

Syllabus

IN THE MATTER OF
THE PERFECT MANUFACTURING COMPANY,
TRADING AS R. E. ENGINEERS

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

Docket 4163. Complaint, June 13, 1940—Decision, July 24, 1940

Where a corporation engaged in the manufacture, sale, and distribution of radio receiving sets, electrical devices, rubber products, chemical specialties and like products, and electrical and mechanical devices for attachment to such sets, and marketed and sold under trade name "Add-A-Tube," to purchasers of various States and in the District of Columbia; in advertising said last-named device through advertising folders, pamphlets, circulars, and other literature, and newspapers published throughout the United States, and including reproduction or purported reproduction of testimonial statements,

- (a) Represented that such device would give longer life to radio tubes and improve reception and make possible broadcasts from domestic and foreign stations which could not be otherwise received, and bring set up to date and give any radio tone or selectivity and static free reception found in most expensive sets on the market; and
- (b) Represented that such device would improve reception on every type of radio and give it automatic volume control, and guaranteed clear and long distance reception and enabled user to tune out local and tune in distant stations free from interference, and would make any old radio receiving set as efficient as modern ones;

Facts being said electrical and mechanical device attachments aforesaid would not give longer life to tubes, improve reception, make set more efficient in receiving broadcasts from domestic or foreign stations, bring set up to date or enable users to tune out local stations and tune in distant ones, except to reduce interference from local stations, and claims otherwise and representations made therefor, as above set forth, were deceptive, false and misleading; and

- (c) Represented and implied through use of name "Add-A-Tube" as trade name for and on said device that use thereof on radio receiving set, when attached, gave radio an additional tube;

Facts being it did not add a tube to or have effect of an additional tube in set to which it was attached;

With effect of misleading and deceiving, through use of such false, deceptive, and misleading statements and representations and use of said trade name on device in question, substantial portion of purchasing public into erroneous and mistaken belief that such statements and representations were true and inducing portion of said public, because of such belief, to purchase its said device:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. Carrel F. Rhodes for the Commission.

Complaint

31 F. T. C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that The Perfect Manufacturing Co., a corporation, operating and doing business under the trade name of R. E. Engineers, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the 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, The Perfect Manufacturing Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio. Said respondent conducts its business in the name of R. E. Engineers, with its principal office and place of business located at Madison Road at B. & O. R. R., Cincinnati, Ohio.

PAR. 2. Respondent is now, and for more than 3 years last past has been, engaged in the business of manufacturing, selling and distributing radio receiving sets, electrical devices, rubber products, chemical specialties and like products and an electrical and mechanical device for attachment to radio receiving sets under the brand and trade name "Add-A-Tube." Said respondent now causes, and for more than 3 years last past has caused, its said products to be sold directly by mail to dealers for resale and to the purchasing public and has caused the same, when sold, to be transported from its principal place of business in Cincinnati, Ohio, to purchasers thereof located at points in the State of Ohio and various States of the United States other than the State of Ohio, and in the District of Columbia.

There is now, and has been for more than 3 years last past, a course of trade in said products so sold by respondent in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business as described in paragraphs 1 and 2 hereof, respondent, for the purpose of inducing the purchase of an electrical and mechanical device sold under the name "Add-A-Tube" for use in radio receiving sets offered for sale and sold by it, has circulated, by mail and otherwise, among purchasers and prospective purchasers throughout the United States, advertising folders, pamphlets, circulars, letters and other literature and advertisements in newspapers published and circulated throughout the United States, certain statements and representations concerning

645

Complaint

the adaptability, functions and uses of its said device "Add-A-Tube." Typical of said statements and representations are the following:

Amazing new invention improves reception on every type of set, battery or electric. Easily installed in a few minutes.

Remember—ADD-A-TUBE saves tubes, improves radio reception.

Tune out strong local stations—tune in Los Angeles, Canada, Mexico! Increase selectivity, improve tone, cut out static, distortion, interference, with amazing new ADD-A-TUBE.

Add-A-Tube gives your radio automatic volume control, and prevents overloading, exactly the same as newest, latest-improved sets. Anyone can install.

Do your strong local stations come in all over the dial? Do they keep you from listening to out-of-town stations you have always wanted to hear? We guarantee Add-A-Tube to bring your radio up to date and to correct these conditions, or your money back. Add-A-Tube gives any radio the same mellow tone, the same sharpness of selectivity, the same static-free reception as the latest, most expensive sets on the market. OPERATES BOTH ON LONG AND SHORT WAVES AND ON INSIDE OR OUTSIDE AERIALS. Amazing new invention improves reception on every type of set, battery or electric.

If you are bothered by local stations, if electrical noises interfere with your reception, if you desire better tone from your loud-speaker, if you wish longer life from your tubes—in general, if you want improved reception from your radio—USE ADD-A-TUBE.

