
IN THE MATTER OF
THE KIWI POLISH COMPANY, PROPRIETARY, LTD.

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

Docket C-616. Complaint, Nov. 5, 1963—Decision, Nov. 5, 1963

Consent order requiring the American Division of an Australian corporate manufacturer of a wide variety of shoe polishes and related products, to cease violating Sec. 2(d) of the Clayton Act by such practices as paying Walgreen Drug Company during a 5-year period in excess of \$5,000 for cooperative advertising of its products and paying Cannon Shoe Company approximately \$1,675 during a 2-year period to be passed on to Cannon's

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retail sales personnel as special incentives to promote sales of "Kiwi" products while not making comparable payments available to some 68 competitors of Walgreen in Chicago, and to all its customers competing with Cannon.

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 subsection (d) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, hereby issued its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, The Kiwi Polish Company, Proprietary, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of Australia. Respondent's American Division has been and is now doing business in the United States pursuant to a license to do business granted by the State of Pennsylvania, and respondent's principal office and place of business in the United States is located at High Street, in the city of Pottstown, State of Pennsylvania. Respondent's American Division has been engaged and is now engaged in the business of manufacturing and marketing a wide variety of shoe polishes and related products including shoe shine kits, shoe brushes and shoe cloths.

PAR. 2. Respondent, through its American Division, sells the products it manufactures in the United States in substantial quantities in commerce, as "commerce" is defined in the Clayton Act, as amended, to customers located in every state of the United States and in the District of Columbia. During the fiscal year ended August 31, 1961, respondent's sales of its products in the United States exceeded \$3,300,00. In the course of its business in the United States, respondent is now and has been in substantial competition with other persons, corporations, firms and partnerships engaged in the manufacture, sale and distribution of shoe polishes and related products, and respondent's purchasers are now and have been in substantial competition with each other in their respective trading areas.

PAR. 3. In the course and conduct of respondent's business in commerce, respondent sells its shoe polishes and related products to many customers who are in competition with each other in the resale of products purchased from respondent as well as in the resale of products purchased from many other suppliers. Respondent has paid or contracted for the payment of something of value to or for the benefit of some of its customers as compensation or in considera-

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tion 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 products sold to them by said respondent. Such payments or allowances were not made available on proportionally equal terms to all other customers of respondent competing in the distribution of such products.

PAR. 4. Specifically, respondent, during the past 5 years, has paid Walgreen Drug Company in excess of \$5,000 for cooperative advertising of products purchased from respondent. Respondent sells its products to approximately sixty-eight other purchasers in the city of Chicago, Illinois, many of whom compete with the retail drug stores operated in that city by Walgreen Drug Company in the resale of products purchased from respondent. Such payments or allowances have not been made available on proportionally equal terms by respondent to all of its other customers competing with its favored customer Walgreen Drug Company in the resale of products purchased from respondent.

Specifically, respondent paid Cannon Shoe Company approximately \$900 during the fiscal year ended August 31, 1962, and approximately \$775 during the fiscal year ended August 31, 1961. These payments were made under the condition that they be passed on by Cannon Shoe Company to its retail sales personnel as special incentives to promote sales of respondent's products by retail outlets operated by Cannon Shoe Company. Payments or allowances in consideration for the furnishing of services or facilities in connection with the sale of respondent's products were not made available by respondent on proportionally equal terms to all of its other customers competing with Cannon Shoe Company in the distribution of respondent's products.

PAR. 5. The acts and practices of respondent 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 respondent named in the caption hereof with violation of subsection (d) 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, The Kiwi Polish Company, Proprietary, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of Australia. Respondent's American Division has been and is now doing business in the United States pursuant to a license to do business granted by the State of Pennsylvania, with its office and principal place of business in the United States located at High Street, in the City of Pottstown, State of Pennsylvania.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

It is ordered, That respondent The Kiwi Polish Company, Proprietary, Ltd., a corporation, and its officers, employees, agents and representatives, directly or through any corporate or other device, in connection with the distribution, sale or offering for sale of shoe polish and related products 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 such products sold or offered for sale by respondent unless such payment or other consideration is made available on proportionally equal terms to all of respondent's other customers competing with such favored customer in the distribution 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.

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IN THE MATTER OF

PARENTS' MAGAZINE ENTERPRISES, INC., ET AL.

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

Docket C-617. Complaint, Nov. 5, 1963—Decision, Nov. 5, 1963

Consent order requiring New York City sellers of encyclopedia sets, research services, other books and magazines, to cease representing falsely, through their salesmen making house-to-house calls on prospective purchasers and using printed questionnaires, that such salesmen were teachers making educational surveys; that they offered encyclopedia sets at a special introductory price for a limited time; that the encyclopedia was offered to selected persons for a testimonial and a small introductory price and that if the customer bought now he would receive additional items free; and, through use of demonstration books with soft pliable backs, that books purchased would be bound accordingly.

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 Parents' Magazine Enterprises, Inc., a corporation, and Parents' Magazine's Cultural Institute, Inc., a 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 Parents' Magazine Enterprises, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 52 Vanderbilt Avenue in the City of New York, State of New York. Prior to July 1962, when its name was changed, said respondent was known as The Parents' Institute, Inc.

Respondent Parents' Magazine's Cultural Institute, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 52 Vanderbilt Avenue in the city of New York, State of New York. It is a wholly owned subsidiary of respondent Parents' Magazine Enterprises, Inc., and, since its organization in August 1962, has carried on and is still