

## Decision

IN THE MATTER OF  
MUNTZ TV, INC., ET AL.<sup>1</sup>CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT

*Docket 6928. Complaint, Nov. 6, 1957—Decision, July 15, 1958*

Consent order requiring a Chicago seller to cease exaggerating, in newspaper advertising and by markings on sets and otherwise, the size of the picture tubes of television sets, and representing falsely that TV sets were sold directly to the consumer from "factory outlets."

## INITIAL DECISION AS TO EARL W. MUNTZ, INDIVIDUALLY

Before *John B. Poindexter*, Hearing Examiner.

*Mr. Michael J. Vitale* and *Mr. Thomas Z. Ziebarth* supporting the complaint.

*Mr. Emil N. Levin* of Chicago, Ill., for respondent Earl W. Muntz.

On November 6, 1957 the Federal Trade Commission issued a complaint charging Muntz TV, Inc., a corporation, and Earl W. Muntz, individually and as an officer of said corporation with having violated the provisions of the Federal Trade Commission Act by the dissemination in commerce of advertisements and statements exaggerating the size of the picture tubes in the television receivers manufactured by said respondent corporation and misrepresenting that the receivers were sold directly to the consumer from the factory.

After issuance and service of the complaint, each respondent answered, and the individual respondent Earl W. Muntz also filed a motion requesting that the complaint as to him be dismissed. This motion was denied by the Hearing Examiner. Thereafter the respondent Muntz TV, Inc., its counsel, and counsel supporting the complaint, entered into an agreement for a consent order. Accordingly, upon the basis of such agreement, the undersigned Hearing Examiner, on April 18, 1958, issued an Initial Decision with respect to the respondent Muntz TV, Inc., dismissing the complaint as to the respondent Earl W. Muntz in his capacity as an officer of Muntz TV, Inc., inasmuch as Mr. Muntz was no longer an officer of the said corporate respondent Muntz TV, Inc., but leaving the complaint pending

<sup>1</sup> Respondent corporation accepted the same consent settlement on June 18, 1958, 54 F.T.C. 1825.

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against the respondent Earl W. Muntz in his individual capacity.

The individual respondent Earl W. Muntz, his counsel and counsel supporting the complaint, have now entered into an agreement for a consent order, dated May 5, 1958. The order disposes of the matters complained about with respect to the remaining respondent, Earl W. Muntz, in his individual capacity. The agreement has been approved by the director and assistant director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: The individual respondent Earl W. Muntz admits all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; the individual respondent Earl W. Muntz waives the requirement that the decision must contain a statement of findings of fact and conclusions of law; said individual respondent waives further procedural steps before the hearing examiner and the Commission and the order may be altered, modified, or set aside in the manner provided by statute for other orders; said individual respondent also waives any right to challenge or contest the validity of the order in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by the individual respondent that he has violated the law as alleged in the complaint.

Upon consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a proper disposition of this proceeding insofar as it relates to Earl W. Muntz, as an individual. Accordingly, the hearing examiner finds that the acceptance of such agreement will be in the public interest and hereby accepts such agreement, makes the following jurisdictional findings and issues the following order:

#### JURISDICTIONAL FINDINGS

1. The individual respondent Earl W. Muntz resides at 67 East Cedar Street, Chicago, Ill., and was president of the corporate respondent until January 30, 1957, but is no longer an officer of said corporation; that, during the period he was president he formulated, directed, and controlled the acts, policies, and prac-

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tices of said corporate respondent, and the respondent Earl W. Muntz was an officer of the corporate respondent during the time the acts and practices set forth in the complaint are alleged to have occurred.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the individual respondent Earl W. Muntz, and the proceeding is in the public interest.

## ORDER

*It is ordered*, That respondent Earl W. Muntz an individual, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of television receiving sets in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any figure or measurement to designate or describe, directly or by implication, the size of the picture tube with which television receiving sets are equipped which is greater than the horizontal measurement of the viewable area of the tube on a single plane basis, unless it is conspicuously disclosed in immediate connection therewith that said figure or measure is the diagonal measurement, when such is the fact; or an accurate specification of the viewable area of the tube, in square inches, is conspicuously disclosed in immediate connection with such figure or measurement;

2. Authorizing or permitting others to represent or placing into the hands of others means and instrumentalities whereby they may represent, directly or by implication, that the retailers selling respondent's television sets are factory outlets or have any relationship to respondent other than that of buyers from respondent.

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 15th day of July 1958, become the decision of the Commission; and, accordingly:

*It is ordered*, That respondent Earl W. Muntz, as an individual, shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

IN THE MATTER OF  
QUALITONE HEARING AID COMPANY, INC., ET AL.

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

*Docket 7001. Complaint, Dec. 19, 1957—Decision, July 15, 1958*

Consent order requiring a Minneapolis, Minn., manufacturer of hearing aid instruments, parts, and accessories to cease representing falsely in mats for use in newspaper advertising and circulars and other advertising literature disseminated to distributors and retailers to be used to induce purchase of their products, that their "Stereophonic Optical Ear" and "Hidden Ear" hearing aids were cordless, invisible, and required nothing in the ear, and that the former was completely contained in a pair of eyeglasses.

*Mr. Kent P. Kratz* for the Commission.  
Respondents, for themselves.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars.

On May 8, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondents and the attorney for the Commission, under date of April 29, 1958, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent Qualitone Hearing Aid Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at Linden Hills Station, Minneapolis, Minn.

Individual respondent Richard T. Burger is president and respondents Mas Harada and Charles Hinz are vice presidents of