

and desist as set forth herein.

By the Commission, Commissioner Elman dissenting and Commissioner Higginbotham not participating.

IN THE MATTER OF

JOAN DELL, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket C-266. Complaint, Nov. 15, 1962—Decision, Nov. 15, 1962

Consent order requiring New York City manufacturers to cease violating the Flammable Fabrics Act by selling ladies' dresses made of fabric which was so highly flammable as to be dangerous when worn, and furnishing their customers a false guaranty to the effect that tests made under the required procedures showed the fabrics not to be dangerously flammable.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Joan Dell, Inc., a corporation, and Saul Field and Nathan Block, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics 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 Joan Dell, Inc., is a corporation, duly organized, existing and doing business under and by virtue of the laws of the State of New York. Respondents Saul Field and Nathan Block are officers of the corporate respondent and formulate, direct, and control its policies, acts and practices. Respondents are manufacturers of articles of wearing apparel, including ladies' dresses, and have their office and principal place of business at 501 Seventh Avenue, New York, N.Y.

PAR. 2. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have manufactured for sale, sold and offered for sale, in commerce; have imported into the United States; and have introduced, delivered for introduction, transported and caused to be transported, in commerce; and have transported and caused to be transported, for the purpose of sale after sale and delivery in commerce; as "commerce" is defined in the Flammable Fabrics Act, articles of wearing apparel, as the term "articles of wearing apparel" is defined therein, which articles of wearing apparel were, under Section 4 of the Flammable Fabrics Act, as amended, so highly flammable as to be dangerous when worn by individuals.

Among the articles of wearing apparel mentioned above were ladies' dresses.

PAR. 3. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have manufactured for sale, sold, and offered for sale, articles of wearing apparel made of fabric which was, under Section 4 of the Flammable Fabrics Act, as amended, so highly flammable as to be dangerous when worn by individuals, and which fabric had been shipped or received in commerce, as the terms "article of wearing apparel", "fabric", and "commerce" are defined in the Flammable Fabrics Act.

Among the articles of wearing apparel mentioned above were ladies' dresses.

PAR. 4. Respondents, subsequent to July 1, 1954, have furnished their customers with a guaranty with respect to the articles of wearing apparel, mentioned in paragraphs 2 and 3 hereof, to the effect, based upon a guaranty received, respondents guaranteed that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, showed that said articles of wearing apparel in the form delivered by the respondents, were not, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals. There was reason for respondents to believe that the articles of wearing apparel covered

Decision and Order

61 F.T.C.

by such guaranty might be introduced, sold, or transported in commerce.

Said guaranty was false, in that with respect to some of the said articles of wearing apparel, respondents had not received such a guaranty.

PAR. 5. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission 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 Flammable Fabrics 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 Joan Dell, 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 501 Seventh Avenue, New York, N.Y.

Respondents Saul Field and Nathan Block are officers of said corporation and their 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

It is ordered, That respondents Joan Dell, Inc., a corporation, and its officers, and Saul Field and Nathan Block, individually and as offi-

cers of respondent corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. (a) Importing into the United States; or
- (b) Manufacturing for sale, selling, offering for sale, introducing, delivering for introduction, transporting or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or
- (c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce;

any article of wearing apparel which, under the provisions of Section 4 of the Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

2. Manufacturing for sale, selling, or offering for sale any article of wearing apparel made of fabric, which fabric has been shipped or received in commerce, and which, under Section 4 of the Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

3. Furnishing to any person a guaranty with respect to any article of wearing apparel or fabric which respondents, or any of them, have reason to believe may be introduced, sold or transported in commerce, which guaranty represents, contrary to fact, that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations thereunder, show and will show that the article of wearing apparel, or the fabric used or contained therein, covered by the guaranty, is not, in the form delivered or to be delivered by the guarantor, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals, provided, however, that this prohibition shall not be applicable to a guaranty furnished on the basis of, and in the reliance upon, a guaranty to the same effect received by respondents in good faith signed by and containing the name and address of the person by whom the article of wearing apparel or fabric was manufactured or from whom it was received.

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.

Complaint

61 F.T.C.

IN THE MATTER OF

THE CAPITAL DISTRIBUTING COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(d)
OF THE CLAYTON ACT*Docket C-267. Complaint, Nov. 15, 1962—Decision, Nov. 15, 1962*

Consent order requiring the national distributor for the publications of some 27 publishers—including magazines, comic books, and paperbacks—to cease violating Sec. 2(d) of the Clayton Act by making payments or allowances to certain operators of chain retail outlets in railroad, airport, and bus terminals and outlets in hotels and office buildings, while not making them available on proportionally equal terms to competing drug and grocery chains and other newsstands; and, further, making such payments on the basis of individual negotiation and not on proportionally equal terms.

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 The Capital Distributing Company (hereinafter referred to as Capital) is a corporation organized and doing business under the laws of the State of Connecticut, with its principal office and place of business located at Division Street, Derby, Conn. Said respondent, among other things, has been engaged and is presently engaged in the business of selling and distributing various publications including magazines, comic books and paperback books under copyrighted titles. Respondent's sales of publications during the calendar year 1960 exceeded \$4,000,000.00.

PAR. 2. Respondent John Santangelo, an individual, is the principal officer of respondent Capital. He formulates, directs and controls the acts and practices of said corporate respondent and his address is the same as that of the corporate respondent.

PAR. 3. Respondent Capital acts as national distributor for the publications of 27 publishers. Five of such publishers are subsidiary corporations of said respondent; eight of such publishers are not affiliated with respondent Capital but are owned by the same persons; and fourteen of such publishers are wholly unaffiliated.