

LAWRENCE TV CORPORATION ET AL.

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

Docket 8754. Complaint, Jan. 5, 1968—Decision, April 10, 1968

Order requiring a Washington, D.C., retailer of television sets, and television, radio and phonograph combinations to cease using bait advertising, deceptive offers of free merchandise, misrepresenting metal cabinets as wood, and using other deceptive sales practices.

Complaint

73 F.T.C.

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 Lawrence TV Corporation, a corporation, and George Harris, individually and as an employee 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 Lawrence TV Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 5832 Georgia Avenue, NW., in Washington, D.C. Respondent corporation is the franchised Muntz TV dealer in the greater Washington, D.C., metropolitan area.

Respondent George Harris is an individual and manages the business of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent. Respondent, George Harris, has managed the Muntz TV franchise dealership for the greater Washington, D.C., metropolitan area at former business locations of 1203 N. Highland Street, Arlington, Virginia, 635 H. Street, NE., Washington, D.C., and 601 King Street, Alexandria, Virginia.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of television sets, and television, radio and phonograph combinations 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 District of Columbia to purchasers thereof located in various States of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in 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, and for the purpose of inducing the purchase of their television sets and television, radio and phonograph combinations, the respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers of which the following are typical and illustrative, but not all inclusive thereof:

687

Complaint

COME INTO MUNTZ STORE OR, AT NO OBLIGATION PHONE FOR A

FREE HOME DEMONSTRATION • 723-3431

TEST ONE AT HOME. CALL ANYTIME. DAY OR NIGHT, 10 A.M. TO 9 P.M.

As seen in *LIFE* and *ESQUIRE* magazines.



Very Specially priced!

Muntz 282 sq. in.

TV, hi-fi RADIO & STEREO Phono COMBINATION

with UHF-VHF

\$158

with your old set in trade, regardless of age, size or condition

FREE with your purchase
\$25 worth of STEREO ALBUMS!
Choice of albums from Super Music City

NO MONEY DOWN
with your old set
NO PAYMENTS
up to 45 Days

5832 GEORGIA AVE., N.W.
(Corner of Missouri Ave.)
SHOP DAILY & SAT. 10 to 9;
SUNDAYS 10 to 6



COME INTO MUNTZ STORE OR, AT NO OBLIGATION PHONE FOR A

FREE HOME DEMONSTRATION • 723-3431

TEST ONE AT HOME. CALL ANYTIME. DAY OR NIGHT, 10 A.M. TO 9 P.M.

Muntz 267 sq. in.

COLOR TV

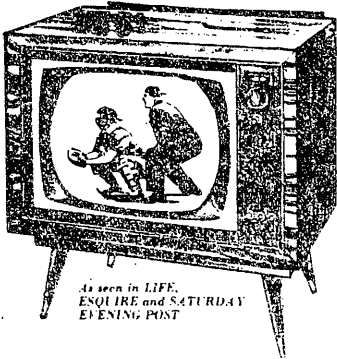
with UHF-VHF

VERY LOW PRICE!

\$258

With your old set in trade regardless of its age, size or condition. Cancellation base is optional.

NO MONEY DOWN
with old set in trade
NO PAYMENTS UP TO 45 DAYS



As seen in *LIFE*, *ESQUIRE* and *SATURDAY EVENING POST*



Over 10,000 sets in this area!
4 million sets in this country!

5832 Georgia Ave., N.W.
(Corner of Missouri Ave.)
Shop Daily & Saturday 10 to 9
Sundays 10 to 6

Come into our store
or Call 723-3431
for a **FREE HOME DEMONSTRATION**

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, the respondents have represented, and are now representing, directly or by implication that:

Complaint

73 F.T.C.

1. The offers set forth in said advertisements are bona fide offers to sell the advertised products at the prices and on the terms and conditions stated.
2. The respondents will give a free home demonstration of the products advertised.
3. The respondents have sufficient quantities of the advertised products available for purchase.
4. Purchasers of the advertised television, radio and stereo combination will receive free record albums.

