

Order

45 F. T. C.

IN THE MATTER OF
MORTON SALT COMPANY

MODIFIED CEASE AND DESIST ORDER

Docket 4319. Nov. 2, 1948

Modified order, in proceeding in question, in which (1) the original findings as to the facts, conclusion, and order to cease and desist issued on July 28, 1944, 39 F. T. C. 35; (2) modified findings and order, following remand of the case by the Circuit Court of Appeals for further consideration of the Commission, issued on April 14, 1945, 40 F. T. C. 388; and (3) the Circuit Court of Appeals on July 8, 1948, 45 F. T. C., entered a final decree further modifying the aforesaid order to cease and desist, pursuant to the opinion announced on May 3, 1948, by the Supreme Court of the United States, 334 U. S. 37, 44 F. T. C. 1499.

Requiring respondent, its officers, etc., in the sale of its "Free Running Table Salt, plain or iodized" or other grades of table salt in commerce, to cease and desist from discriminating directly or indirectly in the price of such products of like grade and quality as among wholesale or retail dealers purchasing said salt when the differences in price are not justified by difference in cost of manufacture, sale, or delivery, resulting from differing methods or quantities in which such products are sold or delivered, as in said order in detail below set forth.

Before *Mr. James A. Purcell*, trial examiner.

Mr. Donovan R. Divet for the Commission.

McBride & Baker, of Chicago, Ill., for respondent.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of the respondent, testimony, and other evidence in support of the allegations of said complaint and in opposition thereto taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence and exceptions filed thereto, briefs in support of the complaint and in opposition thereto, and oral argument of counsel, the Commission, having considered the matter, made and issued its findings as to the facts, conclusion, and order to cease and desist on July 28, 1944;

Thereafter, said cause was remanded by the Circuit Court of Appeals for the further consideration of the Commission, and the Commission, having reconsidered the matter and the record herein, made and issued on April 14, 1945, its modified findings as to the facts, its conclusion that respondent has violated the provisions of subsection

(a) of section 2 of an act of Congress entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (Clayton Act), as amended by an act approved June 19, 1936 (Robinson-Patman Act), and its order to cease and desist; and

The Circuit Court of Appeals having, on July 8, 1948, entered a final decree further modifying the aforesaid order to cease and desist, pursuant to the opinion announced on May 3, 1948, by the Supreme Court of the United States:

Now therefore it is hereby ordered, That respondent, Morton Salt Co., a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device in the sale of Morton's Free Running Table Salt, plain or iodized, or other grades of table salt in commerce as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from discriminating directly or indirectly in the price of such products of like grade and quality as among wholesale or retail dealers purchasing said salt when the differences in price are not justified by difference in the cost of manufacture, sale, or delivery, resulting from differing methods or quantities in which such products are sold or delivered,

(a) By selling such products to some wholesalers thereof at prices different from the prices charged other wholesalers who, in fact, compete in the sale and distribution of such products.

(b) By selling such products to some retailers thereof at prices different from the prices charged other retailers who, in fact, compete in the sale and distribution of such products.

(c) By selling such products to any retailer at prices lower than prices charged wholesalers whose customers compete with such retailer.

For the purpose of comparison, the term "price" as used in this order takes into account discounts, rebates, allowances, and other terms and conditions of sale.

IN THE MATTER OF
**THE UNIVIS LENS COMPANY AND THE UNIVIS LENS
CORPORATION**

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

Docket 5351. Complaint, Apr. 22, 1946¹—Decision, Nov. 12, 1948

All bifocal lenses in common use today are based on the same general principle and consist of a spectacle lens for use in distance vision, into a portion of which there has been inserted a small lens segment designed to correct the vision for close work, and the question as to which of the various shapes and sizes of said reading segments is best adapted for any given individual depends upon a number of circumstances, one of the most important of which is the occupation or activity in which the individual is to engage when wearing the glasses.

Where a corporation engaged in the manufacture, sale, and distribution in commerce of its "Univis 2-Way Lenses" and "Univis 3-Way Lenses," together with its patent-owning and advertising subsidiary, in competition with others similarly engaged in the sale of multifocal lenses, including lenses in which the bifocal segments had rolled or rounded tops instead of the straight top made use of by said corporation and its subsidiary; through advertising statements and depictions in magazines and other publications—

- (a) Falsely represented that the user of spectacles made with round top reading segments must tilt his head and otherwise assume an unnatural, uncomfortable and conspicuous head position in order to read through said round top bifocals, whereas the user of their spectacles with the flat top reading segments, when reading, maintained his head in a natural, comfortable, and inconspicuous position;
- (b) Falsely represented that said competitive lenses caused distress, discomfort and eyestrain and gave the wearer an aged and conspicuous look, while the opposite was true of the user of spectacles made with their lenses; and
- (c) Falsely represented that in the round top bifocal lenses the line of demarcation between the reading segment and the distance vision segment was more conspicuous than the corresponding line in their straight top bifocals;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that their representations were true and into the purchase of substantial quantities of their lenses; whereby trade was unfairly diverted to them from their competitors and substantial injury was done to said competitors in the sale of their products in commerce:

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

¹ Amended.