

IN THE MATTER OF
PARLIAMENT T.V. TUBE SALES, INC., ET AL.

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

Docket 8180. Complaint, Nov. 23, 1960—Decision, July 25, 1961

Consent order requiring Chicago distributors of rebuilt television picture tubes
containing used parts, to cease representing falsely through statements on

Complaint

59 F.T.C.

tags and labels, price lists, and other media, that all parts in their tubes were "brand new", and that they had given "Eight years of dependable service" and were the "World's largest independent picture tube distributor"; and to cease failing to disclose clearly when tubes were rebuilt containing a used part.

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 Parliament T.V. Tube Sales, Inc., a corporation, and David Becker, Mort Posen, and Jack N. Friedman, 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 respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Parliament T.V. Tube Sales, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 111 N. Kedzie Avenue, Chicago, Illinois. Said corporate respondent operates a division under the name Distributors T.V. Picture Tube Co., whose principal place of business is located at 3125 West Maypole Avenue, Chicago, Illinois.

The individual respondents David Becker, Mort Posen, and Jack N. Friedman are officers of said corporation. They formulate, direct and control the acts and practices of corporate respondent, including the acts and practices hereinafter set forth. Their 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 offering for sale, sale and distribution of rebuilt television picture tubes containing a used part. Parliament T.V. Tube Sales, Inc. sells to television repairmen who service T.V. sets for individual owners, and sell at retail, and through its division, Distributors T.V. Picture Tube Co., respondents sell their rebuilt television picture tubes to wholesalers, who in turn sell to retailers and television repairmen 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 Illinois to purchasers thereof located in various other States of the United States and maintain, and at all time mentioned herein have maintained, a course of 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 tags, labels, price lists, and by other media. Among and typical of such statements are the following:

All parts in this picture tube are brand new.

Eight years of dependable service.

World's largest independent picture tube distributor.

PAR. 5. Through the use of the aforesaid statements respondents represented:

1. That their television picture tubes were new in their entirety.
2. That the respondents have been in business for eight years or more.
3. That the respondents were the world's largest independent picture tube distributors, thereby selling and distributing more picture tubes than any other company in the world.

PAR. 6. Said statements and representations were false, misleading and deceptive. In truth and in fact:

1. The television picture tubes represented as being new are not new in their entirety.
2. The respondent corporation was incorporated on December 8, 1958, and went into business in that same year.
3. The respondent corporation is not the world's largest T.V. tube distributor. There are several T.V. tube distributors in the United States which sell and distribute a larger volume of T.V. tubes than the respondents.

PAR. 7. The television picture tubes sold by respondents are rebuilt and contain a used part. Respondents do not disclose on the tubes, on invoices, or in any other manner that said television picture tubes are rebuilt and contain a used part.

When television picture tubes are rebuilt containing a used part in the absence of a disclosure to the contrary, such picture 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 Paragraphs 6 and 7, 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 of respondents to disclose on their television picture tubes, on invoices or in any other manner that they are rebuilt, containing a use part, has had, and now has, 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 beliefs and as a consequence thereof substantial trade in commerce has been and is being unfairly directed 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. Harry E. Middleton, Jr., for the Commission.

Ashman & Jaffee, by *Mr. Martin C. Ashman*, of Chicago, Ill., for respondents.

INITIAL DECISION BY EDGAR A. BUTTLE, HEARING EXAMINER

On November 23, 1960, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of the Federal Trade Commission Act in connection with the offering for sale, sale and distribution of rebuilt television picture tubes containing a used part. On May 1, 1961 the respondents and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint and agree among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commis-

127

Order

sion, and that it is for settlement purposes only, does not constitute an admission by the respondents that they have violated the law as alleged in the complaint, and that said complaint may be used in construing the terms of the order. The hearing examiner finds that the content of the said agreement meets all the requirements of section 3.25(b) of the Rules of Practice.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Section 3.21 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Parliament T.V. Tube Sales, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 111 N. Kedzie Street, in the City of Chicago, Illinois.

Respondents David Becker, Mort Posen and Jack N. Friedman are individuals and officers of said corporate respondent. They formulate, direct and control the policies, acts and practices of the corporate respondent. Their 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 hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered. That respondents Parliament T.V. Tube Sales, Inc., a corporation, and its officers, and David Becker, Mort Posen, and Jack N. Friedman, individually and as officers of said corporate respondent, and said respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale and sale of rebuilt television picture tubes, 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.

Complaint

59 F.T.C.

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 a used part.

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.

4. Representing, directly or indirectly:

(a) That the corporate respondent has been in existence, or that corporate respondent or the individual respondents have been in business for any period or length of time that is not in accordance with the facts.

(b) That respondents are the world's largest television picture tube distributors.

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 25th day of July 1961, become the decision of the Commission; and, accordingly:

It is ordered, That 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.