

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
EVERSHARP LAWN MOWER CORPORATION ET AL
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 7656. Complaint, Nov. 16, 1959—Decision, Sept. 30, 1960

Consent order requiring a St. Louis distributor to cease giving retailers the means to deceive the public as to the usual price of its lawn mowers through furnishing them with price lists containing purported retail prices that were fictitiously high and through participating with them in advertising in newspapers which used the fictitious list prices.

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 Eversharp Lawn Mower Corporation, a corporation, and Oscar S. Rudman and Michael L. Rudman, individually and as officers of the 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 Eversharp Lawn Mower Corporation, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Nevada, with its principal office and place of business at 4927 Delmar Street, St. Louis, Mo.

Respondents Oscar S. Rudman and Michael L. Rudman are officers of the aforesaid corporate respondent. They formulate, direct, and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale, sale and distribution of lawn mowers to wholesalers and to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some last past have caused, their said product, when sold, to be shipped from the place of business and factories in the State of Missouri to purchasers thereof located in various other states of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducting the purchase of their product, have engaged in the practice of using fictitious prices in connection therewith:

1. By furnishing to their customers price lists upon which certain amounts are indicated as "list prices", thereby representing directly or by implication that said amounts are the usual and regular retail prices of said lawn mowers in the trade area or areas where the representations were made. In truth and in fact, said amounts are fictitious and in excess of the usual and regular retail prices of said lawn mowers in many areas where the representations were made.

2. By participating with retailers in advertising said product, using the aforesaid fictitious list prices, in newspapers of general distribution.

PAR. 5. By the aforesaid practices, respondents place in the hands of the retailers means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of said lawn mowers.

PAR. 6. In the course and conduct of their business, at all times mentioned herein, respondents have been in substantial competition in commerce with corporations, firms, and individuals in the sale of lawn mowers of the same general kind and nature as that sold by respondents.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are true, and into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

Mr. Anthony J. Kennedy, Jr. and Mr. Edward F. Downs for the Commission.

Shifrin, Treiman, Agatstein & Schermer, by Mr. J. Leonard Schermer, of St. Louis, Mo., for respondents.

INITIAL DECISION BY EDGAR A. BUTTLE, HEARING EXAMINER

On November 16, 1959, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of the Federal Trade Commission Act in connection with the offering for sale, sale and distribution of lawn mowers. On May 11, 1960, the respondents 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 respondents admit the jurisdictional facts alleged in the complaint and agree, 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 respondents 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 respondents that they have violated the law as alleged in the complaint. The agreement further provides that the complaint insofar as it concerns respondent Michael L. Rudman, in his individual capacity only, should be dismissed for the reasons set forth in an affidavit attached thereto to the effect that said respondent had no part in the formulating, directing or controlling of the acts and practices of the corporate respondent and the individual respondent, Oscar S. Rudman. The hearing examiner finds that the content of the said agreement meets all 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 Eversharp Lawn Mower Corporation is a corporation existing and doing business under and by virtue of the laws of the State of Nevada, with its office and principal place of business located at 4927 Delmar Street, in the City of St. Louis, State of Missouri.

Respondents Oscar S. Rudman and Michael L. Rudman are officers of the corporate respondents and are located at the same address. Individual respondent Oscar S. Rudman formulates, directs and controls the acts and practices of the said corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents, Eversharp Lawn Mower Corporation, a corporation, and its officers, and Oscar S. Rudman, individually and as an officer of said corporation, and Michael L. Rudman, as an officer of the said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution, of lawn mowers or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, by furnishing price lists to their customers setting out suggested retail prices of their lawn mowers or any other product, or otherwise, that certain amounts are the usual and regular retail prices of their products, when such amounts are in excess of the prices at which such products are usually and regularly sold at retail in the trade area or areas where the representations are made;

2. Putting any plan into operation through the use of which retailers or others may misrepresent the usual and regular retail prices of such products.

It is further ordered, That the complaint, insofar as it relates to the respondent, Michael L. Rudman, in his individual capacity be, and the same hereby is, dismissed.

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 30th day of September 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Eversharp Lawn Mower Corporation, and Oscar S. Rudman, individually and as officer of said corporation, and Michael L. Rudman, as an officer 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.

Complaint

IN THE MATTER OF
EVERSHARP, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 7811. Complaint, Mar. 10, 1960—Decision, Sept. 30, 1960*

Consent order requiring the manufacturer of "Schick" safety razors and razor blades and its advertising agency to cease use of deceptive television demonstrations purporting to prove that the Schick razor was safer than other safety razors, disparaging competitive razors, and misrepresenting harmful consequences that might result from use of the latter.

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 Eversharp, Inc., a corporation, and E. E. Ettinger, individually and as an officer of said corporation, and Compton Advertising, Inc., a corporation, and John Hise, individually and as an officer of said corporation, and Alex Hoffman, individually and as an account executive of Compton Advertising, Inc., 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 Eversharp, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal place of business located at 350 Fifth Avenue, New York, N.Y.

Respondent E. E. Ettinger is a vice president of said corporate respondent and insofar as the allegations of this complaint are concerned was responsible for, or active in, the practices of said corporate respondent Eversharp, Inc. His address is 8510 Warner Drive, Culver City, Calif.

PAR. 2. Respondent Compton Advertising, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal place of business located at 625 Madison Avenue, New York, N.Y. This corporate respondent is the advertising agency of the respondents referred to in paragraph 1 and prepares and places for publication and dissemi-