

Complaint

IN THE MATTER OF

BLAIR'S TELEVISION & MUSIC COMPANY, INC., ET AL.

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

Docket C-1539. Complaint, June 4, 1969—Decision, June 4, 1969

Consent order requiring a Chevy Chase, Md., appliance dealer to cease using bait and switch tactics, misrepresenting that offers to sell are limited, and using deceptive pricing in the sale of its TV sets.

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 Blair's Television & Music Company, Inc., a corporation, Blairs T.V.—Chevy Chase, Inc., a corporation, and C. Kemp Devereux, individually and as an officer of said corporations, 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 Blair's Television & Music Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 5422 Western Avenue, in the city of Chevy Chase, State of Maryland.

Respondent Blairs T.V.—Chevy Chase, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 5422 Western Avenue, in the city of Chevy Chase, State of Maryland.

Respondent C. Kemp Devereux is an individual and an officer of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondents.

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 other merchandise to the public.

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PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their merchandise, when sold, to be shipped from their place of business in the State of Maryland to purchasers thereof located in various other 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 merchandise 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 other merchandise, 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.*

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:

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

2. By and through the use of terms such as "Television Sale!" and other terms of similar import and meaning, that respondents' television sets are being offered for sale at special or reduced prices, and purchasers thereby afforded savings from respondents' regular selling prices.

3. By and through the use of the words "Thursday Only" and other words of similar import and meaning, that respondents' merchandise was being offered for sale at the stated price for a limited period of time.

PAR. 6. In truth and in fact:

1. The offers set forth in said advertisements were not bona fide offers to sell the advertised merchandise at the prices and on the terms stated, but were made for the purpose of attracting prospective purchasers into respondents' place of business in order that respondents' salesmen might sell them other, more expensive merchandise. Respondents' salesmen made no effort to sell the advertised merchandise, but told prospective purchasers in

*Pictorial advertisements omitted in printing.

many instances that the advertised merchandise was not on hand to be demonstrated. When demonstrated, the advertised television sets were so out of adjustment that customers usually rejected them on sight due to the unacceptably poor picture quality. Concurrently, a higher priced television set, properly adjusted and with a clear picture, was demonstrated side by side with the advertised set, and by such comparison the advertised merchandise was disparaged and demeaned. By these and other tactics, purchase of the advertised merchandise was discouraged, and respondents through their salesmen attempted to and frequently did sell the higher priced merchandise.

2. Respondents' merchandise was not being offered at special or reduced prices, and purchasers were not thereby afforded savings from respondents' regular selling prices.

3. Respondents were not offering the advertised merchandise at the stated price for a limited period of time. The stated price was the usual and regular offering price advertised by respondents for such merchandise.

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 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 merchandise of the same general kind and nature as that sold by respondents.

PAR. 8. 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' merchandise by reason of said erroneous and mistaken belief.

PAR. 9. 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents 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 respondents with violation of the Federal Trade Commission Act; 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 aforesaid draft of complaint, 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have 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 Blair's Television & Music Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 5422 Western Avenue, in the city of Chevy Chase, State of Maryland.

Respondent Blairs T.V.—Chevy Chase, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 5422 Western Avenue, in the city of Chevy Chase, State of Maryland.

Respondent C. Kemp Devereux is an individual and an officer of the corporate respondents and his address is the same as that of the corporate respondents.

2. The Federal Trade Commission has jurisdiction of the sub-

ject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Blair's Television & Music Company, Inc., a corporation, Blairs T.V.—Chevy Chase, Inc., a corporation, and their officers, and C. Kemp Devereux, individually and as an officer of said corporations, 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 or any other merchandise or services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell such merchandise or services at the prices and on the terms and conditions stated.

2. Using any advertising, sales plan or procedure wherein false, misleading or deceptive representations are made to attract prospective purchasers to respondents' place of business or to induce the sale of merchandise or services.

3. Disparaging, in any manner, or discouraging the purchase of any merchandise advertised.

4. Advertising merchandise for sale which is not available in quantities sufficient to meet reasonably anticipated demand, unless such advertising clearly and conspicuously discloses the number of units in stock, the location of such units, and the duration of the offer.

5. Representing, directly or by implication, through the use of terms such as "Television Sale," or in any other manner, that any price is reduced from respondents' former price unless respondents' business records establish and show that such price constitutes a significant reduction from the price at which such merchandise has been sold in substantial quantities or offered for sale in good faith for a reasonably substantial period of time, by respondents in the recent, regular course of their business.

6. Falsely representing, in any manner, that savings are available to purchasers or prospective purchasers of respondents' merchandise, or misrepresenting, in any man-

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ner, the amount of savings available to purchasers or prospective purchasers of respondents' merchandise.

7. Representing, directly or by implication, that respondents' merchandise is being offered for sale at a stated price for a limited period of time when such merchandise is being offered at the same or substantially the same price for a period of time different from that represented.

8. Representing, directly or by implication, that any offer of respondents is limited or restricted in any manner unless such offer is in fact limited or restricted in the manner represented and unless such limitation or restriction is in good faith adhered to by respondents.

9. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' merchandise or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

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

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.

IN THE MATTER OF

WAVERLY FASHIONS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING
ACTS