

Complaint

48 F. T. C.

IN THE MATTER OF

COVIDEO, INC. ET AL.

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

Docket 5923. Complaint, Sept. 14, 1951—Decision, Feb. 29, 1952

Where a corporation and its two officers and owners, engaged in the interstate sale and distribution of "Covideo" coin-operated television sets for use in hotels, motor courts, hospitals, and similar places; in advertising their said product in magazines and newspapers and by circulars, directly and by implication—

- (a) Falsely represented that they owned, operated or controlled a plant or factory where they manufactured coin-operated radios and television sets and component parts thereof;
- (b) Represented that said corporation was not a new company but had been in the field for several years; the facts being that, organized in July 1949, it commenced doing business in the following October;
- (c) Falsely represented that they maintained a staff of competent engineers and technicians and adequate facilities for research and experimentation in the field of television; and
- (d) Falsely represented that said staff engaged in over two years of research and experimentation in said field, the results of which were embodied in their said "Covideo" product, before its offer for sale;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such advertisements were true and thereby induce its purchase of substantial quantities of their coin-operated television sets:

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. J. Earl Cox*, hearing examiner.

Mr. John F. Walsh for the Commission.

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 Covideo, Inc., a corporation, Sidney I. Horwatt and Louis Brown, individually and as officers of Covideo, Inc., hereinafter 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 the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Covideo, Inc., is a corporation, duly organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 212 Broadway, New York, New York.

Individual respondents Sidney I. Horwatt and Louis Brown are, respectively, president and vice-president of said corporate respondent Covideo, Inc. and, acting in such respective capacities, said respondents formulate, direct and control the practices and policies of corporate respondent, including the advertising and other representations used and business practices employed by corporate respondent, as hereinafter related. Individual respondents own the entire capital stock of corporate respondent and their principal office and place of business is that of said corporate respondent.

PAR. 2. Respondents are now and for more than one year last past have been engaged in the sale and distribution of coin-operated television sets designated by them as "Covideo," for use in hotels, motor courts, hospitals and similar places.

Respondents cause their said coin-operated television sets, when sold by them, to be transported from their aforesaid place of business in the State of New York to purchasers thereof located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said coin-operated television sets in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of their said business and for the purpose of inducing the purchase of their said coin-operated television sets, respondents have circulated among their prospective purchasers, throughout the United States, by advertisements inserted in magazines and newspapers and by circulars sent through the mails, many statements and representations concerning their said coin-operated television sets. Among and typical of such statements and representations, disseminated as aforesaid, but not all-inclusive, are the following:

Just a word about Covideo, Inc.

We were pioneers in the manufacture of Coradio coin-operated radios; and, thousands upon thousands of our Coradio sets are in operation throughout the nation piling up profits every day for hundreds of operators . . . We mention the above so that you'll know we're not a new company; but, one that has been in the field for years and enjoys an enviable reputation for successful operation.

Covideo, Inc.

* * * * *

. . . national manufacturer has openings available in this city and surrounding communities for responsible party to independently own and operate PROFIT-

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ABLE new metal streamlined TAMPER-PROOF coin-operated television sets, fully guaranteed.

Coin-operated equipment . . . It must be built to give constant service at a minimum cost.

* * * * *

Our engineering staff spent better than two years in research and experimentation on these Covideo sets to insure perfect, troublefree operation.

PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto, not specifically set out herein, respondents represent and have represented, directly and by implication:

That respondents own, operate or control a plant or factory where they manufacture radios, television sets and component parts thereof; that respondent corporation is not a new company but has been in the field for several years; that respondents maintained a staff of competent engineers and technicians and adequate facilities for research and experimentation in the field of television, and that this staff engaged in over two years of research and experimentation in this field, the results of which were embodied in "Covideo" before it was offered for sale.

PAR. 5. The foregoing claims, statements and representations are grossly exaggerated, false and misleading. In truth and in fact, respondents do not operate a plant or factory where they manufacture radios, television sets and component parts thereof. On the contrary, the said television sets sold by respondents are bought, fully assembled, by respondents from other corporations, firms and individuals.

The corporate respondent is a new company, having been in business for only two years.

