

It is ordered, That respondent Chun King Sales, Inc., a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

IN THE MATTER OF

WELLS ELECTRONICS CO., INC., ET AL.

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

Docket 8105. Complaint, Aug. 29, 1960—Decision, Jan. 12, 1961

Consent order requiring a manufacturer in Cedarhurst, Long Island, N. Y., of rebuilt television tubes containing used parts, to cease representing falsely on labels and by other media that certain of its said tubes were "Brand New" and "All New", and to disclose clearly on tubes, cartons, invoices, and in advertising, that the tubes were rebuilt and contained used parts.

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 Wells Electronics Co., Inc., a corporation, and Sam Bluman, individually and as an officer of 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 Wells Electronics Co., Inc., is a corporation organized, 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 208 Rockaway Turnpike, Cedarhurst, Long Island, New York.

Respondent Sam Bluman is an individual and officer of said corporation. He formulates, controls and directs the policies, acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His 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 manufacture, offering for sale, sale and distribution of rebuilt television picture tubes containing used parts to distributors for resale to the public.

Complaint

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PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of New York 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. In the course and conduct of their business, and for the purpose of inducing the sale of their products, respondents made certain statements concerning their products on labels and by other media. Among and typical of such statements are the following:

This is a Brand New
ATLANTIC
Television Picture Tube
This is a Brand New
TRIAD
Television Picture Tube
All New
CAROUSEL
Television Picture Tube

PAR. 5. Through the use of the aforesaid statements, respondents represented that certain of their television picture tubes were new in their entirety.

PAR. 6. Said statements and representations were false, misleading and deceptive. In truth and in fact, the television picture tubes represented as being "new" are not new in their entirety.

PAR. 7. The television picture tubes sold by respondents are rebuilt and contain used parts. Respondents do not disclose on the tubes, or on invoices, or in an adequate manner on the cartons in which they were packed, or in any other manner that said television picture tubes are rebuilt and contain used parts.

When television picture tubes are rebuilt containing used parts, in the absence of any disclosure to the contrary, or in the absence of an adequate disclosure, such tubes are understood to be and are readily accepted by the public as new tubes.

PAR. 8. By failing to disclose the facts as set forth in Paragraph Seven, respondents place in the hands of uninformed or unscrupulous dealers the means and instrumentalities whereby they may mislead and deceive the public as to the nature of their said television picture tubes.

PAR. 9. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in

commerce, with corporations, firms and individuals engaged in the sale of television picture tubes.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements and representations and the failure of respondents to disclose on their television picture tubes, on invoices, in an adequate manner on the cartons in which they are packed, or in any other manner that they are rebuilt containing used parts, had, and now have, 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' tubes 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. 11. 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. Michael J. Vitale for the Commission.

Respondents, *pro se*.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated August 29, 1960, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On November 2, 1960, the respondents entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondents admit 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 respondents 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 respondents that they have 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 Wells Electronics Co., Inc. is a corporation organized, 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 208 Rockaway Turnpike, Cedarhurst, Long Island, New York.

Respondent Sam Bluman is an officer of said corporation. He formulates, directs and controls the acts and practices of the corporate respondent. His address is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Wells Electronics Co., Inc., a corporation, and its officers, and Sam Bluman, individually and as an officer of said corporation, and said 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 in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication, that said television picture tubes are new.

2. 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.

3. Placing any means of 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 12th day of January, 1961, become the decision of the Commission; and accordingly:

