

Complaint

IN THE MATTER OF
AUTOMATIC CANTEEN CO. OF AMERICACONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SECTION 7 OF THE CLAYTON ACT

Docket 6820. Complaint, June 14, 1957—Decision, June 24, 1958

Consent order requiring the Nation's largest operator of vending machines, with main office in Chicago, to divest itself within 1 year of vending machine subsidiaries acquired in 1955 from a major competitor in New York City, at that time the largest operator of cigarette vending machines in the United States; to refrain from acquiring any interest in any competing vending machine manufacturer for 10 years; and not to take for its own use, for a 10-year period, more than 50 percent of the total annual production of each type machine from the facilities of the manufacturing corporation subject to divestiture unless all machines over that percentage were first made available to all other purchasers.

Mr. L. E. Creel, Mr. W. J. Boyd, Mr. D. T. Coughlin and Mr. A. J. Hessburg for the Commission.

Gravelle, Whitlock & Markey, of Washington, D.C., and Freidlund, Levin & Freidlund, of Chicago, Ill., for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly designated and described, has violated and is now violating the provisions of section 7 of the Clayton Act (U.S.C., title 15, section 18) as amended and approved December 29, 1950, hereby issues its complaint, charging as follows:

PAR. 1. Respondent, Automatic Canteen Co. of America, hereinafter sometimes referred to as Automatic, is a corporation organized in July 1931 and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 222 West North Bank Drive, Chicago 54, Ill.

Respondent is engaged in the business of purchasing candy, gum, nuts and other confections, cigarettes, beverages, ice cream and other related merchandise from the producers thereof, and in the resale of these products directly through company-owned and franchised distributors, which merchandise and dispense said products through automatic vending machines. These vending machines are hereinafter sometimes referred to as machines. The distributors lease said

machines from respondent pursuant to a franchise and distributors lease and agreement, which provides, among other things, that said machines will be used in the reselling and dispensing of said products to the public and that said machines will be operated by each distributor in clearly defined exclusive territories in various parts of the United States. Each distributor is responsible for installing, maintaining, operating and servicing said machines within its exclusive territory at locations such as industrial plants, offices, terminals, commercial establishments and other places, generally referred to in the industry and hereinafter sometimes referred to, as locations.

Locations are essential for the merchandising and dispensing of products vended through said machines. Commissions are usually paid by the distributor to the location owner or proprietor for the privilege of installing and operating said machines on their premises. The commissions are generally related to the volume of sales for each machine placed at that location.

Respondent is also engaged in the business of developing, acquiring, owning, and leasing vending machines from manufacturers, and in leasing and subleasing said machines exclusively to its distributors.

Respondent operates and does business through two categories of distributors, those which are company-owned and those which are referred to by respondent as independent. The company-owned distributor is directly controlled by respondent, or, it is one in which one or more officers or employees of respondent own an aggregate interest of 25 percent or more. In 1954, respondent had 46 company-owned and 98 other distributors.

Respondent, through said distributors, operates and does business in approximately 150 separate sales territories and maintains offices in various cities located in 42 States and the District of Columbia. Under the provisions of the aforementioned lease and agreement, each distributor is required to comply with the rules and regulations issued by respondent, from time to time, relative to the installation, maintenance, repair and servicing of vending machines leased from respondent. Each distributor is also required to submit regular reports giving complete information concerning its operations for the preceding period. Provision is made, also, for financial statements to be furnished biannually by each distributor, or from time to time, as respondent might request. The operations of each distributor are governed by instructions contained in a manual referred to as "Standard Practice of the Company," which is published and issued by respondent.

Respondent supervises the activities of said distributors by, among other things, assigning a force of field supervisors to examine the efficiency of their operations, by disseminating suggestions for increasing sales and improving operating methods, by the establishment of required standardized mechanical, accounting, and sales practices, and by assisting distributors in securing locations for machines. Each distributor is expected to cooperate fully in the promotion, protection, and maintenance of respondent's machines and its goodwill. Each distributor is expected to lease and use that number of machines which respondent may determine should be used in that distributor's territory. Respondent determines the retail prices at which products are sold by distributors through said machines.

