

Complaint

IN THE MATTER OF
CAL-ASPIRIN CORPORATIONCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2616. Complaint, Nov. 7, 1935—Order, Jan. 25, 1936*

Consent order requiring respondent, its officers, etc., in connection with the sale or offer for sale in interstate commerce of its "Cal-Aspirin" preparation, forthwith to cease and desist from representing, in advertising matter, circular letters, by means of radio broadcasting, or otherwise, that said product "reduces kidney toxicity" and, as compared with "ordinary aspirin", is less toxic, better tolerated, and generally is quicker and more effective and safer.

Mr. Morton Nesmith for the Commission.

Mr. Edward S. Rogers, of New York City, for respondent.

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 Cal-Aspirin Corporation, a corporation, hereinafter referred to as respondent, has been and now is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, states its charges in that respect as follows:

PARAGRAPH 1. The respondent, Cal-Aspirin Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business at 160 East Illinois Street in the city of Chicago, State of Illinois. It is now, and has been for several years last past, engaged in the manufacture and sale of medical and pharmaceutical products. It is now, and has been the owner of a patented formula for the production of a remedy or compound which it causes to be manufactured, and which it sells and distributes under the trade name or brand of "Cal-Aspirin." The respondent causes said compound and its other products to be transported from its principal place of business into and through other States of the United States other than the State of Illinois, to the purchasers thereof at their respective points of location.

In the course and conduct of its business as aforesaid, respondent is now, and for several years last past has been in substantial com-

Complaint

22 F. T. C.

petition with other corporations, firms and individuals engaged in the manufacture, sale and distribution of pharmaceutical preparations, including aspirin and similar products, and the sale thereof between and among the various States of the United States and the District of Columbia, causing such preparations, when sold by them, to be transported to purchasers thereof in States other than the States in which such preparations are manufactured or prepared.

PAR. 2. The Cal-Aspirin Company, a corporation, was organized under and by virtue of the laws of the State of Delaware on August 14, 1933, and thereafter on March 24, 1934, the name of said company was changed to the Cal-Aspirin Corporation, respondent herein. Thereafter, on to wit February 21, 1934, a contract was entered into by and between two of the holders of $\frac{2}{3}$ of the common stock issued by the respondent and General Mills, Inc., a corporation, wherein said General Mills, Inc., obtained an option to acquire the entire capital stock of the respondent. In said contract General Mills, Inc., was to direct respondent's activities over a specified period of time, namely, to June 30, 1934, at which time it could acquire the $\frac{1}{3}$ interest of one of the incorporators. Thereafter the option would remain in full force and effect until June 30, 1935, with General Mills, Inc., directing the affairs of the respondent at which time it could acquire the entire capital stock of the respondent. On June 30, 1934, General Mills, Inc., by exercising its option purchased $\frac{1}{3}$ of the capital stock of one of the incorporators. General Mills, Inc., did operate respondent company from February 21, 1934, to June 30, 1935, and although it still maintains a directing hand in the affairs of the respondent it has not yet exercised its option to acquire all of the stock of the corporation.

Aspirin is made of a drug technically known as acetyl salicylic acid. Cal-Aspirin is composed of two parts of acetyl salicylic acid and one part of calcium gluconate.

The respondent causes the product known as "Cal-Aspirin" to be compounded or manufactured for it by the Standard Pharmaceutical Company at 846 West Jackson Boulevard, Chicago, Ill.

PAR. 3. In the course and conduct of its business as aforesaid the respondent, in soliciting the sale of and selling "Cal-Aspirin" and for the purpose of creating a demand upon the part of the consuming public for said product, now causes and for more than one year last past has caused advertisements to be issued, published and circulated to and among the general public of the United States in newspapers, magazines, and other publications and in other forms of printed matter, and by radio broadcasting and in other ways.

Complaint

In said ways and by said means respondent makes and has made to the general public many unfair, exaggerated, false, and misleading statements with reference to the therapeutic value of said product and its effect upon the users thereof, a portion of which are as follows:

- (1) "Cal-Aspirin is less toxic and better tolerated than ordinary aspirin";
- (2) "Cal-Aspirin reduces kidney toxicity";
- (3) "Cal-Aspirin greatly reduces gastric mucosa irritation";
- (4) "Cal-Aspirin is a more prompt and efficient analgesic and antipyretic";
- (5) "Cal-Aspirin is quicker acting than ordinary aspirin";
- (6) "Cal-Aspirin's effects last longer than those of ordinary aspirin";
- (7) "Cal-Aspirin has a greater margin of safety and can be used in larger doses than ordinary aspirin";
- (8) "Cal-Aspirin has relieved pain in many cases where ordinary aspirin fails";
- (9) "Cal-Aspirin is safer than ordinary aspirin";
- (10) "Cal-Aspirin is more effective than ordinary aspirin."

The statements above set forth have the capacity and tendency to mislead and deceive purchasers and prospective purchasers of respondent's Cal-Aspirin into the belief:

- (1) That ordinary aspirin in average doses will have a toxic effect on one's system and that Cal-Aspirin reduces this toxicity;
- (2) That ordinary aspirin has a toxic effect on the kidneys when taken in the average dose and that Cal-Aspirin reduces this toxicity;
- (3) That ordinary aspirin taken in the average doses produces gastric mucosa irritation and that Cal-Aspirin reduces such irritation;
- (4) That Cal-Aspirin in ordinary doses more quickly and efficiently alleviates pain and fever than ordinary aspirin taken in usual doses;
- (5) That Cal-Aspirin more quickly and efficiently alleviates pain than ordinary aspirin in ordinary doses;
- (6) That the effects from Cal-Aspirin in relief from pain and fever when taken in ordinary doses are longer lived than those produced by the taking of usual doses of ordinary aspirin;
- (7) That ordinary aspirin in average doses will have a toxic effect on one's system and that Cal-Aspirin reduces this toxicity;
- (8) That Cal-Aspirin taken in ordinary doses will produce relief to many where ordinary aspirin affords no relief;
- (9) That Cal-Aspirin in ordinary doses is more effective and efficient than ordinary aspirin taken in usual doses.

