

IN THE MATTER OF
SYLVANIA ELECTRIC PRODUCTS, INC., ET AL.

Docket 5728. Complaint, Dec. 21, 1949—Decision, Sept. 23, 1954

Dismissal, upon appeal of respondent from the hearing examiner's decision—not opposed by counsel supporting the complaint—on the ground that respondents had established a cost justification defense, of complaint charging the manufacturer of 25 per cent of the domestic production of radio receiving tubes with granting discriminations in prices in violation of sec. 2 (a) of the Clayton Act, as amended, in the sale of such tubes to the largest domestic manufacturer of radio receiving sets, and charging the latter with violation of sec. 2 (f) of that Act through knowingly inducing and receiving such discriminatory prices.

Before *Mr. Webster Ballinger*, hearing examiner.

Mr. James I. Rooney, Mr. James S. Kelaher, Mr. Philip R. Layton and Mr. Francis C. Mayer for the Commission.

Ropes, Gray, Best, Coolidge & Rugg, of Boston, Mass., and *Covington & Burling*, of Washington, D. C., for Sylvania Electric Products, Inc.

Weaver & Glassie, of Washington, D. C., and *Ballard, Spahr, Andrews & Ingersoll*, of Philadelphia, Pa., for Philco Corp.

ORDER GRANTING APPEAL FROM INITIAL DECISION AND DISMISSING
COMPLAINT

This matter having come on to be heard by the Commission upon the appeal of respondent Sylvania Electric Products, Inc., from the hearing examiner's initial decision, which appeal is not opposed by counsel supporting the complaint; and

The Commission having duly considered said appeal and the entire record herein and being of the opinion, for the reasons stated in the accompanying opinion of the Commission, that the appeal is well taken:

It is ordered that the appeal of respondent Sylvania Electric Products, Inc., from the hearing examiner's initial decision be, and it hereby is, granted.

It is further ordered that the complaint in this proceeding be, and it hereby is, dismissed.

OPINION OF THE COMMISSION

By Carretta, Commissioner:

This matter is before us upon an appeal by respondent Sylvania Electric Products, Inc., from the hearing examiner's initial decision.

Counsel supporting the complaint do not oppose the appeal and state that they do not believe the public interest requires an order in this proceeding.

The complaint charges respondent Sylvania Electric Products, Inc., with granting discriminations in prices in violation of Section 2 (a) of the Clayton Act, as amended, and respondent Philco Corporation with knowingly inducing and receiving discriminatory prices in violation of Section 2 (f) of that Act, all in connection with the sale by Sylvania, and the purchase by Philco, of radio receiving tubes. After taking testimony and other evidence in support of and in opposition to the allegations of the complaint, and after considering the entire record, including proposed findings and conclusions submitted by respective counsel, motion to dismiss filed by respondent Philco, and oral argument of counsel, the hearing examiner made and filed his initial decision in which he found that the charge in the complaint with respect to respondent Sylvania is sustained by the evidence in the record and ordered Sylvania to cease and desist from discriminating in prices between competing customers. The hearing examiner further found that the allegations of the complaint and proof are insufficient to constitute a violation of Section 2 (f) and dismissed the complaint as to respondent Philco without prejudice. Counsel supporting the complaint noted an intention to appeal from the initial decision but the appeal was not perfected.

Respondent Sylvania in its appeal contends that the price differences shown by the record are not unlawful because of the presence of cost justification and because the evidence fails to establish the requisite competitive injury. Specific exceptions are taken to substantially all of the hearing examiner's findings and conclusions which are adverse to respondent Sylvania's contentions as well as to his order and to certain rulings excluding evidence offered by respondent Sylvania and admitting evidence offered by counsel supporting the complaint. Counsel supporting the complaint, although contending before the hearing examiner that the allegations of the complaint with respect to both respondents are sustained and that respondent Sylvania had failed to establish its defense of cost justification, now state that they will not argue the issues presented by respondent Sylvania's appeal because they have determined that they cannot ask the Commission to sustain the hearing examiner who concurred in their previous view that an order should issue covering those tube types which are not fully cost justified. They further state that the record is clear that the discriminations which are not

fully cost justified are largely with respect to a limited number of tube types which are not sold in substantial volume.

