

Order

IN THE MATTER OF

PHILIP R. PARK, INC. AND PHILIP R. PARK, HARRISON H.
HAVNER, JOHN S. HUNT AND PHILIP E. IVERSEN

MODIFIED CEASE AND DESIST ORDER

Docket 4504. Order, April 20, 1944

Modified order, pursuant to provisions of Sec. 5 (i) of the Federal Trade Commission Act, and in accordance with decree below referred to, in proceeding in question, in which original order issued on April 27, 1943, 36 F.T.C. 541, and in which Circuit Court of Appeals for the Ninth Circuit, on January 6, 1944, in *Philip R. Park, Inc., et al. v. Federal Trade Commission*, issued its final decree modifying aforesaid order of the Commission in certain particulars, and affirming and enforcing the same as thus modified—

Requiring respondent, its officers, etc., in connection with offer, etc., of "ManAmar" or "Cattle ManAmar," or any other similar feeds or feed supplements, to cease and desist from disseminating, etc., any advertisements, etc., to induce, etc., purchase in commerce, etc., of respondents' products, which misrepresent therapeutic value of products in question as in order specified; or misrepresenting, in connection with offer, etc., in commerce, of said feeds or feed supplements, therapeutic value thereof for certain ailments or conditions, or comparative value or qualities or properties thereof, as in said order in detail set forth.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission, and it appearing that on April 27, 1943, the Commission made its findings as to the facts herein and concluded therefrom that the respondents had violated the provisions of the Federal Trade Commission Act, and issued and subsequently served its order to cease and desist upon the respondents; and it further appearing that respondents thereafter filed their petition to review and set aside the said order to cease and desist in the Circuit Court of Appeals for the Ninth Circuit; that thereafter by stipulation signed by counsel for the Commission and counsel for respondents dated December 24, 1943, it was agreed that subparagraph 5 of the second part of said order should be modified in certain respects as specifically set out in said stipulation and that the Court should enter its decree modifying said order to cease and desist in said particulars and affirming and enforcing said order as so modified; that on January 6, 1944, the said Circuit Court issued its decree modifying, affirming and enforcing the said order to cease and desist in conformity with said stipulation.

Now, therefore, Pursuant to the provisions of subsection (i) of section 5 of the Federal Trade Commission Act, the Commission issues this, its modified order to cease and desist in conformity with said decree:

It is ordered, That the respondent, Philip R. Park, Inc., a corporation, its officers, representatives, agents, and employees, and respondents, Philip R. Park, John S. Hunt, Philip E. Iversen, and Harrison H. Havner, individually, and as officers and directors of Philip R. Park, Inc., a corporation, and their respective representatives, agents, and employees, directly or through any corporate or other device in connection with the

offering for sale, sale, or distribution of livestock feeds or feed supplements for cattle and other livestock known as "ManAmar" or "Cattle ManAmar," or any other 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 respondents' product has any therapeutic value in the treatment of any germ or infectious disease of cattle or that its use is of any value in the prevention of any such disease or condition.

(b) That respondents' product has any therapeutic value or beneficial effect in the treatment of any breeding disorder of cattle or is of any value in preventing such disorder.

(c) That respondents' product has any therapeutic value or beneficial effect in the treatment of retained placenta or that its use will have any value in preventing such condition.

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 respondents' product, which advertisement contains any of the representations prohibited in paragraph 1 hereof and the respective subdivisions thereof.

It is further ordered, That the respondent, Philip R. Park, Inc., a corporation, its officers, representatives, agents, and employees, and respondents. Philip R. Park, John S. Hunt, Philip E. Iversen, and Harrison H. Hayner, individually, and as officers of Philip R. Park, Inc., a corporation, and their respective representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of livestock feeds or feed supplements for cattle and other livestock known as "ManAmar" or "Cattle ManAmar," or any other product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing:

1. That respondents' product will have any therapeutic value in the treatment of mastitis or that its use is of any value in the prevention of such condition.

2. That respondents' product has any therapeutic value in the treatment of any germ or infectious disease of cattle or that its use is of any value in the prevention of any such disease or condition.

3. That respondents' product has any therapeutic value or beneficial effect in the treatment of any breeding disorder of cattle or that its use is of any value in preventing such disorder.

4. That respondents' product has any therapeutic value in the treatment of retained placenta, infectious abortion, or Bang's disease, or that its use will have any beneficial effect upon such conditions or any value in preventing such conditions.

5. That respondents' product is a better supplement to feeds or constitutes a better feed for cattle than all other feeds or feed supplements on the market.

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6. That the use of respondents' product will eliminate the necessity of veterinary treatment.

It is further ordered, That the respondents shall, within 30 days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
NATIONAL CREPE PAPER ASSOCIATION
OF AMERICA, ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4606. Complaint, Oct. 7, 1941—Decision, Apr. 22, 1944

Where a trade association, and eight corporations, members or former members thereof comprising all the manufacturers in the United States of crepe paper, and in competition with one another except insofar as such competition has been suppressed as below set forth;

- (a) Continued in operation and effect, subsequent to the Supreme Court decision invalidating the National Industrial Recovery Act, agreements and understandings to restrain and suppress price competition in the sale of aforesaid products, originally inaugurated under said Act; and

Where aforesaid manufacturers, pursuant to and in furtherance of such conspiracy—

- (b) Agreed to and did, from time to time, file their price lists showing current and future prices for their products, and agreed that information disclosed thereby should be disseminated among them by the Association, which was so done, and in the case of some, filed with the Association copies of invoices showing details of specific sales; and

Where said Association and manufacturers, in further pursuance of their agreements—

- (c) Cooperatively established and maintained a "zoning plan," under which the United States was divided into geographical zones and uniform delivered prices were established for all purchasers located within a particular zone, with uniform price differentials among the several zones;
- (d) Classified purchasers as jobbers, syndicates, etc., depending upon the quantity of paper they purchased, and established uniform prices and price differentials for each class of purchasers;
- (e) Entered into and put into effect agreements governing various other matters affecting the prices of their products, including creping ratios, sizes, weights, and the sale of seconds or close-outs; and

Where, through use of such means and methods, aforesaid manufacturers—

- (f) Cooperatively established and maintained uniform prices for their products whereby competition in price was substantially restrained and suppressed;

Tendency and capacity and effect of which agreements, etc., and acts and things done in furtherance thereof, were unduly and unlawfully to prevent price competition among manufacturers concerned in the sale of crepe paper in commerce, and to restrain trade in such products therein:

Held, That their said acts and practices, as above set forth, were all to the prejudice of the public and constituted unfair methods of competition in commerce.

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. Reuben J. Martin for the Commission.

Mr. Joseph J. Brown, of Philadelphia, Pa., for National Crepe Paper Ass'n of America, *George J. Lincoln, Jr.*, American Tissue Mills, The Papyrus Co., C. A. Reed Co. and The Tuttle Press Co., and along with—
Mr. Randolph Montgomery, of New York City, for Charles T. Bainbridge's Sons.

Knapp, Cushing, Hershberger & Stevenson, of Chicago, Ill., for Fort Howard Paper Co.