

TELEVIDEO CORPORATION OF AMERICA ET AL.

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

Docket 8025. Complaint, June 27, 1960—Decision, Nov. 26, 1960

Order requiring Culver City, Calif., manufacturers of rebuilt television picture tubes, which they sold to dealers for resale to the public, to cease selling such tubes without disclosing that they contain used parts when such was the fact.

Michael J. Vitale, Esq., for the Commission.

No appearance for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The complaint charges respondents with failure to disclose the true nature of the used or rebuilt television picture tubes which they sell and distribute in commerce, thereby misleading and deceiving the public into the erroneous belief that such tubes are unused, new, and first quality tubes, in violation of the provisions of the Federal Trade Commission Act.

Respondents were duly served with a copy of the complaint, but filed no answer thereto. On September 14, and October 4, 1960, respondents were served with a copy of a notice and supplemental notice, respectively, that a hearing for the reception of evidence upon the issues as they relate to them would be held, beginning at 10:00 a.m. on October 11, 1960, in Room 780, Federal Trade Commission Building, Washington, D.C. No appearance was made by respondents or by anyone else in their behalf. Said respondents are therefore in default for answer and appearance in this proceeding, and, under the Rules of Practice of the Federal Trade Commission the Hearing Examiner is authorized without further notice to respondents to find the facts to be as alleged in the complaint, and to enter an initial decision containing such findings, appropriate conclusions and order.

Accordingly, the following findings are made, conclusions reached, and order issued:

1. Respondent Televideo Corporation of America is a corporation organized, 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 6006 West Washington Boulevard, Culver City, California. Said corporation trades under the name of Picture Tube Mart. Respondents Thurman D. Brooms, Kenneth A. Redshaw and Milton Tobias are officers of said 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.

2. Respondents are now, and for more than two years last past have been, engaged in the sale and distribution of television picture tubes containing used parts, to dealers for resale to the public. In the course and conduct of such business they have caused and now cause their products, when sold, to be shipped from their place of business in the State of California to customers located in other States of the United States; and they maintain, and at all times mentioned herein have maintained, a substantial course of trade in

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said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

3. Said respondents are now, and at all times mentioned herein have been, in substantial competition with firms, persons, corporations and partnerships engaged in the sale and distribution of television tubes in commerce, between and among the various States of the United States.

4. In the course and conduct of their business, said respondents have offered for sale, sold and distributed a large number of used or rebuilt television tubes without disclosing on the tube, box, carton, invoice, or in advertising the nature of these tubes. By failing to disclose these material facts, said respondents place in the hands of their customers, and others, means and instrumentalities by which the purchasing public may be misled into believing that said tubes are new, unused and first quality tubes.

5. When such tubes are offered to the purchasing public without being clearly and conspicuously marked, labeled and advertised as used or rebuilt tubes, they are readily accepted by members of the purchasing public as new, unused and first quality tubes.

6. The failure of said respondents to disclose the true nature of their tubes as aforesaid 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 such tubes were new, unused and first quality tubes, and into the purchase of respondents' products by reason of such erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has thereby been done to competition in commerce.

7. The aforesaid acts and practices of said respondents, as herein found, 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.

8. This proceeding is in the public interest. Therefore,

It is ordered, That respondent, Televideo Corporation of America, a corporation, and its officers, and Thurman D. Brooms, Kenneth A. Redshaw and Milton Tobias, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of rebuilt television picture tubes containing used parts, in commerce, as "commerce" is defined

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in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to clearly disclose on the tubes, on the cartons in which they are packed, on invoices and in advertising, that said tubes are rebuilt and contain used parts;
2. Placing any means or instrumentality in the hands of others whereby they may mislead the public as to the nature and condition of their television picture tubes.

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 26th day of November 1960, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents 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.
