

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-

nation advertising material, including but not limited to that hereinafter set forth, to promote the sale of Schick safety razors and safety razor blades.

Individual respondent John Hise is a vice president, and individual respondent Alex Hoffman is an account executive of the corporate respondent Compton Advertising, Inc., and insofar as the allegations of this complaint are concerned, were responsible for, or active in, the practices of said corporate respondent. The address of these individual respondents is the same as that of the corporate respondent.

PAR. 3. Respondent Eversharp, Inc., is now, and for some time last past has been, engaged in the business of manufacturing, selling and distributing safety razors and safety razor blades sold under the brand name "Schick", and now causes said Schick safety razors and safety razor blades, when sold, to be transported from its factories in various cities to wholesalers, distributors and retailers located in various States of the United States and in the District of Columbia, and maintains and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents Eversharp, Inc., and E. E. Ettinger are now, and have been at all times mentioned herein, in substantial competition, in commerce, with corporations, firms and individuals in the sale of safety razors and razor blades.

Respondents Compton Advertising, Inc., and John Hise and Alex Hoffman are now, and have been at all times mentioned herein, in substantial competition, in commerce, with corporations, firms and individuals engaged in the advertising business.

PAR. 5. In the course and conduct of its business and for the purpose of inducing the sale of its Schick safety razors and safety razor blades, respondents Eversharp, Inc., and E. E. Ettinger, with the aid and direct participation of respondents Compton Advertising, Inc., John Hise and Alex Hoffman, have advertised said Schick safety razors and razor blades by means of demonstrations and various statements used in connection therewith in television broadcasts transmitted by television stations located in various states of the United States and in the District of Columbia having sufficient power to carry such broadcasts across state lines.

Among and typical, but not all inclusive, of said demonstrations and the statements used in connection therewith, are the following:

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Title: "Heavyweight Champion"

Video

Open on MCU of Johansson in shower. He has just finished shaving and has a towel around his neck. He holds up a Schick Safety Razor as he calls out.

Cut to CU of Bud Palmer. He is holding a boxing glove and waves toward Johansson.

Pull back as Johansson comes into scene next to Palmer, wearing fighter's robe and still has towel around his neck. Palmer slips glove on Johansson's hand.

Cut to CU exposed edge of Matador Razor. Pencil indicates exposed corner. (See Exhibit 1 attached)

Cut to CU of boxing glove as Palmer runs Matador Blade corner across it cutting glove surface. (See Exhibits 2, 3 and 4 attached)

Palmer puts down Matador and picks up a Schick Safety Razor. He holds it up. Super: "Shielded blade corners" as he runs thumb over edge.

Palmer runs Schick safety razor across it. It doesn't cut the glove.

Cut back to two shot of Johansson and Palmer.

Dissolve to shower set. "So safe you can shave in the shower", on glass with "Schick Safety Razor . . . still only 1:00 with blades." Man in BG shaving in shower.

Audio

SFX: Out.

Johansson: (D.V.) Sa pallig Ni kan raka Er i duschaen. Right, Bud Palmer!

Palmer: (D.V.) Right, Ingo. That's Ingemar Johansson, World's Heavyweight champion. He just said, in Swedish, the Schick Safety Razor is so safe you can shave in the shower.

Slip this glove on Ingo and I'll show you why the new modern Schick Safety Razor is so *safe*.

First, let's compare it with this old style round head razor, where blade corners are unprotected.

Palmer: (V.O.) Look! If that can happen to this glove, think what could happen to your face.

Johansson: (V.O.) No thanks!

Palmer: (D.V.) But, Schick shields blade corners.

(V.O.) . . . no danger of nicks or scrapes.

(D.V.) Shave with confidence. . . . Switch to Schick Safety razor.

Johansson: You know Bud, I live near the Schick factory in Sweden.

Palmer (D.V.) That's where we make our fine Swedish steel blades. They're the sharpest ever!

Yet, so safe you can shave in the shower. Schick Safety Razor . . . still only one buck with blades.

The exhibits referred to above are made a part of this complaint by reference.