The close supervision and substantial control exercised by respondent over the business of said distributors, under the aforesaid lease and agreement, create such a binding relationship that the operations, acts, and practices of the distributors have a material effect upon, and constitute a vital part of, the business of respondent. Therefore, references to respondent hereinafter made in this complaint, as they may pertain to the operation of vending machines and the merchandising of products, will be expressed as respondent-distributors.

Prior to September 30, 1955, respondent-distributors was the largest operator of automatic vending machines in the United States. As of 1954, respondent, had on location and in operation approximately 377,654 vending machines, of which approximately 15,786, or 4.2 percent, were cigarette vending machines. As of this same date, the merchandise sales volume of all products sold through respondent's vending machines totaled approximately \$67,702,000, of which approximately \$14,003,000, or 20.7 percent were cigarette sales.

During the 9-year period from on or about October 1, 1946, to September 30, 1954, Automatic's merchandise sales increased from \$12,639,854 to \$46,792,310, an increase of 270 percent, and its machine rentals and other income increased from \$665,882, to \$2,512,210, an increase of 277 percent. During this same period, its total assets increased from \$5,313,620 to \$14,470,086, an increase of 172 percent.

The history of Automatic indicates a continuing pattern of acquisitions, in that since January 1, 1951, respondent increased its dominant market position through the acquisition of the assets or share capital of concerns engaged in the operation and manufacture of vending machines, such as the following:

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Name and address	Date acquired	Description
The Candimat Co., Baltimore, Md.	Oct. 1, 1952 to May 15, 1953.	Operated candy and confection vending business.
Dresko Machine Corp., Chicago, Ill.	Dec. 23, 1953.....	Operated vending machines, but at the time of the acquisition, said corporation was inactive.
Sterling Vending, Inc., Sterling Food Service, Newark, N.J.	Jan. 3, 1955.....	General vending business.
Mechanical Merchants, Inc., Chicago, Ill.	Apr. 1954.....	General vending business.
Navenco Manufacturing Co., Dallas, Tex.	Unknown.....	Operated vending machines, but at the time of the acquisition said company was inactive.
Transit Sales, Service, Inc., Chicago, Ill.	Jan. 2, 1955.....	Operated candy vending machines, principally.

Automatic purchases vending machine products including candy, gum, nuts and other confections, cigarettes, beverages, ice cream and other related merchandise, and purchases and leases vending machines, in commerce, as "commerce" is defined in the Clayton Act, and offers to sell, sells and distributes said products, and leases said vending machines to distributors, in said commerce in various of the States of the United States.

PAR. 2. Prior to September 30, 1955, the Rowe Corp. was a corporation organized in July 1929 under and by virtue of the laws of the State of New York, with its office and principal place of business located at 31 East 17th Street, New York, N.Y. The name, the Rowe Corp., was adopted in 1946, having succeeded to the original corporation, Rowe Cigarette Service Co., Inc., and to a prior partnership founded in 1928 as the Rowe Cigarette Vending Co.

The Rowe Corp. was engaged in the business of purchasing cigarettes, cigars, candy, ice cream, beverages and other related merchandise from the producers thereof, and in reselling these products through vending machines and to its merchandising companies, which also resold said products through said machines. The Rowe Corp. and its merchandising companies, all of which were company-owned, are hereinafter sometimes referred to as Rowe. Rowe installed, maintained, operated and serviced said machines, which were located in commercial establishments such as restaurants, theaters, taverns, and in industrial plants, offices, terminals and other places in various parts of the United States.

Rowe, through two wholly-owned subsidiaries, Rowe Manufacturing Co., Inc., and Rowe Spacarb, Inc., was also engaged in the business of designing, developing, manufacturing, and selling vending machines for the automatic merchandising of cigarettes, beverages, candy, ice cream, sandwiches, cakes and pastries, together with accessory equipment.

Rowe Manufacturing Co., Inc., hereinafter referred to as Rowe Manufacturing, was organized in 1932, under and by virtue of the laws of the State of New York. The machines produced by Rowe Manufacturing were sold, or leased, to Rowe, and respondent, as well as to other vending machine operators throughout the United States. Rowe Manufacturing originally developed and produced machines designed to merchandise cigarettes, but its production was later expanded to include other types of automatic machines for the merchandising of beverages, candy, ice cream, sandwiches, and cakes and pastries. Rowe Manufacturing was one of the largest producers of vending machines, particularly of cigarette vending machines, in the United States.

