

Syllabus

IN THE MATTER OF

CONSOLIDATED BOOK PUBLISHERS, INC.

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

Docket 4440. Complaint, Dec. 31, 1940—Decision, Mar. 19, 1941

Where a corporation engaged in the publication of its "Standard American Encyclopedia" and its "Universal Dictionary of the English Language," and in interstate sale and distribution thereof to newspapers and motion-picture theaters for use as premiums to stimulate circulation or attendance, to news agencies for resale to the trade, and to retailers for sale to the consuming public, and in preparing and furnishing advertising copy and mats to such customers for their use in circulars and other advertisements which it disseminated to the purchasing public throughout the various States—

- (a) Represented, directly and indirectly that the price at which said encyclopedia was offered was available to the public only because of its sponsorship by the American Home Library Foundation, which was a beneficent and educational institution, and that, but for such sponsorship the price would be much higher, through such statements as "How can we give you the Standard American Encyclopedia, almost as a gift? The answer is simple. The American Home Library Foundation is dedicated by its sponsors to the glorious task of placing within reach of every home in America good books that for all too long have been the privilege of only the wealthy * * *";

Facts being price in question was not due to any subsidy from any beneficent or educational organization, said "Foundation" was not an organization dedicated to aforesaid "glorious task," but was an affiliated corporation which cooperated with it in the conduct of said business of selling encyclopedia in question for a profit and not for any beneficent or educational purpose, and price was not lower than it would be but for the activity of said "Foundation";

- (b) Represented, as aforesaid, that the volumes composing such encyclopedia were "huge" and that it was a "Giant" 15-volume home reference library, editorial cost of producing which was a million dollars, that the edition was "limited" and available only to those who ordered promptly and that the "de-luxe" edition was bound in leather of unusual beauty and durability;

Facts being statements and representations in question were false and misleading, the volumes were of ordinary size, neither number of volumes nor extent of content thereof were such as to entitle encyclopedia to be designated "Giant," its cost of production was not the sum above set forth, copies thereof were available for all potential purchasers, and "de luxe" edition was not made of leather, but of imitation thereof; and

- (c) Represented that its said dictionary was thoroughly new throughout and not a revised reproduction of an older publication, that the definitions of every word and phrase had been newly written, and that publication thereof, which took 12 years, was by or under the sponsorship of Oxford University;

Facts being it was not new throughout, but was an identical American publication of the dictionary first published in England in 1932 under same name by

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another publisher, except for short additions as preface and one-and-one-half page appendix and other minor changes, definitions had not been newly written or rewritten, said amount of time was not required in preparation and publication of first edition, and neither Oxford nor any other such educational institution sponsored or contributed in any way to its publication;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous and mistaken belief that all such false statements and representations were true, and of inducing it to purchase said publications because of such mistaken belief:

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. John M. Russell for the Commission.

Campbell, Clithero & Fischer, of Chicago, Ill., 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 Consolidated Book Publishers, Inc., 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, Consolidated Book Publishers, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois with its principal office and place of business located in Room 1305, Terminal Building, 537 Dearborn Street, Chicago, Ill.

PAR. 2. Respondent, Consolidated Book Publishers, Inc., is now, and has been for over 2 years last past, engaged in the business of publishing and selling an encyclopedia known as Standard American Encyclopedia, and a dictionary called Universal Dictionary of the English Language. Respondent sells said publications to newspapers and motion-picture theaters for use as premiums to stimulate circulation or attendance, to news agencies for resale, to the trade and to retailers for sale to the consuming public; and has prepared and furnished advertising copy and mats to such customers which they use and have used in selling said publications, in various States of the United States and in the District of Columbia. Respondent causes said publications, when sold, to be transported from its aforesaid place of business in the State of Illinois to the purchasers thereof at their respective points of location in other States of the United States and

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in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said publications 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 in connection with the promotion of the sale of its said publications in said commerce, and as an inducement for the purchase thereof by members of the purchasing public, respondent has caused, and is now causing, circulars and other advertisements to be printed and distributed to the purchasing public throughout the various States of the United States containing many false and misleading statements and representations describing said publications.

