

Consent order requiring a New York City compiler of mailing lists used by direct-mail advertisers and merchandisers to cease misrepresenting the purpose or use of information sought by its questionnaire, offering for sale or using its "Metromail Elites" mailing list or other list derived therefrom, provided that the term "questionnaire" as used herein shall mean any solicitation of information to be used in a mailing list.

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 Metromedia, Inc., a

Complaint

78 F.T.C.

corporation, hereinafter referred to as 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. Respondent Metromedia, Inc., 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 at 277 Park Avenue, New York, New York.

O. E. McIntyre, Inc., was a corporation initially incorporated, existed and did business under the laws of the State of New York with its principal office and place of business located at 1199 Prospect Avenue, Westbury, New York. On or about February 25, 1966, said corporation was acquired by the corporate respondent as a subsidiary thereof. On or about September 29, 1967, said subsidiary corporation was merged into the corporate respondent and became a division thereof. At all times mentioned herein, the corporate respondent has been responsible for and has formulated, directed and controlled the acts and practices of said O. E. McIntyre both as a subsidiary corporation and as a division of said corporate respondent.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the business of constructing, developing and maintaining mailing lists of varied and diverse composition and purpose; and in the advertising, offering for sale, sale and distribution of such mailing lists to distributors, jobbers, wholesalers, retailers and to other merchandisers engaged in direct-mail advertising and selling; and in the sale of its services in the promotion of the merchandise and services of others; and in the use of such mailing lists in the advertising, offering for sale, sale and distribution of merchandise and services, produced by respondent, to distributors, jobbers, wholesalers, retailers or directly to the public.

PAR. 3. In the course and conduct of its business as aforesaid, respondent now causes, and for some time last past has caused its mailing list construction, development and maintenance activity, including survey questionnaires and other updating mailings, to be sent by United States mail from its place of business in the State of New York to persons located in various other States of the United States, and at all times relevant hereto has maintained substantial and extensive commercial intercourse in connection with its numerous and various products and services among and between the several States of the United States, and maintains, and at all times

mentioned herein has maintained, a substantial course of trade in such mailing lists, products and services in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its aforesaid business, and for the purpose of compiling and constructing its so-called "Metromail Elites" list, respondent devised and mailed to approximately four million persons a form letter and questionnaire as follows:

O. E. MCINTYRE, INC.,
A METROMEDIA COMPANY,
Westbury, N.Y., March 10, 1967.

Here is an opportunity for you to win fabulous gifts—holiday vacations in London or Paris, new cars, color TV sets, and Polaroid cameras—a total of 1,111 gifts in all!

All you have to do is to send in this questionnaire in the enclosed postage paid envelope—nothing else is needed. The questionnaire is short and easy to fill out. There is *nothing to buy*, and we assure you that no salesman will call on you.

This questionnaire is being sent to a number of people in your area to obtain information about habits and characteristics of people living in different sections of the country. You have been selected as one of the people in your community to participate in this project. And, as an expression of our thanks for your cooperation, you will have the opportunity to win one of these 1,111 magnificent gifts:

- 1 1967 Coupe DeVille Cadillac
- 2 1967 Ford Mustangs
- 10 Round-Trip Flights For Two From New York To Paris With a Room For Two Weeks At The Famed Grand Hotel
- 10 Round-Trip Flights For Two From New York To London With A Room For Two Weeks At The Famed Hotel Cavandish
- 10 Color Television Console Sets
- Over 1,000 Polaroid Color Cameras (In The \$40 To \$60 Range)

To be eligible to win one of these prizes, *all you have to do is to send in this questionnaire in the enclosed envelope—nothing else is needed. Not all questions on the questionnaire need be answered*, but we must have your questionnaire if you want to be included in the drawing for these gifts. All questionnaires postmarked on or before May 1, 1967, and received by May 10, 1967 will be included in the drawing.

On May 25, 1967, the lucky winners will be selected at random from the names of all those who returned a questionnaire. We hope you will be one of them!

We know you will want to participate. We hope you will want to complete the questionnaire, and we think you will find it interesting. But make sure you are eligible for the drawing by mailing back the questionnaire as soon as possible. No postage is needed on the envelope—merely seal it and drop it in a mail box.