Rowe Spacarb, Inc., a Delaware corporation, one of the oldest manufacturers of beverage dispensers, was acquired by Rowe in September 1954. At the time of its acquisition, this subsidiary was engaged in the production of automatic beverage merchandising machines of a type supplementary to those produced by Rowe Manufacturing and, in addition, it was a national distributor of vending machines produced by other manufacturers.

The Rowe Corp., through its wholly owned machine rental companies, was also engaged in the business of leasing machines to vending machine operators throughout the United States.

Prior to September 30, 1955, Rowe was the largest operator of cigarette vending machines in the United States. In the operation of its cigarette and other vending machines, the principal areas served by Rowe included the States of California, Colorado, Illinois, Kentucky, Louisiana, Maryland, Massachusetts, New Jersey, New York, Ohio, Oregon, Pennsylvania and West Virginia.

As of 1954, Rowe owned, had on location and in operation approximately 39,798 vending machines, of which approximately 36,543, or 91.8 percent were cigarette vending machines. As of this same date, the merchandise sales volume of all products sold through its machines totaled approximately \$35,558,000, of which approximately \$34,689,000, or 97.6 percent were cigarette sales.

During the 9-year period from on or about January 1, 1946, to December 31, 1954, the sales of Rowe and its subsidiaries increased from \$17,858,698, to \$36,997,411 an increase of 107 percent. Merchandising sales of vended products by Rowe represented approximately 90 percent of said sales and the remaining 10 percent consisted of vending machines sales and rentals, realized, in part, through Rowe Manufacturing and the machine rental companies. During the aforementioned 9-year period, the total assets of Rowe and its

subsidiaries increased from \$4,515,340, to \$13,652,758, an increase of 202 percent.

Rowe purchased vending machine products including cigarettes, cigars, candy, ice cream, beverages and other related merchandise, and vending machines, in commerce, as "commerce" is defined in the Clayton Act, and offered to sell, sold and distributed said products and sold and leased vending machines to vending machine operators in said commerce in various of the States of the United States.

PAR. 3. For several years prior to September 30, 1955, substantial competition, and substantial potential competition, existed between respondent-distributors and Rowe, and between each of them and others, in all phases of the operation of automatic vending machines in interstate commerce.

(a) Respondent and Rowe purchased substantial quantities of vending machine products, such as cigarettes, candy, ice cream, beverages and other related merchandise from common sources of supply in various parts of the United States and were among the largest, if not the largest, vending machine purchasers of some, or all, of said products.

(b) Respondent and Rowe sold substantial quantities of said vending machine products in competition with one another and others in the following 20 cities located in various sections of the country:

Los Angeles, Calif.	Boston, Mass.
Oakland, Calif.	Newark, N.J.
San Diego, Calif.	Trenton, N.J.
San Jose, Calif.	New York, N.Y.
Denver, Colo.	Syracuse, N.Y.
Peoria, Ill.	Akron, Ohio
Louisville, Ky.	Cleveland, Ohio
Baton Rouge, La.	Portland, Oreg.
New Orleans, La.	Philadelphia, Pa.
Baltimore, Md.	Pittsburgh, Pa.

(c) Respondent-distributors and Rowe installed, maintained, serviced and operated vending machines at like locations in the aforementioned cities and competed, or were in potential competition, with one another and others for these as well as all other vending machine locations in said cities.

In 1954, total merchandise sales for the vending machine industry amounted to approximately \$636,096,000, of which the merchandise sales of respondent-distributors totaled approximately \$67,802,000, or 10.7 percent, and the merchandise sales of Rowe totaled approximately \$35,558,000, or 5.6 percent. During this same year, the in-

dustury had a total of approximately 1,729,920 vending machines on location, exclusive of bottled soft drink, postage stamp and weighing machines, of which respondent owned 377,654, or 21.8 percent, and Rowe owned 39,798, or 2.3 percent.

In 1954, cigarette vending sales for the industry totaled approximately \$332,856,000, of which the cigarette vending sales of respondent-distributors amounted to approximately \$14,003,000, or 4.2 percent, and the cigarette vending sales of Rowe amounted to approximately \$34,689,000, or 10.4 percent. During this same year, the industry had a total of approximately 460,000 cigarette vending machines on location, of which the respondent owned 15,786, or 3.4 percent, and Rowe owned 36,543, or 8 percent.