We thus have the novel situation of counsel supporting the complaint asking the hearing examiner to find a violation of the law by both the respondents, getting half of what they asked for—a finding of a violation by one of the respondents—and now advising us that no violation which would warrant an order has been proven.

The facts of record show that respondent Sylvania sells replacement tubes to Sylvania distributors at prices higher than those charged respondent Philco and that many Sylvania distributors paying the higher prices are competitively engaged with Philco Distributors, Inc., a wholly owned subsidiary of Philco, and other Philco distributors in the sale and resale of such tubes. There are approximately 600 types of tubes sold by Sylvania for replacement purposes. Each type is sold in different quantities. Many types are obsolete and are in limited demand. The price differentials between Sylvania distributors and respondent Philco vary as between the different types of tubes.

Respondent Sylvania has offered the defense of cost justification. In support of this defense a cost accounting study was presented. The record contains considerable testimony by experts concerning various aspects of this study. That the study was made in good faith and generally in accordance with sound accounting principles is clearly established. While there are certain items of distribution costs which counsel supporting the complaint originally contended were not proper to consider in computing costs, the basic question presented by the cost study is whether, under the circumstances of this case, it is proper to compare the aggregate price difference on the entire complement of tubes with the aggregate cost difference. In other words, is it proper to use a "weighted average" price in determining the amount of the differential to be cost justified, or should the price differential on each individual tube type be cost justified? Counsel supporting the complaint originally contended, and the hearing examiner held, that it was the price difference for each type of tube which must be cost justified. If a "weighted average" price is used, the price differential between Sylvania distributors and respondent Philco appear to be substantially cost justified. If the individual prices on the different types of tubes are used to determine the amounts of the price differentials, some of the price differences appear to be more than cost justified while others are not entirely cost justified.

There is no showing in the case that the lack of uniformity in the price spread has any competitive significance. There is no showing that the tubes which are in the greatest demand are the ones on which the price spread is greater. To the contrary, it appears that the types of tubes on which the price differentials are larger are in the least demand. Under all the circumstances of this case, we believe that it is proper to compare the aggregate price difference with the aggregate cost difference on the entire complement of tubes sold by respondent Sylvania. Such a comparison shows that respondent Sylvania's cost justification defense has been established. The complaint must, therefore, be dismissed as to both respondents in this proceeding. This determination makes it unnecessary for us to rule more specifically on each of the exceptions to the hearing examiner's initial decision made by respondent Sylvania in its appeal.

The appeal of respondent Sylvania from the hearing examiner's initial decision is, therefore, granted and it is directed that an order issue accordingly.

Commissioner Mead concurs in the result, but not in the reasons for the dismissal.

CHAIRMAN HOWREY, concurring:

The complaint in this case filed under section 2 (a) of the Clayton Act, as amended by the Robinson-Patman Act,¹ charged respondent Sylvania Electric Products, Inc. with discriminating in price by charging its distributors more for renewal radio tubes than it charged Philco Corporation.

Sylvania offered two defenses. It urged that the discrimination had no adverse effect on competition, and it offered a cost accounting justification for the difference in price. Only the latter issue was considered by the Commission on appeal.

It appears from the record that each radio tube serves a specific function. Each has its own specifications and construction. Each socket in a radio set, depending on the set's construction and manufacture, requires a special tube type and no other can be substituted. For these reasons it is necessary for distributors of replacement radio tubes to handle the entire line, that is, an entire complement of all types of tubes.

Thus we are confronted with a unique marketing situation—one where volume and demand are not affected by such normal competitive factors as price, consumer preference or profit margins.

¹ 15 U. S. C. sec. 13, 38 Stat. 730, 49 Stat. 1526.

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Sylvania has approximately 380 distributors located throughout the country. These distributors sell to radio servicemen and retail dealers. The tubes bear the "Sylvania" brand. Sylvania also sells private brand tubes to Philco both for original equipment and for replacement purposes. The former, that is, the original equipment tubes, are not involved in this case. "Philco" and "Sylvania" brand tubes are of the same grade and quality.

In 1948, the year under study, Sylvania manufactured and sold about 600 different renewal tube types. They were sold in varying amounts controlled by the quantity of each type previously installed in radio sets as original equipment and the length of time they had been in use.