Thanks again for your assistance and good luck!

Cordially,

LORENCE E. MOORE,
Executive Vice-President.

Complaint

78 F.T.C.

O. E. McINTYRE, Inc.
Westbury, New York

PLEASE CHECK OR WRITE IN AN ANSWER TO EACH QUESTION. YOUR COOPERATION IS APPRECIATED

1a. Do you have a color TV set? YES ☐ 9-1 NO ☐ -2

b. Is there a phonograph, hi-fi or stereo set in your home?
YES ☐ 9-4 NO ☐ -5

2a. Do you or anyone else in your family have any hotel, restaurant, gasoline or other credit cards?
YES ☐ 10- NO ☐ -5 (IF NO, PLEASE SKIP TO Q. 3a)

3. (IF YES): Please name the credit cards:

YOURSELF: _____

OTHER FAMILY MEMBERS: _____

3a. Do you or anyone else in your family have charge accounts in department or apparel stores?
YES ☐ 10-7 NO ☐ -9 (IF NO, PLEASE SKIP TO Q. 4a)

4. (IF YES): Please tell me in which stores:

YOURSELF: _____

OTHER FAMILY MEMBERS: _____

4a. Do you or other family members subscribe to any magazines?
YES ☐ 11-1 NO ☐ -9 (IF NO, PLEASE SKIP TO Q. 4c)

b. Which magazines are received in your home by subscription? (PLEASE WRITE THEIR NAMES)

c. Which magazines, if any, are purchased regularly at a newsstand? NONE ☐ 12-9

5. Does your family have a dog or cat? HAVE DOG ☐ 13-1 HAVE CAT ☐ -2 BOTH ☐ -3 DON'T HAVE EITHER ☐ -4

6. Which, if any, of the following appliances are used in your household?
(PLEASE CHECK THOSE USED IN COLUMN A)

B. How old is this
particular appliance?
(CHECK ONE BOX)

C. What Mark
Is This
Appliance?

	A. USE THIS APPLIANCE	5 YEARS OR LESS	OVER 5 YEARS	
AUTOMATIC WASHING MACHINE	☐ 14-1	☐ 15-1	☐ 16-1	_____
AUTOMATIC CLOTHES DRYER	☐ 14-2	☐ 15-2	☐ 16-2	_____
AUTOMATIC DISHWASHER	☐ 14-3	☐ 15-3	☐ 16-3	_____
HOME FREEZER UNIT	☐ 14-4	☐ 15-4	☐ 16-4	_____
REFRIGERATOR	☐ 14-5	☐ 15-5	☐ 16-5	_____
WINDOW AIR CONDITIONER	☐ 14-6	☐ 15-6	☐ 16-6	_____
CENTRAL AIR CONDITIONING	☐ 14-7	☐ 15-7	☐ 16-7	_____
NONE OF ABOVE	☐ 14-Y			_____

7a. Do you or any member of this household own a car?

YES ☒ 24-X

(PLEASE FILL IN Q. 7b AND QUESTION 8)

NO ☐ -Y (IF NO, PLEASE GO TO QUESTION 11)

b. How many cars does the family own? 24-

8. INFORMATION ON AUTOS OWNED BY FAMILY. PLEASE ENTER INFORMATION FOR EACH CAR WHICH IN THE FAMILY OWNS. PLEASE INCLUDE THOSE WHICH MAY BE OWNED BY TEEN-AGERS OR YOUNG PEOPLE LIVING AT HOME.

	FIRST CAR	SECOND CAR	THIRD CAR	FOURTH CAR
MAKE:	25- _____	31- _____	37- _____	_____
YEAR:	26- _____	32- _____	38- _____	_____
	27- _____	33- _____	39- _____	_____
	28- _____	34- _____	40- _____	_____
BODY STYLE:	STATION WAGON ☐ 29-1 SEDAN ☐ -2 HARDTOP ☐ -3 OTHER (Specify): _____	STATION WAGON ☐ 35-1 SEDAN ☐ -2 HARDTOP ☐ -3 OTHER (Specify): _____	STATION WAGON ☐ 41-1 SEDAN ☐ -2 HARDTOP ☐ -3 OTHER (Specify): _____	STATION WAGON ☐ _____ SEDAN ☐ _____ HARDTOP ☐ _____ OTHER (Specify): _____
Was this car bought new or used?	NEW ☐ 29-0 USED ☐ -x	NEW ☐ 35-0 USED ☐ -x	NEW ☐ 41-0 USED ☐ -x	NEW ☐ _____ USED ☐ _____
About how many miles is this car driven in a year? (PLEASE APPROXIMATE MILEAGE.)	30- _____	36- _____	42- _____	_____

9a. Have you ever flown on a commercial airline?

