

IN THE MATTER OF
RALEIGH CANDY COMPANY

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

Docket 2707. Complaint, Jan. 31, 1936—Decision, Dec. 29, 1937

Where a corporation engaged in manufacture and sale of packages or assortments of candy, so packed and assembled as to involve use of a lottery scheme when sold and distributed to consumers thereof, or so-called "draw" or "deal" assortments, sale and distribution of which type candy, affording, in connection with sale thereof to public, means or opportunity of obtaining a prize or becoming a winner by lot or chance, teaches and encourages gambling among children, who constitute substantial number of purchasers and consumers of such type of candy, and particularly where prize is such as to them is attractive, and appearance of which "draw" or "deal" assortments in the markets of many manufacturers selling their "straight" merchandise only, in competition with the other, has been followed by marked decrease in sales of such "straight" goods, due to gambling or lottery feature connected with so-called "draw" or "deal" candy—

Sold, to wholesalers and jobbers, their aforesaid lottery assortments, including, among others, those composed of—

(a) Large candy doll, together with push card, for sale and distribution to purchasing public under a plan by which person paid for chance amount ranging from 1¢ to 15¢, in accordance with disc selected and number disclosed, and secured, or failed to secure, such doll and anything other than privilege of selection for money paid, in accordance with success of particular purchaser in selecting feminine name corresponding to that concealed under card's large disc;

(b) Number of one-pound boxes of assorted candies and other articles of merchandise, with push card, for sale and distribution to purchasing public under plan, in accordance with which purchaser received, for 5¢ paid, one of said boxes, in accordance with success or failure in securing certain specified numbers, and purchaser found to have obtained, after sale of all chances, number corresponding to that under large seal, received, without further charge, aforesaid other article of merchandise included with such assortment, value of which, as of the one-pound boxes, exceeded 5¢ paid, and under which purchasers not thus qualifying received nothing for their money other than privilege of making such chance selection; and of

(c) Number of boxes of candy, together with punch board, for sale and distribution to purchasing public under plan in accordance with which person received, for penny paid, one of such boxes, in accordance with success or failure in selecting one of certain specified numbers, and purchasers of last punches in each of the sections into which said board was divided received one of such boxes likewise, value of which was in excess of the penny paid, and purchasers failing to make one of aforesaid selections received nothing for their money other than privilege of making punch;

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So assembled and packed that they were designed to be, and were, exposed and used by numerous retail dealer purchasers thereof for distribution to purchasing public by lot or chance, without alteration or rearrangement, and with knowledge and intent that such candy should thus be resold to public by lot or chance by said retail dealers, in violation of public policy, and in competition with many who regard such sale and distribution as morally bad and as encouraging gambling, and especially among children, and as injurious to the candy industry through resulting in the merchandising of a chance or lottery instead of candy, and as providing retail merchants with a means of violating the laws of the several States, and some of whom, for such reasons, refuse to sell candy so packed that it can be resold to public by lot or chance;

With result that such competitors were put to a competitive disadvantage and retailers, finding that they could dispose of more candy by "draw" or "deal" method, bought from it and others employing similar methods of sale, and trade was thereby diverted from such competitors to it and others using such methods:

Held, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. P. C. Kolinski and *Mr. Henry C. Lank* for the Commission.

Leahy, Walther, Hecker & Ely, of St. Louis, Mo., 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 Raleigh Candy Company, a corporation, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce as "commerce" is defined in said act of Congress, 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 under the laws of Missouri with its principal office and place of business in the city of St. Louis, State of Missouri. Respondent is now, and for several years last past, has been engaged in the manufacture of candy and in the sale and distribution thereof to wholesale and retail dealers located at points in the various States of the United States, and causes said products, when so sold, to be transported from its place of business in the city of St. Louis, State of Missouri, to purchasers thereof in other States of the United States at their respective places of business, and there is now, and has been for several years last past, a course of trade and commerce by said respondent

in such candy, between and among the States of the United States. In the course and conduct of the said business, respondent is in competition with other corporations and with individuals and partnerships engaged in the sale and distribution of candy and candy products in commerce between and among the various States of the United States.