In determining the price differential to be cost justified, Sylvania first ascertained the average price per tube paid by its distributors. This was compared with the average price per tube which the distributors would have paid for the same tubes if accorded the Philco price. The distributors paid \$4,251,466.16 for 7,635,790 tubes in 1948, or a weighted average of \$.5568 per tube. If they had been granted the Philco price they would have paid \$.4003 per tube, or \$.1565 less per tube.² The cost differences claimed in the Sylvania study more than justified this \$.1565 price difference.³

The hearing examiner held, however, that the use of a weighted average price in determining the price differential was not proper; that it was the price difference on each individual type of tube which must be cost justified. The hearing examiner also rejected certain accounting principles of respondent and certain minor cost allocations. Counsel supporting the complaint had contended, for example, that cash discounts should be cost justified in the same manner as quantity or method discounts; ⁴ that certain joint field selling expense should not be allocated between different products on the basis of gross profit margins; that the Philco price used for computation of royalty expense was a net price, whereas the Sylvania distributor price used

² The \$.5568 amount was a *gross* delivered price, whereas the \$.4003 amount is what the Sylvania distributors would have paid at the Philco *net f. o. b.* price. This was taken care of in the cost study when sales deduction and costs of distribution were determined.

³ The Examiner stated that the cost study showed a cost difference of \$.1574 per tube. Respondent claims that the cost difference was actually \$.1612 per tube. However, both amounts are in excess of the price difference of \$.1565.

⁴ In 1948 Sylvania distributors earned cash discount on 77 percent of the dollar volume of the goods they purchased. On 23 percent of the dollar volume, they paid the extra 2 percent because of the deferred payment. The price accorded Philco was net of cash discount on 100 percent of its purchases. In its cost study Sylvania made a price comparison net of cash discount between Philco and Sylvania distributors. The study disregarded the 23 percent of the volume on which cash discount was not earned on the ground that the cash discount was uniform and available to all. The hearing examiner rejected this theory and held that gross prices before cash discount should be compared.

for royalty computation was a gross price; that certain joint sales management and research expense should be allocated between different classes of customers on the basis of time studies instead of being treated as an overhead item; and that certain joint expenses involved in the handling of paper work in connection with Philco's original equipment and renewal purchases should not be allocated on the basis of dollar volume of sales

All of these items taken together do not add up to much in dollars and cents. In fact the elimination of all of them would result in a lack of cost justification, on a weighted average basis, of only \$.0087 per tube.⁵ Without passing on the accounting issues involved in the challenged items, and accepting for the moment the correctness of the weighted average method, it seems to me that the amount of \$.0087 per tube is *de minimis*. No cost justification study presented in good faith should be rejected because of such a minor cost deficiency. See *In the Matters of United States Rubber Co.*, 46 F.T.C. 998, 1012 (1950), *Minneapolis-Honeywell Regulator Co.*, 44 F. T. C. 351, 381-82 (1948), and *The B. F. Goodrich Co.*, Dkt. No. 5677 (1954).

Turning then to the major cost accounting issue, involving cost justification of the weighted average difference in price, the Commission should, I think, look to the economic and marketing factors which control the radio tube replacement market.

As we have seen, the replacement tube distributors and dealers perform a somewhat mechanical sales function. They cannot "push" one type as against another. The volume of some types is, of course, greater than others, but this is because existing radio sets (with burned-out tubes) contained as original equipment more of some types than others and also because many of the 600 types of tubes are becoming obsolete.

It is true that actual individual price differences varied rather widely from tube to tube. However, this fact, according to the record, had no economic or competitive significance; the non-uniformity arose out of historical factors, with new tube types being priced as they were developed and came on the market.

While the use of the weighted average price for the whole line seems reasonable in this case, it might, of course, be quite different where demand was primarily for individual items and the volume of sales depended on price differences and other similar competitive factors. In the tube industry, however, this was clearly not the case. Demand for tubes was inelastic. It was determined not by competitive factors

⁵ The Examiner erroneously said that the elimination of these items resulted in a lack of justification of \$.0174 per tube. The maximum claim of lack of cost justification on a weighted average basis made by counsel in support of the complaint was this amount of \$.0087 per tube.

but by the structure of the radio set sought to be kept running. For such a market only the weighted average price would appear to have competitive significance.