Among and typical of the statements and representations contained in said false advertisements used and disseminated by the respondent concerning the Standard American Encyclopedia are the following:

YOURS—ALMOST A GIFT

Through the American Home Library Foundation
We Are Able To Offer

THE STANDARD AMERICAN
ENCYCLOPEDIA

Giant 15-Volume Home Reference Library * * *

* * * * *

15 HUGE BOOKS

* * * * *

CLIP VOUCHER AT ONCE

Edition Limited! Claim your first volume today. A New Volume released every week.

* * * * *

ACT TODAY—NOW!

* * * A new book is yours every week, but you must act today for the edition available is limited and it is strictly FIRST COME—FIRST SERVED * * *

* * * * *

Delay Means Almost Certain Disappointment

* * * * *

A MILLION DOLLAR INVESTMENT

Was Required To Produce This Great New Home Reference Work.

* * * * *

WHY WE MAKE THIS OFFER

How can we afford to make this offer? How can we give you the Standard American Encyclopedia, almost as a gift?

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The answer is simple. The American Home Library Foundation is dedicated by its sponsors to the glorious task of placing within reach of every home in America good books that for all too long have been the privilege of only the wealthy * * *

* * * * *

Would You Prefer A

SUPERB DE LUXE EDITION?

For A Fortunate Few Only

* * * as a special concession for those who can be satisfied with nothing but the best craftsmanship and material available we have prepared a special and limited DeLuxe edition of supremely rich and luxurious quality. Produced and finished in scarlet art. Leather of unusual beauty and durability—expensively die-embossed in a manner fit to grace the book-shelves of a king. A joy to behold! A rare pleasure to handle! A thrill to own!

Among and typical of the statements and representations made by respondent concerning the Universal Dictionary of the English Language are the following:

EDITED AT OXFORD UNIVERSITY

by Henry Cecil Wyld

Read the Facts About this Amazing Work

The new UNIVERSAL DICTIONARY comes to you with an outstanding background of authority and scholarship that makes it one of the most amazing achievements in dictionary history.

New and Complete

The UNIVERSAL DICTIONARY is thoroughly new throughout, NOT a revised, reprinted edition of an older publication. It contains all the newest additions to the English language. It is printed from new plates, in modern, easy-to-read form. It brings you the definitions of nearly 200,000 modern English words and phrases, with every definition newly written * * *

* * * * *

The UNIVERSAL DICTIONARY of the English Language.

* * * * *

The Book That Took Twelve Years To Build.

PAR. 4. By the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, respondent represents, and has represented, directly and indirectly to customers and prospective customers that said Standard American Encyclopedia is available to the public at the price at which it is offered only because of its sponsorship by the American Home Library Foundation, a beneficent and educational institution, and

that but for such sponsorship the price at which said encyclopedia is offered would be much higher; that the volumes composing said encyclopedia are "huge;" that said encyclopedia is a "Giant" 15-volume home reference library; that said encyclopedia cost a million dollars to produce; that said edition is "limited" and available only to those who order promptly; that the "de luxe" edition is extremely rich and luxurious in quality, and that it is bound in leather of unusual beauty and durability; that respondent's Universal Dictionary of the English Language is thoroughly new throughout and is not a revised reproduction of an older publication; that the definitions of every word and phrase have been newly written; that it is printed from new plates; that it took 12 years to produce said dictionary; and that it is published by or under the sponsorship of Oxford University.

