

...by mail, 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
THE BORG-ERICKSON CORPORATION

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

Docket C-211. Complaint, Sept. 5, 1962—Decision, Sept. 5, 1962

Consent order requiring a Chicago manufacturer of scales to cease representing falsely in advertisements in magazines and newspapers, and in mats, catalog inserts, folders, containers, display cards, and other advertising material furnished to dealers that its bathroom scales were "BUILT LIKE A FINE

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WATCH", "AMAZINGLY PRECISE", had "POSITIVE ACCURACY", etc.; and by use of the expression "Lifetime Service Policy", that they unconditionally serviced the scales without charge.

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 The Borg-Erickson Corporation, a corporation, hereinafter referred to as respondent, 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 The Borg-Erickson Corporation 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 1133 North Kilbourn Avenue, Chicago 51, Ill.

PAR. 2. Respondents is now, and for some time last past has been, engaged in the manufacturing, advertising, offering for sale, sale and distribution of scales, consisting mainly of bathroom scales. Respondent's products are sold principally to department stores for resale to the public, but they are also sold to jobbers, catalog houses, premium accounts and stamp companies.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, its said products, when sold, to be shipped from its place of business in the State of Illinois to purchasers thereof located in various other States of the United States, 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 course and conduct of its business as aforesaid, relating to bathroom scales, respondent has made various statements in advertisements inserted in magazines and newspapers of national circulation and in mats, catalog inserts, folders, containers, display cards and other advertising material furnished to dealers, respecting performance of said scales. Typical, but not all inclusive of such statements, are the following:

THIS IS THE BATH SCALE BUILT LIKE A FINE WATCH.

IT ENDS ALL GUESSING ABOUT WEIGHT. IT TELLS YOU THE MOMENT YOU GAIN OR LOSE A SINGLE POUND. IT MAKES WEIGHT WATCHING EASY AND SURE.

AMAZINGLY PRECISE—OUNCES GAINED SHOW ON YOUR BORG BEFORE THEY SHOW ON YOU.

DEPENDABLE ACCURACY WITH POSITIVE REPEATABILITY.

... POSITIVE ACCURACY ...

THESE SCALES WEIGH ACCURATELY ON ALL FLOORING, INCLUDING DEEP CARPET.

FAMOUS BORG ACCURACY.

THE SCALE WITH DEPENDABLE ACCURACY.

PAR. 5. Through the use of the aforesaid quoted statements respondent represents directly or indirectly that its bathroom scales are instruments which show the exact weight of the person or thing weighed and that such scales indicate weight to the ounce.

PAR. 6. In truth and in fact said scales are not instruments which show the exact weight of the person or thing weighed because in many instances they register either more or less than the true weight placed on them, and they do not indicate weight to the ounce but only to the pound. Therefore, the statements and representations referred to in paragraphs 4 and 5 hereof are false, misleading and deceptive.

PAR. 7. Respondent uses the expression "Lifetime Service Policy" in the advertising of said scales, representing thereby that respondent will unconditionally service said scales without charge for the life of the purchaser.

PAR. 8. In truth and in fact said "service policy" is subject to conditions and charges which are not set forth in the advertising and the "Lifetime" referred to is the life of the scales. Therefore, the statement and representation of a "Lifetime Service Policy" is false, misleading and deceptive.

PAR. 9. Respondent, by furnishing retailers and others with advertising material containing the statements and representations as aforesaid, has thereby placed in the hands of retailers and others the means and instrumentalities through and by which the purchasing public may be misled as to the performance of said scales and the servicing thereof.

PAR. 10. In the conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of scales of the same general kind and nature as those sold by respondent.

PAR. 11. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, 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 respondent's product by means of said erroneous and mistaken belief.

PAR. 12. 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, The Borg-Erickson Corporation, 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 1133 North Kilbourn Avenue, 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, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent The Borg-Erickson Corporation, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of bathroom scales, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

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1. Representing directly or indirectly:

(a) That said scales are instruments which show the exact weight of the person or thing weighed.

(b) That said scales indicate increases or decreases in weight by the ounce.

(c) That products are serviced by respondent unless the nature and extent of servicing, the manner in which respondent will perform such servicing and the duration thereof is clearly and conspicuously disclosed.

2. Furnishing or otherwise placing in the hands of retailers, or others, any means or instrumentality by or through which they may mislead or deceive the public in the manner or as to the things hereinbefore prohibited.

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