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August 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Dolores Enterprises, Inc., a corporation, and Dolores Fuller and Irving Spice, individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF
HAT CORPORATION OF AMERICA

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

Docket 7422. Complaint, Feb. 26, 1959—Decision, Aug. 11, 1960

Consent order requiring a manufacturer of hats in South Norwalk, Conn.—including the well-known brands “Dobbs”, “Knox”, “Champ”, and “Cavanagh”—with sales in excess of \$19,000,000 for the year ending Oct. 31, 1957, to cease discriminating in price in violation of Sec. 2(a) of the Clayton Act through use of an annual cumulative quantity discount system which resulted in discriminatory net sales prices as between competing purchasers in the different volume and discount brackets, and which had even greater discriminatory effect in connection with its practice of allowing chain purchasers, including The May Department Stores Company and Allied Stores Corporation, to combine the purchases of their various outlets—many of whose purchases were not sufficient to warrant any discount—so as to qualify for a higher discount.

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 subsection (a) 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:

PARAGRAPH 1. Respondent, Hat Corporation of America, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office located on Van Zandt Street in the City of South Norwalk, State of Connecticut.

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PAR. 2. Respondent is engaged in the manufacture, sale, and distribution of hats. Among the various well known brands of hats manufactured and sold by respondent are Dobbs, Knox, Champ, and Cavanagh. Respondent is a substantial factor in the hat industry, ranking as the second largest company in the industry, with a sales volume in excess of \$19,000,000 for the fiscal year ending October 31, 1957. The principal manufacturing facilities of respondent are located in the States of Connecticut, Pennsylvania, and Tennessee.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, its hats when sold for use, consumption, or resale to be shipped from its manufacturing plants in the aforesaid States to purchasers thereof located in various other States of the United States and maintains and at all times mentioned herein has maintained a substantial course of trade in said hats in commerce as "commerce" is defined in the aforesaid Clayton Act.

PAR. 4. Respondent in the course and conduct of its business, has discriminated in price between different purchasers of its hats of like grade and quality, by selling said products at higher and less favorable net purchase prices to some purchasers than the same are sold to other purchasers who have been and are in competition with the favored purchasers.

PAR. 5. The following example is illustrative of respondent's discriminatory pricing practices.

Respondent now has, and for the past several years has had in effect, an annual cumulative quantity discount system ranging from one to five percent, based on the amount of the customer's annual purchases for the fiscal year ending October 31 of each year as follows:

<i>Annual Purchases</i>	<i>Discount (percent)</i>
Up to \$4,999.....	0
\$5,000 to \$9,999.....	1
\$10,000 to \$14,999.....	2
\$15,000 to \$24,999.....	3
\$25,000 to \$99,999.....	4
Over \$100,000.....	5

Respondent's aforescribed annual cumulative quantity discount system results in discriminatory net sales prices as between competitive purchasers in the different volume and discount brackets of said schedule. Purchasers of respondent's products for competitive resale unable to reach an annual purchase volume of \$5000, for example, receive no volume discounts on their purchases and thus have a significant buying price disadvantage.

Moreover, the competitive effect of the resulting net price differences becomes even more apparent in connection with respondent's application of the above discount schedule to chain stores, for example, such as The May Department Stores Company and Allied Stores Corporation.

Respondent allows said chain purchasers to combine the purchase volumes of their various outlets so as to qualify for a higher discount. In many instances the purchase volumes of the different individual stores of the chain are not sufficient to warrant any discount at all, but because of the policy of the respondent in granting the rate of discount on the combined purchase volumes of all the chain outlets, each individual store is allowed this higher discount.

For example, in the fiscal year ending October 31, 1956, total net purchases from respondent by The May Department Stores Company were \$165,865.67 on which a rebate of 5% or \$8,293.28 was paid. The purchase volume of none of the individual stores in The May chain was large enough to earn the 5% rebate paid. Based on the non-aggregated individual purchase volumes of the eleven participating May stores, the total rebate would have been only \$5,239.70 or \$3,053.58 less than the amount paid. In the case of Allied Stores Corporation, in the fiscal year ending October 31, 1956, purchases from respondent totaled \$63,961.22 and a rebate of \$2,558.45 computed at the rate of 4% was paid. Individually eight of the twelve Allied stores participating failed to qualify for any rebate. Of the remaining four stores, two stores each qualified for rebates of but 1% and 2%, respectively.

In many instances respondent's nonchain customers are purchasing individually from respondent in considerably greater volume than the individual chain store with whom they compete, and in so doing receive either no discount or at best a low-bracket discount corresponding with their actual volume of purchases, while the competitive individual chain store is allowed the larger discount not related to its actual individual purchase volume. The products sold under respondent's different product lines are of like grade and quality in its respective product line, and these independent nonchain customers purchase the same grade and quality of merchandise from respondent as do its chain store customers. In many instances the individual chain stores and the independently owned stores are located in the same city or metropolitan area and both the chain and nonchain stores are in active and constant competition with and among and between each other for the consumer trade.

Specific illustrations of representative price discriminations occasioned between the said favored and nonfavored competing customers

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on commodities of like grade and quality sold by respondent in commerce during the fiscal year ending October 31, 1956, are as follows:

Los Angeles trade area—Knox hats

Customer	Purchase volume	Rebate	Rebate
			<i>Percent</i>
The May Co.....	\$18,539.37	\$926.27	5.00
Mullen & Bluett, Inc.....	20,623.00	602.87	2.92
Charles Clothing and Shoe Store.....	12,807.00	227.02	1.77
Ricks Store For Men.....	6,186.00	60.56	0.98
Broadway Hale Stores.....	4,189.00	None	

Cleveland trade area—Knox hats

Customer	Purchase volume	Rebate	Rebate
			<i>Percent</i>
The May Co.....	\$14,174.42	\$708.72	5.00
Halle Bros. Co.....	21,205.00	539.05	2.54
Sterling-Linder-Davis (Allied).....	7,720.77	305.83	4.00
Baer Hat Co.....	7,264.00	61.36	0.84
Batlo's Squire Shop.....	6,465.00	None	

PAR. 6. The effect of the discriminations in price by respondent as hereinbefore set forth may be substantially to lessen competition in the lines of commerce in which the purchasers receiving and those denied the benefits of the more favorable prices are engaged, and to injure, destroy or prevent competition between purchasers receiving the benefit of said more favorable prices, and the purchasers from whom such more favorable prices are withheld.

PAR. 7. The aforesaid discriminations in price by respondent as hereinabove alleged and described constitute violations of subsection (a) of Section 2 of the aforesaid Clayton Act as amended.

Mr. Eldon P. Schrup for the Commission.

Wolf, Block, Schorr & Solis-Cohen, by *Mr. Louis J. Goffman*, of Philadelphia, Pa., for respondent.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated February 26, 1959, the respondent is charged with violating the provisions of subsection (a) of section 2 of the Clayton Act, as amended.

On June 1, 1960, the respondent and its attorney entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be

entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites 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 agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the 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 following jurisdictional findings are made and the following order issued.

1. Respondent Hat Corporation of America is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located on Van Zandt Street in the City of South Norwalk, State of Connecticut.

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

ORDER

It is ordered, That respondent Hat Corporation of America, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in or in connection with the sale, of hats or related items, in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Discriminating, directly or indirectly, in the price of any such products of like grade and quality:

By selling to any one purchaser at net prices higher than the net prices charged to any other purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's 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 11th day

of August 1960 become the decision of the Commission.