PAR. 5. The statements and representations so made and used by the respondent in connection with the sale of its said publication are false and misleading. In truth and in fact, the price at which said encyclopedia is offered for sale and sold to the public is not lower than it would be but for the activities of the "American Home Library Foundation;" the price at which said encyclopedia is sold is not the result of any subsidy from any beneficent or educational organization. The "American Home Library Foundation" is not an organization dedicated to the "glorious task" of placing within reach of every home in America said encyclopedia but is a trade name used by the respondent in conducting its business of selling said encyclopedia for a profit and not for any beneficent or educational purpose. The volumes composing said encyclopedia are not "huge" but of ordinary size; neither the number of volumes nor the extent of its content is such as to entitle said encyclopedia to be designated as a "Giant" home reference library, its cost of reproduction was not a million dollars; the supply of said encyclopedias available is not "limited" and copies are available for all potential purchasers. The so-called "de luxe" edition is of poor quality and its binding is not made of leather but of imitation leather. The said Universal Dictionary of the English Language is not new throughout but is an identical reprint of a 1932 edition by another publisher, except for a one-and-a-half page preface, two paragraphs entitled "Notes on the Marking of Pronunciation," a nine-page appendix, and other minor and immaterial changes. The definitions of every word and phrase have not been newly written or rewritten. It is not printed from new plates but from the plates used in printing said former edition. Twelve years' time was not required in preparing said dictionary for publication and in publishing the first edition thereof. Neither

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Oxford University nor any such educational institution sponsored or contributed in any way to the publication of said dictionary.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations, disseminated as aforesaid, has had, and now has, a tendency and capacity to and does deceive and mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that all of such false statements and representations are true, and to induce a substantial portion of the purchasing public to purchase respondent's said publications because of such erroneous and mistaken belief engendered as above set forth.

PAR. 7. The aforesaid acts and practices of 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 31st day of December 1940, issued and on the 2d day of January 1941, served its complaint in this proceeding upon said respondent, Consolidated Book Publishers, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. A stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondent's counsel, Campbell, Clithero and Fischer, and W. T. Kelley, Chief Counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report stating its findings as to the facts and the conclusion based thereon, and enter its order disposing of the proceeding without the filing of a report upon the evidence by the Trial Examiner, the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint and stipulation, said stipulation having been approved, accepted and filed, and the Commission having duly considered the same, and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Consolidated Book Publishers, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois with its principal office and place of business located in Room 1305, Terminal Building, 537 Dearborn Street, Chicago, Ill.

PAR. 2. Respondent, Consolidated Book Publishers, Inc., is now, and has been for over 2 years last past, engaged in the business of publishing and selling an encyclopedia known as Standard American Encyclopedia, and a dictionary called Universal Dictionary of the English Language. Respondent sells said publications to newspapers and motion-picture theaters for use as premiums to stimulate circulation or attendance, to news agencies for resale, to the trade and to retailers for sale to the consuming public; and has prepared and furnished advertising copy and mats to such customers which they use and have used in selling said publications, in various States of the United States and in the District of Columbia. Respondent causes said publications, when sold, to be transported from its aforesaid place of business in the State of Illinois to the purchasers thereof at their respective points of location in other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said publications 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 in connection with the promotion of the sale of its said publications in said commerce, and as an inducement for the purchase thereof by members of the purchasing public, respondent has caused circulars and other advertisements to be printed and distributed to the purchasing public throughout the various States of the United States containing many false and misleading statements and representations describing said publications.

Among and typical of the statements and representations contained in said false advertisements used and disseminated by the respondent concerning the Standard American Encyclopedia are the following:

YOURS—ALMOST A GIFT
Through the American Home Library Foundation
We Are Able To Offer
THE STANDARD AMERICAN
ENCYCLOPEDIA
Giant 15-Volume Home Reference Library * * *

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15 HUGE BOOKS

* * * *

CLIP VOUCHER AT ONCE

Edition Limited! Claim your first volume
today. A New Volume released every week.

* * * *

ACT TODAY—NOW!

* * * A new book is yours every week, but you must act today for the edition
available is limited and it is strictly FIRST COME—FIRST SERVED * * *

* * * *

Delay Means Almost Certain Disappointment.

* * * *

A MILLION DOLLAR INVESTMENT

Was Required To Produce This Great New Home Reference Work.

* * * *

WHY WE MAKE THIS OFFER

How can we afford to make this offer? How can we give you the Standard
American Encyclopedia, almost as a gift?