Respondent, Rowe and others utilized Rowe Manufacturing as a major source of supply of automatic vending machines. In 1954, Rowe Manufacturing produced and sold 12 percent of said machines to respondent, 12 percent to Rowe and the remainder of its production to other vending machine operators in the industry. Rowe Manufacturing accounted for 18.4 percent of the cigarette vending machines, 19.5 percent of the ice cream vending machines, and 5.1 percent of the packaged food and confection vending machines, manufactured and shipped by the vending machine manufacturing industry in 1954. The total vending machine production of Rowe Manufacturing in 1954, in said categories amounted to approximately 14,305, or 12.2 percent of the approximately 117,151 vending machines of those types manufactured and shipped by this industry that year.

PAR. 4. The vending machine industry had, in 1954, approximately 5,700 operators of various description, such as those which lease, rent, or purchase machines or operate one type or multi-type machines on either a full-time or part-time basis and which may be either independent or a subsidiary of a larger vending company. Of this figure, approximately two-thirds were operations owned by one person employing fewer than three people, including the owner. In this same year, only three operators, two of which were respondent-distributors and Rowe, could be regarded as conducting operations on a national scale.

PAR. 5. On or about December 22, 1954, respondent entered into an agreement to purchase 262,500 shares of common stock of Rowe at \$15 per share, or \$3,937,500, in the aggregate. This agreement was consummated on or about February 17, 1955, and respondent thereby acquired 52 percent of the then issued and outstanding shares of common stock of Rowe. Thereafter, on or about September 30, 1955, respondent acquired the remaining outstanding shares of

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common stock of Rowe at the exchange ratio of four shares of respondent's common stock for five shares of Rowe's common stock. By said action, the assets and business of Rowe were fully merged into respondent.

PAR. 6. The effect of the aforesaid acquisition by respondent of Rowe may be substantially to lessen competition or to tend to create a monopoly in the lines of commerce, as "commerce" is defined in the Clayton Act, in which respondent and Rowe were engaged.

More specifically, the aforesaid effects include, among others, the actual or potential lessening of competition or a tendency to create a monopoly in that the acquisition by respondent of Rowe:

(a) Has combined, consolidated and merged the largest purchaser, user and operator of vending machines with one of the largest manufacturers of said machines, thus for the first time placing respondent in a position to produce a substantial quantity of its vending machine requirements and has, or may, substantially lessen or foreclose competition in the production, purchase, sale or distribution of vending machines in that respondent may discontinue or decrease the acquisition of said machines from its former suppliers.

(b) Has substantially increased and enhanced the present bargaining power and dominant position of respondent in the vending machine industry by placing respondent in control of a plant and facilities capable of producing 12.2 percent of the total cigarette, ice cream, packaged food and confection machines manufactured and shipped in 1954, which included 18.4 percent of the cigarette vending machines, 19.5 percent of the ice cream vending machines, and 5.1 percent of the packaged food and confection vending machines produced and shipped that year.

(c) Has removed and eliminated, or may remove and eliminate, Rowe Manufacturing, one of the largest manufacturers of vending machines, as a source of supply of said machines for many vending machine operators and may cause such other enterprises to become largely dependent on respondent, which is, or may be, one of their principal competitors.

(d) Has combined and consolidated in respondent, one of the largest purchasers, users and operators of cigarette vending machines, the manufacturing plant and facilities of one of the largest, if not the largest, manufacturers of cigarette vending machines, thus increasing and enhancing respondent's competitive advantage over other cigarette vending machine operators to the detriment of actual or potential competition.

(e) May divert to respondent for its own uses, or may enable respondent to channel or manipulate for its own purposes, the supply

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of vending machines which formerly were available from Rowe Manufacturing to competitors of respondent.

(f) May deny to other vending machine purchasers, users and operators, access to the machines formerly produced by Rowe Manufacturing.

(g) Has combined, consolidated, and merged respondent-distributors as the largest most dominant operator and merchandiser of products sold through vending machines with one of its largest competitors, thus eliminating competition between respondent-distributors and a principal competitor and has or may lessen or eliminate substantial competition in the operation and merchandising of products through vending machines.

