

them, file with the Commission a report in writing, signed by each respondent named in this order, setting forth in detail the manner and form of their compliance with the order to cease and desist.

IN THE MATTER OF
TELEVISION SERVICE DEALERS ASSOCIATION OF
DELAWARE COUNTY ET AL.

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

Docket C-881. Complaint, Feb. 19, 1965—Decision, Feb. 19, 1965

Consent order requiring four trade associations of radio and television repairmen and its members, engaged in repairing and servicing electronic devices, to cease carrying out any planned common course of action to hinder and suppress competition in the sale and distribution of electronic equipment and component parts by coercing, intimidating, and boycotting wholesalers or distributors who sell such products at retail in competition with repairmen; by interfering in distributor's business practices, including hours of operation, display windows, and advertising; and by adopting a policy to "black list" any wholesaler or distributor who sells such products at retail and to "white list" any wholesaler or distributor who refuses to sell such products at retail.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C., Sec. 41, et seq.), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the parties hereinafter referred to as respondents have

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violated the provisions of Section 5 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 with respect thereto as follows:

PARAGRAPH 1. Respondent Television Service Dealers Association of Delaware County, a corporation, sometimes hereinafter referred to as TSDA of Delaware County, is a non-profit trade association, organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with offices and its principal place of business at 1626 Providence Avenue, Chester, Pennsylvania. Respondent TSDA of Delaware County was organized and is maintained ostensibly for the mutual interest of television service dealers and the betterment of the television service profession. The membership of said respondent constitutes a class so numerous and changing as to make it impracticable to name individually each and every member as a respondent herein. Accordingly, the following members of respondent TSDA of Delaware County are herein named as respondents in their individual capacities, as members of respondent TSDA of Delaware County, as past or present officers, directors or in other official capacities of said corporate respondent, and as fairly representative of all members thereof, as a class, all of whom are made respondents herein:

Peter Rapagnani, 1626 Providence Avenue, Chester, Pennsylvania, served as vice president of respondent TSDA of Delaware County from 1958 to 1959 and as president from 1960 to 1961.

Leon Skalish, 101 S. MacDade Boulevard, Glenolden, Pennsylvania, served as secretary of respondent TSDA of Delaware County from 1958 to 1960 and as Advisory Board Member in 1961.

PAR. 2. Respondent Television Service Dealers Association of Delaware, a corporation, sometimes hereinafter referred to as TSDA of Delaware, is a non-profit trade association, organized and existing under and by virtue of the laws of the State of Delaware with offices and its principal place of business at 403 Philadelphia Pike, Wilmington, Delaware. Respondent TSDA of Delaware was organized and is maintained for the ostensible purpose of promoting, fostering and advancing the interests of the members as television service dealers and to educate its members toward the elimination of illegal practices and unfair methods of competition, and other abuses. The membership constitutes a class so numerous and changing as to make it impracticable to name individually each and every member as a respondent herein. Accordingly, the following members

of respondent TSDA of Delaware are herein named as respondents in their individual capacities, as members of respondent TSDA of Delaware, as past or present officers, directors or in other official capacities of said corporate respondent, and as fairly representative of all members thereof, as a class, all of whom are made respondents herein:

Henry Dale, 403 Philadelphia Pike, Wilmington, Delaware, served as secretary of respondent TSDA of Delaware from 1958 to 1960 and as President in 1961.

James A. Mayhart, 213 Prospect Drive, Wilmington, Delaware, served as president of respondent TSDA of Delaware from 1958 to 1960 and as vice president in 1961.

PAR. 3. Respondent Allied Electronic Technicians Association, Inc., sometimes hereinafter referred to as AETA, is a non-profit trade association, organized and existing as a corporation under and by virtue of the laws of the State of New Jersey with its offices and principal place of business located in the county of Camden, New Jersey. The registered agent of said corporate respondent is Thomas N. Bantivoglio, 518 Market Street, Camden 1, New Jersey. Respondent AETA was organized and is maintained ostensibly for the purpose of representing, fostering and protecting the interests of its members and of the electronic service business in the State of New Jersey. The membership constitutes a class so numerous and changing as to make it impracticable to name individually each and every member as a respondent herein. Accordingly, the following members of respondent AETA are herein named as respondents in their individual capacities, as members of respondent AETA, as past or present officers, directors, or in other official capacities of said corporate respondent and as fairly representative of all members thereof, as a class, all of whom are made respondents herein:

Joseph J. Papovich, 216 Broadway, Westville, New Jersey, served as president of respondent AETA in 1959, as secretary in 1960 and 1961, and as a member of the board of directors from 1959 through 1961.