PAR. 2. In the course and conduct of its business, as described in paragraph 1 hereof, respondent sells and has sold to wholesale and retail dealers, various packages or assortments of candy, so packed and assembled as to involve the use of a lottery scheme when sold and distributed to the consumers thereof. Certain of said packages are hereinafter described for the purpose of showing the methods used by respondent, but this list is not all inclusive of the various packages, nor does it include all the details of the several sales plans which respondent has been or is using in the distribution of candy by lot or chance:

(a) One of said assortments is composed of a large candy doll baby, together with a device commonly called a push card. The candy doll baby in said assortment is distributed to purchasers in the following manner:

The push card has fifteen partially perforated discs, and when a push is made and the disc separated from the card, a price is disclosed. The prices on said discs run from 1¢ to 15¢, but are not arranged in numerical sequence. The price on said disc is the amount which the customer pays. Above each disc is a girl's name and all the names are different. There is on said card one large partially perforated disc, and when the fifteen pushes on said card have all been punched, this large disc is to be removed and a name is then disclosed. The customer having selected the disc bearing the name corresponding to the name under this large disc, is entitled to receive, and is to be given without further charge, the large candy doll baby. Purchasers who do not qualify by selecting the name shown under the large disc receive nothing for their money other than the privilege of pushing said disc from the card. The amount of money which the customer pays is determined wholly by lot or chance, and the fact as to whether a customer receives the candy doll or receives nothing for his money is also determined wholly by lot or chance.

The respondent manufactures and distributes numerous variations of the above described assortment where the details are different but where the principle involved is similar.

(b) Another assortment manufactured and distributed by the respondent is composed of a number of one-pound boxes of assorted candies and another article of merchandise, together with a device

commonly called a push card or punchboard. The candy contained in said assortment is distributed to purchasers in the following manner:

Sales from said push card or punchboard are 5¢ each, and when a push is made, a number is disclosed. The numbers run from one to the number of pushes or punches there are on the board but are not arranged consecutively. The numbers are effectively concealed from customers and prospective customers until a push or punch has been made and the numbers separated from the card or board. The purchasers obtaining certain specified numbers are entitled to receive, and are to be given without additional cost one of the one-pound boxes of assorted candies. The board also contains a seal, under which a number is concealed. The number under this seal is effectively concealed until all the sales have been made from said board and the seal removed. The purchaser who obtains the number shown under the large seal, is entitled to receive without additional cost the other article of merchandise contained in said assortment. The one-pound boxes of assorted candies and the other article of merchandise are each worth more than 5¢. The purchaser who obtains one of the numbers calling for one of the boxes of candy receives the same, and purchasers not qualifying by receiving one of said numbers, receive nothing for their money other than the privilege of pushing a number from the card or board. The fact as to whether a purchaser receives nothing for his money, or receives one of the one-pound boxes of candy for the price of 5¢, or the other article of merchandise for the price of 5¢ is thus determined wholly by lot or chance.

The respondent manufactures and distributes numerous assortments involving the same principle but differing in details.

(c) Respondent also manufactures and distributes an assortment consisting of a number of boxes of candy, together with a device commonly called a punchboard. The candy in said assortment is distributed in the following manner:

The board has a number of partially perforated holes, and in each hole is inserted a slip of paper bearing a number. The holes on said board are arranged in sections. Sales are 1¢ each, and the board bears a statement informing customers and prospective customers that certain specified numbers entitle the purchaser to one of the boxes of candy, and that the purchaser punching the last punch in each section, is entitled to receive one of the boxes of candy. The numbers on said slips are effectively concealed from purchasers and prospective purchasers until a punch has been made, and the slip separated from the board. Purchasers who do not qualify by ob-

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taining one of the numbers specified, or by punching the last punch in one of the sections, receive nothing for their money other than the privilege of making a punch from the board. Those qualifying by receiving one of the numbers specified or by punching the last punch in one of the sections receive one of the boxes of candy. The boxes of candy are each worth more than 1¢. The fact as to whether a purchaser receives one of the boxes of candy or nothing for his money is determined wholly by lot or chance.