(h) Has placed respondent in the position of owning 24.1 percent of the vending machines, exclusive of bottled soft drink, postage stamp, and weighing machines, on location in the United States and controlling 16.3 percent of the sales of products made through said machines, thus substantially increasing respondent-distributors' share of said market and causing an appreciable segment of the market to be under the control and domination of respondent-distributors.

(i) Has further substantially increased the size and scope of respondent-distributors' operations and merchandising of products through vending machines to such an extent that the resulting combination has given, or may give, respondent a decisive competitive advantage, in the acquisition of machines, the vending of products, and the obtaining of locations, over other vending machine operators, particularly the numerous nonintegrated and nondiversified operators, who conduct small operations on a local level.

(j) Has substantially increased respondent's purchase requirement of vended products to such an extent, that the resulting additional distributional facilities, under respondent's control, have enhanced further the dominant position respondent already enjoyed in the acquisition and purchase of vended products from sellers and suppliers of such products.

(k) Has been, or may be, to lessen or eliminate actual or potential competition between respondent and Rowe in the operation of vending machines in 20 cities in various sections of the country.

(l) Has combined, consolidated, and merged Rowe, the largest operator of cigarette vending machines (in terms of machines and sales), with respondent, one of the largest operators of such machines, causing respondent to own 11.4 percent of the cigarette vending machines and to control, through its distributors, 14.6 percent of the sales of cigarettes sold through such machines, thus substantially increasing respondent-distributors' share of the vended cigarette market and

making respondent-distributors the largest operator of cigarette vending machines in the United States.

(m) Has, or may, substantially lessen competition or tend to create a monopoly by the substantial increase in domination and control of vending machine operations which have been vested in respondent-distributors.

PAR. 7. The foregoing acquisition, acts, and practices of respondent, as hereinbefore alleged and set forth, constitute a violation of section 7 of the Clayton Act (U.S.C., title 15, sec. 18) as amended and approved December 29, 1950.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Clayton Act, section 7 (U.S.C., title 15, sec. 18) as amended and approved December 29, 1950, the Federal Trade Commission on June 14, 1957, issued and subsequently served its complaint in this proceeding against respondent Automatic Canteen Co. of America, a corporation existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 222 West North Bank Drive, Chicago 54, Ill.

After a number of hearings for the reception of evidence in support of the allegations of the complaint, all counsel jointly moved for a suspension of further hearings under the provisions of 3.25 of the rules of practice, which motion was granted for 2 weeks and thereafter, on April 17, 1958, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondent waives any further procedural steps before the hearing examiner and the Commission; waives the making of findings of fact and conclusions of law; and waives all of the rights it may have to challenge or contest the validity of the order to divest and to cease and desist entered in accordance with this agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the agreement is for settlement

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purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

Such agreement provides that the following order may be entered in this proceeding by the Commission without further notice to respondent. When so entered it shall have the same force and effect as if entered after a full hearing, and may be altered, modified, or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide the best possible basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

1. Respondent Automatic Canteen Co. of America, is a corporation existing and doing business under the laws of the State of Delaware, with its office and principal place of business located at 222 West North Bank Drive, Chicago 54, Ill.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

It is ordered, That respondent, Automatic Canteen Co. of America' shall divest itself absolutely, in good faith, of the following vending machine operating branches, subsidiaries, or affiliates, including machine locations, and vending machines owned by each and the contracts relating thereto, which branches, subsidiaries, or affiliates were formerly operated by the Rowe Corp. prior to the merger:

Rowe Service Co., Inc., Downtown Los Angeles Operations, Los Angeles, Calif.

California Cigarette Concessions, Inc., Los Angeles, Calif.

Rowe Cigarette Service Corp., San Diego, Calif.

San Jose Cigarette Service, Inc. (Campbell), San Jose, Calif.

Cigarette Service Co., Inc., Denver, Colo.

Wagg Cigarette Service Co., Louisville, Ky.

Syracuse Cigarette Service Co., Inc., Syracuse, N.Y.

Allegheny Cigarette Service Co. (Wilkinsburg), Pittsburgh, Pa.

Ace Cigarette Service Co., Inc., Brackenridge, Pa.

Ace Wheeling Cigarette Service Co., Wheeling, W. Va.

Acme Cigarette Service Co., Greensburg, Pa.

