

Complaint

IN THE MATTER OF

ANCHOR CHEMICAL COMPANY, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(d)
OF THE CLAYTON ACT

Docket 7701. Complaint, Dec. 21, 1959—Decision, Apr. 28, 1960

Consent order requiring a manufacturer of chemical specialties for the graphic arts industry, with principal office in Brooklyn, N.Y., to cease discriminating in price in violation of Sec. 2(d) of the Clayton Act by making payments as compensation for services or facilities furnished by some of its customers without making comparable payments to their competitors, such as \$2,800 paid for advertising to Foster Type and Equipment Co. of Philadelphia.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly described, has violated the provisions of subsection (d) of Section 2 of the Clayton Act (U.S.C. Title 15, Section 13), as amended by the Robinson-Patman Act, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 827 Bergen Street, Brooklyn, New York.

PAR. 2. Respondent is now, and has been since 1945, engaged in the manufacture, sale and distribution of chemical specialties for the graphic arts industry. It sells its products to a large number of customers throughout the United States. Respondent makes sales directly to consumers in the New York City area, and in other parts of the country sales are made through 400 dealers who are in competition with each other and who resell anywhere in the United States. Respondent's total sales during the year 1958 were in excess of \$500,000.

PAR. 3. In the course and conduct of its business, respondent has engaged, and is now engaging, in commerce, as "commerce" is defined in the Clayton Act, as amended. Respondent causes its products to be transported from the State of New York to its customers located throughout the country in various states other than the State of New York.

PAR. 4. In the course and conduct of its business in commerce, respondent paid, or contracted for the payment of, something of

value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by said respondent, and such payments were not made available on proportionally equal terms to all customers competing in the sale and distribution of respondent's products.

PAR. 5. For example, during the period between July 1, 1958 and June 30, 1959, respondent contracted to pay and did pay to Foster Type and Equipment Company, Philadelphia, Pennsylvania, \$2,800 as compensation or as an allowance for advertising or other service or facilities furnished by or through Foster Type and Equipment Company, Inc., in connection with its offering for sale or sale of products sold to it by respondent. Such compensation or allowance was not offered or otherwise made available on proportionally equal terms to all other customers competing with Foster Type and Equipment Company, Inc. in the sale and distribution of respondent's products.

PAR. 6. The acts and practices of respondent, as alleged above, violate subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

Mr. Fredric T. Suss for the Commission.

Mr. Morris Mostoff, of New York, N.Y., for respondent.

INITIAL DECISION BY EDGAR A. BUTTLE, HEARING EXAMINER

On December 21, 1959, the Federal Trade Commission issued its complaint against the above-named respondent, charging it with violating the provisions of subsection (d) of section 2 of the Clayton Act, as amended, in connection with the manufacture, sale, and distribution of chemical specialties for the graphic arts industry.

On February 23, 1960, the respondent and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint and agrees, among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and that

it is for settlement purposes only and does not constitute an admission by the respondent that it has violated the law as alleged in the complaint. The hearing examiner finds that the content of the said agreement meets all of the requirements of Section 3.25(b) of the Rules of Practice.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with section 3.21 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Anchor Chemical Company, Inc. 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 827 Bergen Street, Brooklyn, New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under subsection (d) of Section 2 of the Clayton Act, as amended.

ORDER

It is ordered, That respondent Anchor Chemical Company, Inc., its officers, employees, agents and representatives, directly or through any corporate or other device, in the course of its business in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Making or contracting to make, to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for any advertising or other services or facilities furnished by or through such customer, in connection with the handling, resale or offering for resale of products manufactured, sold, or offered for sale by respondent, unless such payment or consideration is affirmatively offered or otherwise made available on proportionally equal terms to all other customers competing in the resale or distribution of such products.

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 28th

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FEDERAL TRADE COMMISSION DECISIONS

Decision

56 F.T.C.

day of April, 1960, become the decision of the Commission; and,
accordingly: