

IN THE MATTER OF
OPPORTUNITY PUBLISHING COMPANY

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

Docket C-1504. Complaint, Mar. 13, 1969—Decision, Mar. 13, 1969

Consent order requiring a Chicago, Ill., publisher of a monthly trade magazine to cease misrepresenting, exaggerating and changing the copy material supplied it by its advertisers in the preparation of its advertisements.

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 Opportunity Publishing Company, a corporation, hereinafter referred to as the 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. Opportunity Publishing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 850 North Dearborn Street, in the city of Chicago, State of Illinois.

PAR. 2. Respondent Opportunity Publishing Company is now, and for some time last past has been, engaged in the preparation, advertising, publishing and sale and distribution of a monthly trade magazine known as "Salesman's Opportunity," which is primarily designed for readers connected with the direct-selling industry. In the course and conduct of its business, respondent offers advertising space in said monthly publication for sale to various firms which wish to recruit direct-selling personnel to promote the sale of their respective products. To induce the sale of such advertising space, respondent now prepares, and for some time last past has prepared, for publication in its monthly magazine, advertising materials to promote the sale of its customers' products.

PAR. 3. In the course and conduct of its business as aforesaid, respondent now causes, and for some time last past has caused, copies of its monthly trade magazine, to be shipped from its place of business in the State of Illinois to purchasers thereof located in various other States of the United States, and maintains, and at all times mentioned herein has 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 its aforesaid business, respondent engages, and has engaged, in the following described unfair and false, misleading and deceptive acts and practices.

In the development and preparation of advertising material for its advertising customers, respondent includes, and has included, statements and representations not supplied by the advertisers and omits, and has omitted, facts and information supplied by the advertiser from such advertisements. In a substantial number of instances said inclusions or omissions have resulted in

advertisements which directly or by implication, vary in substantial degree from the facts supplied to respondent. In a substantial number of other instances, respondent has been supplied with matter and information which it knew or should have known were false or grossly exaggerated and has included such matter and information in the preparation and development of said advertisements.

Therefore, the aforesaid acts and practices were and are unfair and false, misleading and deceptive.

PAR. 5. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent has been and now is in substantial competition, in commerce, with corporations, firms and individuals engaged in the preparation of advertising and promotional material and in the sale of a monthly trade magazine of the same general kind and nature as that sold by respondent.

PAR. 6. The use by respondent of the aforesaid unfair and false, misleading and deceptive statements, representations and practices has had, and now has, the tendency and capacity 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 the products advertised in respondent's publications by reason of said erroneous and mistaken belief and of respondent's services. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondent from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 7. The aforesaid acts and practices of the respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for

its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, 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 such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Opportunity Publishing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 850 North Dearborn Street, Chicago, 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 Opportunity Publishing Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of its services in the preparation, composition or publication of advertising or promotional material for its "Salesman's Opportunity" magazine or other publications in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Preparing or assisting in the preparation of any advertisement which does not fully and accurately state and rep-

resent both directly and indirectly the pertinent information and material supplied to respondent, and the pertinent facts otherwise known to respondent.

2. Preparing or assisting in the preparation of any advertisement which contains matter or information which the respondent knew or should have known to be false or misleading.

It is further ordered, That respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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