it is hereby ordered, That respondent, Federal Auto Products Company, its officers, directors, agents, representatives, servants and employees in connection with the sale and offering for sale of reconditioned or used spark plugs in interstate commerce forthwith cease and desist from neglecting, refusing or failing on the wrappers, boxes and cartons containing such spark plugs or in any other way to indicate or make it known that such spark plugs are reconditioned or used.

It is further ordered, That respondent, Federal Auto Products Company, shall within 60 days after the service upon it of a copy of this order, file with the Federal Trade 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 hereinabove set forth.

Complaint

IN THE MATTER OF
OSSOLA BROS., INC.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2236. Complaint, Sept. 29, 1934—Order, May 8, 1935*

Consent order requiring respondent, its agents, etc., in connection with the sale, or offer in interstate commerce, of "Grande Italia" tomato paste or sauce, to cease and desist from using on brands, labels, containers or packages, or in advertisements thereof or otherwise, words, phrases, pictures, pictorial designs, vignettes, maps or other devices falsely importing, implying or suggesting that said tomato paste or sauce is made in, or imported from, or made of tomatoes imported from, Italy, or any other foreign country; provided that the wording, phrasing and designs of respondent's present label, may be used as a brand or label, or in advertisements of said paste or sauce, if words, "Made from Tomatoes Grown in the United States" are printed in letters in close conjunction therewith, and in letters as large and prominent as any of those appearing upon said label, and appear on all labels, containers, packages or advertisements thereof.

Mr. E. J. Hornibrook for the Commission.

COMPLAINT

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, having reason to believe that Ossola Bros., Inc., a corporation, has been or is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Ossola Bros., Inc., is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, with its principal place of business in the city of Pittsburgh in said State. It is now and for more than one year last past has been engaged in the business of selling food products at wholesale in and from the cities of Pittsburgh, Pa., and New York City, N. Y. Among other things, it sells a canned tomato sauce under the brand name "Grande Italia". This sauce resembles thick catsup and is made from peeled and crushed tomatoes and is used in making sauce for spaghetti and other edible dishes. This sauce is sold to retail and jobber customers of respondent and many of such