PAR. 6. In truth and in fact:

1. The offers set forth in said advertisements were not bona fide offers to sell the advertised products at the prices and on the terms and conditions stated. Respondents' salesmen, who called upon persons responding to the advertisements, did not display the advertised product. Instead, respondents' salesmen disparaged the advertised product and attempted to sell a higher priced product. By these and other tactics, purchase of the advertised product was discouraged and respondents frequently sold a higher priced product.
2. In a number of instances, the respondents did not give a free home demonstration of the products advertised.
3. In a number of instances, the respondents advertised a product when they did not have sufficient quantities on hand to make it available for purchase.
4. Purchasers of the advertised television, radio and stereo combination did not receive free record albums.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their television sets, the respondents have placed, and are now placing, numerous illustrated advertisements in newspapers in which the cabinets of the television sets advertised are depicted as having a grain like the natural grain appearing in wood.

Typical, but not all inclusive thereof, are the illustrations set out in Paragraph Four hereof.

PAR. 8. By and through the use of the aforementioned illustrations, and others of similar nature but not set out herein, the respondents have represented, and are now representing, directly or by implication that the cabinets of the advertised television sets are wood.

PAR. 9. In truth and in fact, the cabinets of the advertised television sets were not wood, but were metal.

Therefore, the illustrations and representations as set forth in Paragraphs Four, Seven and Eight hereof were and are false, misleading and deceptive.

PAR. 10. In the course and conduct of their aforesaid business, and 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 television sets and television, radio and phonograph combinations of the same general kind and nature as those sold by respondents.

PAR. 11. 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 said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 12. 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.

Mr. William E. Barr, supporting the complaint.

Mr. George Harris, *pro se*, representing respondents.

INITIAL DECISION BY ELDON P. SCHRUP, HEARING EXAMINER

FEBRUARY 28, 1968

STATEMENT OF PROCEEDINGS

The Federal Trade Commission on January 5, 1968, issued its complaint charging the respondents with 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. Respondents, following an informal prehearing conference on February 2, 1968, filed answer on February 8, 1968, admitting all material allegations of the complaint to be true.

The Federal Trade Commission's Rules of Practice for Adjudicative Proceedings, Section 3.12, subparagraph (2) states: *If allegations of complaint are admitted.*—If the respondent elects not to contest the allegations of fact set forth in the complaint, his answer shall consist of a statement that he admits all of the material allegations to be true.

Initial Decision

73 F.T.C.

Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the hearing examiner shall file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. In such an answer, the respondent may, however, reserve the right to submit proposed findings and conclusions under § 3.46 and the right to appeal the initial decision to the Commission under § 3.52. Respondents' answer in this proceeding waives the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission.

FINDINGS OF FACT

1. Respondent Lawrence TV Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 5832 Georgia Avenue, NW., Washington, D.C. Respondent corporation is the franchised Muntz TV dealer in the greater Washington, D.C., metropolitan area.

Respondent George Harris is an individual and manages the business of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent. Respondent, George Harris, has managed the Muntz TV franchise dealership for the greater Washington, D.C., metropolitan area at former business locations of 1203 N. Highland Street, Arlington, Virginia; 635 H Street, NE., Washington, D.C., and 601 King Street, Alexandria, Virginia.

2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of television sets, and television, radio and phonograph combinations to the public.

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

4. In the course and conduct of their business and for the purpose of inducing the purchase of their television sets and television, radio and phonograph combinations, the respondents have made, and are now

making, numerous statements and representations in advertisements inserted in newspapers of which the following are typical and illustrative, but not all inclusive thereof. [See page 689.]

5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, the respondents have represented, and are now representing, directly or by implication that:

(1) The offers set forth in said advertisements are bona fide offers to sell the advertised products at the prices and on the terms and conditions stated.

(2) The respondents will give a free home demonstration of the products advertised.

(3) The respondents have sufficient quantities of the advertised products available for purchase.

(4) Purchasers of the advertised television, radio and stereo combination will receive free record albums.