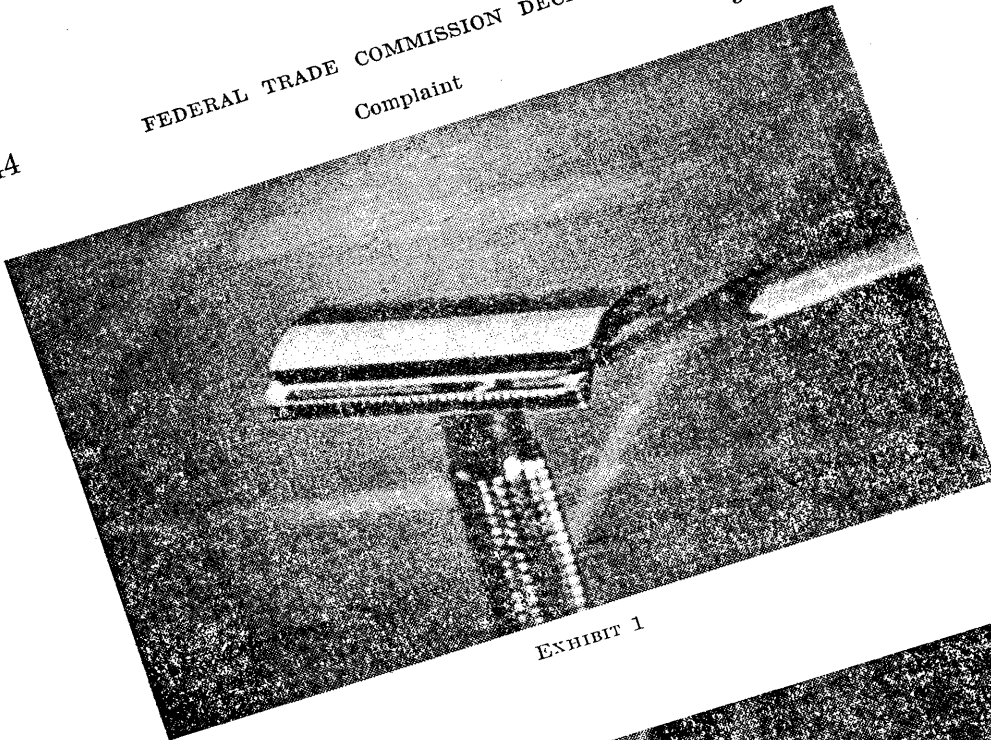


EXHIBIT 1

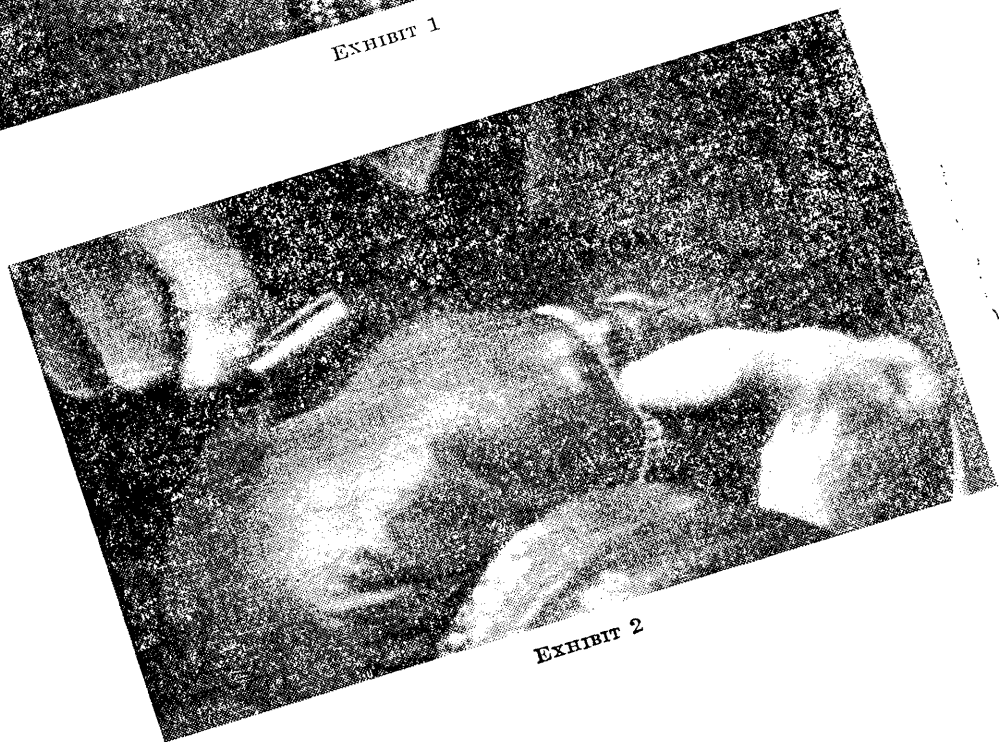


