

IN THE MATTER OF
**THE FIRESTONE TIRE & RUBBER COMPANY, AND FIRE-
 STONE TIRE & RUBBER COMPANY**

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

Docket 3983. Complaint, Jan. 2, 1940—Decision, June 18, 1941

Where a corporation long engaged in the manufacture, among other things, of automobile tires, and in interstate sale and distribution thereof through its own stores and through independent dealers, both of whom it supplied with price lists respectively designating and suggesting retail selling prices, and both of whom sold a substantial quantity of its tires at such prices, and also a substantial number at lesser prices to meet competition and by special sales;

In advertising its "Champion," "High Speed," "Convoy," and "Sentinel" tire (replaced in May 1939, by its "Standard" tire)—relatively priced in that order, the latter three at approximately 90 percent, 75 percent, and 65 percent of the "Champion" price subsequent to November 1, 1938—by advertising copy which it prepared and disseminated to its dealers, and by advertisements during nation-wide sales periods in a large number of newspapers, which were also inserted in whole or in part in numerous newspapers throughout the United States by a large number of independent dealers and company-owned stores—

- (a) Represented, as typical, that its "Convoy" tire was offered at savings of 25 percent off the regular current retail selling price, through advertising "SAVE 25% with the New FIRESTONE CONVOY TIRE New High Quality at a New Low Price *Priced to Save you Money*," followed by list of sizes with prices, including as example, "6.00-16 \$11.80";

Facts being that while said tires were being offered at a saving of 25 percent off the current retail list price of the higher-priced "High Speed" tire, list price of said 6.00-16 "Convoy" tire was itself \$11.80, so that no saving whatsoever was involved by advertised sales price;

- (b) Represented that it was offering its "Standard" tire for sale at savings of up to 50 percent, and that the designated savings in dollars were based upon the regular current selling prices thereof, through advertisement "BUY DURING Firestone BARGAIN DAYS For July 4th Save Up to 50% On Famous Firestone Standard Tires Amazing Savings," followed by list of sizes and prices including, as example, "*Size 6.00-16 Former Price \$14.35 Sale Price \$7.98 You Save \$6.37 Including Your Old Tire*";

Facts being that while, at time in question, such tires were being offered at 50 percent off the retail list prices of "Standard" tires in effect prior to November 1, 1938, when production ceased until June 1939, and at 50 percent off the current list price of the higher-priced "High Speed" tire, they provided a dollar saving of only \$2.37 and a percentage saving of only 22.89 percent off current list price of "Standard" tire; the advertised price did not take into account the customary trade-in allowance of 10 percent, allowing for which, dollar saving was only \$1.34 per tire, and percentage saving only 14.38 percent, and savings, if computed upon the regular current retail selling price, rather than list, were even less;

- (c) Represented that it was offering its "High Speed" tire at 25 percent off the current retail selling price, to a purchaser turning in his used tire, through advertisement "SMASHING TIRE SALE *Think of it*—Your first opportunity to buy the famous FIRESTONE High Speed Tire at these unheard of LOW PRICES 25% extra DISCOUNT with your old tire";

Facts being that, whereas prior to time of publication said tires were being offered at current list prices and customer was credited in part payment, with 10 percent trade-in allowance for his used tire, at time of publication he was required to turn in his used tire with no credit allowance therefor, making the reduction, in fact, not 25 percent, but only 16.8 percent; and

- (d) Represented that by buying one "Standard" tire at list price and second at 50 percent off list price, various cash savings would be afforded the purchaser, by advertisement "SENSATIONAL LABOR DAY SALE On the Famous FIRESTONE STANDARD TIRES. The Thrift Sensation of 1939. How You Can Get *One* of these Amazing Tires at ½ PRICE. Buy One at List Price and Get the Next One at 50% Discount," followed by list of sizes and prices, including, as example, "FIRESTONE STANDARD Size 6.00 x 16 Price for The First Tire \$10.35 Next Tire 50% Discount \$5.18 Price For Two Tires \$15.53 You Save \$5.17. Above prices include your old tire * * *";

Facts being that the savings so set out were computed upon current list prices and not upon current retail selling prices; taking the 6.00 x 16 size as example and giving credit for the customary trade-in allowance, the regular selling price of two tires was \$18.63, making the saving at the sale price of \$15.53, \$3.10 and not \$5.17, as claimed;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public, which understood and believed that represented savings or discounts from list prices were reductions from regular retail selling prices of the same tires in effect immediately prior to such advertised sale, into an erroneous belief with respect to savings actually offered, and with effect of inducing it, because of such belief, to purchase said tires;

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. William M. King for the Commission.