Respondents have not maintained a staff of competent engineers and technicians and adequate facilities for research and experimentation in the field of television, nor did such a staff engage in research and experimentation in this field, the results of which were embodied in "Covideo" before it was offered for sale.

PAR. 6. There is a preference on the part of dealers and of a substantial portion of the purchasing public for dealing directly with and buying directly from manufacturers, by virtue of the belief that through such purchases they obtain advantages in price and in other respects.

PAR. 7. The use by respondents of the foregoing false and misleading advertisements and representations, employed and disseminated as aforesaid, had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and

mistaken belief that such advertisements were true and to induce by reason of such erroneous and mistaken belief, a substantial number of the public to purchase substantial quantities of respondents' said coin-operated television sets.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, are all to the injury and prejudice of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated February 29, 1952, the initial decision in the instant matter of Hearing Examiner J. Earl Cox, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 14, 1951, issued and subsequently served its complaint in this proceeding upon respondents Covideo, Inc., a corporation, and Sidney I. Horwitt (referred to in the complaint as Sidney I. Horwatt) and Louis Brown, individually and as officers of said corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. After the issuance of said complaint, the corporate respondent answered. No answer was filed by either of the individual respondents, but they both appeared and testified at the hearing which was held pursuant to notice and at which testimony and other evidence in support of and in opposition to the allegations of the said complaint were introduced before the above-named hearing examiner theretofore duly designated by the Commission. Said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final consideration by said hearing examiner on the complaint, the answer thereto, testimony and other evidence, proposed findings as to the facts and conclusions presented by counsel, oral argument not having been requested. Said hearing examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Covideo, Inc., is a corporation, duly organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 212 Broadway, New York, New York.

Individual respondents Sidney I. Horwitt and Louis Brown are, respectively, president and vice-president of said corporate respondent Covideo, Inc., and, acting in such respective capacities, said respondents formulate, direct and control the practices and policies of corporate respondent, including the advertising and other representations used and business practices employed by corporate respondent, as hereinafter related. The individual respondents own the entire capital stock of corporate respondent and their principal office and place of business is that of said corporate respondent.

PAR. 2. Respondents are now and for more than one year last past have been engaged in the sale and distribution of coin-operated television sets, designated by them as "Covideo," for use in hotels, motor courts, hospitals and similar places.

Respondents cause their said coin-operated television sets, when sold by them, to be transported from their aforesaid place of business in the State of New York to purchasers thereof located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said coin-operated television sets in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of their said business and for the purpose of inducing the purchase of their said coin-operated television sets, respondents have circulated among their prospective purchasers, throughout the United States, by advertisements inserted in magazines and newspapers and by circulars sent through the mails, many statements and representations concerning their said coin-operated television sets. Among and typical of such statements and representations, disseminated as aforesaid, but not all-inclusive, are the following:

Just a word about Covideo, Inc.

We were pioneers in the manufacture of Coradio coin-operated radios; and, thousands upon thousands of our Coradio sets are in operation throughout the nation piling up profits every day for hundreds of operators . . . We mention the above so that you'll know we're not a new company; but, one that has been in the field for years and enjoys an enviable reputation for successful operation.

. . . national manufacturer has openings available in this city and surrounding communities for responsible party to independently own and operate PROFITABLE new metal streamlined TAMPER-PROOF coin-operated television sets, fully guaranteed.

Coin-operated equipment . . . It must be built to give constant service at a minimum cost.

Our engineering staff spent better than two years in research and experimentation on these Covideo sets to insure perfect, troublefree operation.

PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto, not specifically set out herein, respondents have represented and represent, directly and by implication,

That respondents own, operate or control a plant or factory where they manufacture coin-operated radios, coin-operated television sets and component parts thereof; that respondent corporation is not a new company but has been in the field for several years; that respondents have maintained and now maintain a staff of competent engineers and technicians and adequate facilities for research and experimentation in the field of television, and that this staff engaged in over two years of research and experimentation in this field, the results of which were embodied in "Covideo" before it was offered for sale.

PAR. 5. The foregoing claims, statements and representations are grossly exaggerated, false and misleading. In truth and in fact, respondents do not manufacture, nor do they own, operate or control a plant or factory where they manufacture coin-operated radios, coin-operated television sets or any of the component parts thereof.

