

any (60) days after service upon them of this order; and with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

Commissioner Nicholson not participating for the reason oral argument was heard prior to his appointment to the Commission.

IN THE MATTER OF
DIRECTIONAL CONTRACT FURNITURE CORP.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SECTION 2 (a) OF THE CLAYTON ACT

*Docket 8741. Complaint, July 21, 1967—Decision, Feb. 23, 1968**

Consent order requiring a New York City wholesaler of furniture to cease discriminating in price among competing resellers of its furniture in violation of Section 2(a) of the Clayton Act, withholding date of compliance.

COMPLAINT

The Federal Trade Commission, having reason to believe that Directional Contract Furniture Corp., the party respondent named in the caption hereof and hereinafter more particularly designated and described, has violated and is now violating the provisions of subsection

*Order setting date of compliance dated Dec. 5, 1969.

(a) of Section 2 of the Clayton Act (U.S.C., Title 15, Section 13) as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Directional Contract Furniture Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 979 Third Avenue, New York, New York.

PAR. 2. Respondent is now, and for many years last past has been, engaged in the sale and distribution of furniture and furniture products. These products are sold to a large number of customers located throughout the United States. Its sales of these products are substantial, amounting to about \$1.3 million per annum.

PAR. 3. In the course and conduct of its business, respondent has engaged and is now engaged in commerce, as "commerce" is defined in the Clayton Act. Respondent employs interstate means of communication with its customers in the consummation of sales and in the settling of accounts. Respondent ships, or causes to be shipped, its products from the States in which said products are manufactured to its customers, or to purchasers from its customers, located in other States of the United States and the District of Columbia. Thus, there is and has been, at all times mentioned herein, a continuous course of trade in commerce in said products across State lines between respondent and its customers.

PAR. 4. In the course and conduct of its business in commerce, respondent has been and now is discriminating in price, directly or indirectly, between different purchasers of its furniture and furniture products of like grade and quality by selling said products at higher prices to some purchasers than it sells said products to other purchasers, many of whom have been and now are in competition with the purchasers paying the higher prices.

PAR. 5. Included among, but not limited to, the aforesaid discriminations in price as above alleged, are the following:

For several years last past respondent has priced its line of products in terms of list prices. One class of respondent's customers purchases at said list prices less a discount of 40 percent while other classes of customers purchase at list prices less discounts ranging up to 50 + 10 percent. Various members of each class of customers compete with each other and with various members of each of the other classes.

PAR. 6. The effect of respondent's discriminations in price as alleged herein has been or may be substantially to lessen competition or tend

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to create a monopoly in the line of commerce in which respondent's customers are engaged, or to injure, destroy, or prevent competition with purchasers from respondent who receive the benefit of such discriminations.

PAR. 7. The aforesaid acts and practices constitute violations of the provisions of subsection (a) of Section 2 of the Clayton Act (U.S.C. Title 15, Section 13) as amended by the Robinson-Patman Act, approved June 19, 1936.

DECISION AND ORDER

The Commission having issued its complaint in this proceeding on July 28, 1967 charging the respondent named in the caption hereof with violation of Section 2(a) of the Clayton Act, as amended, and said respondent having been served with a copy of that complaint; and

The respondent having thereafter filed a request pursuant to § 2.34(d) of the Rules to have the matter withdrawn from adjudication and the Commission having granted that request by its order dated November 17, 1967, subject to the withdrawal by respondent of its answer to the complaint and which answer was thereafter withdrawn by the respondent; and

The respondent and counsel for the Commission having executed an agreement containing an admission by respondent of all the jurisdictional facts set forth in the said complaint which had been issued, 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 alleged in said complaint, and waivers and other provisions as required by the Commission's Rules, and which agreement further provides that the order contained therein shall become final, within the meaning of the Clayton Act, as amended, on the date of final disposition of the proceedings *In the Matter of Knoll Associates, Inc.*, Docket No. 8549 [397 F. 2d 530 (1968)], now pending on petition for review before the United States Court of Appeals for the Seventh Circuit; 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:

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Order

1. Respondent Directional Contract Furniture Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 979 Third Avenue, in the city of New York, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

It is ordered. That respondent Directional Contract Furniture Corp., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in, or in connection with, the offering for sale, sale, or distribution of furniture and furniture products in commerce, as "commerce" is defined in the Clayton Act as amended, do forthwith cease and desist from:

Discriminating, directly or indirectly, in the price of such products of like grade and quality by selling to any purchaser at net prices higher than the net prices charged any other purchaser who in fact competes with the purchaser paying the higher price.