Mr. B. M. Robinson and *Mr. Thomas S. Markey*, of Akron, Ohio, for respondents.

COMPLAINT ¹

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 Firestone Tire & Rubber Co., an Ohio corporation, and Firestone Tire & Rubber Co., a West Virginia corporation, herein referred to as respondents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in

¹ Published as amended pursuant to stipulation dated June 10, 1941 to include par. 8 (a).

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the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, The Firestone Tire & Rubber Co., is a corporation organized under the laws of the State of Ohio and has its principal office and place of business in the city of Akron, State of Ohio.

The respondent, Firestone Tire & Rubber Co., is a corporation organized under the laws of the State of West Virginia with its office and principal place of business located in the city of Akron, State of Ohio. It is a wholly owned subsidiary of the said The Firestone Tire & Rubber Co. and acts as selling agent for said company.

PAR. 2. The respondent, The Firestone Tire & Rubber Co., an Ohio corporation, is now, and for many years last past has been, engaged in the manufacture, sale, and distribution, among other products, of automobile tires and tubes and the respondent, Firestone Tire & Rubber Co., a West Virginia corporation, has at all times mentioned herein been the selling agency for said products. Said automobile tires and tubes are manufactured by the respondent The Firestone Tire & Rubber Co. in factories owned and operated by it in the cities of Akron, Ohio, Los Angeles, Calif., and Memphis, Tenn.

The respondents act in cooperation and in conjunction with each other in performing the acts and practices hereinafter alleged.

In the course and conduct of their business, the respondents sell the said automobile tires and tubes by means of dealers located in the various States of the United States, and in the District of Columbia. Respondents cause their automobile tires and tubes to be shipped from said factories, located in the several States as above described, to their dealers located in various other States of the United States, and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said automobile tires and tubes in commerce among and between the various States of the United States, and in the District of Columbia.

PAR. 3. The respondent The Firestone Tire & Rubber Co. manufactures several grades of automobile tires and tubes, its tires being distinguished as follows:

1. "Champion Tire," which is said respondent's best grade or first line tire and is sold at retail at what is usually referred to in the industry as 100 level prices;

2. "High Speed Tire," which is sold at 90 level prices, or 90 percent of the retail price of the "Champion Tire";

3. The "Convoy" Tire, which is sold at 75 level prices, or 75 percent of the retail price of the "Champion Tire";

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4. The "Standard" Tire, which is sold at 65 level prices, or 65 percent of the retail price of the "Champion Tire."

Prior to November 1, 1938, said respondent's "High Speed" was its first line tire, "Standard" its second line, "Convoy" its third line and "Sentinel" its fourth line.

In the sale of these various grades of tires, it is customary and usual for respondents' dealers to make an allowance of 10 percent of the purchase price of the various grades of tires for old or used tires turned in by the customer. Said respondents from time to time issue price lists designating the retail price or list price of their various grades of tires.

PAR. 4. For the purpose of inducing and stimulating the sale of their tires and tubes, the respondents from time to time conduct Nation-wide tire sales through their various dealers, during which sales they advertise and cause their various dealers to advertise in various newspapers and other periodicals having a general circulation, by means of which advertisements it is falsely represented that the respondents' tires are being sold at various purported discounts from the regular and usual price of such tires. Such sales are usually conducted immediately prior to Memorial Day, July 4, Labor Day, and at other periods during the year. The advertising copy used by various dealers of the respondents, in connection with such sales, is prepared by the respondents and submitted to such dealers for insertion in local newspapers and other advertising media.