EXHIBIT 2

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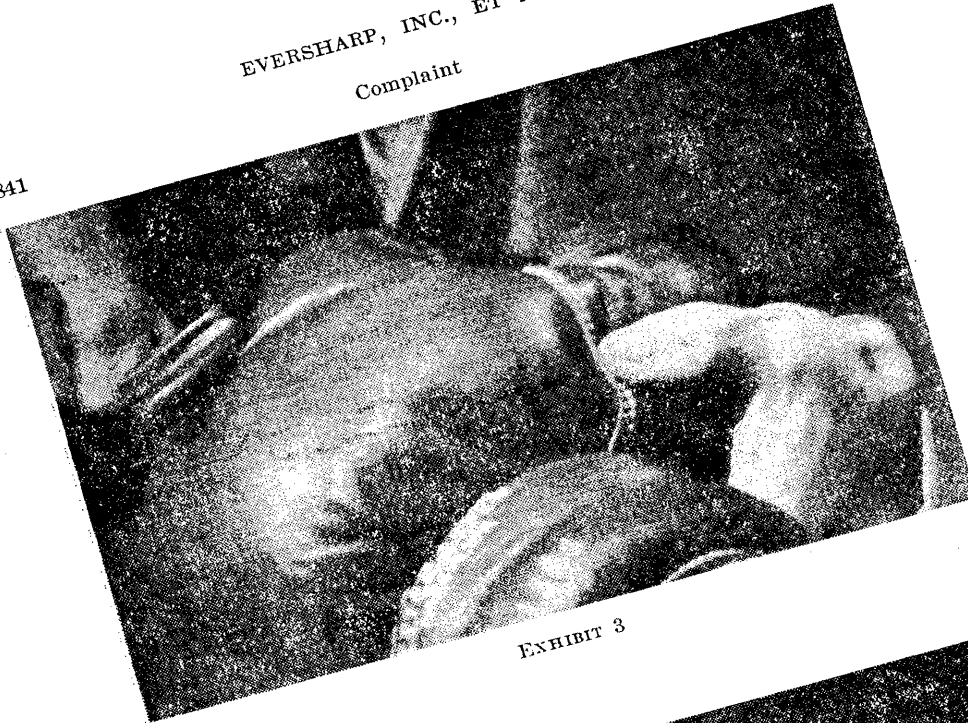