PAR. 3. The wholesale dealers to whom respondent sells its assortments, resell said assortments to retail dealers, and said retail dealers, and the retail dealers to whom respondent sells direct, expose said assortments for sale, and sell said candy to the purchasing public in accordance with the aforesaid sales plans. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of its products in accordance with the sales plans hereinabove set forth, as a means of inducing purchasers thereof to purchase respondent's said products in preference to candy offered for sale and sold by its competitors.

PAR. 4. The sale of said candy to the purchasing public in the manner above alleged involves a game of chance or the sale of a chance to procure candy or an article of merchandise of a value in excess of the amount paid.

The use by respondent of said method of the sale of candies, and the sale of candies by and through the use thereof and by the aid of said method is a practice of the sort which the common law and criminal statutes have long deemed contrary to public policy; and is contrary to an established public policy of the Government of the United States. The use by respondent of said method has the dangerous tendency unduly to hinder competition or create monopoly in this, to wit; that the use thereof has the tendency and capacity to exclude from the branch of the candy trade involved in this proceeding competitors who do not adopt and use the same method or an equivalent or similar method involving the same or an equivalent or similar element of chance or lottery scheme.

Wherefore, many persons, firms, and corporations who make and sell candy in competition with the respondent, as above alleged, are unwilling to offer for or sell candy so packed and assembled as above alleged, or otherwise arranged and packed for sale to the purchasing public so as to involve a game of chance, and such competitors refrain therefrom.

PAR. 5. Many dealers in and ultimate purchasers of candy are attracted by respondent's said method and manner of packing said candy, and by the element of chance involved in the sale thereof in

the manner above described, and are thereby induced to purchase said candy so packed and sold by respondent, in preference to candy offered for sale and sold by said competitors of respondent who do not use the same or equivalent methods. The use of said method by respondent has the tendency and capacity, because of said game of chance, to divert to respondent trade and custom from its said competitors who do not use the same or an equivalent method; to exclude from said candy trade all competitors who are unwilling to and who do not use the same or an equivalent method because the same is unlawful; to lessen competition in said candy trade, and to tend to create a monopoly of said candy trade in respondent and such other distributors of candy as use the same or an equivalent method, and to deprive the purchasing public of the benefit of free competition in said candy trade. The use of said method by the respondent has the tendency and capacity to eliminate from said candy trade all actual competitors, and to exclude therefrom all potential competitors, who do not adopt and use said method or an equivalent method.

PAR. 6. Many of said competitors of respondent are unwilling to adopt and use said method or any method involving a game of chance or the sale of a chance to win something by chance or any other method that is contrary to public policy.

PAR. 7. The aforementioned methods, acts, and practices of the respondent are all to the prejudice of the public and of respondent's competitors as hereinabove alleged. Said methods, acts, and practices 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, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, on January 31, 1936, issued and served its complaint upon the respondent, Raleigh Candy Company, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by P. C. Kolinski, attorney for the Commission, and in opposition thereto by John S. Leahy, Herbert E. Barnard, and Leroy R. Krein, attorneys for the respondent, before

