
IN THE MATTER OF
NATIONAL DAIRY PRODUCTS CORPORATION

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

Docket 8548. Complaint, Dec. 7, 1962—Decision, Oct. 2, 1969

Order modifying a cease and desist order, dated June 28, 1967, 71 F.T.C. 1333, which prohibited a major food products distributor from discriminating in price among its customers, by limiting the prohibition, pursuant to a decision of the United States Court of Appeals, Seventh Circuit, 412 F. 2d 605, dated June 19, 1969, to the jam, jelly and preserve products of the respondent company's Kraft Foods Division.

ORDER MODIFYING ORDER TO CEASE AND DESIST

Respondent having filed in the United States Court of Appeals for the Seventh Circuit a petition to review and set aside the order to cease and desist issued herein on June 28, 1967 [71 F.T.C. 1333]; and the court on June 19, 1969 [8 S. & D. 948], having issued its opinion modifying and, as modified, affirming and enforcing said order to cease and desist; and the time allowed for filing a petition for certiorari having expired and no such petition having been filed;

Now, therefore, it is hereby ordered, That the aforesaid order of the Commission to cease and desist be, and it hereby is, modified in accordance with the said final decree of the court of appeals to read as follows:

It is ordered, That respondent National Dairy Products Corporation, a corporation, and its officers, representatives, agents and employees, directly or through any corporate device, in connection with the sale or offering for sale of jam, jelly and preserve prod-

ucts of its Kraft Foods Division, in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Discriminating, directly or indirectly, in the price of such products of like grade and quality by selling such products to any purchaser for resale at a price which is less than the price charged any other purchaser for resale at the same level of distribution when such lower price is either the result of a reduction from the regular list price of the products or is the result of a promotional offer involving a concession from regular list price: *Provided, however,* That in addition to the defenses set forth in Sections 2(a) and 2(b) of the statute it shall be a defense in any enforcement proceeding instituted hereunder for respondent (1) to establish that its lower price was the result of a promotional offer involving a price concession which does not undercut the lowest net price and/or the terms and conditions resulting from a promotional offer made to the purchaser receiving the lower price by any seller of a competitive product within the previous 12 months, or (2) to establish that such lower price does not undercut the lowest price concurrently offered generally throughout the same trading area by any other seller of a competitive product having a substantially smaller annual volume of sales of such products than respondent's annual volume of sales of the product on which the discriminatory price was granted.

It is further ordered, That respondent, National Dairy Products Corporation, shall, within thirty (30) 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 the order to cease and desist set forth herein.

Complaint

76 F.T.C.

IN THE MATTER OF

EMPRESS STERLING CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1590. Complaint, Oct. 6, 1969—Decision, Oct. 6, 1969*

Consent order requiring a Richmond, Va., marketer of cookware, tableware and other household products to cease misrepresenting that prospective customers are being called long distance, that its offering prices constitute a saving, that prospective purchasers have been specially selected or will receive any article free, making deceptive guarantee claims, inferring that its products are advertised nationally, and implying that it is connected with the publishers of the International Sunday School Lessons.

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 Empress Sterling Corporation, a corporation, and Ernest M. Bernstein, individually and as an officer 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. Empress Sterling 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 120 South 6th Street, Richmond, Virginia, 23219.

Respondent Ernest M. Bernstein is an individual and an officer 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 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 various types of household products, including cookware, tableware, chinaware and books 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