Anthony J. DeFranco, 4620 Westfield Avenue, Pennsauken, New Jersey, served as vice president of respondent AETA in 1960, as president in 1961 and as a member of the board of directors from 1959 through 1961.

PAR. 4. Respondent Radio Servicemen's Association of Trenton, N.J., Incorporated, a corporation, sometimes hereinafter referred to as RSA, is a non-profit trade association organized and existing

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under and by virtue of the laws of the State of New Jersey, with offices and its principal place of business at 343 Williams Street, Trenton, New Jersey. Said respondent was organized and is maintained ostensibly for the purpose of extending the knowledge of radio and television and promoting goodwill among its members. The membership constitutes a class so numerous and changing as to make it impracticable to name individually each and every member of respondent RSA as a respondent herein. Accordingly, the following members of respondent RSA are herein named as respondents in their individual capacities, as members of respondent RSA, as past or present officers, directors or in other official capacities of said corporate respondent, and as fairly representative of all members thereof, as a class, all of whom are made respondents herein:

Michael E. Toth, 343 Williams Street, Trenton, New Jersey, served as secretary of respondent RSA from 1958 through 1961.

Henry F. Leverence, 2238 Nottingham Way, Trenton, New Jersey, served as vice president of respondent RSA from 1958 to 1959 and as president in 1960 and 1961.

Frank C. Guest, Fenton Lane, Bordentown, New Jersey, served as treasurer of respondent RSA in 1959 and as vice president in 1960 and 1961.

Lewis M. Edwards, 1451 Hamilton Avenue, Trenton, New Jersey, served as chairman of the Publicity and Public Relations Committee of respondent RSA from 1958 through 1961.

PAR. 5. Meetings are held by members of each of respondent trade associations for the purpose of transacting the business of the respective associations. These meetings are held periodically, generally once a month, at places within the respective communities wherein each trade association has its principal place of business.

PAR. 6. All or virtually all of the members of respondent trade associations are individuals or corporate or other organizations engaged in the business, among others, of repairing and servicing electronic devices and equipment including those designed and employed for the reception of radio and television broadcast signals. In the course and conduct of the business of so repairing and servicing such devices and equipment, various supplies are required by members of respondent associations including different component parts thereof such as radio and television tubes. Such component parts are sold and shipped by the manufacturers thereof to wholesalers or distributors in states other than the states of manufacture or other than the states where shipment originated. Those wholesalers or distributors in turn resell them to members of the corporate re-

spondents and also to ultimate consumers. Some of the sales so made by such wholesalers or distributors are or have been made to members of respondent trade associations, or to others who are non-members, but who are similarly engaged in repairing and servicing television, radio or electronic devices and equipment, or to ultimate consumers, with places of business or residences in states other than those wherein the places of business of such wholesaler and distributors are located.

PAR. 7. At or about the commencement of 1960 the respondent trade associations banded together in an unincorporated organization designated as the Tri-State Council. This Council adopted as its official publication "The Vanguard," a monthly trade bulletin which has been published by respondent trade associations or in the publication of which they have participated. "The Vanguard" has been distributed by or through the Tri-State Council to members of respondent trade associations responsible for its organization, and to others in the radio, television and electronic industry. Such distribution has been effected by the Council in states other than those wherein such places of business are so maintained. Members of each of respondent trade associations, or some of them, in order to further, carry out, engage in, pursue or implement the acts, practices, methods of competition, combination, agreement, conspiracy, or planned common course of conduct, as hereinafter more particularly described and alleged to be unfair, in derogation of the public interest and in violation of law, have themselves traversed boundaries separating one state from another state or states, or have from points in one state or states employed channels of communication such as the United States mail or telephone lines extending to points in another state or states, or both. All of respondent trade associations and all of their members who are responsible for the acts and practices of said associations, either actively participating and collaborating or tacitly acquiescing therein, are engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 8. Members of respondent trade associations and others similarly engaged have been, and are now, in competition with wholesalers or distributors from whom they purchase component parts for use in their business of repairing and servicing television, radio or electronic equipment or devices for the business of the ultimate consumer of such parts or devices except to the extent competition between them may have been prevented, eliminated, injured or impaired as a result of various unfair acts, practices or methods of competition engaged in, followed, pursued or adopted by or through the

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various corporate respondents and by the members thereof as herein-after more particularly alleged. Included among and illustrative of such acts, practices or methods of competition so engaged in, followed, pursued or adopted were the following:

Members of each of respondent trade associations, or some of them, acting in collaboration through the Tri-State Council at least as early as 1960 caused it to commence publication of "The Vanguard" in which there were issued to television, radio and electronic repairmen, proclamations, among others, upon the "evils" of sales by wholesalers to consumers, the efficacy of selective buying as a weapon to control or eradicate such practices, and exhortations to eliminate the wholesaler as a competitor for the business of the ultimate consumer through use of their collective and combined purchasing power to limit and control the channels of distribution of television, radio and electronic equipment and component parts.

