

Order

IN THE MATTER OF
CALIFORNIA RICE INDUSTRY ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 3090. Order, Mar. 28, 1940

Modified order, pursuant to provisions of section 5 (i) of Federal Trade Commission Act, in proceeding in question, in which original order issued on March 26, 1938¹ and in which Circuit Court of Appeals for Ninth Circuit on March 17, 1939, in *California Rice Industry v. Federal Trade Commission*, 102 F. (2d) 716, 28 F. T. C. 1912, rendered its opinion and issued its decree modifying said order of Commission in certain particulars and affirming same in other particulars—

Requiring respondent, California Rice Industry, and other respondents as in said order below set forth, their successors, officers, etc., in connection with offer for sale, sale, and distribution of rice and rice products in commerce as defined in section 4 of the Federal Trade Commission Act, to cease and desist from doing and performing by agreement, combination or conspiracy between and among any two or more of them or with others the (1) fixing and maintaining uniform prices; or the (2) compiling, publishing and distributing any joint or uniform list or compilation of prices; or the (3) adopting any joint or uniform price list or other device which fixes prices; or the (4) discussing, through the medium of meetings of the California Rice Industry or its Marketing and Crop Boards, or in any similar manner, uniform prices, terms, discounts, agreements upon prices, by resolution or otherwise, or the employing any similar device which fixes or tends to fix prices, or which is designed to equalize or make uniform the selling prices, terms, discounts, or policies of respondent millers.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on March 26, 1938 the Commission made its findings as to the facts herein and concluded therefrom that respondents had violated the provisions of section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on March 17, 1939, the United States Circuit Court of Appeals for the Ninth Circuit rendered its opinion and issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars;

Now, therefore, Pursuant to the provisions of subsection (i) of section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said decree:

¹ 26 F. T. C. 968.

Order

30 F. T. C.

It is ordered, That the respondents, California Rice Industry; Harry M. Creech, George W. Brewer, Florence M. Douglas, J. S. Ritterband, W. T. Welisch, I. Yamakawa, O. F. Zebal, R. A. Renaud, Hugh Baber, Leon Brink, N. F. Dougherty, Ernest Grell, Lewis Manor, and A. E. Scarlett; Charles S. Morse, Allen A. Morse, Nelson B. Morse, Clarence G. Morse, and Gertrude Morse, trading as Capital Rice Mills; Ellen S. Grosjean and Eileen Callaghan, trading as C. E. Grosjean Rice Milling Co.; William Crawford, trading as Woodland Rice Milling Co.; Growers Rice Milling Co., Pacific Trading Co., Inc., Phillips Milling Co., Rice Growers Association of California, and Rosenberg Brothers & Co., their successors, officers, agents, and employees, do forthwith cease and desist, in connection with the offering for sale, sale, and distribution of rice and rice products in commerce as defined in section 4 of the Federal Trade Commission Act, from doing and performing by agreement, combination or conspiracy between or among any two or more of said respondents, or with others, the following acts and things:

1. Fixing and maintaining uniform prices.
2. Compiling, publishing, and distributing any joint or uniform list or compilation of prices.
3. Adopting any joint or uniform price list or other device which fixes prices.
4. Discussing through the medium of meetings of the California Rice Industry or its Marketing and Crop Boards, or in any similar manner, uniform prices, terms, discounts, agreements upon prices, by resolution or otherwise, or employing any similar device which fixes or tends to fix prices, or which is designed to equalize or make uniform the selling prices, terms, discounts or policies of respondent millers.

It is further ordered, That the respondents shall, within 30 days after the service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Syllabus

IN THE MATTER OF
WESTERN REFINING COMPANY, INC., TRADING AS THE
MOTEX COMPANY AND COTE PRODUCTS COMPANY

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

Docket 3355. Complaint, Mar. 11, 1938—Decision, Mar. 28, 1940

Where a corporation engaged in sale and distribution of certain medicinal preparations for use in treatment of diseases, ailments, and conditions peculiar to women, in substantial competition, in commerce among the various States and in the District of Columbia, with others engaged in sale and distribution of products used and useful in treatment of such diseases, ailments and conditions; in advertising and describing its so-called "Motex" and "Motex Pills" in advertising literature such as booklets, pamphlets, and circulars, and through labels containing statements purporting to be descriptive of products therein named and efficacy thereof in treatment of such diseases, etc., for which they were recommended as effective, and of which more than 400,000 copies monthly were, during periods involved, distributed among prospective purchasers in the various States and in the District of Columbia—

- (a) Represented, directly and by necessary implication, that its said products were safe, competent, and reliable remedies for all delay in fluctuation of the menses, and brought on, in few hours, desired results;
- (b) Represented, as aforesaid, that said products were harmless and safe and generally preventive of ill health, and remedy for various ailments and troublesome conditions associated with or related to menstrual function when due to unnatural causes; and
- (c) Represented, as aforesaid, that they were effective to tone up generative organs and whole system, and acted directly on circulation of uterus, and were effective abortifacients;

Facts being they were not effective as competent and reliable treatments or remedies for aforesaid various ailments and conditions, and had no value in such connection, did not tone up aforesaid organs or whole system, nor act directly on circulation of uterus, and, as aforesaid, were without value in various conditions and ailments indicated and suggested, were not safe or harmless, taken according to directions, which involved dosage in large and dangerous amount of ergotin and aloin, constituents thereof, and were not effective as abortifacients, but might, thus used, cause serious injury;

With effect of misleading and deceiving members of purchasing public into erroneous belief that said representations were true, and into purchase of substantial quantities of its various products by reason of such belief, and of thereby diverting trade in commerce to it from its competitors who do not, in sale and distribution of their products, make use of same or similar misrepresentations:

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