PAR. 5. Among and typical of the false, misleading, and deceptive representations contained in the various advertisements, disseminated by respondents as aforesaid, is the following:

SAVE 25% With the New
FIRESTONE CONVOY TIRE
New High Quality at a
New Low Price
Priced to Save you Money

Then follows a list of sizes with prices, of which the following is an example:

6.00-16 \$11.80

By means of the statements and representations hereinabove set forth, and others similar thereto not specifically set forth herein, the respondents represent that their "Convoy" tire is sold at a discount of 25 percent of the usual and customary price of said tire. In truth and in fact, said "Convoy" tire is not sold at a discount of 25 percent. For example, the standard list price of the 6.00-16 "Convoy" tire in

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effect at the time of such advertisement was \$11.80 and consequently the advertised price of \$11.80 represents no saving whatsoever.

PAR. 6. Another and typical example of the false, misleading, and deceptive representations contained in the various advertisements, disseminated as aforesaid, is the following:

BUY DURING
Firestone BARGAIN DAYS
For July 4th
Save Up to 50%
On Famous
Firestone Standard Tires
Amazing Savings

Then follows list of sizes with prices, of which the following is an example:

Size	Former Price	Sale Price	You Save
6.00-16	\$14.35	\$7.98	\$6.37

Including Your Old Tire

By means of the statements and representations hereinabove set forth, and others similar thereto not specifically set forth herein, the respondents represent that their "Standard" tire is sold at a discount up to 50 percent and at certain specified savings in dollars. In truth and in fact, said "Standard" tire is not sold at a discount up to 50 percent or at dollar savings as stated in said advertisement, for the reason that the "former price" was not the list price in effect at time of said advertisement. For example, the list price of respondents' 6.00-16 "Standard" tire at time of advertisement was \$10.35; the sale price in said advertisement is \$7.98, thus affording a saving of \$2.37 rather than \$6.37 as advertised. Furthermore, none of the savings advertised amount to 50 percent when based upon the current list price. The alleged savings are further exaggerated in that they make no allowance for the customary and usual trade-in value of the customer's old tires.

PAR. 7. Another and typical example of the false, misleading, and deceptive representations contained in the various advertisements, disseminated as aforesaid, is the following:

Special Sale
Firestone Convoy
Tubes
50% Off Regular
First Line Tube
List Price

By means of the statements and representations hereinabove set forth, and other similar thereto not specifically set out herein, the

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respondents represent that their "Convoy" tube is a first line tube and is being sold at 50 percent off. In truth, and in fact, said "Convoy" tube is not respondents' first line tube and is not sold at 50 percent off the list price of the "Convoy" tube, but instead the alleged savings are based wholly upon the list price of respondents' higher priced first line tube. The advertised savings are, therefore, entirely false and fictitious.

PAR. 8. Another and typical example of the false, misleading, and deceptive representations contained in the various advertisements, disseminated as aforesaid, is the following:

SMASHING TIRE SALE

Think of It—Your first opportunity
to buy the famous FIRESTONE High Speed
Tire at these unheard of LOW PRICES
25% extra DISCOUNT with your old tire.

By means of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, the respondents represent that their "High Speed" tire is sold at a 25 percent discount from the usual and customary price of said tire. In truth and in fact, the saving or discount to the purchaser on this sale is not 25 percent for the reason that no allowance is given for the used tire as is customary and usual. Giving effect to the 10 percent discount ordinarily and regularly allowed for used tires, the saving to the purchaser would amount to only 16.8 percent rather than 25 percent as advertised.

PAR. 8 (a). Another and typical example of the false, misleading, and deceptive representations contained in the various advertisements disseminated as aforesaid is the following:

SENSATIONAL LABOR DAY SALE

On The Famous

FIRESTONE STANDARD TIRES.

The Thrift Sensation of 1939.

How You Can Get *One* of these Amazing

Tires at ½ PRICE

Buy One at List Price and Get the Next

One at 50% Discount.

Then follows list of sizes and prices, of which the following is an example:

Size	FIRESTONE STANDARD			
	Price for The First Tire	Next Tire 50% Discount	Price for Two Tires	You Save
6.00 x 16	\$10.35	\$5.18	\$15.53	\$5.17
Above prices include your old tire * * *.				

