

It is further ordered, That the 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 contained in aforesaid initial decision as modified.

IN THE MATTER OF
FAWCETT PUBLICATIONS, INC., ET AL.

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

Docket 8187. Complaint, Nov. 28, 1960—Decision, May 16, 1961

Consent order requiring a New York City publisher to cease selling reprints of books from which portions of the text were deleted or for which new titles were substituted without making conspicuous disclosure when such was the case.

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 Fawcett Publications, Inc., a corporation, and Wilfred Fawcett and Gordon Fawcett, individually and as officers 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

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respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Fawcett Publications, 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 67 West 44th Street, in the City of New York, New York.

Respondents Wilfred Fawcett and Gordon Fawcett are individuals and officers of said corporate respondent and have their office and place of business at the same address. These individual respondents have dominant control of the advertising policies and business activities of said corporate respondent, and all of the respondents have cooperated with each other and have acted together doing the acts and things hereinafter alleged.

PAR. 2. Respondents are now, and for more than two years last past have been, engaged in selling and distributing books and causing said books, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in the various States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said books, in commerce, as "commerce" is defined in the Federal Trade Commission Act, among and between the various States of the United States and in the District of Columbia.

PAR. 3. Among the books sold by respondents, as aforesaid, are reprints of books from which portions of the text have been deleted. In some cases respondents do not disclose the fact that their books are abridged, while in other cases they disclose the fact of such abridgment by printing the word "Abridged" in small, inconspicuous letters on the front covers of said books.

PAR. 4. The said disclosure on the front cover of respondents' said books that such books are abridged does not constitute adequate notice of such abridgment in that such disclosure is not noticeable to the average purchaser and is not displayed in such a manner or position to readily attract the attention of prospective purchasers.

PAR. 5. Respondents have also disseminated advertising material concerning said abridged books which contains no disclosure that the books are abridged, and also have published and disseminated advertising material concerning books for which they have substituted new or alternate titles for the original titles, without disclosing such change of title.

PAR. 6. In the course and conduct of said business, respondents have been, and are, in substantial competition in commerce with other corporations and with individuals, partnerships and others engaged in the sale of books.

PAR. 7. The respondents' said acts and practices further serve to place in the hands of dealers a means and instrumentality whereby such persons may mislead the purchasing public with regard to the abridgment and prior publication of the contents of respondents' books.

PAR. 8. The failure of respondents to make adequate disclosure that certain of their books are abridgments and that books to which they have given new titles are not different from the books of which they are reprints has had, and now has, the tendency and capacity to lead a substantial portion of the purchasing public into the mistaken and erroneous belief that said books are complete and unabridged, or are new and original publications, and to induce a substantial portion of said public to purchase respondents' said books, in commerce, because of said erroneous and mistaken belief. As a result thereof, trade has been, and is being, unfairly diverted from their competitors in commerce and substantial injury has been, and is being, done to competition in commerce.

PAR. 9. The aforesaid acts and practices of respondents are all to the prejudice and injury of the public and of respondents' competitors and 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. John W. Brookfield, Jr., supporting the complaint.

De Witt, Nast & Diskin, of New York, N. Y., respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On November 28, 1960 the Federal Trade Commission issued a complaint charging that the above-named respondents had violated the provisions of the Federal Trade Commission Act. The complaint alleged that respondents had not adequately disclosed the fact that their books are abridgments or newly-titled reprints.

After issuance and service of the complaint, the above-named respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the Director, the Associate Director and the Assistant Director the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding

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unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and 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.

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Fawcett Publications, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 67 West 44th Street, in the City of New York, State of New York.
2. Individual respondents Wilfred Fawcett and Gordon Fawcett are officers of said corporate respondent and have their office and place of business at the same address.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Fawcett Publications, Inc., a corporation, and its officers, and respondents Wilfred Fawcett and Gordon Fawcett, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of books in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling any abridged copy of a book unless one of the following words, "abridged", "abridgment", "condensed" or "condensation", or some other word or phrase stating with equal clarity that said book is abridged, appears in clear, conspicuous type upon the front cover and upon the title page of the book,

either in immediate connection with the title or in another position adapted to attract readily the attention of a prospective purchaser.

2. Using or substituting a new title for, or in place of, the original title of a reprinted book, unless a statement which reveals the original title of the book and that it has been published previously under such title appears in clear and conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the title or in another position adapted to attract readily the attention of a prospective purchaser.

3. Disseminating advertising pertaining to any abridged copy of a book or to a book reprint having a substitute title, unless such advertising discloses the fact of abridgment or contains a statement revealing the original title and that the book has been previously published thereunder, or both, as the case may be, in clear, conspicuous type either in immediate connection with the title under which the book is sold or in another position adapted to attract readily the attention of a prospective purchaser.

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 16th day of May 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.