PAR. 9. Respondents, as hereinbefore named and described, in or about February 1960 combined, conspired, agreed or reached a common understanding with each other and others not named as parties hereto including Television Service Association of Delaware Valley of Philadelphia, Pennsylvania and its members, or some of them, to act in concert and collaboration to hinder and suppress the sale and distribution by wholesalers of television, radio or electronic devices, equipment or component parts thereof. Such combination, conspiracy, agreement or common understanding was entered into, or reached by and between said respondents and others, and has been pursued, followed, furthered or implemented in interstate commerce and through utilization of the channels thereof. More particularly, the purposes sought to be accomplished by respondents through such combination, conspiracy, agreement or common understanding was the restriction and limitation of the channels of distribution employed in the marketing of television, radio and electronic devices, equipment or component parts by the elimination or diminution of sales thereof by wholesale distributors to the ultimate consumer. Illustrative of and included among the acts and practices designed to accomplish such purposes which were engaged in and pursued by respondents, or some of them, with the approval or acquiescence of all others, were the following:

(a) Communicated to such wholesale distributors threats of concerted withdrawal of patronage therefrom by television, radio and electronic equipment, service and repairmen;

(b) Combined and united to boycott such wholesale distributors to coerce them to discontinue selling television, radio and electronic

devices or component parts thereof at retail to the ultimate consumer in competition with individuals or organizations engaged in the servicing and repair of such devices;

(c) Dictated or attempted to dictate practices to be followed or eschewed or discontinued, by such wholesalers in the conduct of their business involving such matters as hours of operation, display windows, and advertising;

(d) Caused publication to be made of a "white" list or lists of wholesalers who cooperated with respondents in refusing to sell at retail to the ultimate consumer;

(e) Policed sales made by wholesale distributors of television, radio and electronic devices or component parts thereof by employing individuals or committees for the purpose of shopping at the business establishments of distributors;

(f) Advocated, urged and preached, by way of published slogan, exhortation and appeal, that independent servicemen, both members of respondent associations and non-members, should discontinue purchasing from wholesale distributors thereof who sold television, radio and electronic devices or component parts thereof, at retail to the ultimate consumer.

PAR. 10. The acts, practices and methods of competition engaged in, followed, pursued or adopted by respondents, and the combination, conspiracy, agreement or common understanding entered into or reached between and among them or others not parties hereto, and the acts and practices engaged in and followed pursuant thereto and in furtherance and implementation thereof by respondents as hereinbefore alleged, constitute unfair acts, practices and methods of competition, the effect of which has been, is now or may be to injure, impair, frustrate, eliminate, or prevent competition between respondents and others engaged in the distribution of radio, television, or other electronic equipment, or devices or component parts thereof, or to tend to create a monopoly in respondents in the distribution of such equipment, devices or parts, or to unduly obstruct, hamper or impede the current of commerce in such equipment, devices or parts between and among the several states, or to deprive members of the public who have purchased, do purchase or may purchase such devices, equipment or parts of the advantage and opportunity to so purchase from vendors engaged in active and *bona fide* competition unimpeded by artificially imposed restraints, or to curtail the breadth of choice of vendors from which such members of the purchasing public may buy, all in derogation of the public interest and in violation of Section 5 of the Federal Trade Commission Act.

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DECISION AND ORDER

The respondents named in the caption hereof and counsel for the Commission having, pursuant to Part 2 of the Commission's rules, 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 having heretofore issued its order accepting the agreement and deferring, as contemplated by such agreement, service of the decision and order of the Commission in disposition of this proceeding until issuance by the Commission of its decision and order In the Matter of *Television Service Association of Delaware Valley, et al.*, Docket No. 8623 [p. 195 herein], and the Commission having determined that such condition is met inasmuch as decision in disposition of that matter is issuing simultaneously with the Commission's action herein;

Now, therefore, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Television Service Dealers Association of Delaware County, a corporation, is a non-profit trade association, organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with offices and its principal place of business at 1626 Providence Avenue, Chester, Pennsylvania.

Respondents Peter Rapagnani, whose address is 1626 Providence Avenue, Chester, Pennsylvania, and Leon Skalish, whose address is 101 S. MacDade Boulevard, Glenolden, Pennsylvania, are members of, and are or were officers of, and are representative members of the entire membership of respondent Television Service Dealers Association of Delaware County.