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By means of the statements and representations hereinabove set forth and others similar thereto not specifically set forth herein, the respondent represents that by buying one of its "Standard" tires at list price and a second tire at one-half the list price, a discount of 50 percent is afforded on the second tire and certain savings in dollars are provided upon the purchase of two tires, for example, "\$5.17 for size 6.00 x 16." Such purported discount and savings are exaggerated for the reason that they are based entirely upon the list price of said tires and not upon the regular retail selling prices. The regular retail selling prices of said tires are customarily substantially lower than the list prices due to part payment trade-in allowances for purchasers' old tires and other discounts and reductions brought about by competition. The actual savings afforded a purchaser upon the second tire is therefore substantially less than 50 percent and the dollar savings on two tires is substantially lower than the amounts designated in said advertisement.

PAR. 9. In the course and conduct of their business and in the same manner as hereinbefore described and set forth, respondents cause their said dealers to publish certain false advertisements respecting certain particular qualities and use of their tires. Among and typical of said advertisements is the following:

The only tires made that are safety proved on the Speedway for your protection on the Highway.

By means of the statements and representations hereinabove set forth, the respondents represent that their tires offered to the purchasing public for use as regular equipment on passenger cars are "safety proved on the Speedway." By "Speedway" is meant the annual Memorial Day automobile race held at Indianapolis, Ind. In truth and in fact, the only tires manufactured and sold by respondents and used, tested or proved on the "Speedway" are specially constructed racing tires which are never sold for ordinary use, and the tires manufactured and sold by respondents to the general public for use on passenger cars are not "safety proved on the Speedway."

PAR. 10. Another example of the false, misleading and deceptive representations contained in said advertisements, disseminated as aforesaid, is the following:

They have a scientifically designed tread which stops your car up to 25% quicker.

By means of said representations hereinabove set forth, the respondents represent that the nonskid features of their tires make it possible to stop a car equipped with their tires "up to 25% quicker,"

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which is not the fact under all conditions and as compared to all other tires. In truth and in fact, no nonskid tire can be made to stop an automobile 25 percent quicker than any other nonskid tire, under all conditions.

PAR. 11. Another example of the false, misleading, and deceptive representations contained in said advertisements, disseminated as aforesaid, is the following:

Because life depends on tire safety they choose Firestone Champion Tires—Firestone wins 20th consecutive victory in Indianapolis 500 mile race. A merciless sun beat down upon the Speedway as Wilbur Shaw drove to victory on Firestone Champion Tires. Never before in all the history of the motor car have tires been put to such a torturous test and never before has any tire so firmly established itself as a Champion in construction and performance as well as in name.

Wilbur Shaw, the 1939 winner. On May 30 Wilbur Shaw drove to his second victory in the 500 Indianapolis race on Firestone Champion Tires at an average speed of 115.03 miles per hour.

Appearing in said advertisement is a pictorial representation of a Firestone passenger car tire bearing the name "Champion" and imposed thereon a picture of a man in racing regalia designated as Wilbur Shaw, and a representation of racing cars and grandstand designed to represent an automobile race in progress.

By means of the statements and representations hereinabove set forth, the respondents represent that Wilbur Shaw and other drivers used their "Champion" tires in the 1939 Indianapolis Memorial Day race. In truth and in fact, none of the drivers in said race used Firestone "Champion Tires," but instead used specially built Firestone racing tires, which tires are never offered for sale to the general public for use on passenger cars.

PAR. 12. The use by the respondents of the foregoing false, misleading, and deceptive statements, representations and advertisements, disseminated as aforesaid, with respect to the sales prices of their automobile tires and tubes and the use and particular quality of their tires, has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true, and that respondents' tires and tubes are sold at the saving or discount advertised, and have the particular qualities and are used for the particular purposes as stated in said advertisements, and induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' automobile tires and tubes.

