

IN THE MATTER OF
GENERAL TIRE & RUBBER COMPANY

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

Docket 2669. Complaint, Dec. 24, 1935—Order, Jan. 30, 1936

Consent order requiring respondent corporation, its officers, etc., in connection with the distribution, offer for sale and sale in interstate commerce of tires made or sold by it, to cease and desist from—

- (a) Representing or advertising its tires to be "blowout proof", unless and until said tires are proof against blowouts, and from couching its advertisements in such general words and phrases as to cause or tend to cause the public to believe that the tires made or sold by it are blowout proof, unless and until said tires are proof against blowouts; or
- (b) Furnishing to the dealers and distributors in and of its tires copy for advertising to be used in pamphlets, etc., by said dealers and distributors, and which contains space at the bottom of the copy for the insertion of the name and address of the particular dealer or distributor and represents or imports or implies, or causes the purchasing public to believe, that the tires made or sold by it are "blowout proof", unless and until the said tires are proof against blowouts.

Mr. Reuben J. Martin for the Commission.

Waters, Andress, Wise, Roetzel & Mawon, of Akron, Ohio, 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 General Tire & Rubber Company 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 thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. General Tire & Rubber Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its principal office and place of business located in the city of Akron within said State of Ohio. It is now and for more than two years last past has been engaged in the manufacture of automobile tires and in the sale and distribution thereof between and among the various States of the United States.

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It causes such automobile tires when sold by it to be transported to the purchasers thereof located in the State of Ohio and in various other States of the United States. There is now and has been for a long time, to wit, more than two years last past, a constant current of trade and commerce by respondent in such automobile tires between and among the various States of the United States. In the course and conduct of its business the respondent is now and for a long time, to wit, for more than two years last past, has been in substantial competition in commerce between and among the various States of the United States with various other corporations, partnerships, firms and individuals engaged in the interstate sale of automobile tires.

PAR. 2. In the course and conduct of its said business as hereinbefore described in paragraph 1 hereof, said respondent, General Tire & Rubber Company, has entered into and still does enter into arrangements with various wholesale and retail automobile tire dealers and distributors engaged in the sale of automobile tires, inner tubes and accessories, located in various cities in the several States of the United States under and by virtue of which said arrangements said dealers and distributors carry in stock and sell and distribute the automobile tires manufactured and sold by said respondent.

PAR. 3. Among the various automobile tires manufactured and sold by said respondent in interstate commerce is an automobile tire known and designated by said respondent as "The New General Dual Balloon, The Blowout-Proof Tire." Said respondent, General Tire & Rubber Company, has also been and now is engaged in the manufacture and sale of various other grades and types of tires.

PAR. 4. In the course and conduct of its said business as hereinbefore set out in paragraphs 1 and 2, said respondent has been and now is engaged in extensive advertising as a means of furthering and aiding in the interstate sale and distribution of its said products, including "The New General Dual Balloon, The Blowout-Proof Tire." As mediums of advertising said respondent has used and is now using newspapers located in various cities throughout the United States, various magazines with national circulation, various trade journals, pamphlets, circulars, folders, handbills, and radio broadcasts with a national hookup.

In addition to the advertising which has been and now is being done by said respondent over the radio and in magazines of national distribution, said respondent has been and now is furnishing to its dealers and distributors located in cities throughout the various States of the United States, pamphlets, circulars, folders, handbills,

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and copy for newspaper advertising, and space has been left at the bottom of all advertising copy for the insertion of the name and address of the particular dealer using the advertisement, and various dealers and distributors have used and are using said advertisements furnished to them by said respondent. All of said advertisements were and are intended by said respondent, the General Tire & Rubber Company, to be read by the general public and, in particular, by the purchasers of tires, and to cause and induce said purchasers to buy tires manufactured by said respondent.

PAR. 5. Said respondent in its advertising by the use of broadcasts over a national hookup, by publication in newspapers located in various cities of the several States of the United States, by publication in magazines with national distribution and in trade journals, pamphlets, circulars, folders, and handbills as hereinbefore set forth in paragraph 4 hereof, has represented and is now representing to the public that its said product "The New General Dual Balloon Tire" is "blowout proof" when in truth and in fact said tire is not blowout proof.

Said representations made and now being made by said respondent in its said advertisements, have been and now are being couched in such general words and phrases that they have and do now mislead and deceive the public and have and do now cause the public to believe that all of the tires manufactured by said respondent are "blowout proof" when in truth and in fact said tires manufactured by said respondent are not blowout proof.