Respondent Television Service Dealers Association of Delaware, a corporation, is a non-profit trade association, organized and existing under and by virtue of the laws of the State of Delaware with offices and its principal place of business at 403 Philadelphia Pike, Wilmington, Delaware.

Respondents Henry Dale, whose address is 403 Philadelphia Pike, Wilmington, Delaware, and James A. Mayhart, whose address is 213 Prospect Drive, Wilmington, Delaware, are members of, and are or

were officers of, and are representative members of the entire membership of respondent Television Service Dealers Association of Delaware.

Respondent Allied Electronic Technicians Association, Inc., is a non-profit trade association, organized and existing as a corporation under and by virtue of the laws of the State of New Jersey with its offices and principal place of business located in the county of Camden, New Jersey.

Respondents Joseph J. Papovich, whose address is 216 Broadway, Westville, New Jersey, and Anthony J. DeFranco, whose address is 4620 Westfield Avenue, Pennsauken, New Jersey, are members of, and are or were officers of, and are representative members of the entire membership of respondent Allied Electronic Technicians Association, Inc.

Respondent Radio Servicemen's Association of Trenton, N.J., Incorporated, a corporation, is a non-profit trade association organized and existing under and by virtue of the laws of the State of New Jersey, with offices and its principal place of business at 343 Williams Street, Trenton, New Jersey.

Respondents Michael E. Toth, whose address is 343 Williams Street, Trenton, New Jersey, Henry F. Leverage, whose address is 2238 Nottingham Way, Trenton, New Jersey, and Frank C. Guest, whose address is Fenton Lane, Bordentown, New Jersey, are members of, and are or were officers of, and are representative members of the entire membership of respondent Radio Servicemen's Association of Trenton, N.J., Incorporated. Respondent Lewis M. Edwards, whose address is 1451 Hamilton Avenue, Trenton, New Jersey, is a member of, and from 1958 through 1961 was an official of, and is a representative member of the entire membership of respondent Radio Servicemen's Association of Trenton, N.J., Incorporated.

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 respondent Television Service Dealers Association of Delaware County, a corporation, its officers, representatives, agents, employees, members, successors and assigns; respondents Peter Rapagnani and Leon Skalish, individually and as officers, directors or members of respondent Television Service Dealers Association of Delaware County; respondent Television Service Dealers Association of Delaware, a corporation, its officers, representatives,

agents, employees, members, successors and assigns; respondents Henry Dale and James A. Mayhart, individually and as officers, directors or members of respondent Television Service Dealers Association of Delaware; respondent Allied Electronic Technicians Association, Inc., a corporation, its officers, representatives, agents, employees, members, successors and assigns; respondents Joseph J. Papovich and Anthony J. DeFranco, individually and as officers, directors or members of respondent Allied Electronic Technicians Association, Inc.; respondent Radio Servicemen's Association of Trenton, New Jersey, Incorporated, a corporation, its officers, representatives, agents, employees, members, successors and assigns; respondents Michael E. Toth, Henry F. Leverence, Frank C. Guest, and Lewis M. Edwards, individually and as officers, directors or members of respondent Radio Servicemen's Association of Trenton, New Jersey, Incorporated, directly or through any corporate or other device, in or in connection with the purchase or sale or with or in connection with, the offer to purchase or sell, or in connection with the distribution of television, radio or electronic devices, equipment or parts, or kindred merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, cooperating in, carrying out, or continuing in a planned common course of action, understanding, agreement or conspiracy, between or among any two or more of said respondents or among or between any one or more of said respondents and another or others not parties hereto, to do or perform any of the following acts, practices or things:

(1) Coercing or intimidating in any manner or by any means, including boycott or threat of boycott, any wholesale or other distributor of television, radio or electronic devices or equipment or component parts thereof from doing business with or soliciting business from, any customer or class of customers; or

(2) Coercing or intimidating in any manner or by any means, including boycott or threat of boycott, any wholesale or other distributor to engage in, cease to engage in, or refrain from engaging in, any acts or practices relating to the conduct of the latter's business including hours of operation, window displays or advertising; or

(3) Adopting any policy or program to black list any wholesale or other distributor of television, radio and electronic devices or component parts thereof, who has sold, sells, or offers to sell such products to any customer or class of customers, or adopting any policy or program to white list any wholesale or other dis-

tributor of television, radio and electronic devices or component parts thereof, who refuses, has refused, or does not offer, to sell such products to any customer or class of customers.