PAR. 13. The aforesaid acts and practices of the respondents, 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 2d day of January 1940, issued and thereafter served its complaint in this proceeding upon the respondents, The Firestone Tire & Rubber Co., a corporation, and Firestone Tire & Rubber Co., a corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On May 29, 1940, the respondents filed their answer in this proceeding. Thereafter, pursuant to a stipulation entered into between the parties, it was agreed that, subject to the approval of the Commission, certain amendments might be made to the complaint, the respondent, The Firestone Tire & Rubber Co., agreeing to said amendments but not admitting the charges as stated therein, and waiving the issuance and service upon it of an amended and supplemental complaint as well as the right to file an answer to the complaint so amended and supplemented, which stipulation has been approved, accepted, and filed. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondent 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 its conclusion based thereon and enter its order disposing of the proceeding, without the filing of a report upon the evidence by the trial examiner. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint as amended, answer and stipulation as to the facts, such stipulation having been approved, accepted, and filed, 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 its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, The Firestone Tire & Rubber Co., is a corporation organized under the laws of the State of Ohio and

has its principal office and place of business in the city of Akron, State of Ohio.

The respondent, Firestone Tire & Rubber Co., was a corporation organized under the laws of the State of West Virginia, with its office and principal place of business located in the city of Akron, State of Ohio. It was a wholly owned sales subsidiary of the said The Firestone Tire & Rubber Co., but since June 30, 1938, has carried on no business whatsoever and was formally dissolved as a corporate entity by the Secretary of State of West Virginia on February 20, 1940.

PAR. 2. The respondent, The Firestone Tire & Rubber Co., an Ohio corporation, is now, and for many years last past has been, engaged in the manufacture, sale, and distribution, among other products, of automobile tires and tubes. Said automobile tires and tubes are manufactured by the respondent, The Firestone Tire & Rubber Co., in factories owned and operated by it in Akron, Ohio, and in factories of its wholly owned subsidiaries in Los Angeles, Calif., and Memphis, Tenn.

In the course and conduct of its business, the respondent, The Firestone Tire & Rubber Co., sells said automobile tires and tubes to the purchasing public, through a large number of company-owned stores and to independent dealers, for resale, both company-owned stores and independent dealers being located in the various States of the United States and in the District of Columbia. Said respondent causes its automobile tires and tubes to be shipped from said factories, located in the several States as above described, to its dealers and company-owned stores located in various other States of the United States, and in the District of Columbia. Said respondent maintains, and at all times mentioned herein has maintained, a course of trade in said automobile tires and tubes in commerce among and between the various States of the United States, and in the District of Columbia.

PAR. 3. The respondent, The Firestone Tire & Rubber Co., manufactures automobile tires which, insofar as the following group is concerned, and during respondent's fiscal year beginning November 1, 1938, were distinguished as follows:

1. "Champion" tire, listed and recommended to be sold at retail at list prices established from time to time by said respondent;

2. "High Speed" tire, listed and recommended to be sold at retail at approximately 90 percent of the price of the "Champion" tire;

3. The "Convoy" tire, listed and recommended to be sold at retail at approximately 75 percent of the price of the "Champion" tire;

4. The "Sentinel" tire, listed and recommended to be sold at retail at approximately 65 percent of the price of the "Champion" tire. In May 1939, the "Sentinel" tire was replaced by the "Standard" tire.

Prior to November 1, 1938, the four tires in the same relative price positions as above, were respectively "High Speed," "Standard," "Convoy," and "Sentinel."

The respondent, The Firestone Tire & Rubber Co., issued price lists to its various retail stores, designating the retail selling prices of its tires, and also furnished price lists to its dealers containing suggested retail selling prices. The retail stores and dealers sell a substantial quantity of respondent's tires at the prices so designated in the price lists, and also sell a substantial number at lesser prices, such prices being brought about by reason of discounts to meet competition and by special sales. It was the practice of respondent to accept the purchasers' used tires in part payment on the purchase price of new tires; this practice, known in the industry as trade-in allowance, amounted to approximately 10 percent of the list price of new tires, during the periods respondent's advertisements as hereinafter set forth were published. The allowances for old tires turned in by the purchasers were based upon the value of said old tires. Except as offered at any particular time, said respondent's stores are not obligated to give a trade-in allowance for purchasers' used tires.

