

Syllabus

IN THE MATTER OF
PUREX CORPORATION, LTD.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4074. Complaint, Mar. 29, 1940—Decision, Jan. 13, 1941*

Where a corporation engaged in manufacture of its "Purex" chemical preparation for use as germicide, and in interstate sale and distribution thereof, in advertisements of its said product which it disseminated and caused to be disseminated through the mails and by various other means in commerce and otherwise, and including advertisements by circulars, leaflets, pamphlets, and other advertising literature—

- (a) Represented, in its said advertising, that said product was "a most powerful germicide" and, directly and by implication, that such preparation possessed such powerful germicidal qualities that solution made by adding two tablespoonfuls thereof to gallon of water would, applied externally to livestock or other animals, destroy all bacteria and disinfect any surface cuts or sores; and
- (b) Represented that such a solution would prevent spread of and destroy all bacteria on metal or wood equipment, through such statements as " * * * After thoroughly washing and cleaning equipment," "such as Milk cans, Milking Equipment, Feed Pans, Troughs, Etc.," "spray or soak with a disinfecting bath made by using two tablespoons PUREX to each gallon of water";

Facts being, while such a solution possessed disinfectant and germicidal qualities, it was not effective for all purposes and would not destroy all bacteria or absolutely disinfect surface cuts and sores, nor, used as recommended and directed, prevent spread of all bacteria, nor destroy all such life on metal or wood or any other kind of equipment, but degree of effectiveness thereof, used as disinfectant or antiseptic, was dependent upon concentration of solution and length of time of exposure, in order for solution of product in question to constitute competent and effective germicide or disinfectant in treatment of surface cuts and sores, in accordance with accepted medical practice, it would have to contain at least 10 percent by volume of preparation in question in its undiluted form, and solution diluted, as above set forth in such a "disinfectant bath," was not an absolute chemical disinfectant or germicide, capable of killing all bacterial life;

With result that purchasing public was caused to believe it such an absolute chemical disinfectant, etc., as above set forth, through use of word "disinfectant" as above stated, and portion of such public was also caused to believe that product in question possessed stronger germicidal qualities when used in solution recommended and directed, through statement "a most powerful germicide," than was actually the case, and with effect, through use of foregoing misleading statements and representations, disseminated as aforesaid, of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements

Complaint

32 F. T. C.

and representations were true, and into purchase of substantial quantity 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.

Before *Mr. William C. Reeves*, trial examiner.

Mr. L. E. Creel, Jr. and *Mr. Robert Mathis, Jr.* for the Commission.

Mr. I. Henry Harris, Jr., of Los Angeles, Calif., 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 Purex Corporation, Ltd., a corporation, hereinafter referred to as respondent, has violated the provisions of the 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 Purex Corporation, Ltd., is a corporation organized and existing under and by virtue of the laws of the State of California, with its factory and principal place of business located at 1001 East Sixty-second Street, in the city of Los Angeles, State of California. The respondent is now and for more than 2 years last past has been, engaged in the business of manufacturing, selling, and distributing a chemical preparation known as "Purex," intended for use as a germicide.

In the course and conduct of its business, respondent causes said preparation, when sold, to be transported from its place of business in the State of California to the purchasers thereof 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 preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said product, by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said product; and respondent has also disseminated and is now disseminating and has caused and is

now causing the dissemination of, false advertisements concerning its said product, by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among, and typical of, the false, misleading and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated, as hereinabove set forth, by the United States mails, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

* * * It is a most powerful germicide * * *

BATHING: Livestock, Small Animals and Pests. Use 2 tablespoons PUREX to each gallon of wash water. This will aid in disinfecting any surface cuts or sores and will materially aid in preventing the spread of contagious diseases.

EQUIPMENT SANITATION: (Such as Milk cans, Milking Equipment, Feed Pans, Troughs, Etc.) After thoroughly washing and cleaning equipment, spray or soak with a disinfecting bath made by using two tablespoons PUREX to each gallon of water.

PAR. 3. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set forth herein, the respondent represents, directly or by implication, that its preparation Purex possesses such powerful germicidal properties that a solution made by adding two tablespoons of the preparation to a gallon of water will, when applied externally to livestock and other animals, destroy bacteria and disinfect any surface cuts or sores; that such solution will prevent the spread of bacteria and will destroy bacteria on metal or wood equipment.