The corporate respondent was organized in July 1949 and commenced doing business in October 1949.

Respondents have not maintained and do not now maintain a staff of competent engineers and technicians and adequate facilities for research and experimentation in connection with the development and manufacture of coin-operated television sets, nor did such a staff engage in research and experimentation in this field, the results of which were embodied in "Covideo" before it was offered for sale.

PAR. 6. There is a preference on the part of dealers and of a substantial portion of the purchasing public for dealing directly with and buying directly from manufacturers, by virtue of the belief that through such purchases they obtain advantages in price and in other respects.

PAR. 7. The use by respondents of the foregoing false and misleading advertisements and representations, employed and disseminated as

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aforesaid, had and has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such advertisements were and are true and to induce, by reason of such erroneous and mistaken belief, a substantial number of the public to purchase substantial quantities of respondents' said coin-operated television sets.

CONCLUSIONS

The aforesaid acts and practices of respondents, 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

It is ordered, That the respondents, Covideo, Inc., a corporation, and Sidney I. Horwitt and Louis Brown, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of coin-operated television sets or any other similar electronic product or any component part thereof in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

(1) That they manufacture coin-operated radios or coin-operated television sets or any component parts of either;

(2) That respondent Covideo, Inc., is not a new company, or that it has been in business for any greater period of time than is actually the fact;

(3) That they maintain a staff of competent engineers and technicians, or adequate facilities for research and experimentation either in the field of television or in connection with the development and manufacture of coin-operated television sets;

(4) That the coin-operated television sets they sell embody the results of research and experimentation by their own staff of engineers or technicians.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondents herein shall, within sixty (60) 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 the order to cease and desist [as required by said declaratory decision and order of February 29, 1952].

Syllabus

IN THE MATTER OF

PERMANENT STAINLESS STEEL, INC. ET AL.

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

Docket 5936. Complaint, Nov. 20, 1951—Decision, Mar. 6, 1952

Where a corporation and its president, engaged in the interstate sale and distribution of their "High Thermal Permanent Stainless Steel Cookware" principally through agents who solicited the public by demonstrations before groups of prospective purchasers at which pamphlets and charts were exhibited and distributed, accompanied by sales talks taken from sales manuals supplied by them—

- (a) Disparaged competitors' utensils through falsely representing that consumption of food cooked or kept in aluminum utensils would cause cancer; that foods so cooked or kept in aluminum are detrimental and hazardous to health; and that the preparation of food in aluminum utensils causes formation of poisons, and unfavorable chemical reaction;
- (b) Directly and through many of their sales representatives unfairly disparaged and injured a competitor by falsely representing that said competitor was no longer in business or would not be in business much longer, and falsely reflecting upon its solvency and financial responsibility and thereby indicating that said competitor was not in position to fulfill its orders and otherwise comply with its contractual obligations;
- (c) Represented falsely, through charts supplied for use in said cooking demonstrations, that their utensils had been endorsed by health authorities; that use thereof would result in saving money on foods and medicine, would result in less illness, and provided a cooking method especially conducive to health, and that preparation of food therein would aid digestion;
- (d) Represented falsely, through charts which were supplied and used as above described and referred to minerals and vitamin losses in foods caused by boiling and prolonged high temperatures, that ordinary cooking methods with other utensils would result in destruction or loss of minerals and vitamins so as to prevent the consumer from receiving his minimum requirements thereof, and that their utensils would retain the minerals and vitamins of food cooked therein to a greater extent than would those of any competitor;
- (e) Falsely represented and implied that calcium gives vitality; that magnesium prevents and relieves constipation; that iodine keeps cells active; that sulphur purifies and tones the human system; that sodium aids digestion and purifies the blood; that chlorine cleanses, disinfects, and expels waste from the human body; that fluorine has a beneficial effect by strengthening the body and building resistance; that potassium is a liver activator and creates grace and beauty; that silicon nourishes nails, skin and the hair; that manganese increases resistance; and that phosphorus nourishes brain cells;

With capacity and tendency to deceive and mislead a substantial portion of the purchasing public into the erroneous belief that such representations