

IN THE MATTER OF
ALBERT F. ROBILIO ET AL. DOING BUSINESS AS
ROBILIO & CUNEO

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(d)
OF THE CLAYTON ACT

Docket 8294. Complaint, Mar. 2, 1961—Decision, Nov. 6, 1961

Consent order requiring the Memphis, Tenn., manufacturer of "Ronco" macaroni, spaghetti, and noodles to cease discriminating among its customers in paying promotional allowances in violation of Sec. 2(d) of the Clayton Act by such practices as making a preferential payment of \$250 to a retail grocery chain with headquarters in Jacksonville, Fla., while making no offers of comparable payments to the chain's competitors.

Complaint

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COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating the provisions of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C. Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondents Albert F. Robilio, John S. Robilio, Jr., Mrs. John S. Robilio, Sr., Rose Ann Robilio, Florence Rita Radogna, Roane Waring, Jr., and Martha Cuneo Reid, are copartners trading and doing business as Robilio & Cuneo, with their office and principal place of business located at 70 Adams Avenue, Memphis, Tennessee.

PAR. 2. Respondents are now and have been engaged in the manufacture, sale, and distribution of food products, including macaroni, spaghetti, and egg noodles under the trade name, "Ronco". Respondents sell and distribute their products to wholesalers and retailers, including retail chain organizations.

PAR. 3. Respondents sell and cause their products to be transported from their principal place of business in the State of Tennessee to customers located in other States of the United States. There has been at all times mentioned herein a continuous course of trade in said products in commerce, as "commerce" is defined in the Clayton Act, as amended.

PAR. 4. In the course and conduct of its business in commerce, respondents paid or contracted for the payment of something of value to or for the benefit of some of their customers as compensation or in consideration for services or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by respondents, and such payments were not made available on proportionally equal terms to all other customers competing in the sale and distribution of respondents' products.

PAR. 5. For example, in the year 1960, respondents contracted to pay and did pay to Winn-Dixie Stores, Inc., a retail grocery chain with headquarters in Jacksonville, Florida, the amount of \$250.00 as compensation or as an allowance for advertising or other services or facilities furnished by or through Winn-Dixie Stores, Inc., in connection with its offering for sale or sale of products sold to it by respondents. Such compensation or allowance was not made available on proportionally equal terms to all other customers competing with Winn-Dixie Stores, Inc., in the sale and distribution of products of like grade and quality purchased from respondents.

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Order

PAR. 6. The acts and practices of respondents, as alleged, are in violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

DECISION AND ORDER

This matter having come on to be heard by the Commission upon a record consisting of the Commission's complaint charging the respondents named in the caption hereof with violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, and an agreement signed by all of the respondents [except respondent Roane Waring, Jr.], by respondents' counsel and by counsel supporting the complaint, which agreement contains an order to cease and desist, an admission by respondents of all the jurisdictional facts alleged in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint, and waivers and provisions as required by the Commission's rules, and which agreement further provides for dismissal of the complaint as to respondent Roane Waring, Jr.; and

The Commission having considered the agreement and order contained therein and being of the opinion that the agreement provides an adequate basis for an appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Individual respondents Albert F. Robilio, John S. Robilio, Jr., Mrs. John S. Robilio, Sr., Rose Ann Robilio, Florence Rita Radogna, Roane Waring, Jr., and Martha Cuneo Reid, are copartners trading and doing business as Robilio & Cuneo, with their office and principal place of business located at 70 Adams Avenue, in the city of Memphis, State of Tennessee.

Roane Waring, Jr. holds no interest in the partnership trading as Robilio & Cuneo other than as executor under the estate of the late Mrs. Zadio S. Cuneo.

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

ORDER

It is ordered, That respondents Albert F. Robilio, John S. Robilio, Jr., Mrs. John S. Robilio, Sr., Rose Ann Robilio, Florence Rita Radogna and Martha Cuneo Reid, individually and as copartners trading as Robilio & Cuneo, or under any other name or device, corporate or otherwise, or through agents, representatives or employees, in connection with the sale of food products in commerce, as

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“commerce” is defined in the Clayton Act, as amended, do forthwith cease and desist from :

Making or contracting to make, to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for any advertising or other services or facilities furnished by or through such customer, in connection with the handling, offering for sale, or sale of respondents' products, unless such payment or consideration is offered and otherwise made available on proportionally equal terms to all other customers competing in the distribution or resale of such products.

It is further ordered, That the complaint herein be, and it hereby is, dismissed as to Roane Waring, Jr.

It is further ordered, That the respondents named in the order to cease and desist 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 maner and form in which they have complied with this order.