PAR. 4. The foregoing representations are grossly exaggerated, false and misleading. While respondent's preparation possesses germicidal properties, the solution in question is wholly ineffective. Such solution will not destroy bacteria and will not disinfect surface cuts or sores. It will not prevent the spread of bacteria nor will it destroy bacteria on metal or wood or any other kind of equipment. In truth and in fact, in order for a solution of respondent's preparation to constitute a competent and effective germicide or disinfectant, such solution would have to contain at least 10 percent of respondent's preparation in its undiluted form.

PAR. 5. The use by the respondent of the foregoing false and misleading statements and representations, 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 false statements and representations are true, and into the purchase of substantial quantities of respondent's product.

PAR. 6. 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 the 29th day of March 1940, issued, and subsequently served, its complaint in this proceeding upon the respondent, Purex Corporation, Ltd., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On May 15, 1940, the respondent filed its answer in this proceeding. 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 Robert Mathis, Jr., for the Commission, and in opposition to the allegations of the complaint by I. Henry Harris, Jr., for the respondent, before William C. Reeves, an examiner of the Commission, theretofore duly designated by it, and 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 complaint, the answer thereto, testimony and other evidence, respondent having expressly waived the filing of briefs, and oral argument not having been requested, 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

PARAGRAPHS 1. Respondent, Purex Corporation, Ltd., is a corporation organized and existing under and by virtue of the laws of the State of California, with its factory and principal place of business located at 9300 Rayo Avenue, in the city of Southgate, State of California. The respondent is now, and for more than 2 years last past has been, engaged in the business of manufacturing, selling and distributing a chemical preparation known as "Purex," intended for use as a germicide.

In the course and conduct of its business, respondent causes said preparation, when sold, to be transported from its place of business in the State of California to the purchasers thereof located in various other States of the United States and in the District of Columbia.

The respondent maintains and for more than two years last past has maintained a course of trade in said preparation in commerce among and between the various States of the United States.

PAR. 2. In the course and conduct of its aforesaid business, the respondent has disseminated, and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements and statements concerning its said product by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of respondent's product. Respondent has also disseminated, and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning its said product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the statements and representations contained in said advertisements disseminated and caused to be disseminated as hereinabove set forth, by the United States mails and by circulars, leaflets, pamphlets, and other advertising literature are the following:

* * * It is a most powerful germicide * * *.

BATHING: Livestock, Small Animals and Pets. Use 2 tablespoons PUREX to each gallon of wash water. This will aid in disinfecting any surface cuts or sores and will materially aid in preventing the spread of contagious diseases.

EQUIPMENT SANITATION: (Such as Milk-cans, Milking Equipment, Feed Pans, Troughs, Etc.) After thoroughly washing and cleaning equipment, spray or soak with a disinfecting bath made by using two tablespoons PUREX to each gallon of water.

PAR. 3. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set forth herein, the respondent represents, directly or by implication, that its preparation "Purex" possesses such powerful, germicidal qualities that a solution made by adding two tablespoons of the preparation to a gallon of water will, when applied externally to livestock and other animals, destroy all bacteria and disinfect any surface cuts or sores; and that such solution will prevent the spread of, and will destroy, all bacteria on metal or wood equipment.

PAR. 4. The Commission finds that while a solution containing Purex in the strength recommended by respondent possesses disinfectant and gerimicidal properties, it is not effective for all purposes and will not destroy all bacteria or absolutely disinfect surface cuts and sores. Respondent's preparation, when used in the solution recommended and as directed, will not prevent the spread of all bacteria, nor will it destroy all bacteria on metal or wood or any other kind of

equipment. The degree of effectiveness of respondent's preparation when used as a disinfectant or antiseptic, is dependent upon the concentration of the solution used, the cleanliness of the surface treated and the length of time of exposure. In order for a solution of respondent's preparation to constitute a competent and effective germicide or disinfectant in the treatment of surface cuts and sores in accordance with the accepted medical practice, such solution would have to contain at least ten percent, by volume, of respondent's preparation in its undiluted form.

