

Complaint

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IN THE MATTER OF

HI-GLO ELECTRONICS CORPORATION ET AL.

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

Docket 7960. Complaint, June 17, 1960—Decision, Mar. 1, 1961

Consent order requiring a manufacturer and its corporate sales agent in Goodrich, Mich., to cease representing falsely on labels and otherwise that their rebuilt television picture tubes which contained used parts were new in their entirety, and to clearly disclose that such tubes were rebuilt.

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 Hi-Glo Electronics Corporation, a corporation, and Sylvan Electronics Corporation, a corporation, and Leonard M. Rozner, individually and as an officer of said corporations, 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 Hi-Glo Electronics Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 8267 South State, Goodrich, Michigan.

Respondent Sylvan Electronics Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 8267 South State, Goodrich, Michigan. Said corporation is the exclusive sales agent for Hi-Glo Electronics Corporation and both corporations cooperate and act together in carrying out the acts and practices hereinafter set forth.

Respondent Leonard M. Rozner is an officer and major stockholder of both corporate respondents. He formulates, controls and directs the policies, acts and practices of the corporate respondents. His address is the same as that of the corporate respondents.

PAR. 2. Respondents are now, and for some time last past have been engaged in the manufacture, offering for sale, sale and distribu-

tion of rebuilt television picture tubes containing used parts to distributors for resale to the public.

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 Michigan 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 in trade in said products, 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 is the following:

This is a NEW
GLENDALE
PICTURE TUBE

PAR. 5. Through the use of the aforesaid statement 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 containing used parts. Respondents do not disclose on the tubes, or on the cartons in which they are packed, or on invoices, 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 a disclosure to the contrary, 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 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

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of respondents to disclose on their television picture tubes, on the cartons in which they are packed, on invoices, or in any other manner, that they are rebuilt, containing used parts, have 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' said 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 supporting the complaint.

Mr. Douglas H. P. Hall, of Flint, Mich., for respondents.

INITIAL DECISION BY WALTER K. BENNETT, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on June 17, 1960. The complaint charged respondents with making false representations that rebuilt or partially rebuilt picture television tubes were new. Said representations were charged to be unfair and deceptive acts and practices and unfair methods of competition within the intent and meaning, and in violation, of the Federal Trade Commission Act.

On December 15, 1960, Counsel submitted to the undersigned Hearing Examiner an agreement dated December 5, 1960, among respondents, counsel representing them and counsel supporting the complaint, providing for the entry without further notice of a consent order. The agreement was duly approved by the Director, the Assistant Director and the Associate Director of the Bureau of Litigation.

The Hearing Examiner finds that said agreement includes all of the provisions required by Section 3.25(b) of the Rules of the Commission, that is:

A. And admission by all the respondent parties thereto of jurisdictional facts;

B. Provisions that:

(1) The complaint may be used in construing the terms of the order:

(2) The order shall have the same force and effect as if entered after a full hearing;

(3) 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;

(4) The entire record on which any cease and desist order may be based shall consist solely of the complaint and the agreement;

(5) The order may be altered, modified, or set aside in the manner provided by statute for other orders;

C. Waivers of:

(1) The requirement that the decision must contain a statement of finding of fact and conclusion of law;

(2) Further procedural steps before the Hearing Examiner and the Commission.

In addition the agreement contains the following permissive provisions: A waiver by the respondents of any right to challenge or contest the validity of the order entered in accordance with the agreement, and a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

Having considered said agreement, including the proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding; the Hearing Examiner hereby accepts the agreement but orders that it shall not become a part of the official record 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. Respondents Hi-Glo Electronics Corporation and Sylvan Electronics Corporation are each corporations organized, existing and doing business under and by virtue of the laws of the State of Michigan. Both have their office and principal place of business at 8267 South State, Goodrich, Michigan.

2. Respondent Leonard M. Rozner is an officer of said corporate respondents. He formulates, directs and controls the acts and practices of both corporate respondents. His address is the same as that of the corporate respondents.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

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ORDER

It is ordered, That respondents, Hi-Glo Electronics Corporation, a corporation, Sylvan Electronics Corporation, a corporation, and their officers, and Leonard M. Rozner, individually and as an officer of said corporations, 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 containing used parts.
3. Placing any means or instrumentalities 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 1st day of March, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein 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.