Miles J. Furnas, an examiner of the Commission theretofore duly designated by it. The said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, briefs in support of the complaint and in opposition thereto and the oral arguments of counsel aforesaid; and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Raleigh Candy Company is a corporation, organized under the laws of the State of Missouri, with its principal office and place of business located in the city of St. Louis, Mo. Respondent is now, and for several years last past has been, engaged in the manufacture of candies and in the sale and distribution thereof to wholesale dealers and jobbers located in twenty-four States of the United States, and causes its products, when so sold, to be transported from its principal place of business in the city of St. Louis, Mo., to purchasers thereof in the State of Missouri and in twenty-three of the other States of the United States, at their respective places of business. There is now, and has been for several years last past, a course of trade and commerce by said respondent in such candy between and among the States of the United States. In so carrying on said business, respondent is, and has been, engaged in active competition with other corporations, and with partnerships and individuals engaged in the manufacture of candy, and in the sale and distribution thereof in commerce between and among the various States of the United States.

PAR. 2. In the course and conduct of its business as described in paragraph 1 above, the respondent has sold in commerce between and among the States of the United States, to wholesale dealers and jobbers, various packages or assortments of candy so packed and assembled as to involve the use of a lottery scheme when sold and distributed to the consumers thereof. The said assortments were described by an officer of the respondent, called as a witness on behalf of the Commission, and are shown in the catalog of the respondent which was offered as an exhibit. Certain of said assortments are hereafter described for the purpose of showing the methods used by the respondent, but these descriptions do not include all of the assortments nor the details of the several sales plans which

respondent has been, or is, using in the distribution of candy by lot or chance;

(a) One of said assortments is composed of a large candy doll baby, together with a device commonly called a push card. The candy doll baby in said assortment is distributed to purchasers in the following manner:

The push card has fifteen partially perforated discs, and when a push is made and the disc separated from the card, a price is disclosed. The prices on said discs run from 1¢ to 15¢, but are not arranged in numerical sequence. The price on said disc is the amount which the customer pays. Above each disc is a girl's name and all the names are different. There is on said card one large partially perforated disc, and when the fifteen pushes on said card have all been punched, this large disc is to be removed and a name is then disclosed. The customer having selected the disc bearing the name corresponding to the name under this large disc, is entitled to receive, and is to be given without further charge, the large candy doll baby. Purchasers who do not qualify by selecting the name shown under the large disc receive nothing for their money other than the privilege of pushing said disc from the card. The amount of money which the customer pays is determined wholly by lot or chance, and the fact as to whether a customer receives the candy doll or receives nothing for his money is also determined wholly by lot or chance.

(b) Another assortment manufactured and distributed by the respondent is composed of a number of one-pound boxes of assorted candies and another article of merchandise, together with a device commonly called a push card or punchboard. The candy contained in said assortment is distributed to purchasers in the following manner:

Sales from said push card or punchboard are 5¢ each, and when a push is made, a number is disclosed. The numbers run from one to the number of pushes or punches there are on the board but are not arranged consecutively. The numbers are effectively concealed from customers and prospective customers until a push or punch has been made and the numbers separated from the card or board. The purchasers obtaining certain specified numbers are entitled to receive, and are to be given without additional cost one of the one-pound boxes of assorted candies. The board also contains a seal, under which a number is concealed. The number under this seal is effectively concealed until all the sales have been made from said board and the seal removed. The purchaser who obtains the number shown under the large seal is entitled to receive, without additional

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cost, the other article of merchandise contained in said assortment. The one-pound boxes of assorted candies and the other article of merchandise are each worth more than 5¢. The purchaser who obtains one of the numbers calling for one of the boxes of candy receives the same, and purchasers not qualifying by receiving one of said numbers, receive nothing for their money other than the privilege of pushing a number from the card or board. The fact as to whether a purchaser receives nothing for his money, or receives one of the one-pound boxes of candy for the price of 5¢, or the other article of merchandise for the price of 5¢ is thus determined wholly by lot or chance.