YES ☐ 43-1NO ☐ -2 (IF NO, PLEASE SKIP TO Q. 10a)

b. About how many airplane trips have you taken in the past 12 months? (RECORD AS ROUND TRIPS OR ONE-WAY TRIPS)

ROUND TRIPS: 44-

ONE-WAY TRIPS: 45-

c. How many of these trips were within the United States and how many outside of continental United States?

WITHIN U.S.

ROUND TRIPS: _____

ONE-WAY TRIPS: 46-

OUTSIDE UNITED STATES

ROUND TRIPS: _____

ONE-WAY TRIPS: 47-

d. And, about how many airplane trips do you plan to take in the next 12 months?

ROUND TRIPS: _____

ONE-WAY TRIPS: 48-

10a. Have you or any members of your family ever requested or ordered any of the following items by mail?

(PLEASE CHECK ALL ITEMS REQUESTED OR ORDERED BY MAIL)

MEMBERSHIP IN BOOK CLUBS ☐ 49-1MEMBERSHIP IN RECORD CLUBS ☐ -2MAGAZINE SUBSCRIPTIONS ☐ -3HOUSEHOLD KITCHEN APPLIANCES ☐ -4

TREES, PLANTS, SHRUBS, BULBS

FLOWER/VEGETABLE SEEDS ☐ -5TRAVEL INFORMATION ☐MERCHANDISE CATALOGS ☐CLOTHING ☐

GIFT FRUIT/CHEESE OR

SPECIAL FOOD PRODUCTS ☐FILM PROCESSING ☐

b. Have you or any members of your family ever ordered any other items by mail?

YES ☐ 50-1NO ☐ -0 (IF NO, PLEASE SKIP TO Q. 11)

c. What were they? _____

11. Which sports, if any, do you personally participate in? _____

52- Nc

Complaint

78 F.T.C.

12a. Including yourself, how many members in your family are living in your house at the present time? 53-

a. What is the sex of each? (PLEASE CHECK UNDER b BELOW)

c. And what is the age group of each member of the family? (PLEASE CHECK CORRECT AGE GROUP FOR EACH PERSON)

b. SEX		c. AGE									
Male	Female	Under 12	12-17	18-24	25-34	35-44	45-54	55-64	65 & Over		
☐ 54-1	☐ -2	☐ 54-3	☐ -4	☐ -5	☐ -6	☐ -7	☐ -8	☐ -9	☐ -0		
☐ 55-1	☐ -2	☐ 55-3	☐ -4	☐ -5	☐ -6	☐ -7	☐ -8	☐ -9	☐ -0		
☐ 56-1	☐ -2	☐ 56-3	☐ -4	☐ -5	☐ -6	☐ -7	☐ -8	☐ -9	☐ -0		
☐ 57-1	☐ -2	☐ 57-3	☐ -4	☐ -5	☐ -6	☐ -7	☐ -8	☐ -9	☐ -0		
☐ 58-1	☐ -2	☐ 58-3	☐ -4	☐ -5	☐ -6	☐ -7	☐ -8	☐ -9	☐ -0		
☐ 59-1	☐ -2	☐ 59-3	☐ -4	☐ -5	☐ -6	☐ -7	☐ -8	☐ -9	☐ -0		
☐ 60-1	☐ -2	☐ 60-3	☐ -4	☐ -5	☐ -6	☐ -7	☐ -8	☐ -9	☐ -0		
☐ 61-1	☐ -2	☐ 61-3	☐ -4	☐ -5	☐ -6	☐ -7	☐ -8	☐ -9	☐ -0		
☐ 62-1	☐ -2	☐ 62-3	☐ -4	☐ -5	☐ -6	☐ -7	☐ -8	☐ -9	☐ -0		
YOURSELF											
☐ 63-1	☐ -2	☐ 63-3	☐ -4	☐ -5	☐ -6	☐ -7	☐ -8	☐ -9	☐ -0		

d. What was the last grade you completed in school? (CHECK ONLY ONE BOX—THE LAST GRADE COMPLETED)

