

IN THE MATTER OF
CADILLAC PUBLISHING COMPANY, INC., ET AL.

Docket 5570. Complaint, June 30, 1948—Decision, Oct. 29, 1954

Order dismissing complaint charging misleading and deceptive use of the word "free" in connection with the sale and distribution of books, for the reason that the Commission changed its policy respecting use in advertising of the word "free" subsequent to issuance of the complaint.

Mr. Jesse D. Kash for the Commission.

Mr. Horace J. Donnelly, Jr., of Washington, D. C., for respondents.

ORDER DISMISSING COMPLAINT

This matter came on to be heard by the Commission upon respondents' motion to dismiss the complaint and answer thereto of counsel supporting the complaint opposing the motion.

The complaint herein, which was issued on June 30, 1948, charges the respondents with misleading and deceptive use of the word "free" in connection with the sale and distribution of books. No hearings have been held in this matter because of the pendency of other proceedings involving similar charges. Subsequent to the issuance of the complaint, the Commission changed its position with respect to the use, in advertising, of the word "free." As announced by the Commission in the matter of *Walter J. Black, Inc.*, Docket No. 5571 (September 1, 1953), henceforth, the use of the word "free" or other words of similar import or meaning, in advertising or in other offers to the public, to designate or describe an article of merchandise will be considered to be unfair and deceptive only (1) when all of the conditions, obligations, or other prerequisites to the receipt and retention of the "free" article of merchandise are not clearly and conspicuously explained or set forth at the outset so as to leave no reasonable probability that the terms of the advertisement or offer might be misunderstood; or (2) when, with respect to the article of merchandise required to be purchased in order to obtain the "free" article, the offerer either increases the ordinary and usual price, reduces the quality, or reduces the quantity or size of such article of merchandise.

The Commission having duly considered respondents' motion to dismiss the complaint, answer thereto, and the record herein, and being of the opinion that respondents' use of the word "free" in the manner alleged in the complaint cannot be considered as unfair or

428

Order

deceptive under its present policy on this subject, and that, therefore, the complaint should be dismissed:

It is ordered that respondents' motion to dismiss the complaint be, and it hereby is, granted.

It is further ordered that the complaint herein be, and it hereby is dismissed.

Complaint

51 F. T. C.

IN THE MATTER OF
WOOSTER RUBBER COMPANY

CONSENT ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSECS. 2 (d)
AND 2 (e) OF THE CLAYTON ACT AS AMENDED

Docket 6216. Complaint, June 23, 1954—Decision, Oct. 31, 1954

Consent order requiring a manufacturer of "Rubbermaid" kitchen and household accessories and automobile mats in Wooster, Ohio, to cease exceeding its limitation of 5% of purchases in making allowances for newspaper advertising to some of its customers while adhering to it in others; and to cease furnishing demonstrator services to various customers at costs bearing no proportional relationship to their purchases.

Before *Mr. William L. Pack*, hearing examiner.

Mr. William H. Smith for the Commission.

Critchfield, Critchfield, Critchfield & Johnston, of Wooster, Ohio, for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent, named in the caption hereof, hereinafter designated and referred to as "respondent," has violated and is now violating the provisions of subsections (d) and (e) of Section 2 of the Clayton Act (U. S. C. Title 15, Section 13), as amended by the Robinson-Patman Act approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

Count I

PARAGRAPH 1. Respondent, Wooster Rubber Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at Wooster, Ohio.

PAR. 2. Respondent operates a factory at Wooster, Ohio, and since 1934, has been engaged in the manufacture of rubber kitchen and other household accessories. Respondent also manufactures rubber mats for use in automobiles. Its 1952 sales amounted to \$10,171,394. Respondent markets its products under its trade name "Rubbermaid."

PAR. 3. Respondent has two principal methods of distribution for its household and kitchen products. It maintains salesmen in various districts who sell direct to department stores and large houseware