PAR. 4. During the year 1939, the respondent, The Firestone Tire & Rubber Co., prepared and disseminated suggested advertising copy to its various dealers, and during Nation-wide sales periods, it advertised and recommended that its various dealers advertise, in a large number of newspapers having a general circulation, by means of which advertisements it was represented that the said automobile tires were offered for sale at various savings and discounts from the regular or list prices of such tires and at various savings from former prices. Such sales were held immediately prior to July Fourth, Labor Day, and at other periods during the year. Some such sales were also conducted in 1938.

A large number of independent dealers and company-owned stores inserted such advertising, in whole or in part, in numerous newspapers throughout the United States and in the District of Columbia.

PAR. 5. Among and typical of the representations contained in the various advertisements disseminated by respondent as aforesaid, is the following:.

**SAVE 25% With the New
FIRESTONE CONVOY TIRE
New High Quality at a
New Low Price
Priced to Save you Money**

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Then follows a list of sizes with prices, of which the following is an example:

6.00-16 \$11.80

The Commission finds that said respondent represented, through the use of the above statements and representations that its "Convoy" tire was offered for sale at savings of 25 percent off the regular current retail selling price of said tire.

At the time of publication of said advertisement in April 1938, "Convoy" tires were being offered for sale at a savings of 25 percent off the current retail list price of the higher priced "High Speed" tire, but not at a savings of 25 percent off the current retail list price of the "Convoy" tire. For example, the list price of the 6.00 x 16 "High Speed" tire in effect at the time of publication of the advertisement was \$15.70; the advertised sale price of \$11.80 represented a savings of 25 percent off the list price of the "High Speed" tire; however, the list price of the 6.00 x 16 "Convoy" tire at said time was \$11.80 and therefore the advertised sales price represented no saving whatsoever off the list price of the said "Convoy" tire.

PAR. 6. Another and typical example of the representations contained in the various advertisements disseminated by respondent as aforesaid is the following:

BUYING DURING
Firestone BARGAIN DAYS
For July 4th
Save Up to 50%
On Famous
Firestone Standard Tires
Amazing Savings

Then follows list of sizes with prices, of which the following is an example:

Size	Former Price	Sale Price	You Save
6.00-16	\$14.35	\$7.98	\$6.37
	Including Your Old Tire		

The Commission finds that said respondent represented, through the use of the above statements and representations that it was offering its "Standard" tire for sale at savings of up to 50 percent from the regular current retail selling price of said tire and that the designated savings in dollars were based upon the regular current selling prices of said tire.

At the time of publication of said advertisement in June 1939, "Standard" tires were being offered for sale at up to 50 percent off the retail list prices of "Standard" tires in effect prior to November

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1, 1938, on which date "Standard" tires were removed from respondent's line of products and not thereafter nationally advertised until June 1939, after respondent resumed production of "Standard" tires; "Standard" tires were in June 1939, being offered for sale at a savings of up to 50 percent off the current retail list price of the higher-priced "High Speed" tire, but not at a savings of up to 50 percent off the current retail list price of the "Standard" tire.

Prior to November 1, 1938, the "Standard" tire was listed and recommended to be sold at \$14.35 for size 6.00 x 16; but at the time of publication of said advertisement the list price was \$10.35. The advertised sale price of \$7.98 provided the advertised saving of \$6.37 off the list price of the "Standard" tire in effect prior to November 1, 1938, but provided a dollar saving of only \$2.37 and a percentage saving of only 22.89 percent off the list price of said "Standard" tire in effect at the time of the publication of said advertisement. The advertised price did not take into account the usual and customary part-payment trade-in allowance of 10 percent credited to purchasers in the sale of new tires. Therefore, the dollar saving was only \$1.34 per tire and the percentage saving was only 14.38 percent. None of the advertised sales prices afforded a discount of up to 50 percent based upon the list price of "Standard" tires in effect at the time of the publication of said advertisement. Should the savings be computed upon the regular current retail selling prices of such tires rather than upon list prices, the savings would be even less since the retail selling prices are often substantially less than the list prices.