The answer is simple. The American Home Library Foundation is dedicated
by its sponsors to the glorious task of placing within reach of every home in
America good books that for all too long have been the privilege of only the
wealthy * * *

* * * *

Would You Prefer A

SUPERB DE LUXE EDITION?

For A Fortunate Few Only

* * * as a special concession for those who can be satisfied with nothing but
the best craftsmanship and material available we have prepared a special and
limited DeLuxe edition of supremely rich and luxurious quality. Produced and
finished in scarlet art. Leather of unusual beauty and durability—expensively
die-embossed in a manner fit to grace the book-shelves of a king. A joy to behold!
A rare pleasure to handle! A thrill to own!

Among and typical of the statements and representations made by
respondent concerning the Universal Dictionary of the English Lan-
guage are the following:

EDITED AT OXFORD UNIVERSITY

by Henry Cecil Wyld

Read the Facts About this Amazing Work

The new UNIVERSAL DICTIONARY comes to you with an outstanding background
of authority and scholarship that makes it one of the most amazing achieve-
ments in dictionary history.

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New and Complete

The UNIVERSAL DICTIONARY is thoroughly new throughout, NOT a revised, re-printed edition of an older publication. It contains all the newest additions to the English language. It is printed from new plates, in modern, easy-to-read form. It brings you the definitions of nearly 200,000 modern English words and phrases, with every definition newly written * * *

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The UNIVERSAL DICTIONARY of the English Language.

* * * * *

The Book That Took Twelve Years To Build.

PAR. 4. By the use of the statements and representations herein-above set forth and others similar thereto not specifically set out herein, respondent has represented, directly and indirectly to customers and prospective customers that said Standard American Encyclopedia is available to the public at the price at which it is offered only because of its sponsorship by the American Home Library Foundation, a beneficent and educational institution, and that but for such sponsorship the price at which said encyclopedia is offered would be much higher; that the volumes composing said encyclopedia are "huge"; that said encyclopedia is a "Giant" 15-volume home reference library; that the editorial cost of producing said encyclopedia was a million dollars; that said edition is "limited" and available only to those who order promptly; that the "de luxe" edition is bound in leather of unusual beauty and durability; that respondent's Universal Dictionary of the English Language is thoroughly new throughout and is not a revised reproduction of an older publication; that the definitions of every word and phrase have been newly written; that it took 12 years to produce said Dictionary; and that it is published by or under the sponsorship of Oxford University.

PAR. 5. The statements and representations so made and used by the respondent in connection with the sale of its said publication are false and misleading. In truth and in fact, the price at which said encyclopedia is offered for sale and sold to the public is not lower than it would be but for the activities of the "American Home Library Foundation;" the price at which said encyclopedia is sold is not the result of any subsidy from any beneficent or educational organization. The "American Home Library Foundation" is not an organization dedicated to the "glorious task" of placing within reach of every home in America said encyclopedia but was the name of an affiliate corporation which cooperated with the respondent in the conduct of said business of selling said encyclopedia for a profit and not for any beneficent or educational purpose. The volumes com-

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posing said encyclopedia are not "huge" but of ordinary size; neither the number of volumes nor the extent of its content is such as to entitle said encyclopedia to be designated as a "Giant" home reference library; its editorial cost of production was not a million dollars; the supply of said encyclopedias available is not "limited" and copies are available for all potential purchasers. The so-called "de luxe" edition's binding is not made of leather but of imitation leather. The said Universal Dictionary of the English Language is not new throughout but is an American publication of the identical Dictionary first published in England in 1932 under its same name by another publisher, except for a one-and-a-half page preface, two paragraphs entitled "Notes on the Marking of Pronunciation," one page of additional addenda and corrigenda, a nine-page appendix, and additional minor changes. The definitions of every word and phrase have not been newly written or rewritten. Twelve years' time was not required in preparing said dictionary for publication and in publishing the first edition thereof. Neither Oxford University nor any such educational institution sponsored or contributed in any way to the publication of said dictionary.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations, disseminated as aforesaid, had a tendency and capacity to and did deceive and mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that all of such false statements and representations are true, and to induce a substantial portion of the purchasing public to purchase respondent's said publications because of such erroneous and mistaken belief engendered as above set forth.