PAR. 4. In and by the ways and means hereinbefore alleged, respondent's representations are in disparagement of its competitors.

Order

22 F. T. C.

Said representations have the capacity to, and are calculated to mislead and deceive the purchasing public into the beliefs that "Cal-Aspirin" is less toxic and better tolerated than ordinary aspirin; reduces kidney toxicity; greatly reduces gastric mucosa irritation; is a more prompt and efficient analgesic and antipyretic; is quicker acting than ordinary aspirin; that its effects last longer than those of ordinary aspirin; has a greater margin of safety and can be used in larger doses than ordinary aspirin; has relieved pain in many cases where ordinary aspirin fails; is safer than ordinary aspirin; and is more effective than ordinary aspirin; and to purchase said "Cal-Aspirin" in such beliefs, whereas in truth and in fact "Cal-Aspirin" is not less toxic and better tolerated than ordinary aspirin; does not greatly reduce gastric mucosa irritation; is not a more prompt and efficient analgesic and antipyretic; is not quicker acting than ordinary aspirin; its effects do not last longer than those of ordinary aspirin; has not a greater margin of safety and cannot be used in larger doses than ordinary aspirin; has not relieved pain in many cases where ordinary aspirin fails; is not safer than ordinary aspirin; and is not more effective than ordinary aspirin. Said representations by respondent have the capacity and tendency to unfairly divert trade from, or otherwise injure and prejudice, respondent's competitors in interstate commerce.

PAR. 5. The above and foregoing acts, practices and representations of the respondent have been, and are, all to the prejudice of the public and respondent's competitors, as aforesaid, and have been, and are, unfair methods of competition within the meaning and intent 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

The respondent herein having filed its answer to the complaint in this proceeding, and having subsequently filed with this Commission its motion that it be permitted to withdraw its said answer and that it be permitted to file in lieu thereof as a substituted answer, the draft of a proposed substituted answer annexed to the said motion; and the Commission having duly considered the said motion—

It is hereby ordered, That the said motion be and the same is hereby granted; that the said answer be and the same is hereby withdrawn; and that the said proposed substituted answer be, and the same is hereby filed in lieu of the said answer so withdrawn.

And the said respondent in and by its said substituted answer having waived hearings on the charges set forth in the complaint

Order

in this proceeding, and having stated in its said substituted answer that it does not contest the said proceeding, and having consented in its said substituted answer that the Commission, without a trial, without evidence, and without findings as to the facts or other intervening procedure, might make, enter, issue, and serve upon the said respondent, an order to cease and desist from the methods of competition charged in the complaint; and the Commission being fully advised in the premises;

It is hereby further ordered, That the respondent, Cal-Aspirin Corporation, its officers, agents and employees, forthwith cease and desist from representing in advertising matter, circular letters, by means of radio broadcasting, or otherwise, in or in connection with selling or offering for sale in interstate commerce its preparation known as "Cal-Aspirin";

(1) that "Cal-Aspirin is less toxic and better tolerated than ordinary aspirin"; (2) that "Cal-Aspirin reduces kidney toxicity"; (3) that "Cal-Aspirin greatly reduces gastric mucosa irritation"; (4) that "Cal-Aspirin is a more prompt and efficient analgesic and antipyretic"; (5) that "Cal-Aspirin is quicker acting than ordinary aspirin"; (6) "Cal-Aspirin's effects last longer than those of ordinary aspirin"; (7) that "Cal-Aspirin has a greater margin of safety and can be used in larger doses than ordinary aspirin"; (8) that "Cal-Aspirin has relieved pain in many cases where ordinary aspirin fails"; (9) that "Cal-Aspirin is safer than ordinary aspirin"; and (10) that "Cal-Aspirin is more effective than ordinary aspirin."

It is further ordered, That the said respondent within 60 days from and after the date of service upon it of this order, shall file with the Commission a report in writing setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

Complaint

22 F. T. C.

IN THE MATTER OF
H. T. POINDEXTER & SONS MERCHANDISE COMPANY

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

Docket 2659. Complaint, Dec. 16, 1935—Order, Jan. 25, 1936

Consent order requiring respondent corporation, its officers, etc., in connection with the sale, offer for sale, or distribution in interstate commerce and in the District of Columbia, of cotton print goods, to cease and desist from representing, directly or indirectly, that the cotton print goods which it offers for sale or sells are "tub fast", or that such goods will not fade when washed in the normal course of use of such goods, unless and until such goods are in fact dyed with a "tub fast" dye, and the same will not fade when washed as aforesaid.

Mr. William H. Griffin for the Commission.

Mr. William G. Holt and *Mr. John Marshall*, of Washington, D. C., for respondent.

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 H. T. Poindexter & Sons Merchandise 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. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal place of business in Kansas City in said State. Respondent is now and for a number of years last past has been engaged in the business of wholesaling and jobbing dry goods, and makes a specialty of selling yard goods and various lines of dry goods to small retail dealers located in small cities and villages. The principal portion of said business of respondent is in commerce between and among the various States of the United States.

In the course of its said business respondent has at all times herein mentioned utilized, and does now utilize, traveling salesmen and also a catalog and other kinds of advertising matter which it submits through the mails direct to the prospective customer. Respondent causes its said products when so sold to be transported from its said