"I have given the ADD-A-TUBE a thorough test and am more than gratified. We had to content ourselves with Canadian daylight reception with the exception of two small nearby stations. Since adding ADD-A-TUBE I can pick up Denver, Salt Lake City, Chicago, St. Paul, Fargo, Oklahoma City, Billings, and Great Falls at any time during the day with good volume. I can also get foreign stations that I never heard before."

Said statements and representations, together with other similar statements and representations not herein set out, purport to be descriptive of respondent's device "Add-A-Tube" and serve as representations on the part of the respondent to members of the purchasing public that the use of said device will give longer life to radio tubes; will improve radio reception; will make it possible to receive radio broadcasts from domestic and foreign stations which could not be received without the use of said device; will bring the user's radio up to date; will give any radio the tone, sharpness of selectivity and the static-free reception found in the most expensive radio receiving sets on the market; will improve reception on every type of radio receiving set; will give the user's radio automatic volume control and guarantee clear local and long-distance reception; will enable the user to tune out local stations and tune in distant stations free from interference; and will make any old radio receiving set as efficient as modern radio receiving sets.

PAR. 4. In truth and in fact, the statements and representations hereinabove set out are deceptive, false and misleading. Respond-

Findings

31 F. T. C.

ent's aforesaid "Add-A-Tube" electrical and mechanical device when attached to a radio receiving set will not give longer life to radio tubes; will not improve radio reception; will not render the radio receiving set more efficient in receiving broadcasts from domestic or foreign stations; will not bring the radio set up to date; will not give any radio set the tone, sharpness of selectivity, and the static-free reception found in more expensive sets; will not improve reception on every type of set; will not give a radio receiving set automatic volume control or render local or distant reception clear and free from static; will not enable the user to tune out local stations and tune in distant stations, except to reduce interference from local stations; and it will not cut out static distortion and interference.

PAR. 5. The respondent represents and implies, through the use of the name "Add-A-Tube" on its device, that said device when attached to a radio receiving set gives such radio set an additional or extra tube. In truth and in fact, the use of said device does not add a tube or have the effect of an additional tube in the radio receiving set to which it is attached.

PAR. 6. The use by respondent of the foregoing false, deceptive and misleading statements and representations with respect to its "Add-A-Tube" electrical and mechanical device and like products, disseminated as aforesaid, has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and to induce a substantial portion of the purchasing public because of such erroneous and mistaken belief to purchase respondent's "Add-A-Tube" device and other like products.

PAR. 7. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on June 13, 1940, issued and thereafter served its complaint in this proceeding upon respondent, The Perfect Manufacturing Co., a corporation trading as R. E. Engineers, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On June 27, 1940, the respondent filed its answer, in which answer it admitted all the material allegations of fact set forth in said complaint and waived all inter-

vening procedure and further hearings as to the said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, and the Commission, having duly considered the matter, and being 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. Respondent, The Perfect Manufacturing Company, is a corporation organized, existing, and doing business under the laws of the State of Ohio, with its office and principal place of business located at Madison Road at B. & O. R. R., Cincinnati, Ohio.

PAR. 2. Respondent is now, and has been for more than three years last past, engaged in the business of manufacturing, selling, and distributing radio receiving sets, electrical devices, rubber products, chemical specialties and like products, and electrical and mechanical devices for attachment to radio receiving sets marked and sold under the trade name "Add-A-Tube."

The respondent causes said products, when sold, to be transported from its place of business in the State of Ohio to purchasers thereof, some located in the State of Ohio, and others located in various other States of the United States and in the District of Columbia.

The respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business as described in paragraphs 1 and 2 hereof, respondent, for the purpose of inducing the purchase of an electrical or mechanical device offered for sale and sold by it under the name, "Add-A-Tube" for use in radio receiving sets, has circulated among purchasers and prospective purchasers throughout the United States, through advertising folders, pamphlets, circulars, letters, and other literature, and through advertisements in newspapers published throughout the United States, certain false and misleading statements and representations concerning the adaptability, functions, and uses of its said device "Add-A-Tube." Typical of said statements and representations, among others, are the following:

Amazing new invention improves reception on every type of set, battery or electric. Easily installed in a few minutes.

Remember—ADD-A-TUBE saves tubes, improves radio reception.

Tune out strong local stations—tune in Los Angeles, Canada, Mexico! Increase selectivity, improve tone, cut out static, distortion, interference, with amazing new
ADD-A-TUBE.

Findings

31 F. T. C.

"Add-A-Tube" gives your radio automatic volume control, and prevents overloading, exactly the same as newest, latest-improved sets. Anyone can install.

Do your strong local stations come in all over the dial? Do they keep you from listening to out-of-town stations you have always wanted to hear? We guarantee Add-A-Tube to bring your radio up to date and to correct these conditions, or your money back. Add-A-Tube gives any radio the same mellow tone, the same sharpness of selectivity, the same static-free reception as the latest, most expensive sets on the market. OPERATES BOTH ON LONG AND SHORT WAVES AND ON INSIDE OR OUTSIDE AERIALS. Amazing new invention improves reception on every type of set, battery or electric.