PAR. 7. Another typical example of the representations contained in the various advertisements disseminated by respondent as aforesaid is the following:

SMASHING TIRE SALE

*Think of it—Your first opportunity
to buy the famous FIRESTONE High Speed
Tire at these unheard of LOW Prices
25% extra DISCOUNT with your old tire.*

The Commission finds that said respondent represented, through the use of the above statements and representations that it was offering its "High Speed" tires at 25 percent off the regular current retail selling price of said tire and that a purchaser by buying said "High Speed" tire and turning in his used tire would receive a discount of 25 percent from the regular current retail selling price.

Prior to the time of publication of said advertisement, "High Speed" tires were being offered for sale at the current list price of said "High Speed" tires, and in part payment therefor the customer was credited with a 10-percent trade-in allowance for his used tire;

at the time of publication of said advertisement the customer was required to turn in his used tire and was not credited with any allowance for said used tire. Since the purchaser was not credited with the usual 10 percent trade-in allowance for his used tire during the advertised sale, reduction in cash payment was only 16.8 percent.

PAR. 8. Another typical example of the representations contained in the various advertisements disseminated by respondent as aforesaid is the following:

SENSATIONAL LABOR DAY SALE

On the Famous

FIRESTONE STANDARD TIRES

The Thrift Sensation of 1939.

How You Can Get *One* of these Amazing

Tires at 1/2 PRICE

Buy One at List Price and Get the Next

One at 50% Discount.

Then follows list of sizes and prices, of which the following is an example:

FIRESTONE STANDARD

Size	Price for The First Tire.	Next Tire 50% Discount	Price for Two Tires	You Save
6.00 x 16	\$10.35	\$5.18	\$15.53	\$5.17
Above prices include your old tire * * *				

The Commission finds that said respondent represented, through the use of the above statements and representations that by buying one "Standard" tire at list price and second at 50 percent off list price that the savings designated in said advertisement would be afforded the purchaser.

By said advertisement, respondent offered its "Standard" tire for sale in pairs, the first tire at list price and the second tire at half of the list price. Such a combination sale did not, however, provide the savings set out in the advertisement for the reason that the designated savings were computed upon current list prices and not upon regular current retail selling prices. A substantial quantity of respondent's "Standard" tires were sold at prices lower than list prices, such lower prices being due to discounts to meet competition, special sales, and part payment trade-in allowances for purchasers' old tires. Taking size 6.00 x 16 as an example and giving credit for the customary 10 percent trade-in allowance for purchasers' old tires, the regular selling price of two tires, without taking into consideration reductions that might be brought about by competitive

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situations would be \$18.63. The sale price of \$15.53 would result in a saving of \$3.10 rather than \$5.17 as advertised.

PAR. 9. The Commission finds that substantial number of the purchasing public understand and believe that advertised savings or discounts are reductions from the regular retail selling prices charged for the same merchandise in the ordinary course of business immediately prior in point of time to such advertised sale; that they understand that "list prices," as used in tire advertising, referred to and meant the regular retail selling prices of the tires advertised for sale, and that any represented savings or discounts from such list prices were reductions from the regular retail selling prices of the same tires in effect immediately prior in point of time to such advertised sale.

PAR. 10. The use by the respondent, the Firestone Tire & Rubber Co., of the foregoing statements, representations and advertisements, disseminated as aforesaid, has had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into an erroneous and mistaken belief with respect to the savings and discounts actually offered, and induced a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase said respondent's automobile tires.

CONCLUSION

The aforesaid acts and practices of the respondent, The Firestone Tire & Rubber Co., a corporation, 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 The Firestone Tire & Rubber Co. 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 on the respondent The Firestone Tire & Rubber Co. findings as to the facts and conclusion based thereon and an order disposing of this proceeding, 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 The Firestone Tire & Rubber Co., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in advertising in newspapers or other recognized advertising media, in connection with the offering for sale, sale and distribution of its automobile tires and tubes to the general public, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "List Price" or any other term of similar import or meaning to designate, describe, or refer to prices which are not, in fact, the bona fide regular established selling prices of the tires or tubes advertised and offered for sale, as established by the usual and customary sales in the normal course of business.

