

Complaint

60 F.T.C.

IN THE MATTER OF

WESCO PRODUCTS COMPANY, INC.

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

Docket C-146. Complaint, May 29, 1962—Decision, May 29, 1962

Consent order requiring Chicago distributors of automotive repair or replacement parts to cease discriminating in price in violation of Sec. 2(a) of the Clayton Act by classifying some favored jobbers as warehouse distributors and thus allowing them higher discounts than competing jobbers who paid the regular jobber prices.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly designated and described has violated and is now violating the provisions of subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Wesco Products Company, 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 2300 South Parkway, Chicago 16, Illinois. Prior to January 1, 1961, the business was operated as a partnership under the name Western Automotive Company. Since January 1, 1961, the business has been operated as a corporation under the name Wesco Products Company, Inc. Wesco Products Company, Inc., is engaged in the sale and distribution of automotive repair or replacement parts, specifically universal joints and components thereof. Wesco Products Company, Inc., currently has a yearly sales volume of approximately \$2,000,000.

Respondent Wesco Products Company, Inc., in the course and conduct of its business as aforesaid, has caused, and now causes, the said automotive parts to be shipped and transported from the state of location of its principal place of business to the purchasers thereof located in states other than the state wherein said shipments originated. Said parts have been, and are, sold to different purchasers for use or resale within the United States and the District of Columbia. In the sale of said parts, respondent has been, at all times relevant herein, engaged in commerce, as "commerce" is defined in the Clayton Act.

PAR. 2. Purchasers of respondent's automotive replacement parts are classified by respondent generally within two separate classifications, namely, "jobbers" and "warehouse distributors". Respondent extends and sets terms and conditions of sale for each such classification as follows:

Jobbers—A purchaser classified as a "jobber" is normally engaged in reselling replacement parts to automotive vehicle fleets, garages, gasoline service stations, and others in the automotive repair trade serving the general public. Jobbers purchase from respondent's published jobber price lists less a discount of 15%. Respondent sells to jobber purchasers located throughout the United States.

Warehouse Distributors—A purchaser classified as a "warehouse distributor" normally resells only to jobbers. A warehouse distributor purchases from respondent's published jobber prices less discounts of 20% and 10%, which results in a total warehouse distributor discount of 28%, from respondent's published jobber prices. Respondent sells to warehouse distributors located throughout the United States.

PAR. 3. Respondent, in the course and conduct of its business as aforesaid, has been, and now is, discriminating in price between different purchasers of its automotive replacement parts of like grade and quality by selling said parts at higher and less favorable prices to some purchasers than the same are sold to other purchasers, many of whom have been, and now are, in competition with the purchasers paying the higher prices.

For example, among respondent's customers are a number of jobbers, who resell as jobbers, which have been classified by respondent as warehouse distributors. Respondent's classification of such jobbers as warehouse distributors results in the granting of higher and more favorable price discounts to these jobbers than are granted to respondent's jobber customers who purchase at respondent's regular jobber prices and do not receive the discounts available to respondent's warehouse distributor classification.

PAR. 4. The effect of respondent's aforesaid discriminations in price between the said different purchasers of its said products of like grade and quality, sold in manner and method and for purposes as aforesaid, may be substantially to lessen competition or tend to create a monopoly in the lines of commerce in which the aforesaid favored purchasers are engaged, or to injure, destroy, or prevent competition with said favored purchasers.

PAR. 5. The aforesaid acts and practices of respondent constitute violations of the provisions of subsection (a) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, approved June 19, 1936.

Decision and Order

60 F.T.C.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of subsection (a) of Section 2 of the Clayton Act, as amended, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Wesco Products Company, Inc., is a corporation organized, 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 2300 South Parkway, in the city of Chicago, State of Illinois.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

It is ordered, That the respondent Wesco Products Company, Inc., a corporation, and said respondent's officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the sale and distribution of automotive repair or replacement parts, in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from discriminating in the price of such products of like grade and quality:

By selling to any one purchaser at net prices higher than the net prices charged to any other purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's said products.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Complaint

IN THE MATTER OF

AMERICAN METAL PRODUCTS COMPANY ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SECS. 2(a) AND 2(f)
OF THE CLAYTON ACT

Docket 7365. Complaint, Jan. 22, 1959—Decision, June 8, 1962

Order vacating initial decision and dismissing for mootness, complaint charging manufacturers of plumbing supplies with, respectively, granting and receiving discriminatory prices in the sale of porcelain-on-steel sanitary ware, since the grantor no longer manufactured the product and the recipient no longer purchased it from any source, having purchased the assets of the former manufacturing subsidiary of the grantor which was then dissolved.

COMPLAINT

The Federal Trade Commission, having reason to believe American Metal Products Company, a corporation, and AllianceWare, Inc., a corporation, have violated and are now violating the provisions of subsection (a) of Section 2 of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C., Title 15, Sec. 13), and that Crane Co., a corporation, has violated and is now violating the provisions of subsection (f) of Section 2 of said amended Clayton Act, hereby issues its complaint, stating its charges with respect thereto as follows:

COUNT I

PARAGRAPH 1. American Metal Products Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan with its principal office located at 5959 Linsdale Avenue, Detroit 4, Mich. American Metal Products Company's total sales in 1957 exceeded \$65,000,000.

On or about April 30, 1955, American Metal Products Company acquired complete ownership and control of AllianceWare, Inc., an Ohio corporation, and without changing its name reincorporated it under the laws of the State of Delaware. Said Delaware corporation, respondent AllianceWare, Inc., herein, has since its formation been under the domination, direction and control of respondent American Metal Products Company. The acts, policies and practices in which respondent AllianceWare, Inc., has engaged as hereinafter alleged were pursued with the knowledge, approval and at the behest of respondent American Metal Products Company.

PAR. 2. Respondent AllianceWare, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the