PAR. 5. The Commission further finds that while respondent's directions for diluting its product to make what is called a "disinfectant bath" may constitute an acceptable scientific use of the term "disinfectant," such use of said term is misleading to the purchasing public in that it causes the public to believe that such diluted solution is an absolute chemical disinfectant or germicide capable of killing all bacterial life. The statement "It is a most powerful germicide" is also misleading in that it causes a portion of the purchasing public to believe that respondent's product possesses stronger germicidal properties when used in the solution recommended and as directed than is actually the case.

PAR. 6. The use by the respondent of the foregoing misleading statements and representations disseminated as herein set forth 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 into the purchase of a substantial quantity of respondent's product designated as "Purex."

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, the answer of respondent, testimony and other evidence taken before William C. Reeves, an examiner of the Commission theretofore designated by it, in support of the allegations of said complaint, and in opposition thereto, respondent having waived the filing of briefs, and oral argument not having been requested, and the Commission having made its

findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Purex Corporation, Ltd., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its product designated as "Purex," or any product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference:

(a) That a solution containing any amount less than 10 percent of respondent's preparation is a competent or effective germicide for the treatment of surface cuts or sores.

(b) That a solution of respondent's preparation containing two tablespoonfuls of such preparation to each gallon of water used is a competent or effective disinfectant or "disinfecting bath" for use on metal or wood surfaces, except in those cases where such surfaces have been previously cleaned and thoroughly washed.

(c) That a solution containing two tablespoonfuls of respondent's preparation to one gallon of water is capable of killing all forms of bacterial life.

(d) That respondent's preparation possesses any disinfectant or germicidal or antiseptic properties in excess of such properties as it actually possesses.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

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.

IN THE MATTER OF
GROUP SALES CORPORATION

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

Docket 2922. Complaint, Sept. 17, 1936—Decision, Jan. 14, 1941

Where a corporation engaged, as jobber or wholesaler, in interstate sale and distribution of silk and rayon piece goods, in competition with others engaged in sale and distribution in commerce of similar products, and including many who do not in any way misrepresent the quality, character or origin thereof—

Represented that the piece goods sold by it consisted entirely of "name goods," or materials of generally recognized merit and quality, made and nationally advertised by manufacturing establishments of wide and favorable reputation, and that such goods were purchased or obtained by it direct from manufacturers thereof, and were composed entirely of new, wanted, up-to-date, stylish and seasonable fabrics, through such statements, in circulars distributed among its retail customers and prospective customers in the various States, and advertisements of its said products, as "HOLD A NAME SALE AND GET THE BENEFIT OF MILLIONS OF DOLLARS WORTH OF NATIONAL ADVERTISING!," "EVERY WOMAN KNOWS THESE FAMOUS MAKERS," followed by names of 10 manufacturers who were widely and favorably known among the retail trade and buying public, along with statement "and many other equally well known—SILKS AND ACETATES," "We will ship you a GROUP of 1,000 YARDS of High-type, New, Stylish, Wanted SILKS and ACETATES * * *". Consisting of many of the above Nationally Advertised Qualities * * *," " * * * We buy surplus stocks, sample pieces and short warps from mills, commission houses and dress manufacturers. * * *," "We * * * get the most up-to-date, stylish, perfect fabrics * * *," and "Only New, Wanted, Stylish Merchandise," etc.;

Facts being products thus advertised by it did not consist wholly of materials of generally recognized merit and quality, made and nationally advertised by manufacturing establishments of wide and favorable reputation, substantial part thereof, on the contrary, consisted of materials having no recognized merit or quality and made by manufacturers who did not have such a reputation, most of its said merchandise was not purchased direct from manufacturer, but purchased or obtained from commission merchants, dress manufacturers, garment makers and jobbers, the "Acetates" were in fact rayon fabrics, and substantial part of merchandise advertised and sold by it was not new, wanted, up-to-date, stylish or seasonable, but substantial portion thereof, on the contrary, consisted of discontinued numbers and odd lots and merchandise of second or inferior grade;

With tendency and capacity, through such false and misleading statements and representations in designating or describing its said merchandise, to mislead substantial number of retail merchants into erroneous belief that such representations were true, and with result, as direct consequence of such belief, induced as above set forth, that number of retail dealers purchased