Acorn Cigarette Service Co., Aliquippa, Pa.

Uniontown Cigarette Service Co., Uniontown, Pa.

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The Downtown Los Angeles Operations of Rowe Service Co., Inc., as used hereinabove, is defined as that part of the operating branch known as the downtown section of Rowe Service Co., Inc., Los Angeles, Calif., which is located in the city of Los Angeles, Calif., and is bounded on the west by Alvarado Street, on the south by Washington Boulevard, on the north by a straight line running east from the intersection of Alvarado and Avalon Streets, approximately 4 miles to Valley Boulevard, and on the east by a straight line from Valley Boulevard to Washington Boulevard, containing 16 square miles, more or less.

Such divestiture shall be completed within 1 year from the date of this order and shall consist of the sale of all stock and assets, real and personal, of said branches, subsidiaries, or affiliates, which stock and assets are owned by respondent, or its subsidiaries. Respondent shall not sell any such stock, or such assets, directly or indirectly, to any officer, director, employee, distributor, agent or subsidiary of, or anyone otherwise directly or indirectly under the control or influence of, respondent or any of its officers or directors.

It is further ordered, That since the Syracuse Cigarette Service Co., Inc., Syracuse, N.Y., has been dissolved, all assets formerly belonging thereto shall be divested in like manner as other divestitures required by this order, except that vending machines, not exceeding 40 in number, located in industrial plants, may be retained.

It is further ordered, That for a period of 10 years from the date of the issuance of this order by the Federal Trade Commission, respondent shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, by merger, consolidation, purchase of physical assets, or acquisition of stock or other share capital, any interest in any corporation engaged in the business of manufacturing vending machines whose product has competed or competes to any extent with any vending machine manufactured or assembled by respondent, its subsidiaries, or affiliates.

It is further ordered, That for a period of 10 years from the date of the issuance of this order by the Federal Trade Commission, respondent shall cease and desist from taking for its own use, or selling, to respondent's subsidiaries, franchised distributors or the former merchandising companies of the Rowe Corp., more than 50 percent of the total annual production of each type vending machine from the facilities now operated as the Rowe Manufacturing Co., Inc., unless said machines in excess of that percentage have been made available in good faith to all other prospective purchasers at respondent's regular prices and terms and conditions of sale.

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Decision

It is further ordered, That after the date of the issuance of this order by the Federal Trade Commission, respondent shall cease and desist from acquiring, directly or indirectly, the whole or any part of the stock or other share capital, or the whole or any part of the assets of another corporation engaged in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

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 24th day of June 1958, become the decision of the Commission; and accordingly:

It is ordered, That respondent, Automatic Canteen Co. of America, a corporation, shall, within 1 year 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 contained in said initial decision.

IN THE MATTER OF

DAN DEE PRETZEL & POTATO CHIP CO. ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SECS. 2(a), 2(d), AND 2(e) OF THE CLAYTON ACT*Docket 6919. Complaint, Oct. 17, 1957—Decision, June 25, 1958*

Consent order requiring a manufacturer and its sales corporation to cease discriminating in price in the sale of their pretzels, potato chips, and corn chips: specifically to cease violating section 2(a) of the Clayton Act by giving certain large retail customers a 5 percent or 5 percent plus 2 percent discount from the published wholesale prices charged other customers, and granting certain jobbers a 25 percent discount from such wholesale prices while their nonfavored competitors received only 20 percent; violating section 2(d) of the same act by granting to some customers but not to their competitors special advertising allowances amounting to 3 percent of purchases; and violating section 2(e) by furnishing some stores, but not their competitors, with demonstrators who gave coupons to customers entitling them to a 10 percent price reduction for which they reimbursed the stores.

Mr. Kent P. Kratz for the Commission.

Mr. Guy J. Mauro, of Salem, Ohio, and *Baker, Hostetter & Patterson*, by *Mr. Richard F. Stevens*, of Cleveland, Ohio, for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating the provisions of subsections (a), (d) and (e) of section 2 of the Clayton Act (U.S.C. Title, 15 sec. 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 Dan Dee Pretzel & Potato Chip Co. 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 2901 East 65th Street, Cleveland, Ohio.

Respondent Dan Dee Northern Ohio Corp. 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 also located at 2901 East 65th Street, Cleveland, Ohio.