

IN THE MATTER OF
JOSEPH MILL TRADING AS CHICAGO FREEZER MEATS
COMPANY

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

Docket C-1122. Complaint, Oct. 11, 1966—Decision, Oct. 11, 1966

Consent order requiring a Chicago distributor of beef and other meat products to cease using bait advertising, deceptive pricing claims and other misrepresentation in selling its products.

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 Joseph Mill, an individual trading as Chicago Freezer Meats Company, hereinafter referred to as respondent, has 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 Joseph Mill is an individual trading

1064

Complaint

as Chicago Freezer Meats Company with his principal office and place of business located at 5138 West Madison Street in the city of Chicago, State of Illinois.

PAR. 2. Respondent is now, and has been for more than one year last past, engaged in the advertising, offering for sale, sale and distribution of beef and other meat products which come within the classification of food as the term "food" is defined in the Federal Trade Commission Act to members of the purchasing public.

PAR. 3. In the course and conduct of his business, respondent has disseminated and caused the dissemination of certain advertisements by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including advertisements in newspapers, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of food, as the term "food" is defined in the Federal Trade Commission Act; and has disseminated and caused the dissemination of advertisements by various means, including those aforesaid, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of food in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Typical of the statements appearing in the newspaper advertisements disseminated as aforesaid are the following:

BEEF SALE**ENDS TUESDAY**

We are the only one that we know of
who will sell you Beef with the lower
part cut off

YOU PAY NO PREMIUM FOR THIS—

EXTRA BONUS

100 PORK CHOPS

With This Order

YOUR GROUND BEEF

IS 100% PURE BEEF

(Depiction of Black Steer)

See my lower part that's boiling
beef—fat wasty brisket. Short
ribs & soup bone. You don't get
any of that!

* * *

MANY BEEF SELECTIONS AT PRICES LISTED BELOW

U.S.D.A. CHOICE

BEEF 35c

HALVES Lb.

BEEF

HALVES 25c Lb.

Example:

200 Lbs. @ 25c Lb. Total \$50

* * *

(Chicago Sun-Times, 9-9-65)

"WHO CARES? WE DO"

WE CARE ABOUT OUR

CUSTOMERS

* * *

Complaint

70 F.T.C.

U.S.D.A. CHOICE BEEF	BEEF HINDS 33c Lb.	BEEF HALVES 29c Lb.
HALVES 49c Lb.		Example:
(Chicago Sun-Times 2-24-66)		200 lbs. at 29c lb.
		totals \$58.00 * * *

PAR. 5. Through the use of the aforesaid advertisements and others of similar import and meaning not specifically set out herein, respondent has represented, directly and by implication:

1. That the offer to sell beef at 25 cents per pound and at various other prices ranging up as high as 49 cents per pound is a bona fide offer to sell beef at such prices.
2. That his meat is being offered at special or reduced prices for a limited time only.
3. That respondent does not sell the lower, less desirable portions of beef such as brisket, shank, plate, flank or flank stew.
4. That all purchasers of a half of beef or more receive a certain number of pork chops or other cut of meat free or without charge.

PAR. 6. In truth and in fact:

1. The offer to sell beef at 25 cents per pound at various other prices ranging up to as high as 49 cents per pound is not a bona fide offer to sell but, on the contrary, is made for the purpose of inducing members of the public to come to respondent's place of business. When prospective customers come to his place of business, respondent or one of his employees undertakes to disparage the beef supposedly offered at the aforesaid prices by stating it is tough, has excessive waste or by other means in an effort to sell beef to such persons at higher prices. If and when such persons do purchase beef from respondent, it is usually sold at prices higher than those advertised.
2. Respondent's meat is not being offered at special or reduced prices for a limited time only. The so-called limited time offer is advertised almost continuously and the prices featured in respondent's advertisements do not afford customers a reduced price or savings but are used in order to lure prospective customers to respondent's place of business so respondent or one of his employees can attempt to sell beef to them at higher prices.
3. Respondent does sell the lower, less desirable portions of beef such as brisket, shank, plate, flank or flank stew. Moreover, when only top portions of beef are sold by respondent, the prices therefore are higher than those featured in respondent's advertisements.
4. Not all purchasers of a half of beef or more receive the free

meat offered and those who receive the free pork chops usually receive a pork loin that is too small to yield the number of pork chops specified in respondent's advertisements.

Therefore, the advertisements referred to hereinabove were, and are, misleading in material respects and constituted, and now constitute, "False advertisements" as that term is defined in the Federal Trade Commission Act.

PAR. 7. The dissemination by respondent of the false advertisements, as aforesaid, constituted and now constitute, unfair and deceptive acts and practices in commerce in violation of Section 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, 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 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 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 Joseph Mill is an individual trading as Chicago Freezer Meats Company, with his principal office and place of business located at 5138 West Madison Street, in the city of Chicago, State of Illinois.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Joseph Mill, an individual doing business as Chicago Freezer Meats Company, or under any other

name, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of beef or any other food products, do forthwith cease and desist from:

I. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, any advertisement which:

A. Represents, directly or by implication:

1. That any such products are offered for sale when such offer is not a bona fide offer to sell such products at the price or prices stated.

2. That any offer is limited as to time: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish that such time restriction or limitation was actually imposed and in good faith adhered to by respondent.

3. That the price or prices stated are special, reduced or afford a saving to purchasers: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish that such price or prices were special, reduced, or afford an actual saving to purchasers in conformity with the representation made.

4. That the beef he sells does not include the lower portions of beef.

5. That any product will be furnished free or without cost to persons who purchase products from respondent: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish that such product was in fact given in each and every instance in which the purchaser fulfilled the conditions specified in the advertisement.

6. That any meat or other product or any specified quantity thereof will be delivered unless the particular product and the amount specified is furnished as represented.

B. Misrepresents in any manner the price, quantity, grade or quality of any such products, or the savings afforded the purchaser.

II. Discouraging the purchase of, or disparaging in any manner, any products which are advertised or offered for sale in advertisements disseminated or caused to be disseminated by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act.

III. Disseminating, or causing to be disseminated, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondent's products in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations or misrepresentations prohibited in Paragraphs I A and I B above.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.