Because of this Sylvania contemporaneously made available to the trade figures as to the weighted average price charged by it to distributors, the weighted average suggested list price, and weighted gross profit on the sale of the entire complement of tubes at the various discounts from the suggested list price.

Thus it seems to me that the accounting method employed by Sylvania in this case—the comparison between the aggregate price difference on the entire complement of tubes and the aggregate cost difference—was responsive to the economic realities of electronic tube distribution.

The question remains as to whether the statute recognizes the realities of the market place or whether it requires cost justification of individual tube types willy nilly.

Section 2 (a) of the Act requires cost justification only where price differentials may result in adverse competitive effects. It would seem appropriate, therefore, to offer a cost defense that deals with the particular price differential which may have caused the injury. Here it seems clear that any injury would have to stem from the average price difference on the entire line, and not from the differentials which prevailed on individual tube types.

In determining whether the cost proviso of section 2 (a) should receive a reasonable interpretation or a rigid mechanical one, it is appropriate, I think, to refer to its origin and history. Section 2 of the Clayton Act prior to the Robinson-Patman Act amendment permitted price differentials based on differences in quantity. The precise words of the old quantity proviso were that "nothing contained herein shall prevent discrimination in price between purchasers of commodities on account of differences in the * * * quantity of the commodity sold."

In the leading case under the old law, the Federal Trade Commission charged The Goodyear Tire & Rubber Company with violation of section 2 by selling tires to Sears Roebuck at discriminatory prices.⁶ Respondent contended that its contracts with Sears, which involved lower net prices than those charged independent dealers, were made because of the great difference in the volume purchased by Sears as compared with that of the largest independent dealer.

After some 25,000 pages of testimony the Commission ruled that it did "not consider a difference in price to be on account of quantity

⁶ *In the Matter of The Goodyear Tire & Rubber Co.*, 22 F. T. C. 232 (1936), rev. 101 F. 2d 620 (1939).

unless it is based on a difference in cost, and where based on a difference in cost, such difference in price is reasonably related to, and approximately no more than, [such] difference * * *"⁷ It concluded that since the price differential in favor of Sears was not justified by differences in cost of transportation or selling, the lower prices were not made "on account of" quantity.

To support this ruling the Commission relied on the views of various economists who had written or commented on the subject of quantity discounts. These economists had said that insofar as the purchasing habits of the customer contribute to savings, it is sound to carry the discount to the point where the customer receives the benefit of the savings he created, that the proper basis for quantity discounts is to make them commensurate with the economies that are effected in handling and shipping the respective quantities of merchandise. Such discounts are equitable, they said, in that the buyer who purchases in large quantities is compensated for the carrying or handling charges he assumes when he buys in large lots. Based on this reasoning it was concluded that quantity discounts which exceeded such savings were a device for catering to large buyers and amounted to price cutting.

The respondent tire company, in refutation, pointed to the language of the statute and asserted that it permitted a discrimination that would measure the economic advantage of quantity sales beyond mere savings in costs. It pointed to such economic benefits as the value of Sears' volume in removing manufacturing hazards, the avoidance of profit fluctuation, the assumption by the buyer of certain risks and drops in raw material prices.⁸

While the Commission remained unconvinced the court, on appeal, agreed with respondent. "It seems clear," the court said, "that [old] Section 2 of the Clayton Act permits discrimination in price on account of quantity without relation to savings in cost."⁹ In the meantime—in fact while the matter was pending before the Court of Appeals—Congress was asked to clarify the situation. The result was the present cost proviso of the Robinson-Patman Act which reads:

"* * * nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery, resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered."¹⁰

⁷ Id. 329.

⁸ *The Goodyear Tire & Rubber Co. v. F. T. C.*, 101 F. 2d 620, 622.

⁹ Id. 624.

¹⁰ 15 U. S. C. sec. 13 (a), 49 Stat. 1526.

It was believed at the time that the new proviso was little more than a legislative restatement of the Commission's interpretation of the old proviso, namely, that price differentials should be "reasonably related" to cost differences. The new proviso was designed to preserve for the consumer and the public the benefits of more efficient marketing methods, while at the same time protecting small buyers from "un-earned" discounts which were not related to savings in cost in serving the large buyer.¹¹

However, within a few years after the passage of the Robinson-Patman Act the Commission abandoned this rule of reason approach and put respondents to strict cost accounting proof. While there were some lingering protestations that mathematical precision would not be required, the cost proviso was applied so as to require detailed showings of individual distribution costs—sometimes to the point of measuring separate items of expense by variances in mileage, time spent in travel, or the number of typed lines per invoice.