2. Representing, directly or indirectly, that any specified amount is the customary, regular, or usual price of any tire or tube advertised and offered for sale when such amount is not, in fact, the bona fide actual selling price of such tire or tube as established by the usual and customary sales in the normal course of business.

3. Representing, directly or indirectly any specified amounts or percentages as savings or discounts which are not actual savings or discounts computed on the bona fide, usual, and customary selling price for such tires or such tubes in effect immediately prior in point of time to such representation.

4. Representing, directly or indirectly, that any specified savings or discounts are offered a purchaser upon the purchase of certain of its tires or tubes when such savings or discounts are computed upon the regular selling or list prices of its higher priced tires or tubes.

5. Representing, directly or indirectly, that a specified tire or tube is offered for sale when such tire or such tube is not so offered but instead another tire or tube of different kind or brand.

6. Representing, directly or indirectly, that specific savings or discounts are afforded a purchaser upon the purchase of tires or tubes when such savings or discounts do not take into account the trade-in allowances usually and customarily made to purchasers in the sale of such tires or such tubes in the ordinary course of business.

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.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to the respondent Firestone Tire & Rubber Co., and that the charges as stated in paragraphs 7, 9, 10, and 11 of the complaint be, and they hereby are, dismissed without prejudice to the right of the Commission to proceed thereon in the future in any appropriate manner.

IN THE MATTER OF
THE GOODYEAR TIRE AND RUBBER COMPANY, AND THE
GOODYEAR TIRE AND RUBBER COMPANY, INC.

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

Docket 3984. Complaint, Feb. 27, 1940¹—Decision, June 18, 1941

Where a corporation, the wholly owned subsidiary and selling and distributing agent for a second corporation, manufacturer, with its subsidiaries, of several grades of automobile tires, engaged in the interstate sale and distribution thereof through a number of company-owned stores and to independent dealers located in various states, both of whom it supplied with price lists respectively designating and suggesting retail selling prices and both of whom sold a substantial quantity of its tires at such prices and also a substantial number at lesser prices to meet competition and by special sales, its sales program contemplating a trade-in allowance of approximately 10 percent of list prices for old tires; and said second corporation;

In advertising their "G-100 All-Weather," "G-3 All-Weather," "Marathon," and "Pathfinder" tires—Relatively priced in that order, the latter three at approximately 90 percent, 75 percent, and 65 percent of said "G-100 All-Weather" tire price—by means of suggested advertising copy prepared and disseminated by former to their dealers and by advertisements during Nation-wide sale periods immediately prior to July 4, Labor Day, and at other periods, and which were inserted by a large number of independent dealers and company-owned stores, in whole or in part, in numerous newspapers—

- (a) Represented, as typical, that their "Pathfinder" tire was offered for sale at a discount of 50 percent from the regular current retail selling price thereof, with old tire, through advertising "Save on tires June 20th to July 4th 50% SAVING * * * Think of it. For ½ the cost of little known 'Standard Tires' you get the PATHFINDER * * *" followed by list of sizes with prices, including, as example, "6.00 x 16—\$7.98 Net Prices Including Your Old Tire";

Facts being that while said tires were being offered for sale at 50 percent off the retail list price of the higher-priced "G-100 All-Weather" tire, retail list price of the 6.00-16 size of which, at time of said advertisement, was \$15.95, it was not offering them at a discount of 50 percent off the retail list price of "Pathfinder" tire, which was \$10.35; the advertised sales price of \$7.98 consequently represented a saving of only 22.89 percent, and if effect were given to the customary part payment trade-in allowance, the saving would be only 14.38 percent;

- (b) Represented that they were offering their "G-100" tire for sale at a discount of 50 percent, and that the list price of their "Pathfinder" tire was \$15.95, through advertisements "Save On Tires June 27 to July 4 50% off G-100 list * * * You get the PATHFINDER * * *," followed by list of tire sizes with prices, including, as example, "6.00 x 16 Standard Equipment List Price \$15.95. Pathfinder Sale Price \$7.98. Net prices including your old tire";

¹ Amended and supplemental.