

IN THE MATTER OF
REMCO INDUSTRIES, INC.

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

Docket C-199. Complaint, July 26, 1962—Decision, July 26, 1962

Consent order requiring a Newark, N.J., distributor to cease misrepresenting toys by such practices as representing falsely in television commercials that a transistor radio could be constructed from the components contained in its

"Radiocraft Kit" and radio broadcasts transmitted, and that its "Electro Chemistry Science Kit" contained a battery and a glass beaker.

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 Remco Industries, Inc., a corporation, hereinafter referred to as respondents, has 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 Remco Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 113 North 13th Street, in the city of Newark, State of New Jersey.

PAR. 2. Respondent Remco Industries, Inc., is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of toys and related products, including toys designated "Radiocraft Kit" and "Electro Chemistry Science Kit", to distributors and retailers for resale to the public.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, its said "Radiocraft Kit" and "Electro Chemistry Science Kit", when sold, to be shipped from its place of business in the State of New Jersey to purchasers thereof located in various other states of the United States and in the District of Columbia, and maintains, and at all times mentioned herein has 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 conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with other corporations, firms and individuals in the sale of radio kits, science kits, and other toys and related products.

PAR. 5. In the course and conduct of its business and for the purpose of inducing the purchase in commerce of the said "Radiocraft Kit", respondent made certain statements, representations and pictorial presentations with respect thereto, by means of commercials transmitted by television stations located in various states of the United States and in the District of Columbia having sufficient power to carry such broadcasts across state lines.

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PAR. 6. Among and typical of the statements and representations made and appearing in said advertisements disseminated as hereinabove set forth are the following:

This REMCO Transistor Radio I made myself.

* * * * *

All you have to do is put together all the parts that come in the Remco Kit. The transistor, the tuner, and the separate loud speaker for broadcasting.

* * * * *

* * * get your REMCO Radio at your favorite toy store—from \$3.95 * * *

* * * * *

Can you do your own broadcasting too? Yeah, sure. I'll do the announcing with this microphone * * *

PAR. 7. Through the use of the aforesaid advertisements, and others containing statements and representations of the same import not specifically set forth herein, respondent has represented, directly and by implication:

(1) That it is possible to transmit broadcasts by radio through use of the components contained in each "Radiocraft Kit".

(2) That a transistor radio can be constructed from the components contained in each "Radiocraft Kit".

PAR. 8. An enlargement of a frame extracted from said television commercials, illustrating typical representations with respect to the component parts of the said "Radiocraft Kit" and the manner in which the said toy purports to perform, as alleged in paragraphs 6 and 7 above, is marked Exhibit "A" and incorporated herein by reference.¹

PAR. 9. Said statements, representations and depictions are false, misleading and deceptive. In truth and in fact:

(1) Radio broadcasts cannot be transmitted through use of the components contained in any "Radiocraft Kit".

(2) A transistor radio cannot be constructed from the components contained in one of the advertised "Radiocraft Kits".

PAR. 10. In the course and conduct of its business and for the purpose of inducing the purchase in commerce of the said "Electro Chemistry Science Kit", respondent made certain statements, representations and pictorial presentations with respect thereto, by means of commercials transmitted by television stations located in various states of the United States and in the District of Columbia having sufficient power to carry such broadcasts across state lines.

PAR. 11. Among and typical of the statements and representations made and appearing in said advertisements disseminated as herein-

¹ Pictorial exhibit "A" not published.

above set forth is the depiction of a battery connected to electrodes in a glass beaker, accompanied by the oral representation:

"Electro Chemistry Science Kit"

PAR. 12. Through the use of the aforesaid advertisements, and others containing statements and representations not specifically set forth herein, respondent has represented, directly and by implication, that the "Electro Chemistry Science Kit" contains a battery and a glass beaker as depicted.

PAR. 13. An enlargement of a frame extracted from said television commercials, illustrating typical representations with respect to the component parts of the said "Electro Chemistry Science Kit" and the manner in which the said toy purports to perform, as alleged in paragraphs 11 and 12 above, is marked Exhibit "B" and incorporated herein by reference.²

PAR. 14. Said statements, representations and depictions are false, misleading and deceptive. In truth and in fact a battery and a glass beaker are not components of the "Electro Chemistry Science Kit", and the beaker supplied as a component of the said toy is not as large as the depicted beaker.

PAR. 15. Respondent's toys, including the "Radiocraft Kit" and "Electro Chemistry Science Kit", are designed primarily for children, and are bought either by or for the benefit of children. Respondent's false, misleading and deceptive advertising claims thus unfairly exploit a consumer group unqualified by age or experience to anticipate or appreciate the possibility that the representations may be exaggerated or untrue. Further, respondent unfairly plays upon the affection of adults, especially parents and other close relatives, for children, by inducing the purchase of toys and related products through false, misleading and deceptive claims of their performance, which claims appeal both to adults and to children who bring the toys to the attention of adults. As a consequence of respondent's exaggerated and untrue representations, toys are purchased in the expectation that they will have characteristics or perform acts not substantiated by the facts. Consumers are thus misled to their disappointment and competing advertisers who do not engage in false, misleading or deceptive advertising are unfairly prejudiced.

PAR. 16. The use by respondent of the aforesaid false, misleading and deceptive representations has had, and now has the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said representations were, and are, true

² Pictorial exhibit "B" not published.

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and into the purchase of substantial quantities of the products of respondent by reason of said erroneous and mistaken belief.

PAR. 17. The aforesaid acts and practices of respondent, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondent's 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 the respondent named in the caption hereof with violation of the Federal Trade Commission Act, 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 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, Remco Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 113 North 13th Street, in the city of Newark, State of New Jersey.

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

ORDER

It is ordered, That respondent Remco Industries, Inc., a corporation, and its officers, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of toys or related

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

1. Representing, by use of any illustration, depiction or demonstration, alone or accompanied by oral or written statements, purporting to illustrate, depict or demonstrate any toy or related product, or the performance thereof, or representing in any other manner, directly or by implication, that any toy or related product contains a component or performs in any manner not in accordance with fact.

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.
