

types described in subsections (a), (b), (c) and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act, are based.

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.

IN THE MATTER OF
NORJACK INCORPORATED, ET AL.

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

Docket C-1298. Complaint, Feb. 15, 1968—Decision, Feb. 15, 1968

Consent order requiring a Milwaukee, Wis., distributor of automotive parts and automobile trailers, to cease failing to disclose that its products are made from old, used, and reconditioned parts and neglecting to disclose that some of its advertised products are not available for immediate shipment.

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 Norjack Incorporated, a corporation, and Norman D. Glicksman and George L. Glicksman, 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 Norjack Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and place of business located at 600 South 108th Street, in the city of Milwaukee, State of Wisconsin.

Respondents Norman D. Glicksman and George L. Glicksman are individuals and 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 automotive parts, automobile trailers designed for camping and hauling purposes and related accessories to the public and to retailers for resale to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Wisconsin to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in the said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, respondents purchase certain used automotive parts which they rebuild or recondition and use in the construction of certain of their automobile trailers and sell such rebuilt or reconditioned parts and such trailers to the public and to retailers for resale to the public. The said parts and trailers, when offered for sale and sold, as aforesaid, have the appearance of being new and unused, but they bear no label, marking or other disclosure stamped thereon or attached thereto and the invoices, used by respondents in connection with such sales, contain no disclosure showing that such products are in fact constructed entirely or partially of rebuilt or reconditioned parts. The cartons or packages in which the said parts are offered for sale disclose the name of the parts contained therein but fail to disclose in any manner that said parts are rebuilt or reconditioned.

When parts are rebuilt or reconditioned or when products are partially constructed of such parts in a manner that they have the appearance of being assembled or manufactured from new and unused materials, in the absence of any disclosure to the contrary, or in the absence of an adequate disclosure, such parts and products are understood to be and are readily accepted by the public as new in their entirety, a fact of which the Commission takes official notice.

PAR. 5. In the course and conduct of their aforesaid business, respondents advertise their products in magazines and other promotional matter transmitted in commerce. Such matter and the said product invoices contain no disclosure of the fact that certain of respondents' parts are rebuilt or reconditioned, that certain of their products are partially constructed of used and rebuilt parts or that in many instances shipment of automobile trailers, when sold, are subject to lengthy delays in shipment and delivery, so as thereby to rep-

resent and imply that said products are new and unused and readily available.

PAR. 6. In truth and in fact, certain of respondents' products represented in such advertisements, other promotional matter and invoices are constructed entirely or partially of rebuilt or reconditioned used parts and shipment and delivery of respondents' trailers may be delayed beyond a reasonable period of time.

Therefore, the said advertisements, other promotional matter and invoices were and are, false, misleading and deceptive.

PAR. 7. By failing to disclose the facts as set forth in Paragraphs Four and Five hereof, respondents place in the hands of others the means and instrumentalities whereby they may mislead and deceive the public as to the nature, composition and availability of their products.

PAR. 8. In the course and conduct of their aforesaid business, at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of automotive parts and automobile trailers of the same general kind and nature as those sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that all of respondents' automotive parts and automotive trailers are constructed entirely from new and unused materials, that all deliveries of respondents' products will be made within a reasonable time and into the purchase of substantial quantities of respondents' products by reason of such erroneous and mistaken belief.

PAR. 10. 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.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents 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 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 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 alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of 30 days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, 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 Norjack Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and place of business located at 600 South 108th Street, in the city of Milwaukee, State of Wisconsin.

Respondents Norman D. Glicksman and George L. Glicksman 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 Norjack Incorporated, a corporation, and its officers, and Norman D. Glicksman and George L. Glicksman, 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 advertising, offering for sale, sale or distribution of automotive parts, automobile trailers or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or distributing any used automotive part or any automotive part, automobile trailer or any other product containing a used component part or parts, unless a clear and conspicuous disclosure of such prior use is made on the product in a location most readily noticeable to the purchaser and with sufficient permanency to remain thereon until consummation of a consumer sale thereof, and in such manner that said dis-

closure cannot be easily removed or obliterated; and unless a clear and conspicuous disclosure that said automotive part is a used part or contains a used component part or parts is printed or marked on the box, carton, wrapper or other container in which said automotive part is sold or offered for sale.

2. Failing to disclose, clearly and conspicuously, in advertisements, other promotional matter and invoices that their products, which are constructed or assembled from rebuilt or reconditioned parts, are composed of used materials.

3. Advertising or otherwise offering any product for sale which is not available for immediate shipment and delivery without clearly and conspicuously revealing in connection with each such representation that there will be a delay in shipment and delivery and the approximate time of such delay.

4. Furnishing any means or instrumentality to others by and through which they may mislead or deceive the public as to any of the matters hereinabove prohibited.

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.