

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 which it has complied with this order.

IN THE MATTER OF
REPUBLIC MOLDING CORPORATION

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

Docket C-212. Complaint, Sept. 5, 1962—Decision, Sept. 5, 1962

Consent order requiring a Chicago manufacturer of plastic kitchen products and other houseware accessories, to cease violating Sec. 2(d) of the Clayton Act by promulgating advertising arrangements with its department store customers providing that it would pay 10 percent of their total annual purchases of its products to be used in advertising the products, and then in many instances exceeding the 10 percent limitation in allowances to certain customers in Akron, Cincinnati, and Cleveland, Ohio, but not to their competitors; and to cease violating Sec. 2(e) of the same Act by furnishing the services of demonstrators to certain customers in the aforesaid cities but not to others.

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 subsections (d) and (e) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint stating its charges with respect thereto as follows:

Complaint

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COUNT I

PARAGRAPH 1. Respondent, Republic Molding 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 6465 North Avondale Avenue, Chicago, Ill.

PAR. 2. Respondent is now, and for many years past has been engaged in the manufacture, sale and distribution of plastic kitchen products and other houseware accessories. Respondent sells its products to a large number of customers located throughout the United States. Respondent's sales of its products are substantial, amounting in the year 1958 to over \$3,800,000; and for the year 1959 to over \$4,500,000.

PAR. 3. Respondent has two principal methods of sale and distribution for its plastic kitchen and other houseware products. It sells direct to department store customers and also sells to jobbers and distributors who purchase said products in varying quantities for resale.

PAR. 4. In the course and conduct of its business, respondent has engaged and is now engaging in commerce, as "commerce" is defined in the Clayton Act, as amended. Respondent sells and causes its products to be transported from the respondent's principal place of business, located in the State of Illinois, to customers located in other States of the United States. There has been at all times mentioned herein a continuous course of trade in commerce in said products across state lines between said respondent and the purchasers of such products.

PAR. 5. In the course and conduct of its business in commerce, respondent 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 by or through such customers in connection with their offering for sale or sale of products sold to them by respondent, and such payments were not made available on proportionally equal terms to all other customers competing in the sale and distribution of respondent's products.

PAR. 6. As illustrative of such practices respondent has promulgated advertising agreements or arrangements with its department store customers providing that respondent will pay to each customer 10 percent of that customer's total annual purchases of respondent's products, said payments or allowances to be used by the customer in advertising respondent's products. In applying the terms of its advertising agreements or arrangements respondent did not limit its payments and allowances to 10 percent of the customer's total annual purchases, but in many instances exceeded this 10 percent limitation

for some of its customers, while adhering to this limitation in the case of allowances or payments made to other competing customers.

During the years 1958 and 1959 respondent offered to pay, and paid, allowances for advertising in excess of 10 percent of total annual sales to various of its customers located in Akron, Cincinnati and Cleveland, Ohio. During this same period other customers of respondent competing in the aforesaid cities did not receive allowances for advertising in excess of 10 percent of their total annual purchases from respondent.

PAR. 7. The acts and practices of respondent as alleged above are in violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C. Title 15, Sec. 13).

COUNT II

PARAGRAPH 1. Paragraphs 1 through 4 of Count I are hereby adopted and made a part of this Count as fully as if herein set forth verbatim.

PAR. 2. In the course and conduct of its business in commerce, respondent contracted to furnish, furnished, or contributed to the furnishing to some of its purchasers, services and facilities in connection with the handling, offering for sale or sale of such commodities so purchased from respondent, and such services and facilities were not made available on proportionally equal terms to all other purchasers competing in the sale and distribution of respondent's products.

As illustrative of such practices respondent has contracted to furnish, and has furnished or contributed to the furnishing to various purchasers located in Akron, Cincinnati and Cleveland, Ohio, the services and facilities of special personnel known as "demonstrators". Such personnel compensated and furnished by the respondent are installed in the places of business of such purchasers to assist in advising customers and to display, demonstrate, offer for sale and sell respondent's commodities to the said purchaser's customers.

PAR. 3. During the same period of time respondent has sold its commodities to other purchasers competing with the purchasers described above, and has not contracted to furnish, furnished, or contributed to the furnishing of services and facilities of demonstrators to said purchasers on proportionally equal terms.

PAR. 4. The acts and practices of respondent as alleged above violate subsection (e) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C. Title 15, Sec. 13).

DECISION AND ORDER

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

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 Republic Molding 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 6465 North Avondale 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.

ORDER

It is ordered, That respondent Republic Molding Corporation, a corporation, its officers, directors, agents, representatives and employees, directly or through any corporate or other device, in the course of business in commerce, as "commerce" is defined in the Clayton Act as amended, do forthwith cease and desist from:

(1) Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of respondent as compensation or in consideration for advertising, or any other services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of plastic kitchen products, houseware accessories and related products manufactured, sold or offered for sale by respondent, unless such payment or consideration is made available on pro-

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portionally equal terms to all other customers competing with such favored customer in the distribution or resale of such products.

(2) Discriminating, directly or indirectly, among competing purchasers of its plastic kitchen products, houseware accessories and related products, by contracting to furnish, furnishing, or contributing to the furnishing of the services of demonstrators, or any other services or facilities connected with the processing, handling, offering for sale or sale of respondent's products, to any purchaser from respondent unless such services or facilities are made available on proportionally equal terms to all purchasers competing in the distribution or resale of such products.

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.
