

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

Docket C-237. Complaint, Sept. 18, 1962—Decision, Sept. 18, 1962

Consent order requiring a Washington, D.C., seller of freezers and foods by means of a so-called freezer food plan to cease making deceptive savings claims and other misrepresentations in advertising in newspapers, by radio, etc., as in the order below more specifically indicated.

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 Home Freezer Foods, Inc., a corporation, and Philip L. Lendenbaum, individually and as an officer of said corporation, hereinafter referred to as respondents, have 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 Home Freezer Foods, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia with its principal office and place of business located at 5455 Third Street, N.E., Washington, D.C.

Respondent Philip L. Lendenbaum is an officer of corporate respondent. He formulates, directs and controls the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of freezers and food by means of a so-called freezer food plan.

PAR. 3. Respondents now cause, and for some time last past have caused, the said freezers and food when sold, to be delivered from respondents' place of business in Washington, D.C., to purchasers located in the State of Virginia, the State of Maryland, and the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained a substantial course of trade in said freezers and food in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce is and has been substantial.

PAR. 4. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition in commerce, with corporations, firms and individuals in the sale of freezers, food and freezer food plans.

PAR. 5. In the course and conduct of their business respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said food and freezer food plan, by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to advertisements inserted in newspapers, brochures and circulars and by

means of radio broadcasters by stations having sufficient power to carry such broadcasts across state lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of food as the term "food" is defined in the Federal Trade Commission Act; and have disseminated and caused the dissemination of advertisements by various means including those aforesaid, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of food and freezers in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. By means of advertisements disseminated as aforesaid and by the oral statements of sales representatives, respondents have represented directly or by implication:

1. That respondents have been in the freezer food business for 30 years.
2. That purchasers of respondents' freezer food plan will save enough money on the purchase of their food to pay for the freezer.
3. That "Home Economists" will assist purchasers of the aforesaid freezer food plan in planning their food orders.
4. That purchasers of respondents' freezer food plan will receive all their food needs and a 16.9 cubic food freezer for \$16.00 per week.
5. That the "Total" shown in respondents' sales contract represents the total of all charges, including freezer, food and finance charges.
6. That purchasers of the freezer food plan will be able to buy their food from respondents through the plan at wholesale prices.

PAR. 7. The advertisements disseminated as aforesaid were and are misleading in material respects and constituted and now constitute "false advertisements" as that term is defined in the Federal Trade Commission Act, and the aforesaid statements and representations made as aforesaid are false, misleading and deceptive. In truth and in fact:

1. Respondents have not been in the freezer food business for 30 years.
2. Purchasers of respondents' freezer food plan do not save enough money on the purchase of their food to pay for the freezer.
3. The individuals sent to help purchasers of the aforesaid freezer food plan in planning their food orders are not "Home Economists". They have not had sufficient or proper training to warrant calling them "Home Economists", or to help purchasers in planning their food orders.
4. Purchasers of respondents' freezer food plan do not receive all their food needs and a 16.9 cubic foot freezer for \$16.00 per week. There are many food items which respondents do not supply.

5. The "Total" as shown in respondents' sales contract does not include the cost of the food.

6. Purchasers of respondents' freezer food plan are not able to buy their food from respondents through this plan at wholesale prices.

PAR. 8. The use by respondents 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 freezers, food and freezer food plans from respondents, by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, including the dissemination by respondents of false advertisements as aforesaid, were, and are, all to the prejudice and injury of the public and of respondents' competitors, and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act, and in violation of Sections 5 and 12 of said Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, 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 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, Home Freezer Foods, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia with its office and principal place of business

located at 5455 Third Street, N.E., in the city of Washington, District of Columbia.

Respondent Philip L. Lendenbaum is an officer of said corporation and his address is the same as that of said corporation.

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

ORDER

PART I

It is ordered, That respondents Home Freezer Foods, Inc., a corporation, its officers and Philip L. Lendenbaum, individually and as an officer of said corporation and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of freezers, food or freezer food plans in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication that:
 - (a) Purchasers of respondents' freezer food plan will save enough money on the purchase of their food to pay for a freezer;
 - (b) "Home Economists" or other qualified individuals will assist purchasers of respondents' freezer food plan in planning their food orders.
 - (c) For any stated price, purchasers of respondents' freezer food plan, will receive all their food needs and a freezer.
2. Representing that respondents have been in the freezer food business for 30 years or for any other length of time not in accordance with the facts.
3. Representing that purchasers of their freezer food plan can buy their food from respondents at wholesale prices.
4. Misrepresenting in any manner the amount of food or the food items purchasers of their freezer food plan will receive from respondents.
5. Misrepresenting in any manner the savings realized by the purchase of the freezer food plan.
6. Obtaining purchasers' signatures to contracts without full and complete disclosure of charges therein and full and complete disclosure of the total of all charges involved therein.

PART II

It is further ordered, That respondents Home Freezer Foods, Inc., a corporation, and its officers and Philip L. Lendenbaum, individually and as an officer of said corporation and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of any food or any purchasing plan involving food, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations or misrepresentations prohibited in paragraphs 1, 2, 3, 4, and 5 of Part I of this order.

2. Disseminating or causing the dissemination of any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly the purchase of any food, or any purchasing plan involving food in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations or misrepresentations prohibited in paragraphs 1, 2, 3, 4, and 5 of Part I of this order.

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.