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such purchaser is essentially a sale by such respondent, acting either as principal or agent.

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

HARVEY PUBLICATIONS, INC., ET AL.

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

Docket C-182. Complaint, July 28, 1962—Decision, July 18, 1962

Consent order requiring the five New York City corporations with the same address and officers, publishers of comic books including (1) "Blondie", "Dagwood", "Mutt & Jeff", "Sad Sack", "Dick Tracy", "Joe Palooka"; (2) "Harvey Hits", "Sad Sack and the Sarge", "Sad Sack's Funny Friends"; (3) "Hot Stuff", "Hot Stuff Sizzler"; (4) "Little Dot", "Richie Rich", "Mutt & Jeff Jokes"; and (5) "Little Lotta", "Playful Little Audrey", and "Wendy", 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 respondents' publications such as taking purchase orders and distributing, billing, and collecting—while not making such payments available on proportionally equal terms to their competitors, including drug chains, grocery chains, and other newsstands.

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 (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, hereby issues its complaint stating its charges in respect thereto as follows:

PARAGRAPH 1. Respondent Harvey Publications, 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 1860 Broadway, New York, New York. Said respondent, among other things, has been engaged and is presently engaged in the business of publishing and distributing various publications including comic books

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under copyrighted titles including "Blondie", "Dagwood", "Mutt & Jeff", "Sad Sack", "Dick Tracy", and "Joe Palooka".

PAR. 2. Respondent Harvey Hits, 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 1860 Broadway, New York, N.Y. Said respondent, among other things, has been engaged and is presently engaged in the business of publishing and distributing various publications including comic books under copyrighted titles including "Harvey Hits", "Sad Sack and the Sarge", and "Sad Sack's Funny Friends".

PAR. 3. Respondent Illustrated Humor, 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 1860 Broadway, New York, N.Y. Said respondent, among other things, has been engaged and is presently engaged in the business of publishing and distributing various publications including comic books under copyrighted titles including "Hot Stuff" and "Hot Stuff Sizzler".

PAR. 4. Respondent Harvey Enterprises, Inc., is a corporation organized and doing business under the laws of the State of New York, having its office and principal place of business located at 1860 Broadway, New York, N.Y. Said respondent, among other things, has been engaged and is presently engaged in the business of publishing and distributing various publications including comic books under copyrighted titles including "Little Dot", "Richie Rich" and "Mutt & Jeff Jokes".

PAR. 5. Respondent Harvey Picture Magazines, 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 1860 Broadway, New York, N.Y. Said respondent, among other things, has been engaged and is presently engaged in the business of publishing and distributing various publications including comic books under copyrighted titles including "Little Lotta", "Playful Little Audrey" and "Wendy".

PAR. 6. Respondents Alfred Harvey, Leon Harvey and Robert Harvey are the sole officers of each of the corporations named as respondents above. They formulate, direct and control the acts and practices of each corporate respondent, and their address is the same as that of each corporate respondent named herein.

PAR. 7. Publications published by all corporations named as respondents herein are distributed by said respondents to customers through their national distributor, Publishers Distributing Corporation, hereinafter referred to as PDC.

PDC has acted and is now acting as national distributor for the publications of several independent publishers, including the corporations named as respondents herein. PDC, as national distributor of publications published by said respondents and other independent publishers, has performed and is now performing various services for these publishers. Among the services performed and still being performed by PDC for the benefit of these publishers are the taking of purchase orders and the distributing, billing and collecting for such publications from customers. PDC also has negotiated various promotional arrangements with the retail customers of such publishers, with the knowledge and approval of said publishers, including said respondents.

In its capacity as national distributor for said respondents, PDC served and is now serving as a conduit or intermediary for the sale, distribution and promotion of publications published by respondents.

PAR. 8. Respondents, through their conduit or intermediary, PDC, have sold and distributed and now sell and distribute their 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. 9. In the course and conduct of their business in commerce, respondents have 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 and 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 respondents. Such payments or allowances were not made available on proportionally equal terms to all other customers of respondents competing in the distribution of such publications.

PAR. 10. As an example of the practices alleged herein, respondents have 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 respondents. Among the favored customers receiving payments in 1960 which were not offered to other competing customers in connection with the purchase and sale of respondents' publications were:

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HARVEY PUBLICATIONS, INC.

Customer:	<i>Approximate Amount Received</i>
Greyhound Post Houses, Forest Park, Ill.....	\$2,244.92
ABC Vending Corp., Long Island, N.Y.....	411.48
Barkalow Bros., Omaha, Nebr.....	117.54
Fred Harvey, Chicago, Ill.....	371.58

HARVEY HITS, INC.

Greyhound Post Houses.....	421.14
ABC Vending Corp.....	151.38

ILLUSTRATED HUMOR, INC.

Greyhound Post Houses.....	140.38
ABC Vending Corp.....	104.88

HARVEY ENTERPRISES, INC.

ABC Vending Corp.....	38.28
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HARVEY PICTURE MAGAZINES, INC.

Greyhound Post Houses.....	421.08
ABC Vending Corp.....	39.96

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

PAR. 11. The acts and practices of respondents as alleged above are in violation of the provision 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 respondents named in the caption hereof with violation of subsection (d) of Section 2 of the Clayton Act, as amended, and the respondents 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 respondents 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, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Harvey Publications, 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 1860 Broadway, in the city of New York, State of New York.

Respondent Harvey Hits, 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 1860 Broadway, in the city of New York, State of New York.

Respondent Illustrated Humor, 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 1860 Broadway, in the city of New York, State of New York.

Respondent Harvey Enterprises, 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 1860 Broadway, in the city of New York, State of New York.

Respondent Harvey Picture Magazines, 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 1860 Broadway, in the city of New York, State of New York.

Respondents Alfred Harvey, Leon Harvey and Robert Harvey are officers of said corporations, and their address is the same as that of said corporations.

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

ORDER

It is ordered, That respondents Harvey Publications, Inc., Harvey Hits, Inc., Illustrated Humor, Inc., Harvey Enterprises, Inc., and Harvey Picture Magazines, Inc., all corporations, their respective officers, and Alfred Harvey, Leon Harvey and Robert Harvey, individually and as officers of said corporations, and respondents' 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 comic books in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from:

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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 comic books published, sold or offered for sale by respondents, unless such payment or consideration is affirmatively offered and otherwise made available on proportionally equal terms to all of their other customers competing with such favored customer in the distribution of such publications including comic books.

The word "customer" as used above shall be deemed to mean anyone who purchases from a respondent, 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 respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commis-