PAR. 6. The use by said respondent, the General Tire & Rubber Company, of the above and foregoing false and misleading representations alleged to be used by the said respondent in paragraph 5 hereof, have had and do now have the capacity and tendency to mislead and deceive the public into the erroneous and untrue belief that the tires manufactured and sold by said respondent were and are in fact blowout proof, and have thereby induced and do now induce the consuming public, and especially the tire purchasing public, acting in said erroneous belief, to purchase respondent's tires in preference to tires of similar types and quality offered by manufacturers, retail dealers and distributors who, in connection with their sales do not misrepresent their tires and do not falsely and misleadingly advertise their tires to be blowout proof. As a result of such false and misleading representations on the part of said respondent, trade is diverted to respondent from such competitors in interstate commerce, and thereby injury has been done and is being done by the respondent to its competitors in interstate commerce, and there have been and are placed in the hands of respondent's dealers and distributors,

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instruments by means of the use of which they have and now do mislead and deceive the purchasing public.

PAR. 7. Said false and misleading representations of respondent contained in its radio announcements and in its newspaper and radio advertising and in the advertising matter used by and distributed through respondent's dealers and distributors, have resulted in injury to respondent's competitors and to retail dealers and in prejudice to the buying public and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress approved September 26, 1914, and 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 matter coming on to be heard by the Commission upon the complaint filed herein on December 24, 1935, and the answer to said complaint filed January 24, 1936, by the General Tire & Rubber Co., a corporation, respondent herein, in which answer the said respondent states that it waives hearing on the charges set forth in the complaint herein; that it refrains from contesting the proceeding, and that it consents that the Commission, without a trial, without evidence, and without findings as to the facts or other intervening procedure, may 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 now fully advised in the premises;

It is hereby ordered, That the respondent, the General Tire & Rubber Co., its officers, representatives, agents, servants, employees and successors, in connection with the distribution, offering for sale and sale in interstate commerce of tires manufactured or sold by it, forthwith cease and desist from:

(1) Representing or advertising its tires to be "blowout proof", unless and until said tires are proof against blowouts, and from couching its advertisements in such general words and phrases as to cause or tend to cause the public to believe that the tires manufactured or sold by it are blowout proof, unless and until said tires are proof against blowouts;

(2) Furnishing to the dealers and distributors in and of its tires copy for advertising to be used in pamphlets, circulars, folders, handbills, and newspapers by said dealers and distributors, which said copy for advertising contains space at the bottom of the copy for the insertion of the name and address of the particular dealer or distributor using the advertisement, and which said copy represents

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the tires manufactured or sold by the respondent, the General Tire & Rubber Co., to be "blowout proof" unless and until the said tires are proof against blowouts, or which copy imports or implies, or causes the purchasing public to believe that the tires manufactured or sold by said respondent are "blowout proof", unless and until the said tires are proof against blowouts.

It is further ordered, That the respondent shall within 60 days after 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 hereinabove set out.

Syllabus

IN THE MATTER OF
THE BLIND WEAVERS, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2358. Complaint, Apr. 9, 1935—Decision, Jan. 31, 1936*

Where a corporation which included six blind persons among its employees and words "Blind Weavers" in its corporate name, and was engaged as a private commercial enterprise in the sale direct to purchasers through agents or salesmen of standard woven rugs manufactured by it and of machine-made chenille rugs which it did not manufacture but purchased in the open market—

Represented itself as a charitable institution for the blind through portrayal of portion of its said corporate name in labels, tags, advertising circulars, stationery, mailing matter and literature and supplied its said agents, salesmen and representatives with credentials and certificates of identification designed to hold them out falsely as representatives of such an institution or association and the products sold by them as made by the blind inmates or members thereof, and furnished its said agents, etc., with instructions so prepared as to create in the minds of the prospective customer the false impression that all said rugs were made by the blind;

The facts being that its sales of said machine-made chenille rugs constituted from 65% to 70% of its total sales during the past three years, and that in preparation of said chenille rugs for shipment to purchasers it employed a force of shipping clerks and assistants in addition to the six blind and two other employees used in making standard woven rugs, and used said blind persons on preparation of chenille rugs in "fringe tying" only, cost of which process was proportionally negligible;

With effect of deceiving a substantial portion of the purchasing public into the erroneous belief that rugs sold by it as aforesaid were produced in their entirety by the labor of blind people in charitable institutions, and with capacity and tendency so to do and to induce purchasers thereof to buy the same in such belief and divert trade from the producers of truthfully marked rugs who sold products on their merits rather than the basis of sympathy for the blind and from charitable institutions and associations whose blind residents and members weave rug products for sale to the public; to the substantial injury of substantial competition in interstate commerce:

Held, That such acts and practices, under the conditions and circumstances set forth, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before Mr. W. W. Sheppard, trial examiner.

Mr. P. C. Kolinski for the Commission.

Mr. Erwin W. Roemer of *Gardner, Carton & Douglas*, of Chicago, Ill., for respondent.