(c) Respondent also manufactures and distributes an assortment consisting of a number of boxes of candy, together with a device commonly called a punchboard. The candy in said assortment is distributed in the following manner:

The board has a number of partially perforated holes, and in each hole is inserted a slip of paper bearing a number. The holes on said board are arranged in sections. Sales are 1¢ each, and the board bears a statement informing customers and prospective customers that certain specified numbers entitled the purchaser to one of the boxes of candy, and that the purchaser punching the last punch in each section, is entitled to receive one of the boxes of candy. The numbers on said slips are effectively concealed from purchasers and prospective purchasers until a punch has been made, and the slip separated from the board. Purchasers who do not qualify by obtaining one of the numbers specified, or by punching the last punch in one of the sections, receive nothing for their money other than the privilege of making a punch from the board. Those qualifying by receiving one of the numbers specified or by punching the last punch in one of the sections receive one of the boxes of candy. The boxes of candy are each worth more than 1¢. The fact as to whether a purchaser receives one of the boxes of candy or nothing for his money is determined wholly by lot or chance.

PAR. 3. Candy assortments involving the lot or chance feature as described in paragraph 2 above are generally referred to in the candy trade or industry as "draw" or "deal" assortments. Assortments of candy without any lot or chance feature in connection with their resale to the public are generally referred to in the candy trade or industry as "straight" merchandise. These terms will be used hereafter in these findings to distinguish the various types of assortments.

PAR. 4. The wholesale dealers or jobbers, to whom respondent sells its assortments, resell the same to retail dealers. Numerous retail dealers purchase the said assortments from said wholesale dealers

and jobbers, and such retail dealers display said assortments for sale to the public as packed by the respondent, and the candy contained in the majority of said assortments is sold and distributed to the consuming public by means of said push cards or punch boards in the manner hereinbefore described.

PAR. 5. All sales made by respondent to wholesale dealers and jobbers are absolute sales and respondent retains no control over said assortments after they are delivered to the wholesale dealer or jobber. The assortments are assembled and packed in such manner that they are, and have been, used, and may be used, by retail dealers for distribution to the purchasing public by lot or chance without alteration or rearrangement.

In the sale and distribution to wholesale dealers and jobbers of the assortments of candy hereinbefore described, respondent has knowledge that the said candy is to be resold to the purchasing public by retail dealers by lot or chance, and it packs such candy in the way and manner described so that, without alteration, addition, or rearrangement thereof, it will be, and may be resold to the public by lot or chance by said retail dealers. Such packing and distribution is contrary to public policy.

PAR. 6. There are in the United States many manufacturers of candy who do not manufacture and sell "draw" or "deal" assortments of candy and who sell their "straight" merchandise in interstate commerce in competition with the "draw" or "deal" candy, and manufacturers of "straight" merchandise have noted a marked decrease in the sales of their products whenever or wherever the "draw" or "deal" assortments have appeared in their market. This decrease in the sale of "straight" merchandise is due to the gambling or lottery feature connected with the "draw" or "deal" candy.

Witnesses from several branches of the candy industry testified in this proceeding to the effect that consumers preferred to purchase "draw" or "deal" candy because of the gambling feature connected with its sale. The sale and distribution of "draw" or "deal" assortments of candy, or of candy which has connected with its sale to the public the means or opportunity of obtaining a prize or becoming a winner by lot or chance, teaches and encourages gambling among children who comprise a substantial number of the purchasers and consumers of this type of candy. Particularly is this true where the prize is attractive to children; for instance, where the prize is a candy doll baby or is a child's wagon.

PAR. 7. The sale and distribution of candy by the methods described herein is the sale and distribution of candy by lot or chance, and constitutes a lottery, gaming device or gift enterprise. Com-

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petitors of respondent appeared as witnesses in this proceeding and testified, and the Commission finds that many competitors regard such sale and distribution as morally bad and as encouraging gambling, especially among children, and as injurious to the candy industry because it results in the merchandising of a chance or lottery instead of candy and has provided retail merchants with a means of violating the laws of the several States. Because of these reasons, some competitors of respondent refuse to sell candy so packed that it can be resold to the public by lot or chance. These competitors are thereby put to a competitive disadvantage. The retailers, finding that they can dispose of more candy by the "draw" or "deal" method, buy from respondent and others employing the same methods of sale, and thereby trade is diverted from said competitors to respondent and others using similar methods.

