

Complaint

IN THE MATTER OF
THOMAS Y. CROWELL COMPANYCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2 (a) OF THE CLAYTON ACT*Docket 6480. Complaint, Dec. 21, 1955—Decision, Mar. 6, 1956*

Consent order requiring a New York City publisher to cease discriminating in price in violation of Sec. 2 (a) of the Clayton Act, as amended, by allowing greater discounts from list prices of its trade books to customers it classified as "wholesalers" than it allowed its "institutional suppliers" or "sub-jobbers."

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

Mr. Fletcher G. Cohn for the Commission.

Greenbaum, Wolff & Ernst, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions 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 of Congress approved June 19, 1936 (Robinson-Patman Act) (U.S.C., Title 15, Sec. 13), and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Thomas Y. Crowell Company, hereinafter referred to as "respondent", has violated the provisions of sub-section (a) of Section 2 of the Clayton Act, as amended, hereby issues its complaint stating its charges in these respects as follows:

PARAGRAPH 1. Respondent Thomas Y. Crowell Company is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 432 Fourth Avenue, New York, New York.

PAR. 2. Respondent is now and has since 1875 been engaged directly or indirectly in the publication, sale, and distribution of the various types and classes of books, including popular fiction and non-fiction books which are commonly known as trade books. For the fiscal year ending June 30, 1955, the total gross sales of books published, sold and distributed by this respondent was \$1,942,039.79.

Respondent classifies the customers to whom it sells and distributes the books published by it into several different categories of customers, the principal classifications being (1) "wholesalers," (2) "institutional suppliers", and (3) "retailers."

Complaint

52 F. T. C.

PAR. 3. In the course and conduct of its business, respondent has been and is now engaged in commerce as "commerce" is defined in the Clayton Antitrust Act, as amended by the Robinson-Patman Act in that it ships or causes to be shipped books published by it from the state or states in which said books are produced or published to purchasers thereof located in other states of the United States and the District of Columbia; and there is and has been at all times herein mentioned, a continuous current of trade and commerce in said books between and among the several states of the United States and the District of Columbia.

PAR. 4. Except insofar as it has been affected, as alleged in Paragraph Six hereof, respondent, in the course and conduct of its said business in commerce, has been, and is now, in competition with persons, firms, and other corporations which were, and are, engaged in commerce in the same business as respondent.

Also, except insofar as it has been affected, as alleged in Paragraph Six hereof, some of the purchasers, to whom respondent sells and distributes the books published by it in the aforesaid commerce, and whom respondent classifies as "wholesalers" were, and are, in competition with some of the purchasers of books sold and distributed by respondent, whom respondent classifies as "institutional suppliers" in that many of such wholesalers and institutional suppliers compete or attempt to compete, often in commerce, in reselling and attempting to resell such books to the same libraries and other types of institutions.

PAR. 5. Respondent, in the course and conduct of its said business in commerce has been for many years last past, and more particularly since June 19, 1936, and is now, discriminating in price between purchasers of the books published and distributed by respondent by selling such books to some purchasers at higher prices than it sells such books of like grade and quality to other purchasers, and some of such other purchasers are engaged in active and open competition with the less favored purchasers in the resale of such books within the United States, except as such competition has been affected as herein alleged.

Respondent has priced and sold the books which it publishes and distributes to those of its customers which it classifies as "wholesalers" at list prices less discounts, which are greater than those discounts which it allows to those of its purchasers which it classifies as "institutional suppliers" or "sub-jobbers."

Respondent has so discriminated in that it has priced and sold and still does price and sell such books to such wholesalers at one discount schedule, which is as follows:

919

Decision

Number of copies ordered of same title:	<i>Discount from list price (percent)</i>
1-50 -----	43
50-99 -----	44½
100-999 -----	46
1,000 and over -----	48-50

while respondent was and is pricing and selling such books to institutional suppliers or sub-jobbers who are in competition in the resale of said books with the wholesalers receiving the aforementioned discounts, at the following discount schedule:

Number of copies ordered:	<i>Discount from list price (percent)</i>
1-25 of the same title -----	}
1-50 of assorted titles -----	
25-99 of the same title -----	}
50 or more of assorted titles -----	
100-999 of the same title -----	44
1,000 and over of the same title -----	46

PAR. 6. The effect of the aforesaid discriminations or any appreciable part thereof has been, or may be, substantially to lessen competition or tend to create a monopoly in the respondent and said wholesalers in the respective lines of commerce in which they are engaged, and to injure, destroy, or prevent competition respectively with respondent and with said wholesalers who receive the benefit of said discriminations or with the customers of either of them.

PAR. 7. The acts and practices of respondent, as alleged in Paragraph Five hereof, are in violation of subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13).

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter, issued December 21, 1955, charges the respondent with discriminating in the prices of its products in violation of Section 2 (a) of the Clayton Act, as amended by the Robinson-Patman Act. An agreement has now been entered into by respondent and counsel supporting the complaint which provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion

Order

52 F. T. C.

of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for an appropriate settlement and disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Thomas Y. Crowell Company is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 432 Fourth Avenue, New York, New York.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

It is ordered, That respondent, Thomas Y. Crowell Company, a corporation, its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the publication, sale or distribution of any type or class of books, including popular fiction and nonfiction books which are commonly known as "trade books," in commerce, as "commerce" is defined, construed and understood in the Clayton Act (15 U.S.C.A., Section 15), do forthwith cease and desist from:

Discriminating, directly or indirectly, in the price of such books published by it by selling to any purchaser at net prices higher than the net prices charged any other purchaser competing in fact in the resale and distribution of said books.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 6th day of March, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein 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.

IN THE MATTER OF
CHARLET UNDERGARMENT CORPORATION ET AL.

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

Docket 6399. Complaint, Aug. 23, 1955—Decision, Mar. 7, 1956

Consent order requiring a seller in Passaic, N. J., to cease misrepresenting the retail selling price, quality, and value of slips and other women's garments, through such statements on tickets affixed to them prior to their sale to retailers and dealers as "Made to sell for \$5.95," when the usual price of the garments was substantially less.

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

Mr. Terral A. Jordan for the Commission.

Muhlstock & Blei, of New York City, for respondents.

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 the Charlet Undergarment Corporation, a corporation, and Leonard Steinman, Charles Gerber, and Ted Pojanowski, individually and as officers of said corporation, 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 Charlet Undergarment Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at 122 Eighth Street, Passaic, New Jersey. Respondents Leonard Steinman, Charles Gerber, and Ted Pojanowski are President, Treasurer, and Secretary, respectively, of said corporate respondent. These individuals, acting in conjunction with each other formulate, direct, and control all of the policies, acts, and practices of said corporation. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for more than six months last past, engaged in the sale and distribution of women's slips and wearing apparel to retailers and dealers in commerce among and between the various States of the United States and in the District of Columbia. Respondents maintain, and at all times