GRADE SCHOOL:	0-4th GRADE	☐ 64-1	5-7th GRADE	☐ -2	FINISHED	☐ -3
HIGH SCHOOL:	1st-3rd YEAR	☐ -4	FINISHED	☐ -5		
COLLEGE:	1st-3rd YEAR	☐ -6	FINISHED	☐ -7		
BEYOND COLLEGE:	1 OR MORE YEARS	☐ -8				

13a. What is the employment status of the head of your household?

EMPLOYED BY A COMPANY	☐ 65-1	(PLEASE ANSWER Q. 13b, c, d)	UNEMPLOYED	☐ -4	(PLEASE SKIP TO Q. 14)
SELF-EMPLOYED	☐ -2		RETIRED	☐ -5	
EMPLOYED BY GOVERNMENT	☐ -3		HOUSEWIFE	☐ -6	

b. What type of company, organization or institution does the head of your household work for—that is, what does this company make or do?

c. What is the specific position or occupation of the head of your household at this company?

d. About how many employees are at the particular business location where the head of your household works?

UNDER 5	☐ 79-1	5-24	☐ -2	25-99	☐ -3	100-999	☐ -4	1,000 OR OVER	☐ -5
---------	-------------------------------	------	-----------------------------	-------	-----------------------------	---------	-----------------------------	---------------	-----------------------------

14. Please give me your best estimate of the total income of your family for the year 1966. (In addition to salaries, include all sources, i.e., interest, dividends, etc.) (PLEASE CHECK ONE)

UNDER \$5,000	☐ 71-1	\$10,000 - \$14,999	☐ -4
\$5,000 - \$9,999	☐ -2	\$15,000 - \$24,999	☐ -5
\$10,000 - \$14,999	☐ -3	\$25,000 & OVER	☐ -6

15a. Do you own or rent your home? OWN ☐ 72-1 RENT ☐ -2 (IF RENT, PLEASE SKIP TO Q. 16a)b. Is it a multi unit or a single unit house? MULTI ☐ 72-4 SINGLE ☐ -3

c. How old is this house—that is, about how long ago was it built? YEARS 73-

d. Is most or all of this house made of brick or stone? YES ☐ 74-1 NO ☐ -2e. How is your house heated—by hot air, hot water or steam, or other? HOT AIR ☐ 75-1 HOT WATER OR STEAM ☐ -2 OTHER ☐ -3f. What type of fuel do you use in your home—oil, gas, electric, coal or other? OIL ☐ 75-6 GAS ☐ -7 ELECTRIC ☐ -8 COAL ☐ -9 OTHER ☐ -0g. And, about what would you say is the approximate size of your lot? less than 1/4 ACRE ☐ 76-1 1/4 to 1/2 ACRE ☐ -2 1/2 to 1 ACRE ☐ -3 over 1 ACRE ☐ -4

16a. In the past 10 years how many times, if any, have you and your family moved? 77-

(NUMBER OF TIMES) NOT AT ALL ☐ -X (PLEASE SKIP Q. 16b)

b. When did you move most recently? 78-

(PLEASE SPECIFY YEAR)

THANKS VERY MUCH FOR YOUR COOPERATION!
 DON'T FORGET—PLEASE MAIL THIS BACK TO US BEFORE MAY 1, 1967
 AND YOU MAY BE ONE OF THE LUCKY 1,111 WINNERS!

Is the name and address on the label correct? If not, please PRINT IN your correct name and address below:

NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

PAR. 5. By and through the use of the form letter and questionnaire hereinabove reproduced and set forth in its entirety, and with particular reference to that portion of said form letter which reads:

All you have to do is to send in this questionnaire in the enclosed postage paid envelope—nothing else is needed. The questionnaire is short and easy to fill out. There is *nothing to buy*, and we assure you that no salesman will call on you.

respondent represented, directly or by implication, that the response thereto and the information sought by said questionnaire was for a purpose other than the sale of merchandise or services and that the addressee would not be importuned to purchase merchandise and services.