CONCLUSION

The aforesaid acts and practices of the respondent, Raleigh Candy Company, are 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 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, testimony and other evidence, taken before Miles J. Furnas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein and oral arguments by P. C. Kolinski, counsel for the Commission, and John S. Leahy, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said 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 ordered, That the respondent, Raleigh Candy Company, a corporation, its officers, agents, representatives, and employees, in the offering for sale, sale and distribution of candy and candy products in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Selling and distributing candy so packed and assembled that sales of such candy to the general public are to be made or may be made by means of a lottery, gaming device, or gift enterprise;

2. Supplying to or placing in the hands of dealers packages or assortments of candy which are used or may be used, without alteration or rearrangement of the contents of such packages or assortments, to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in the said assortment to the public;

3. Supplying to or placing in the hands of dealers assortments of candy together with a device commonly called a push card, or a device commonly called a punchboard, for use or which may be used in distributing or selling the said candy to the public at retail;

4. Furnishing to dealers a device commonly called a push card, or a device commonly called a punchboard, either with packages or assortments of candy or separately, which push card or punchboard is to be used or may be used in distributing or selling said candy to the public.

It is further ordered, That the respondent, Raleigh Candy Company shall, within 30 days after 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 this order.

IN THE MATTER OF
JOHNSON & JOHNSON

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

Docket 3029. Complaint, Jan. 8, 1937—Decision, Dec. 29, 1937

Where a corporation engaged in manufacture of absorbent cotton, gauze, bandage, and other first-aid and surgical-dressing products, and in sale and distribution thereof to purchasers in other States, in substantial competition with those engaged in manufacture, sale, and distribution of similar products in commerce among the various States and in the District of Columbia, and including manufacturers, sellers, and distributors of like and similar products, who truthfully advertise and represent nature, merit, therapeutic, and remedial value thereof, and those who do not falsely advertise and otherwise represent that their products have merits and values not possessed by competitive goods or articles not so well-known or extensively advertised, and do not unwarrantedly disparage products of competitors; in advertising certain of its said products in newspapers, magazines, and other publications circulated among the various States and in aforesaid District—

Unfairly disparaged competitors' products through statements inferring that, because such competitors did not extensively advertise their respective goods and products and they were not widely known, such goods subjected users thereof to dangers of infection, and were not safe and in sanitary condition when opened for use, through such statements as " * * * this young mother is wrapping around her son's wrist a bandage that may invite infection. It is a 'first-aid' dressing of unknown make which can betray the trust imposed in it," and that while probably "sterilized at some period," as in the "original bleaching process," "in subsequent cutting and packing, it may have been handled by dirty hands * * * hands that couldn't help but rob this dressing of its cleanliness—and safety," and accompanying depiction of crutches, and under caption "Monuments to a Misplaced Trust," among others, "You just can't take chances with germs of infection," "The 'sterilized' dressings that you use must be sterilized in fact as well as in name," and "You can't afford to gamble with any 'first-aid' product that is merely marked 'sterilized'," and " * * * some 'first-aid' dressings of unknown make, which may be sterilized only in an early process of manufacture and subsequently be exposed to germ-laden dirt," etc., facts being there is no necessary relationship between antiseptic properties or safety of any of products in question and fact that manufacturer is known or unknown;

With capacity and tendency to mislead and deceive purchasers and prospective purchasers of first-aid and surgical-dressing goods or articles into purchase of its said products in erroneous belief that its aforesaid representations were true, and with result that a number of the consuming public, as a direct consequence of such mistaken and erroneous beliefs, purchased substantial volume thereof, and trade was unfairly diverted to it from those