

mission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
WAYNE GOLF BALL COMPANY ET AL.

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

Docket C-860. Complaint, Nov. 25, 1964—Decision, Nov. 25, 1964

Consent order requiring a Roseville, Mich., corporation engaged in rebuilding used golf balls, to cease selling or distributing such golf balls without conspicuously disclosing that they are previously used golf balls which have been rebuilt or reconstructed.

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 Wayne Golf Ball Company, a corporation, and Raymond S. Zack and Albert Asselin, 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 Wayne Golf Ball Company is a corporation organized, existing and doing business under and by virtue of

the laws of the State of Michigan with its office and principal place of business located at 31117 Little Mack Avenue, Roseville, Michigan.

Respondents Raymond S. Zack and Albert Asselin are officers of said corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their business 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 offering for sale, sale and distribution of previously used golf balls which have been rebuilt or reconstructed to dealers 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 products, when sold, to be shipped and transported from their place of business in the State of Michigan to purchasers thereof in various other States of the United States 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, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by the respondents and with manufacturers, jobbers and retailers of new golf balls.

PAR. 5. In the course and conduct of their business, respondents rebuild or reconstruct golf balls, using in said process portions of the ball which have been previously used.

Respondents do not disclose either on the balls, on the wrapper or on the box or bag in which the balls are packed, or in any other manner, that said golf balls are previously used balls which have been rebuilt or reconstructed.

When previously used golf balls are rebuilt or reconstructed, in the absence of any disclosure to the contrary, or in the absence of an adequate disclosure, such golf balls are understood to be and are readily accepted by the public as new balls, a fact of which the Commission takes official notice.

PAR. 6. By failing to disclose the facts as set forth in Paragraph Five, respondents place in the hands of uninformed or unscrupulous dealers means and instrumentalities whereby they may mislead and deceive the public as to the nature and construction of the said golf balls.

PAR. 7. The failure of the respondents to disclose on the golf ball itself, on the wrapper and on the box or bag in which they are packed,

or in any other manner, that they are previously used balls which have been rebuilt or reconstructed has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said golf balls were, and are, new in their entirety and into the purchase of substantial quantities of respondents' products by means of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are, all to the prejudice and injury of the public and of the 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.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent Wayne Golf Ball Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan with its office and principal place of business located at 31117 Little Mack Avenue, Roseville, Michigan.

Respondents Raymond S. Zack and Albert Asselin 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 Wayne Golf Ball Company, a corporation, and its officers, and Raymond S. Zack and Albert Asselin, individually and as officers 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 used, rebuilt, reconstructed or re-covered golf balls in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to clearly and conspicuously disclose on the boxes or bags in which the respondents' rebuilt or reconstructed golf balls are packaged, on the wrapper and on said golf balls themselves, that they are previously used balls which have been rebuilt or reconstructed. Provided, however, that disclosure need not be made on the golf balls themselves if respondents establish that the disclosure on the boxes, bags and/or wrappers is such that retail customers, at the point of sale, are informed that the golf balls are previously used and have been rebuilt, reconstructed or re-covered.

2. Placing any means or instrumentalities in the hands of others whereby they may mislead the public as to the prior use and rebuilt or re-covered nature and construction of their golf balls.

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.

IN THE MATTER OF
MOUNTAIN CITY TOBACCO BOARD OF TRADE, INC.,
ET AL.

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