or through such customers in connection with the offering for sale, sale or distribution of respondent's products, without making such advertising or promotional allowance payments available on proportionally equal terms to all other customers competing in the distribution of respondent's products with the aforementioned and other favored customers, respondent has failed to comply with provisions of the said order to cease and desist.

Conclusion

It is our conclusion, after giving due consideration to the acts and practices of the respondent as evidenced by the admissions in the said stipulation, that the respondent, Jantzen, Inc., has paid advertising or promotional allowances to certain customers as compensation or in consideration for advertising or promotional services furnished by or through such customers in connection with the offering for sale, sale or distribution of respondent's products, without making such advertising or promotional allowance payments available on proportionally equal terms to all other customers competing in the distribution of respondent's products with the favored customers in direct violation of the Commission's order to cease and desist issued January 16, 1959, and amended March 26, 1959 [55 F.T.C. 1065, 1068].

ORDER DENYING RESPONDENT'S REQUEST FOR INFORMAL DISPOSITION

This matter is before the Commission on the hearing examiner's "Report and Certification of Record of Investigational Hearing," filed January 14, 1965. Respondent filed its application on January 28, 1965, requesting informal disposition of this proceeding under § 1.21 of the Rules of Practice, and Commission counsel, on February 5, 1965, filed their answer in opposition thereto.

The Commission, upon consideration of respondent's application and Commission counsel's answer, has determined that this matter is not suitable for disposition under § 1.21 of the Rules of Practice. Further, the Commission has reviewed respondent's contentions, first, that the consent order to cease and desist of January 16, 1959, and modified March 26, 1959 [55 F.T.C. 1065, 1068], is invalid, and, second, that there is no statutory method for enforcement of Clayton Act orders issued prior to July 23, 1959. These contentions are without merit. Accordingly,

It is ordered, That respondent's "Application For Disposition Of Investigation Under Section 1.21" be, and it hereby is, denied.

The Order

The order to cease and desist which issued on January 16, 1959, and which was amended on March 26, 1959 [55 F.T.C. 1065, 1068], is as follows:

It is ordered, That respondent Jantzen, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in, or in connection with, the sale of clothing in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from paying or contracting for the payment of anything of value to, or for the benefit of, any customer of respondent as compensation, or in consideration, for any services or facilities furnished by or through such customer in connection with the offering for sale, sale or distribution of any of respondent's products, unless such payment or consideration is made available on proportionally equal terms to all other customers competing in the distribution of such products.

Report on the Facts

As shown by the stipulation submitted during the prehearing conference of November 23, 1964, respondent acknowledges and admits the following facts:

1. Respondent is a corporation organized and existing under the laws of the State of Nevada with its principal office and place of business located in Portland, Oregon. It is now and has since prior to 1959 engaged in the manufacture and sale in commerce, as "commerce" is defined in the amended Clayton Act, of a wide variety of men's, women's and children's clothing, apparel and accessories.

2. In the course of conduct of the aforesaid business, respondent has failed to comply with provisions of said order to cease and desist in the following respects:

(a) That in or about December 1962, respondent, in violation of the said order to cease and desist, paid an advertising or promotional allowance of $111.15 to its customer, Loveman's 800 Market Street, Chattanooga, Tennessee.

(b) That in or about August 1960, respondent, in violation of the said order to cease and desist, paid an advertising or promotional allowance of $235.50 to its customer, Savoy Shops, 4512 13th Avenue, Brooklyn, New York.

(c) That in or about July 1962, respondent, in violation of the said order to cease and desist, paid an advertising or promotional allowance of $66.66 to its customer, the said Savoy Shops.

3. In paying the said advertising or promotional allowances to the aforementioned and other favored customers of respondent as compensation or in consideration for advertising services furnished by

Respondents have not shown why the Commission should reconsider and rescind its determination that issuance of complaints here is in the public interest and is consistent with the Commission's expressed concern to prevent future unlawful acquisitions in this industry through exercise of its powers of industrywide inquiry and correction. Accordingly,