6. In truth and in fact:

(1) The offers set forth in said advertisements were not bona fide offers to sell the advertised products at the prices and on the terms and conditions stated. Respondents' salesmen, who called upon persons responding to the advertisements, did not display the advertised product. Instead, respondents' salesmen disparaged the advertised product and attempted to sell a higher priced product. By these and other tactics, purchase of the advertised product was discouraged and respondents frequently sold a higher priced product.

(2) In a number of instances, the respondents did not give a free home demonstration of the products advertised.

(3) In a number of instances, the respondents advertised a product when they did not have sufficient quantities on hand to make it available for purchase.

(4) Purchasers of the advertised television, radio and stereo combination did not receive free record albums.

Therefore, the statements and representations as set forth in Findings 4 and 5 hereof were and are false, misleading and deceptive.

7. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their television sets, the respondents have placed, and are now placing, numerous illustrated advertisements in newspapers in which the cabinets of the television sets advertised are depicted as having a grain like the natural grain appearing in wood.

Typical, but not all inclusive thereof, are the illustrations set out in Finding 4 hereof.

[Initial Decision]

73 F.T.C.

8. By and through the use of the aforementioned illustrations, and others of similar nature but not set out herein, the respondents have represented, and are now representing, directly or by implication that the cabinets of the advertised television sets are wood.

9. In truth and in fact, the cabinets of the advertised television sets were not wood, but were metal.

Therefore, the illustrations and representations as set forth in Findings 4, 7 and 8 hereof were and are false, misleading and deceptive.

10. In the course and conduct of their aforesaid business, and 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 television sets and television, radio and phonograph combinations of the same general kind and nature as those sold by respondents.

11. 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 said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

CONCLUSIONS

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and over the respondents.

2. The complaint herein states a cause of action and the proceeding is in the public interest.

3. The aforesaid acts and practices of the respondents as found in the foregoing Findings of Fact were and are 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.

ORDER

It is ordered, That respondents Lawrence TV Corporation, a corporation, and its officers, and George Harris, individually and as an employee 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 television sets, television, radio and phonograph combinations, or

other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of merchandise.

2. Discouraging the purchase of, or disparaging, any products which are advertised or offered for sale.

3. Representing, directly or by implication, that any products are offered for sale when such offer is not a bona fide offer to sell such products.

4. Representing, directly or by implication, that any product will be delivered to prospective customers for a free home demonstration, unless such products are demonstrated without charge or obligation to prospective customers in their homes in every instance where the prospective customer so requests.

5. Representing, directly or by implication, that any products are offered for sale, unless sufficient quantities of such products are available in stock to satisfy reasonably anticipated demand: *Provided, however,* That items available only in limited supply may be advertised if such advertising clearly and conspicuously discloses the number of units in stock and the duration of the offer.

6. Representing, directly or by implication, that free merchandise will be given to purchasers of products, unless such free merchandise is tendered or delivered to the purchasers in every instance.

7. Representing, directly or by implication, through illustration that a product has a cabinet with a grain similar in appearance to natural wood when the cabinet is not wood, unless,

- (1) the illustration accurately depicts the appearance of the cabinet and

- (2) the composition of the cabinet is clearly and conspicuously disclosed in immediate conjunction with such illustration.

8. Using any illustration of a product purportedly offered for sale by respondents unless the illustration accurately depicts such product.

9. Misrepresenting, in any manner, the composition of any product.

10. Failing to deliver a copy of this Order to cease and desist to all present and future salesmen or other persons engaged in the

(Complaint)

73 F.T.C.

sale of the respondents' products, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said Order.

FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.51 of the Commission's Rules of Practice (effective July 1, 1967), the initial decision should be adopted and issued as the decision of the Commission:

It is further ordered, That Lawrence TV Corporation, a corporation the 10th day of April 1968, become the decision of the Commission.

It is further ordered, That Lawrence TV Corporation, a corporation, and George Harris, individually and as an employee of said corporation, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their com-