PAR. 6. In truth and in fact, the responses to and the information sought by said questionnaire were for the express purpose of compiling mailing lists to be used for selling merchandise and services to those persons who responded to said questionnaire and those who responded were, and are, importuned to purchase merchandise and services.

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

PAR. 7. Furthermore, it was an unfair practice and a false, misleading and deceptive act and practice for respondent to seek to elicit responses in the manner aforesaid and to fail to disclose clearly and conspicuously the purpose for which the information contained on said questionnaire was being requested, and to fail to disclose that it was in the business of compiling mailing lists which are for sale or rent to mail-order advertisers and sellers of merchandise and services, and that the information requested would be used, together with the name and address of the addressee in the compiling of such lists.

In the absence of such disclosure, addressees would have no reason to suspect that respondent would use their responses in the above-described manner. A substantial portion of the purchasing public has a preference that their names not appear on mailing lists. This preference arises out of various individual and personal reasons such as, but not limited to, the unauthorized invasion of personal privacy; being subjected to the repeated importuning of promoters, advertisers and sellers of merchandise, services and schemes; and being exploited by respondent and the users of said "Metromail Elites" mailing list.

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

Decision and Order

78 F.T.C.

PAR. 8. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondent has been and is now in substantial competition, in commerce, with corporations, firms and individuals engaged in the compilation, use and sale of mailing lists and in the direct-mail advertising business of the same general kind and nature as the respondent.

PAR. 9. The use by respondent of the aforesaid unfair acts and false, misleading and deceptive statements, representations and practices, and the failure of respondent to disclose the true nature, purpose and use of the information sought by the survey questionnaire has had, and now has the tendency and capacity to mislead members of the public being surveyed by like or similar survey questionnaires, and to inconvenience, importune and harass persons who may not wish to have their names used and to be exploited thereby.

PAR. 10. The aforesaid acts and practices of 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 Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 complaint to issue herein, 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 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 thirty (30) days and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its Rules, now in further conformity with the procedure prescribed in such Rule, the Commission hereby

issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Metromedia, Inc., 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 277 Park 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 and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Metromedia, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the construction, development, maintenance, advertising, offering for sale, sale or use of respondent's "Metromail Elites" mailing list, or any other of respondent's mailing lists, 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 information sought by respondent by any questionnaire, in connection with the compilation or construction of mailing lists used by respondent in connection with the advertising or sale of merchandise or services is for any purpose other than the compilation of mailing lists to be so used; or misrepresenting, in any manner, the purpose or intent or the use of any information sought by any questionnaire.

2. Falsely representing that addressees of any questionnaire will not be importuned to purchase merchandise or services.

3. Failing, clearly and conspicuously, and at the outset, to state in each oral or written questionnaire of respondent to persons who are or may be prospective addressees for inclusion on or in any mailing list or other compilation of addressees, the following:

"We are in the business of compiling mailing lists which we may use ourselves, or which may be used by direct mail advertisers. The information which you furnish us by filling out this questionnaire may be used, together with your name and address, in compiling such lists."

4. Advertising, offering for sale, sale or use by respondent or others of respondent's "Metromail Elites" mailing list, or any other mailing list derived directly therefrom.

Decision and Order

78 F.T.C.

Provided, however, That the term "questionnaire," as used in this order, shall mean any inquiry for or solicitation of information, whether written, oral or by any other means, from addressees or prospective addressees for inclusion on or in any mailing lists or other compilation of addressees, by any division or subsidiary of respondent which is, or hereafter may be, in the business of compiling mailing lists for direct-mail advertisers, for the purpose or with the result of constructing or developing for respondent any mailing list or other compilation of addressees.

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

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

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.

IN THE MATTER OF

SEATTLE MOBILE HOMES, INC., DOING BUSINESS AS

PACIFIC MOBILE HOMES, ETC.

CONSENT, ETC., IN REGARD TO THE ALLEGED VIOLATIONS OF
THE TRUTH IN LENDING AND THE FEDERAL TRADE COMMISSIONS ACTS