This technical approach was sought to be justified on the ground that the distribution activities of practically every company differ from those of every other company and what is suitable for one company in the way of distribution cost analysis may not fit the situation of another company. This, of course, is true. But instead of justifying rigid and mechanical approaches it merely emphasizes the need for elasticity and development of overall techniques by which to measure price differentials based on cost differences.

Cost accounting is by no means an exact science. Methods of allocation and proration of distribution costs are in the evolutionary stage. Several equally acceptable techniques will no doubt be developed as has been the case in the more traditional field of manufacturing cost analysis.

In any event the fact remains that the cost defense has proved largely illusory. In only three formal cases, one of which is the instant case, has the cost justification been entirely successful.¹² In two more cases cost studies were accepted in part as justifying some portion of the price differential.¹³ In all the remaining cases of public record the cost studies were rejected as inadequate.¹⁴

¹¹ House Rep. No. 2287, 74th Cong. 2d Sess., pp. 9 and 10.

¹² *In the Matter of Bird & Son, Inc.*, 25 F. T. C. 548 (1937); *In the Matter of B. F. Goodrich Co.*, Dkt. 5677 (1954); *In the Matter of Sylvania Electric Products, Inc.*, Dkt. 5728 (1954).

¹³ *In the Matter of Minneapolis-Honeywell Regulator Co.*, 44 F. T. C. 351 (1948); *In the Matter of U. S. Rubber Co.*, 46 F. T. C. 998 (1950).

¹⁴ *In the Matter of Standard Brands, Inc.*, 29 F. T. C. 121 (1939); *In the Matter of E. B. Muller Co., et al.*, 33 F. T. C. 24 (1941); *In the Matter of Morton Salt Co.*, 39 F. T. C. 35 (1944); *In the Matter of Standard Oil Co.*, 41 F. T. C. 263 (1945); *In the*

There have been, of course, a large number of cases in which the cost defense was explored on an informal basis. Such cases include some in which the proposed respondent was able to convince the Commission's staff that the cost defense would be successful, and so the formal complaint was not issued. They also include cases in which respondents became convinced that the cost defense would not be successful or that it was too complex and expensive to be undertaken.

In none of the cases, with the possible exception of the instant case, has the Commission established adequate guiding principles or precedents for cost analysis. The fact that there are no rules of the game is illustrated by the present case where there was not even an agreement between the parties as to the treatment of cash discounts, that is, whether to compare prices before or after the deduction of cash discounts.

There is a still smaller body of precedents in the courts with respect to the cost justification proviso. Two Federal district courts and one court of appeals have dealt with the cost justification defense in treble damage actions brought under the Robinson-Patman Act. One district court rejected the cost defense because of its failure to separate the seller's cost in dealing with each individual buyer.¹⁵ Another district court rejected cost studies for similar reasons, that is, because they were not based on individual transactions with individual customers.¹⁶ This, however, was reversed on appeal where the court said:

"It seems to us that the applicable statute discloses no Congressional intent to authorize a District Court, in an action such as this, to reject a seller's attempted justification of its quantity discount system unless the justification meets all of the requirements which the District Court in this case evidently considered essential. If a manufacturer granting quantity discounts is required to establish and to continuously maintain a cost accounting system which will record the expenses incurred in selling every individual customer and all of the data which the plaintiff deems essential, the burden, expense and assumption of risk involved would seem to preclude the granting of quantity discounts, at least until the approval of the plan by the Federal Trade Commission had been secured.

"We cannot say that the District Court was compelled to accept the defendant's justification of the quantity discounts which were granted.

Matter of Curtiss Candy Co., 44 F. T. C. 237 (1947); *In the Matter of International Salt Co.*, Dkt. No. 4307 (1952); *In the Matter of Champion Spark Plug Co.*, Dkt. No. 3977 (1953).

¹⁵ *Bruce's Juices, Inc. v. American Can Co.*, 87 F. Supp. 985, aff. 187 F. 2d 919 (C. A. 5, 1951).