If you are bothered by local stations, if electrical noises interfere with your reception, if you desire better tone from your loud-speaker, if you wish longer life from your tubes—in general, if you want improved reception from your radio—use ADD-A-TUBE.

"I have given the ADD-A-TUBE a thorough test and am more than gratified. We had to content ourselves with Canadian daylight reception with the exception of two small nearby stations. Since adding ADD-A-TUBE I can pick up Denver, Salt Lake City, Chicago, St. Paul, Fargo, Oklahoma City, Billings, and Great Falls at any time during the day with good volume. I can also get foreign stations that I never heard before."

The aforesaid statements and representations, together with similar statements and representations not herein set out in full, purport to be descriptive of respondent's said device and serve as representations on the part of the respondent to members of the purchasing public that the use of said device will give longer life to radio tubes; improve radio reception; will make it possible to receive radio broadcasts from domestic and foreign stations which could not be received without the use of said device; will bring the radio up to date; will give any radio the tone, sharpness of selectivity and the static-free reception found in the most expensive radio receiving sets on the market; will improve reception on every type of radio receiving set; will give the user's radio automatic volume control and guarantee clear local and long distance reception; will enable the user to tune out local stations and tune in distant stations free from interference; and will make any old radio receiving set as efficient as modern radio receiving sets.

PAR. 4. In truth and in fact, the statements and representations hereinabove set out are deceptive, false, and misleading. Respondent's said electrical and mechanical device when attached to a radio receiving set will not give longer life to radio tubes, will not improve radio reception, will not render the radio receiving set more efficient in receiving broadcasts from domestic or foreign stations; will not bring the radio set up to date; will not give any radio set the tone, sharpness of selectivity and static-free reception found in more expensive sets; will not improve reception on every type of set; will not give a radio receiving set automatic volume control or render local or long-distance reception clear and free from static; will not enable the user to tune out local

645

Order

stations and tune in distant stations, except to reduce interference from local stations; and it will not eliminate static, distortion, and interference.

PAR. 5. The respondent represents and implies, through the use of the name "Add-A-Tube" as a trade name for and on said device, that said device when attached to a radio receiving set gives to such radio set an additional or extra tube, whereas in truth and in fact, the use of said device does not add a tube to, or have the effect of an additional tube in, the radio receiving set to which it is attached.

PAR. 6. The use by respondent of the foregoing false, deceptive, and misleading statements and representations with respect to its said electrical and mechanical radio device and the use of the trade name "Add-A-Tube" for said device have had and now have the capacity and tendency to and do mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true, and induce a portion of the purchasing public because of such erroneous and mistaken belief to purchase respondent's said device.

CONCLUSION

The aforesaid acts and practices of the respondent as herein found are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, The Perfect Manufacturing Company, a corporation, trading as R. E. Engineers, or trading under any other name or names, its agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of a device now designated by it by the name, "Add-A-Tube," or any other similar device or devices to be used for the same or similar purposes, whether sold under the same name or under any other name or names, in commerce, as

Order

31 F. T. C.

"commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that said device, when attached to a radio receiving set, adds to such set an extra tube or gives to it the effect of an additional tube; or that such device adds life to the tubes therein; or that it improves reception or renders the radio receiving set more efficient in receiving broadcasts from domestic or foreign stations; or that it brings the radio receiving set up to date and gives to such set additional sharpness, tone and selectivity; or that it gives a radio receiving set automatic volume control or renders long distance reception free from static, distortion or interference.

2. Using the term "Add-A-Tube," or any other term, phrase or designation of similar import or meaning, to designate or describe said electrical or mechanical device, which device, when added or attached to a radio receiving set, does not perform the functions of an additional tube in such set.

It is further ordered, That the respondent shall, within 60 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.

Complaint

IN THE MATTER OF
INDUSTRIAL PLANTS CORPORATIONCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3835. Complaint, June 27, 1939—Decision, July 30, 1940*

Where a corporation engaged in sale and distribution of various products, including pliers, to purchasers in various other States and in District of Columbia, in substantial competition with others engaged in sale and distribution of said last-named product in commerce as aforesaid; in describing its said pliers in advertisements and catalogs and other printed matter distributed to members of the purchasing public in the various States and the District of Columbia—

Falsely represented said products as nickel plated, through such statements as "Machine nickel pliers are furnished and nickel plated" and "Nickel plated pliers are ground and polished all over, heavily nickel plated and buffed to a high luster";

With effect of misleading and deceiving members of purchasing public into erroneous and mistaken belief that such false and misleading statements and representations were true, and into purchase of substantial quantity of its said product by reason of such belief, and with direct result that trade in commerce was diverted unfairly to it from its said competitors who do not falsely represent as nickel plated their respective products; to the injury of competition in commerce:

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 in commerce and unfair and deceptive acts and practices therein.

Mr. Maurice C. Pearce for the Commission.

Mr. Jerome N. Sowards, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission having reason to believe that Industrial Plants Corporation, a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the 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 Industrial Plants Corporation, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York and having its office and principal place of business at 90 West Broadway in the city of New York, State of New York.