
IN THE MATTER OF
DOT RECORDS, INC., ET AL.

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

Docket 8036. Complaint, July 11, 1960—Order, June 1, 1961

Order dismissing without prejudice—the public interest considered to be fully protected by recent amendment to the Communications Act of 1934—complaint charging illegal payment of “payola” to radio and television disc jockeys.

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Order

Mr. Harold A. Kennedy and *Mr. Arthur Wolter, Jr.* for the Commission.

Mr. E. Compton Timberlake and *Mr. Leonard Kaufman*, of New York, N.Y., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

On July 11, 1960, the Commission issued its complaint herein, charging the Respondents, who are engaged in the manufacture and distribution, offering for sale, and sale of phonograph records to distributors and various retail outlets, with violation of the Federal Trade Commission Act, in that Respondents, alone or with certain unnamed record distributors, have negotiated for and disbursed "payola", which consists of the payment of money or other valuable consideration to disc jockeys of musical programs on radio and TV stations, to induce the disc jockeys to select, broadcast, "expose" and promote certain records, in which the Respondents are financially interested, on the express or implied understanding that the disc jockeys will conceal the fact of such payment from the listening public.

On March 27, 1961, prior to the offering of any evidence herein, counsel supporting the complaint submitted a motion requesting that the complaint be dismissed without prejudice. In support of their request counsel supporting the complaint state that the Communications Act of 1934 has been amended in several particulars, and that, as a result of those amendments, they consider "the continued prosecution of this matter an unnecessary expenditure of time, effort and funds in determining the legality of the alleged practice, since the protection of the public interest is now fully assured by specific statute". Counsel for the Respondents offers no objection to the granting of this motion.

After considering the motion to dismiss, the law and amendments referred to therein, and the oral reply thereto of counsel for the Respondents, the Hearing Examiner accepts the reasons offered in support of the motion, and concurs in the opinion of counsel supporting the complaint that the dismissal without prejudice of the complaint herein will be in the public interest. Therefore,

It is ordered, That the complaint herein be, and the same hereby is, dismissed without prejudice to the right of the Commission to initiate further proceedings against the Respondents, should future events so warrant.

Complaint

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FINAL ORDER

By its order of May 9, 1961, the Commission extended until further order the date on which the initial decision of the hearing examiner herein would become the decision of the Commission; and

The Commission now having concluded that said initial decision dismissing the complaint without prejudice constitutes an appropriate and adequate disposition of this proceeding:

It is ordered, That the initial decision of the hearing examiner filed April 5, 1961, be, and it hereby is, adopted as the decision of the Commission.