¹⁶ *Russellville Canning Co. v. American Can Co.*, 87 F. Supp. 484 (1949), rev. 191 F. 2d 38 (C. A. 9, 1951).

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If, however, the system was adopted in good faith and the cost study during the test period of more than four years was honestly maintained, and reflected with substantial accuracy the differences in selling costs as between the customers in Class C and those in Classes A and B, we think the court's conclusion that the justification was inadequate because it was not continued beyond the test period, did not reflect cost differences as between individual customers, and failed to take into consideration conjectural geographical differences in selling costs and other matters which might be thought to have some speculative bearing on such cost differences, was not justified.

* * * * *

" . . . We think the District Court in the instant case, in determining the sufficiency of the defendant's attempted justification, applied too rigid a standard." ¹⁷

The sole comment of the Supreme Court on this subject occurred in the *Automatic Canteen* case where the Commission contended that the buyer had the burden of proving his sellers' costs. In rejecting this contention Mr. Justice Frankfurter said:

"We have been invited to consider in this connection some of the intricacies inherent in the attempt to show costs in a Robinson-Patman Act proceeding. The elusiveness of cost data, which apparently cannot be obtained from ordinary business records, is reflected in proceedings against sellers. Such proceedings make us aware of how difficult these problems are, but this record happily does not require us to examine cost problems in detail. It is sufficient to note that, whenever costs have been in issue, the Commission has not been content with accounting estimates; a study seems to be required, involving perhaps stop-watch studies of time spent by some personnel such as salesmen and truck drivers, numerical counts of invoices and bills and in some instances of the number of items or entries on such records, or other such quantitative measurement of the operation of a business." ¹⁸

These Commission and court decisions demonstrate the necessity for a reexamination of the problem of cost analysis under the Robinson-Patman Act.

If the cost justification proviso is ever to be administered successfully, the Commission must, in my opinion, go back to first principles and approach the problem with a desire to give full credence to the intent of Congress. This intent, as I interpret it, was to make a fair adjustment between the protection of small buyers and the welfare of the consumer—to preserve for the consumer the benefits of mass pro-

¹⁷ *American Can Co. v. Russellville Canning Co.*, 191 F. 2d 38, 59 (C. A. 8, 1951).

¹⁸ *Automatic Canteen Co. of America v. F. T. C.*, 346 U. S. 61, 68 (1952).

duction and low cost distribution while prohibiting price favors to large buyers that were unrelated and not reasonably attributable to savings created by more economical methods of manufacture, sale or delivery.

In the light of the foregoing, it seems entirely proper, under the facts and circumstances of this case, to compare the aggregate price difference on the entire complement of radio tubes with the aggregate cost difference. Any other holding would, it seems to me, nullify the proviso insofar as this respondent is concerned.

IN THE MATTER OF

CALVINE COTTON MILLS, INC.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE
COMMISSION ACT

Docket 6119. Complaint, Aug. 19, 1953—Decision, Sept. 23, 1954

Order requiring a corporate manufacturer to cease use of a sales promotion plan under which each of its tobacco seed bed covers had a numbered label or coupon attached and prizes of farm implements or kitchen utensils were awarded to purchasers who happened to hold coupons selected at a "LUCKY NUMBER" drawing.

Before *Mr. Everett F. Haycraft*, hearing examiner.

Mr. J. W. Brookfield, Jr. for the Commission.

Mr. Maurice A. Weinstein, of Charlotte, N. C., for respondent.

ORDERS AND DECISION OF THE COMMISSION

Order adopting initial decision as Commission decision and order to file report of compliance, Docket 6119, September 23, 1954, follow:

This matter having come on to be heard by the Commission upon its review of the hearing examiner's initial decision herein; and

The Commission having issued a tentative order modifying said initial decision in certain respects and having afforded respondent and counsel supporting the complaint opportunity to present any objections they may have to the proposed modification, and counsel supporting the complaint having filed his objections to the proposed modification; and

The Commission having further considered the entire record herein and now being of the opinion that the hearing examiner's initial decision is adequate and appropriate to dispose of this proceeding:

It is ordered that the attached initial decision of the hearing examiner shall, on September 23, 1954, become the decision of the Commission.

It is further ordered that respondent, Calvin Cotton Mills, Inc., shall, within sixty (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 the order to cease and desist.

Said initial decision, thus adopted by the Commission as its decision, follows: