thereof are without merit; and

It further appearing that respondent has failed to submit a proposed alternative form of order, as required by Rule 4.22(c),

It is ordered, That the proposed order issued with the decision of the Commission in this proceeding be, and it hereby is, entered and adopted as the Final Order of the Commission.

IN THE MATTER OF

ROYAL PUBLICATIONS, INC., ET AL.

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

Docket C-201. Complaint, Aug. 3, 1962—Decision, Aug. 3, 1962

Consent order requiring New York City publishers of "Cars" and "Swank" magazines and paperback books, to cease violating Sec. 2(d) of the Clayton Act by making payments—and on the basis of individual negotiation and not proportionally equal—to certain operators of chain retail outlets in railroad, airport, and bus terminals and outlets in hotels and office buildings, while not offering such allowances on proportionally equal terms to all competitors of such outlets, including drug and 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 with respect thereto as follows:

PARAGRAPH 1. Respondent Royal 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 26 West 47th Street, 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 magazines under copyrighted titles including "Cars" and "Swank". Respondent's sales of publications during the calendar year 1960 exceeded three hundred fifty thousand dollars.

PAR. 2. Respondent Lancer Books, 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 26 West 47th Street, 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 paperback books under copyrighted titles.

PAR. 3. Respondents Walter Zacharius, Irwin Stein and Seth J. Solomon, all individuals, are President, Vice President and Treasurer, respectively, of respondent Royal Publications, Inc., and Secretary, President and Treasurer, respectively, of respondent Lancer Books, Inc. They formulate, direct and control the acts and practices of said corporate respondents and their address is the same as that of the corporate respondents.

PAR. 4. Publications published by respondents Royal Publications, Inc., and Lancer Books, Inc., 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 respondent publishers. PDC, as national distributor of publications published by said corporate 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 and display arrangements with the retail customers of such publishers, with the knowledge and approval of such publishers, including said respondents.

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

PAR. 5. Respondent Royal Publications, Inc., and Lancer Books, Inc., 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. 6. In the course and conduct of their businesses in commerce, respondents Royal Publications, Inc., and Lancer Books, Inc., 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 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 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. 7. As an example of the practices alleged herein, respondent Royal Publications, Inc., 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 said respondent. Among the favored customers receiving payments in 1960 which were not offered to other competing customers in connection with the purchase and sale of respondent's publications were:

Customer:	*Approximate Amount Received*
Greyhound Post Houses, Forest Park, Ill	$1,030.00
ABC Vending Corp., Long Island City, N.Y	365.40
Fred Harvey, Chicago, Ill	[1] 150.30
Barkalow Bros., Omaha, Nebr	[1] 38.82

[1] Received in 1961.

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.

As a further example of the practices alleged herein, respondent Lancer Books, Inc., has made payments or allowances to certain retail customers who operate drug chains. Such payments or allowances were not offered or otherwise made available on proportionally equal terms to all other customers (including newsstands, grocery cnains and other drug chains) competing with the favored customers in the sale and distribution of the publications of respondent publisher. Among the favored customers receiving payments in 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*
Drug Fair, Washington, D.C	$501.66
Sun Ray Drug, Philadelphia, Pa	550.00

Respondent made said payments to its favored customers on the basis of individual negotiations.

PAR. 8. The acts and practices of respondents 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 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, Royal 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 26 West 47th Street, in the city of New York, State of New York.

Respondent, Lancer Books, 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 26 West 47th Street, in the city of New York, State of New York.

Respondents, Walter Zacharius, Irwin Stein and Seth J. Solomon 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 Royal Publications, Inc., and Lancer Books, Inc., both corporations, their respective officers, and Walter

Zacharius, Irwin Stein and Seth J. Solomon, 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 magazines and paperback books 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 and paperback 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 magazines and paperback 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 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

VARIETY, INC.