EXHIBIT 3

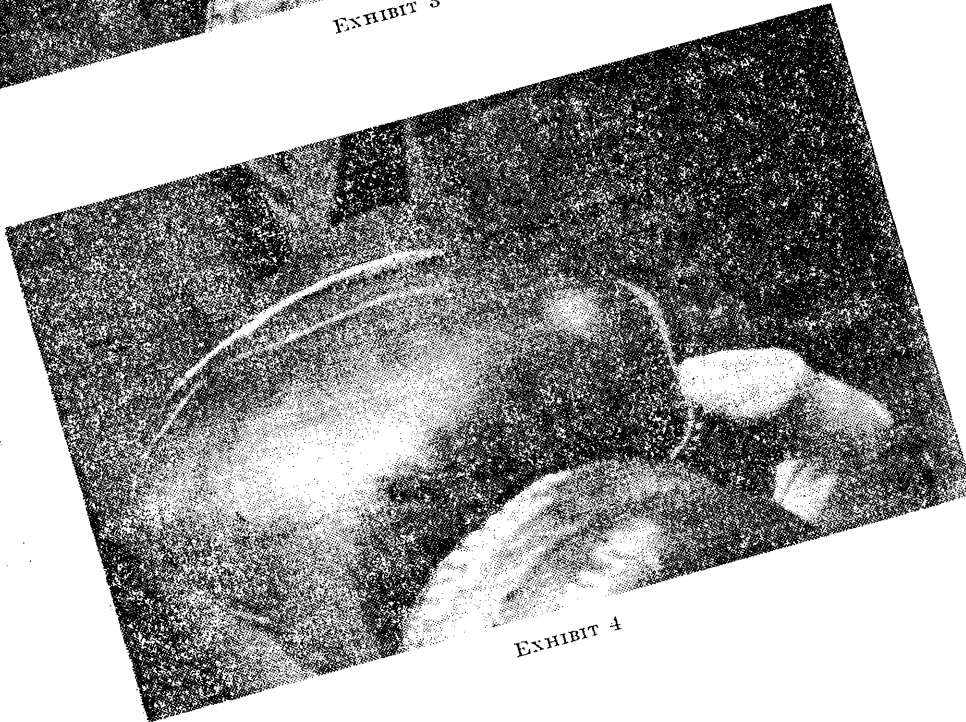


EXHIBIT 4

PAR. 6. Through the use of the aforesaid demonstration and the statements used in connection therewith, and others of similar import not specifically set out herein, respondents represent, directly and by implication, that said demonstration is a valid portrayal of the danger in actual use of competitive so-called round head razors.

PAR. 7. The said demonstration and the statements and representations used in connection therewith are false, misleading and deceptive. In truth and in fact, said demonstration is not a valid portrayal of any danger in actual use of competitive so-called round head razors since said demonstration does not duplicate, in any manner, the conditions of actual use.

The use by the respondents of said demonstration, including the statements and representations used in connection therewith, has the tendency and capacity to unduly frighten and alarm prospective purchasers of competitive razors with respect to consequences which may result from the use of said competitive razors.

Further, the use by respondents of said demonstration, and the statements and representations used in connection therewith, constitutes disparagement of said competitive razors.

PAR. 8. The use by the respondents of the aforesaid invalid demonstration and the false, misleading and deceptive statements and representations used in connection therewith has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true, and into the purchase of a substantial quantity of respondent Eversharp, Inc.'s Schick safety razors and safety razor blades because of such erroneous and mistaken belief. As a result thereof, substantial trade has been and is being unfairly diverted to respondents from their competitors and substantial injury has been and is being done to competition in commerce.

PAR. 9. 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. Frederick McManus for the Commission.

Mr. Sidney Davis of New York, N.Y., by *Mr. Robert L. Laskey*, for respondents Eversharp, Inc., and E. E. Ettinger.

Duke and Landis of New York, N.Y., by *Mr. David B. Landis*, for respondents Compton Advertising, Inc., John Hise and Alex Hoffman.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On March 10, 1960, 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 advertising and sale of safety razors and safety razor blades sold under the brand name of "Schick."

On July 25, 1960, respondents and their attorneys 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.

It is set out in the agreement that individual respondent Alex Hoffman was formerly an account executive of the corporate respondent Compton Advertising, Inc., but is no longer connected with said corporation, and it was agreed that the complaint should be dismissed as to this individual in his capacity as account executive.

Under the agreement, the respondents admit the jurisdictional facts alleged in the complaint. The said 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 agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; 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 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 as to all parties, 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, 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 the complaint are concerned was responsible for, or active in, the practices of said cor-

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porate respondent, Eversharp, Inc. His address is 8510 Warner Drive, Culver City, Calif.

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.

Individual respondent John Hise is a vice president of the respondent Compton Advertising, Inc., and his address is the same as that of said corporate respondent. It appears that respondent John Hise signed the aforesaid agreement as John A. Hise, Jr.

The address of the individual respondent Alex Hoffman is 15 Oak Crest Road, Darien, Conn.

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, Inc., a corporation, and its officers, and E. E. Ettinger, individually and as an officer of said corporation, and Compton Advertising, Inc., a corporation, and its officers, and John Hise, individually and as an officer of said corporation, and Alex Hoffman, individually, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of safety razors and safety razor blades in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any pictorial presentation or demonstration purporting to prove or representing as proving, that the Schick safety razor or any other safety razor of substantially similar design, is safer, than other safety razors, in actual use, when such pictorial presentation or demonstration does not in fact so prove.

2. Disparaging by untruthful statements or any misleading or deceptive method, safety razors competitive with those of respondent Eversharp, Inc., by any pictorial presentation, demonstration, or in any other manner.

3. Misrepresenting, directly or by implication, in any manner, any consequence that may result in the actual use of safety razors competitive with those of respondent Eversharp, Inc.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to the respondent Alex Hoffman as an account executive of Compton Advertising, Inc.

CARL W. HERRMANN, INC., ET AL.

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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 Commission's Rules of Practice, the initial