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 a stipulation as to the facts entered into between the respondent herein and W. T. Kelley, Chief Counsel for the Commission, which provides among other things that without further evidence or other intervening procedure the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon, and

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an order disposing of the proceeding, 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, Consolidated Book Publishers, Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of its encyclopedia known as Standard American Encyclopedia and its dictionary called Universal Dictionary of the English Language, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that the price at which said encyclopedia is offered for sale or sold to the public is lower than it otherwise would be but for the activities of the "American Home Library Foundation" or that the price at which said encyclopedia is sold is the result of any subsidy from any beneficent or educational organization, or of any other subsidy; that the "American Home Library Foundation" is a beneficent or educational organization or is anything other than an affiliated corporation which cooperated with respondent in selling said encyclopedia for a profit; that the volumes of said encyclopedia are "huge" or of other than ordinary size; that said encyclopedia is a "Giant" home reference library; that the editorial cost of production of such encyclopedia was a million dollars or any other sum beyond the actual cost thereof; that the supply of said encyclopedias is limited; that the so-called "de luxe" edition's binding is made of leather or of other than imitation leather.

2. Representing that said Universal Dictionary of the English Language is new throughout or is not a revised reproduction of an older production or is anything other than an American publication of the same dictionary first published in England in 1932 under its same name by another publisher except for specified changes which, in fact, have been made; that the definitions of the words or phrases of said 1932 edition of said dictionary have been newly written or rewritten; that twelve years or any longer period of time than was actually required was required to prepare said dictionary for publication and in publishing the first edition thereof; that Oxford University or any such educational institution sponsored or contributed in any way to the publication of said dictionary.

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

MARLBOROUGH LABORATORIES, INC., MARLBOROUGH
SALES CO., INC., MADISON SALES CORPORATION,
WINDSOR MANUFACTURING CO., INC., AND WILLIAM
ZEFFERT, AS OFFICER THEREOF, ET AL.¹COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3732. Complaint, Mar. 7, 1939—Decision, Mar. 20, 1941*

Where three corporations and an individual, who was the managing head and the controlling and guiding spirit of each, engaged in manufacture of dental and shaving creams, and in interstate sale and distribution thereof in substantial competition with others engaged in similar sale and distribution of such products, including many who do not misrepresent their products—

- (a) Price-marked tubes and cardboard cartons and containers of certain shaving creams with statements "Price 50 cents" or "Price 75 cents," facts being said printed prices did not, as generally understood, and made use of by reputable manufacturers, indicate said items' usual or contemplated retail selling prices, by which, to a substantial extent, public measures quantity, quality, and retail value of an article; items in question were not 50-cent or 75-cent values, but were sold to wholesalers and retailers at 4¾ cents and 6¼ cents, respectively, and to ultimate purchasers at not over 10 cents each; and

Where a shaving cream known as "Palmolive Shave Cream" had been on the market for several years and there had been created among purchasers and users thereof a goodwill of substantial value to its manufacturer and distributor; and thereafter said three corporations and individual above referred to—

- (b) Marketed and branded, and described and referred to shaving cream offered and sold by them, container and package of which simulated in color and general appearance that of aforesaid competitive "Palmolive Shave Cream," as "Palm and Olive Shaving Cream," with tendency to confuse and mislead purchasers and cause them to believe that latter was such competitive product, and as a result of such belief, to purchase same as and for said competitive "Palmolive Shave Cream";
- (c) Made use of letters "D. D. S." and words "Doctors, Dentists, Surgeons" in such statements as "D. D. S. TOOTH PASTE For the Gums. Contains over 51% of Milk of Magnesia. 60¢," and "Doctors Dentists Surgeons DENTAL CREAM," with effect of leading purchasing public erroneously to believe that such tooth pastes were compounded from the formula of a member of the medical or dental profession, or were made and manufactured under direction and supervision of a member thereof;

¹ For reasons set forth in findings, complaint was dismissed as to respondent Marlborough Laboratories, Inc., and other respondents not named above.