
IN THE MATTER OF
BULOVA WATCH COMPANY, INC.

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

Docket C-1887. Complaint, Apr. 1, 1971—Decision, Apr. 1, 1971

Consent order requiring a New York City manufacturer and distributor of watch and clock products to cease fixing the resale prices of its products, refusing to extend guarantees to certain purchasers, refusing to sell to retailers who discount, refusing to sell Bulova brand watches to retailers who refuse to handle other respondent products, and requesting its customers in nonfair trade States to report discounting dealers.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (Title 15 U.S.C. Section 41 *et seq.*) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the party identified in the caption hereof and more particularly described and referred to hereinafter as respondent, has violated the provisions of Section 5 of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent Bulova Watch Company, Inc. (hereafter sometimes referred to as "Bulova"), is a corporation organized

under the laws of the State of New York, with its executive office at 630 Fifth Avenue, New York, New York.

PAR. 2. For the purposes of this complaint, the following definitions shall apply:

(a) The term "watch and clocks products" means any timing mechanism.

(b) The term "Bulova watch and clock products" means any timing mechanism manufactured, assembled, distributed or sold by the Bulova Watch Company, Inc., or any of its subsidiaries.

(c) The terms "Bulova brand," "Caravelle brand" and "Accutron brand" mean any Bulova watch or clock product, the face of which bears the trade name or trademark of "Bulova," "Caravelle" or "Accutron" respectively.

(d) The term "retailer" means any person who buys a watch or clock product for resale, primarily, to consumers.

(e) The term "dealer" means any person to whom respondent sells Bulova watch or clock products for resale primarily to consumers.

(f) The term "United States" means the fifty States of the United States of America, any territory or insular possession thereof, the District of Columbia and the Commonwealth of Puerto Rico.

PAR. 3. Respondent is engaged in the manufacture, assembly, distribution and sale of watch and clock products, among other merchandise, through a dealer organization located throughout the United States. The annual sales volume of Bulova watch and clock products distributed principally under the trade names or trademarks Bulova, Caravelle, or Accutron, was approximately one hundred million dollars in 1968.

PAR. 4. In the course and conduct of its business of distributing Bulova watch and clock products, respondent ships or causes to be shipped said products from the States in which they are manufactured, assembled, or warehoused to dealers located throughout the United States. There is now and has been for several years last past a constant, substantial, and increasing flow of such products in "commerce" as that term is defined in the Federal Trade Commission Act.

PAR. 5. Except to the extent that competition has been hampered and restrained by reason of the practices hereinafter alleged, respondent's dealers, in the course and conduct of their business of offering for sale watch and clock products purchased from respondent, are in substantial competition in commerce with one another and with other firms or persons engaged in the distribution and sale of similar products, and respondent is likewise in substantial competition with other firms engaged in the manufacture, assembly, and distribution of watch and clock products.

PAR. 6. In the course and conduct of its business, respondent Bulova has engaged and is continuing to engage in the following unfair methods of competition and unfair acts and practices in commerce, among others, enumerated in this Paragraph:

1. For several years, at least since 1964, respondent has pursued a plan or policy throughout the United States, the purpose of which was to fix, control, establish and maintain the retail prices at which retailers and Bulova dealers advertise, offer for sale and sell Bulova watch and clock products.

2. In furtherance of this policy, respondent has and continues to the present time to engage in one or more of the following acts and practices, but not necessarily limited thereto, in the United States:

(a) It issues suggested retail price lists to its dealers in which the retail prices for Bulova watch and clock products are set forth;

(b) It pretickets with the suggested retail prices all Bulova watch products, which it ships to its dealers;

(c) It caused advertisements to be placed in various trade journals, which stated respondent's policy of preventing its watch and clock products from being sold by discounters or at discount prices. In some of these advertisements, Bulova dealers were invited to report to Bulova the names of retailers selling Bulova watch and clock products at less than the suggested retail or pre-ticketed price;

(d) In States where it could not fair trade its products, it directed its salesmen to find a sound legal reason for discontinuing sales to price cutting dealers;

(e) It told its chain store accounts that if the chain advertises or sells Bulova watch and clock products below the suggested retail or pre-ticketed prices, it reserved the right to refuse to deal with them, even though there were no fair trade agreements with these chain stores and many of the chain stores operated in nonfair trade States or in States where nonsigners were not bound;

(f) It discontinued sales to many "upstairs accounts," who are dealers without first floor showrooms, because such dealers are frequently discounters; and

(g) It discontinued and refused further sales to dealers, which its salesmen identified as discounters.

3. In addition to the foregoing, respondent Bulova has established a policy of prohibiting its dealers from selling Bulova watch and clock products otherwise than at retail.

4. In furtherance of this policy, Bulova engaged in one or more of the following acts and practices:

(a) It informed its dealers of this policy;

(b) It discontinued and refused further sales to its dealers, who were reported to have violated this policy;

(c) It instructed its salesmen to report the names of its dealers who violated this policy; and

(d) It refused to guarantee Bulova watch and clock products sold to consumers by anyone other than an authorized Bulova dealer.

5. In addition to the foregoing, respondent Bulova has established a policy of refusing to sell or refusing to continue selling Accutron brand watches to a retailer or dealer unless the retailer, or dealer also buys and sells Bulova brand watches and in some instances has refused to sell Bulova brand and Accutron brand watches to a dealer who buys and sells the Caravelle brand of Bulova watches.

6. In addition to the foregoing, from time to time respondent Bulova has entered into agreements with one or more Bulova dealers not to sell or to discontinue sales of Bulova watch and clock products to retailers or dealers who compete with the dealer.

PAR. 7. The above acts and practices have the capacity and tendency of hindering, suppressing or eliminating competition with the following effects, among others:

a. Dealers have discontinued or de-emphasized the sale of watch and clock products manufactured, assembled, or distributed by other companies;

b. Dealers are required to resell Bulova watch and clock products at prices fixed by the respondent;

c. Price competition between Bulova dealers has been eliminated;

d. Dealers have been prevented from selling Bulova watch and clock products to customers of their own choice; and

e. Some retailers have been unlawfully prevented from buying and selling Bulova watch and clock products, thus eliminating additional competition among dealers selling Bulova products.

PAR. 8. The aforesaid acts and practices of respondent have the tendency to unduly hinder competition and have injured, hindered, suppressed, lessened or eliminated actual and potential competition, and, thus, are to the prejudice and injury of the public, constitute unfair methods of competition in commerce or unfair acts and practices in commerce, within the intent and meaning 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~~ Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with a 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 provisionally accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days; and having received and duly considered comments from interested members of the public, 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 Bulova Watch Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its executive offices at 630 Fifth Avenue, New York, 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

I

It is ordered, That respondent Bulova Watch Company, Inc., and its subsidiaries, successors, assigns, officers, directors, agents, representatives and employees individually or in concert with others, directly or through any corporate or other device, in connection with the distribution, offering for sale, or sale of watch or clock products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Entering into, maintaining or enforcing any contract, agreement, combination, understanding or course of conduct

which has as its purpose the fixing, maintaining, establishing or setting of the prices at which its dealers must resell Bulova watch or clock products: *Provided, however,* That nothing contained in this order shall be construed to prevent respondent from engaging in a legitimate fair trade program in those States having fair trade laws.

2. Entering into, maintaining, or enforcing any contract, agreement, combination, understanding, or course of conduct which has as its purpose restricting the persons to whom any Bulova dealer or other person may resell Bulova watch or clock products.

3. Refusing to extend the terms of the Bulova watch or clock guarantee to consumer purchasers of Bulova watch or clock products from any retailer: *Provided,* That the watch or clock product has not been tampered with or damaged by anyone in the line of sale between Bulova and the consumer.

4. Refusing to sell Bulova watch or clock products to any dealer

A. because the dealer has in the past or might in the future discount Bulova watch or clock products or advertise Bulova watch or clock products at less than the suggested retail price, in non-fair trade states, territories, the District of Columbia, or the Commonwealth of Puerto Rico;

B. because the dealer transshipped or sold Bulova watch or clock products to a retailer.

5. Refusing to sell Bulova watch or clock products to any retailer because Bulova agreed or reached an understanding with one or more retailers not to continue to sell Bulova watch or clock products to another retailer.

6. Refusing to sell Bulova watch or clock products to any retailer because the retailer or the dealer refuses to purchase the Bulova, the Accutron, or the Caravelle brand of watches, along with the retailer's or the dealer's desired brand or brands of Bulova watch or clock products.

7. Requesting its dealers to report to it the names of discounting dealers in nonfair trade states, territories, or the District of Columbia, or discounters in fair trade states where non-signers are not bound and in which the discounter is a non-signer, except that nothing contained in this order shall be interpreted so as to prohibit respondent's salesmen, agents, representatives or employees from observing and reporting pricing information to respondent.

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8. Refusing to inform any retailer or dealer in writing of:

A. the reason or reasons for its refusal to sell to the retailer or dealer; and

B. the sales standards that the retailer or dealer is expected to meet.

9. Advertising that it is Bulova's policy to maintain suggested retail prices in nonfair trade States, territories, the District of Columbia, or the Commonwealth of Puerto Rico.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions, to its present and future salesmen, to its present and to all future dealers for five years from the entry of this order at the time that the dealer is opened as an account.

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 this order.

It is further ordered, That respondent 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

AMERICAN BOOK CLUB, ET AL.

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