

MATSUSHITA ELECTRIC OF HAWAII, INC.

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

Docket C-1867. Complaint, Feb. 19, 1971—Decision, Feb. 19, 1971

Consent order requiring a Honolulu, Hawaii, seller and distributor of "Panasonic" television sets and other electronic products to cease misrepresenting that its television sets have passed tests for fire and explosion hazards and publish a retraction of such claims in the Honolulu Star-Bulletin.

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 Matsushita Electric of Hawaii, Inc., a corporation, 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 Matsushita Electric of Hawaii, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Hawaii with its office and principal place of business located at 205 Kalihi Street, Honolulu, Hawaii. It is engaged in the business of selling and distributing television sets and other electronic products under the "Panasonic" brand name.

Respondent imports merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, directly from Japan. Said products are manufactured by Matsushita Electric Industrial Co., Ltd., in Japan.

Respondent is a subsidiary of Matsushita Electric Corporation of America, a corporation organized under the laws of the State of New York with its principal place of business located at 200 Park Avenue, New York, New York.

Respondent's day to day business operations, policies and decisions are developed and conducted independently from its parent corporation. Respondent imports merchandise directly from Japan, places its own orders, has its own bank accounts and files its own United States tax returns. It develops its own advertising programs and policies independently from its parent's advertising programs, in conjunction with an independent advertising agency located in Honolulu. Respondent is not required to, and does not, seek or obtain approval for its advertising programs, policies or copy from its parent corporation.

PAR. 2. Respondent in the course and conduct of its business has been, and is now, engaged in the sale, advertising and offering for sale in commerce of merchandise it ships or causes to be shipped, when sold, to purchasers located primarily in the State of Hawaii, and maintains and has maintained a course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondent's volume of business in the wholesale distribution of consumer electronic products is and has been substantial. Among such merchandise so sold and shipped are color and black and white television sets.

PAR. 3. Respondent is now, and at all times mentioned herein, has been in substantial competition in commerce with other corporations, firms and individuals engaged in the sale and distribution of color and black and white television sets.

PAR. 4. In the course and conduct of its business in commerce, and for the purpose of inducing the purchase of said color and black and white television sets respondent has made representations in a single advertisement which appeared in the *Honolulu Star-Bulletin* of January 31, 1970.

Contained in this advertisement, which had pictured and described seven models of Panasonic color and black and white television sets were the following statements:

PANASONIC PASSES "FIRE HAZARD TEST" WITH FLYING COLORS!!!
The National Commission on Product Safety recently tested color television sets manufactured for explosion and fire safety. PANASONIC COLOR TV PASSED WITH FLYING COLORS! You can *trust* Panasonic.

PAR. 5. Through the use of the aforesaid statements, respondent represents and has represented, directly or by implication, that Panasonic's color and black and white television sets are superior to other television sets with respect to hazards created by fire and explosion; that the National Commission on Product Safety had established standards which must be met before a television set could be considered safe from hazards created by fire and explosion; that the National Commission on Product Safety had conducted a fire and explosion safety test on television sets; that among the television sets tested by the National Commission on Product Safety were Panasonic television sets; that Panasonic television sets passed such test with relative ease; and that Panasonic sets thus provide superior safety and protection from fire and explosion hazards.

PAR. 6. In truth and in fact, the National Commission on Product Safety neither declared nor implied that Panasonic's color and black and white television sets were superior to other television sets with respect to hazards created by fire and explosion; it had not set up any standard which would have to be met before a television set could be considered safe from hazards created by fire and explosion; it had not conducted any type of safety test on television sets to determine whether they were safe from hazards created by fire and explosion; it had not conducted any type of test on Panasonic television sets; it had not declared that Panasonic television sets had passed any test conducted by the National Commission on Product Safety; and it had not declared that Panasonic television sets provide superior safety and protection from fire and explosion hazards.

PAR. 7. That the aforesaid representations mislead prospective purchasers into the mistaken belief that Panasonic's color and black and white television sets are superior to other television sets with respect to hazards created by fire and explosion; that the National Commission on Product Safety had set up standards which would have to be met before a television set could be considered safe from hazards created by fire and explosion; that the National Commission on Product Safety had conducted tests on television sets to determine whether they were safe from hazards created by fire and explosion; that the National Commission on Product Safety had conducted tests on Panasonic television sets; that Panasonic television

sets had passed such tests; and that Panasonic television sets provide superior safety and protection from fire and explosion hazards.

PAR. 8. The use by respondent of the foregoing false, misleading and deceptive representations set forth above has had, and now has, the tendency and capacity to mislead and deceive members of the public into the purchase of said products under the erroneous and mistaken belief that such statements and representations are true.

PAR. 9. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice and injury of the public, unfairly divert trade from respondent's competitors and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging respondent named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, and 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

Respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by 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 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 considered the agreement and having accepted same, the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, 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 Matsushita Electric of Hawaii, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Hawaii with its office and principal place of business located at 205 Kalihi Street, Honolulu, Hawaii.

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 Matsushita Electric of Hawaii, Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce of any television sets do forthwith cease and desist from representing that said product or products have been tested, and have passed such tests, for fire and explosion hazards, or for any other safety characteristic related to said product or products, or that tests have demonstrated that its products are superior to other products tested for fire and explosion hazards, or for any other safety characteristic related to said product or products, unless and in fact, tests have actually been performed and the results establish that such representations are true.

It is further ordered, That respondent shall publish a half-page retraction in the Saturday *Honolulu Star-Bulletin*, on or at approximately the same page, and in print of equal size and prominence to that of the original false, misleading and deceptive advertisement.

Said retraction shall include a statement indicating that neither Panasonic's color television sets, nor those of any other manufacturer, had been tested by The National Commission on Product Safety for fire and explosion hazards.

It is further ordered, That respondent, within sixty days after the effective date of this order, shall notify each of its customers of this cease and desist order by mailing them a copy thereof, and shall forthwith distribute a copy of this order to each of its operating divisions, if any.

It is further ordered, That respondent notify the Commission at least 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 the order.

It is further ordered, That respondent 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.