

Order

IN THE MATTER OF
EVERY SALT COMPANY

MODIFIED CEASE AND DESIST ORDER

Docket 2248. Order, Nov. 19, 1940

Modified order, pursuant to provisions of section 5 (i) of Federal Trade Commission Act, in proceeding in question, in which prior order of October 17, 1939, 29 F. T. C. 1132, required respondent, its officers, etc. (following Commission's complaint, etc., findings, and order of November 28, 1936, 23 F. T. C. 1047, placement of matter *in fieri* pending decisions in related salt cases, and the making of such decisions therein), to cease and desist from (1) using word "smoke," etc., to designate, etc., salt offered and sold by it and which had not been directly subjected to action and effect of smoke from burning wood, etc., for curing, preserving, smoking, or flavoring meats, and from (2) representing that its said "Every Sugar Curing Smoke Salt" does the complete job of curing and smoking meat, or that meat, by treatment with such product, acquires therefrom same taste, etc., as meat acquires from treatment with salt and subsequent exposure to smoke of burning wood, as in said original proceeding required, and in said cease and desist order set forth—

Requiring respondent, its officers, etc., in connection with offer, etc., in interstate commerce, of salt, to cease and desist from using word "smoke" or other words signifying smoke or implying use thereof, to designate or describe salt offered, etc., for curing, preserving, smoking or flavoring meats, unless such salt has been subjected to action and effect of smoke from burning wood, as in such modified order set forth, and subject to added provision permitting use of terms "condensed smoke" or "liquid smoke" in enumeration or statement of ingredients of such salt, in the event of the addition thereto of a refined concentrate resulting from destructive distillation of wood, and in sufficient quantity to impart to such salt flavor of smoke, as below set forth in detail.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on November 28, 1936, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and on October 17, 1939, issued and subsequently served its order to cease and desist; and it further appearing that on March 23, 1940, the United States Circuit Court of Appeals for the Fourth Circuit rendered its decree modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars and directed

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31 F. T. C.

the Commission to modify its said order to cease and desist in accordance with said decree.

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 said Court decree:

It is ordered, That respondent Avery Salt Co., its officers, representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of salt in interstate commerce as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

Using the word "smoke," or any other word or words signifying smoke, or implying use of smoke, to designate or describe salt offered for sale, or sold, for curing, preserving, smoking, or flavoring meats, unless the salt so described or designated has been or is directly subjected to the action and effect of the smoke from burning wood during the process and course of its combustion sufficiently to acquire from such source alone all of its smoke or smoke effects for use in curing, preserving, smoking, or flavoring meats; *provided* that nothing in this order shall prohibit the respondent from using the terms "condensed smoke" or "liquid smoke" in enumerating or stating the ingredients of such salt when there has been added thereto a refined concentrate resulting from the destructive distillation of wood, and where the application of such product is in sufficient quantity to impart to such salt the flavor of smoke;

It is further ordered, That the respondent shall, within 30 days after service upon it of this modified 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.

Complaint

IN THE MATTER OF

W. R. CASE & SONS CUTLERY COMPANY

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

Docket 4119. Complaint, Apr. 26, 1940—Decision, Nov. 19, 1940

Where a corporation engaged in manufacture, offer and sale of various articles of cutlery to purchasers in various other States and in the District of Columbia—

Labeled, marked, and designated as "CASE SCOUT" one of its aforesaid products, notwithstanding fact knife in question was not one of those long made or distributed under supervision of the Boy Scouts of America, nor approved, indorsed or sponsored by that organization, and uniformly referred to as "Scout Knife" and marked in some form or manner with words "Scout" or "Boy Scout," with or without other marks and insignia identifying it as a part of the standard equipment of the Boy Scouts of America, and as such, uniformly referred to by use of such words as "Boy Scout," "Scout" and "Scouting," and thus long understood as identifying and referring to such equipment and activities of organization in question;

With capacity and tendency to mislead and deceive purchasing public into belief that its said knife had been approved, indorsed or sponsored by said organization and was a part of the standard equipment thereof, for the purchase of which, as products sponsored or approved by such organization, there is a marked preference on the part of substantial portion of purchasing public, over products which are not thus sponsored or approved, and with tendency and capacity to cause said public, as result of such belief, to purchase substantial quantities of its said product:

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. Joseph C. Fehr, for the Commission.

Nash & Mutzabaugh, of Bradford, Pa., 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 W. R. Case & Sons Cutlery Co., 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: