

in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Commissioner Elman dissenting.

IN THE MATTER OF
LANGLEY T.V., INC., ET AL.

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

Docket C-154. Complaint, June 28, 1962—Decision, June 28, 1962

Consent order requiring four television repair concerns in the Washington, D.C., area to cease representing, in newspaper advertising and otherwise, that re-built television picture tubes containing used parts were new and fully guaranteed, and to disclose clearly when the tubes they sold were not new in their entirety.

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

³ How, for example, would a lawyer be able to advise his client as to the legality of so entertaining and honest a use of the word "free" as appears in the advertisement appended hereto?

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Trade Commission, having reason to believe that Langley T.V., Inc., a corporation, Belmont Electronics, Inc., a corporation, and Casper Sickmen and Robert Sickmen, individually and as officers of said corporations, and Belmont of Virginia, Inc., a corporation, and Walter Sickmen, Abe Mason, and Casper Sickmen, individually and as officers of Belmont of Virginia, Inc., and Casper Sickmen and Abe Mason, individually and as copartners trading as Belmont Radio & Television Service, 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 Langley T. V., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 8034 New Hampshire Avenue, in the city of Silver Spring, State of Maryland.

Respondent Belmont Electronics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 12410 Layhill Road, in the city of Silver Spring, State of Maryland.

Respondents Casper Sickmen and Robert Sickmen are officers of both corporate respondents. They formulate, direct and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondents.

Respondent Belmont of Virginia, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 3676 King Street, in the city of Alexandria, State of Virginia.

Respondents Walter Sickmen, Abe Mason and Casper Sickmen are officers of said Belmont of Virginia, Inc. They formulate, direct and control the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the said corporate respondent.

Respondents Casper Sickmen and Abe Mason are copartners trading as Belmont Radio & Television Service. Their place of business is located at 2414 14th Street, N.W., Washington, D.C.

All of the aforesaid respondents have cooperated in and acted jointly in the advertising practices hereinafter set forth and referred to.

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PAR. 2. All of the aforesaid respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of radio and television parts, including rebuilt television picture tubes containing used parts, and a service in connection therewith, direct to the purchasing public and to others.

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 respective places of business to purchasers thereof located in the District of Columbia and surrounding states, and maintain, and at all times mentioned herein have maintained, a substantial 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 in a Washington, D.C., newspaper of wide circulation, and by other media. Among and typical of such statements is the following:

STABRITE
ALUMINIZED
RCA LICENSED
PICTURE TUBE
ONLY ONE PRICE
ANY 21 INCH
ONLY
15.95
Written 3 year guarantee
on all installations.

PAR. 5. Through the use of the aforesaid statement, the respondents represented, directly or by implication:

1. That certain of their television picture tubes were new in their entirety;

2. That their television picture tubes were guaranteed in all respects.

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

1. The television picture tubes advertised as set forth above were not new in their entirety but were rebuilt tubes and contained used parts;

2. The guarantee provided for respondents' television picture tubes was limited both as to time and extent.

PAR. 7. Respondents did not disclose their advertising, invoices, or warranties that said television pictures tubes were rebuilt and

contained used parts. When television picture tubes are rebuilt and contain used parts, in the absence of a disclosure to the contrary, such 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 also place in the hands of uninformed or unscrupulous dealers and technicians the 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, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in a business of a similar nature.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements and representations, and the failure of respondents to disclose in their advertising or in their invoices that their said television picture tubes are rebuilt and contain used parts, have had, and now have 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 products by reason of said erroneous and mistaken belief.

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 methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging violation of the Federal Trade Commission Act, and the respondents named in the caption hereof and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents 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 respondents 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,

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makes the following jurisdictional findings, and enters the following order:

1. Respondent Langley T.V., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 8034 New Hampshire Avenue, in the city of Silver Spring, State of Maryland.

Respondent Belmont Electronics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 12410 Layhill Road, in the city of Silver Spring, State of Maryland.

Respondents Casper Sickmen and Robert Sickmen are officers of both corporate respondents and their address is the same as that of the corporate respondents.

Respondent Belmont of Virginia, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 3676 King Street, in the city of Alexandria, State of Virginia.

Respondents Walter Sickmen, Abe Mason and Casper Sickmen are officers of said Belmont of Virginia, Inc., and their address is the same as that of said corporate respondent.

Respondents Casper Sickmen and Abe Mason are copartners trading as Belmont Radio & Television Service. Their place of business is located at 2414 14th Street, N.W., Washington, D.C.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Langley T.V., Inc., a corporation, and its officers, and Belmont Electronics, Inc., a corporation, and its officers, and Casper Sickmen and Robert Sickmen, individually and as officers of said corporations, and Belmont of Virginia, Inc., a corporation, and its officers, and Walter Sickmen, Abe Mason and Casper Sickmen, individually and as officers of Belmont of Virginia, Inc., and Casper Sickmen and Abe Mason, individually and as copartners trading as Belmont Radio & Television Service, or under any other name or names, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of rebuilt television picture tubes containing used parts, or any other merchandise, in commerce,

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as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that television picture tubes, or any other products, are new, when contrary to the facts;

2. Failing to clearly disclose in advertising, in invoices and warranties that said tubes are rebuilt and contain used parts, when such is the fact;

3. Representing, directly or by implication, that any merchandise is guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed;

4. Placing any means or instrumentality in the hands of others whereby they may mislead the public as to the nature and condition of his television picture tubes.

It is further 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 this order.

IN THE MATTER OF

WILLIAMS PRESS, INC.

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

Docket C-155. Complaint, June 28, 1962—Decision, June 28, 1962

Consent order requiring the Albany, N.Y., publisher of "Flower Grower" magazine to cease discriminating in price in violation of Sec. 2(d) of the Clayton Act by paying promotional allowances to certain retail customers—some of whom operated chain retail outlets in railroad, airport, and bus terminals, and outlets in hotels and office buildings, and others of whom furnished services in connection with the handling of respondent's publication such as the taking of purchase orders and distributing, billing, and collecting—while not making such payments available on proportionally equal terms to competitors of those favored, including drug chains, grocery chains, and other newsstands.

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 (d) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act,

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hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Williams Press, Inc., is a corporation organized and doing business under the laws of the State of New York, with its office and principal place of business located at 99 North Broadway, Albany, New York. Said respondent, among other things, has been engaged and is presently engaged in the business of publishing and distributing various publications including magazines under copyrighted titles including "Flower Grower". Respondent's sales of publications during the calendar year 1960 exceeded one million seven hundred thousand dollars.

PAR. 2. Publications published by respondent are distributed by respondent to customers through its national distributor, Fawcett Publications, Inc.

Fawcett has acted and is now acting as national distributor for the publications of several independent publishers, including respondent publisher. Fawcett, as national distributor of publications published by respondent and other independent publishers, has performed and is now performing various services for these publishers. Among the services performed and still being performed by Fawcett for the benefit of these publishers are the taking of purchase orders and the distributing, billing and collecting for such publications from customers. Fawcett also had participated in the negotiation of various promotional arrangements with the retail customers of said publishers, including said respondent.

In its capacity as national distributor for respondent in dealing with the customers of respondent, Fawcett served and is now serving as a conduit or intermediary for the sale, distribution and promotion of publications published by respondent.

PAR. 3. Respondent, through its conduit or intermediary, Fawcett, has sold and distributed and now sells and distributes its publications in substantial quantities in commerce, as "commerce" is defined in the Clayton Act, as amended, to competing customers located throughout various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its business in commerce, respondent has paid or contracted for the payment of something of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished, or contracted to be furnished, by or through such customers in connection with the handling, sale, or offering for sale of publications sold to them by respondent. Such payments or allowances were not made available on

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proportionally equal terms to all other customers of respondent competing in the distribution of such publications.

PAR. 5. As an example of the practices alleged herein, respondent has made payments or allowances to certain retail customers who operate chain retail outlets in railroad, airport and bus terminals, as well as outlets located in hotels and office buildings. Such payments or allowances were not offered or otherwise made available on proportionally equal terms to all other customers (including drug chains, grocery chains and other newsstands) competing with the favored customers in the sale and distribution of the publications of respondent publisher. Among the favored customers receiving payments in 1960, and during the first six months of 1961, which were not offered to other competing customers in connection with the purchase and sale of respondent's publications were:

Customer	Approximate amount received	
	1960	1961 (Jan.-June)
Union News Co., New York City.....	\$3415.78	\$1315.56
Fred Harvey, Chicago, Ill.....	56.84	14.16
Armstrong Co., Boston, Mass.....	3.48	1.28

Respondent made said payments to its favored customers on the basis of individual negotiations. Among said favored customers such payments were not made on proportionally equal terms.

PAR. 6. The acts and practices of respondent as alleged above are in violation of the provisions of subsection (d) of Section 2 of the Clayton Act, as amended.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of subsection (d) 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

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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, Williams Press, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 99 North Broadway, in the city of Albany, State of New York.

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

ORDER

It is ordered, That respondent Williams Press, Inc., a corporation, its officers, employees, agents and representatives, directly or through any corporate or other device, in connection with the distribution, sale or offering for sale of publications including magazines in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from:

Paying or contracting for the payment of an allowance or anything of value to, or for the benefit of, any customer as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the handling, offering for sale, sale or distribution of publications including magazines published, sold or offered for sale by respondent, unless such payment or consideration is affirmatively offered and otherwise made available on proportionally equal terms to all of its other customers competing with such favored customer in the distribution of such publications including magazines.

The word "customer" as used above shall be deemed to mean anyone who purchases from Williams Press, Inc., acting either as principal or agent, or from a distributor or wholesaler where such transaction with such purchaser is essentially a sale by such respondent, acting either as principal or agent.

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.

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IN THE MATTER OF

STEIN BROTHERS FUR COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-156. Complaint, June 28, 1962—Decision, June 28, 1962

Consent order requiring furriers with places of business in Wichita, Kans., and Kansas City, Mo., to cease violating the Fur Products Labeling Act by labeling fur products with fictitious prices represented thereby as the usual retail prices, and by advertising in newspapers which failed to describe fur products as "natural" when such was the fact, and which represented fur products falsely as stock of a business of a recently deceased individual or as being sold for the benefit of the estate of a late owner of a business, or as distress merchandise or products unclaimed from storage.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Stein Brothers Fur Company, Inc., a corporation, and Morris S. Lavin, individually and as an officer of said corporation and also trading as A. Keller Fur Company, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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 Stein Brothers Fur Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas. Morris S. Lavin is president of the corporate respondent and formulates, directs and controls its policies, acts and practices. Respondent Morris S. Lavin also trades as A. Keller Fur Company. The office and address of the respondents is at 201 South Main Street, Wichita, Kansas, although the address of A. Keller Fur Company is at 218 East 11th Street, Kansas City, Mo. The respondents are engaged in the retail sale of fur products.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the sale, advertising and offering for sale, in commerce, and in the transportation and distribution in commerce, of fur products; and have sold, advertised, offered