

and form in which it has complied with Parts I, III, and IV of this Order, and shall, within ninety (90) days after the service 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 Part II of this Order.

IN THE MATTER OF

RAINBOW CRAFTS, INC., ET AL.

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

Docket 8607. Complaint, Nov. 26, 1963—Decision, Sept. 11, 1964

Order dismissing complaint charging Cincinnati toy distributors with making misrepresentations on television commercials concerning the number of parts contained in units of their "Forge Press" and "Magnajector" toys.

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 Rainbow Crafts, Inc., a corporation, and Joseph S. McVicker and Arthur L. Stoecklin, individually and as officers 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 Rainbow Crafts, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business

*Reported as amended by order of the Commission dated April 2, 1964, by striking Paragraph 7(2)(b) and the third sentence of Paragraph 8(2).

located at 2815 Highland Avenue in the city of Cincinnati, State of Ohio.

Respondents Joseph S. McVicker and Arthur L. Stoecklin are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their 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 toys and related products, including toys designated "Forge Press", and "Magnajector", to distributors and to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said toys and related products, when sold, to be shipped from their place of business in the State of Ohio to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have 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 conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with other corporations, firms and individuals in the sale of toys and related products.

PAR. 5. In the course and conduct of their business and for the purpose of inducing the purchase in commerce of the said "Forge Press" and "Magnajector", respondents have made certain statements, representations and pictorial presentations with respect thereto by means of commercials transmitted by television stations located in various States of the United States and in the District of Columbia.

PAR. 6. Among and typical of the statements and representations made and appearing in said advertisements disseminated as hereinabove set forth are the following:

FORGE PRESS

* * * with the Forge Press you can make your very own farm family and animals * * * just shape Play Doh into a small ball * * * there are 6 molds to make 10 different figures * * *.

(The above statement is a part of the audio portion of a sound-on-film television commercial, the video portion of which shows molds that are used for making human figures and four cans of "Play Doh" modeling compound.)

MAGNAJECTOR

Magnajector comes complete with two series of Rand McNally Flash Cards and picture "Lock" positioner.

Magnajector * * * complete with flash cards and screen * * *.

PAR. 7. Through the use of the aforesaid advertisements, and others containing statements and representations of the same import not specifically set forth herein, respondents have represented, directly and by implication:

1. That all "Forge Press" sets include six molds, including molds for making human figures, and four cans of "Play Doh" modeling compound.

2. (a) That all "Magnajector" units include educational flash cards, a card positioner and a projection screen.

PAR. 8. In truth and in fact:

1. Not all "Forge Press" sets include six molds, or molds for making human figures or four cans of "Play Doh" modeling compound.

One such set contains only four molds, none of which makes human figures, and only one can of "Play Doh".

2. Not all "Magnajector" units include educational flash cards, a card positioner or a projection screen. One such unit does not contain any of these.

Therefore, the statements, representations and depictions referred to in Paragraphs Five and Six are false, misleading and deceptive.

PAR. 9. Respondents' toys and related products, including the "Forge Press" and the "Magnajector", are designed primarily for children, and are bought either by or for the benefit of children. Respondents' false, misleading and deceptive advertising claims thus unfairly exploit a consumer group unqualified by age or experience to anticipate or appreciate the possibility that the representations may be exaggerated or untrue. Further, respondents unfairly play upon the affection of adults, especially parents and other close relatives, for children, by inducing the purchase of toys and related products through false, misleading and deceptive claims of their appearance or performance, which claims appeal both to adults and to children who bring the toys to the attention of adults. As a consequence of respondents' exaggerated and untrue representations, toys are purchased in the expectation that they will have characteristics or perform in a manner not substantiated by the facts. Consumers are thus misled to their disappointment and competing advertisers who do not engage in false, misleading or deceptive advertising are unfairly prejudiced.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive representations has had, and now has, the capacity and

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tendency to mislead members of the purchasing public into the erroneous and mistaken belief that the said representations were, and are, true and into the purchase of substantial quantities of the products of respondents by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, 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, in violation of Section 5 of the Federal Trade Commission Act.

ORDER GRANTING MOTION TO DISMISS COMPLAINT

On August 28, 1964, the hearing examiner certified to the Commission a motion by complaint counsel to dismiss the complaint. Upon consideration of the examiner's certification and the motion by complaint counsel,

It is ordered, That the complaint issued herein be, and it hereby is, dismissed.