

ing in the emergence of successor corporations, or any other change in the corporations which may affect compliance with this order.

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 in which they have complied with this order.

IN THE MATTER OF
D'ARCY ADVERTISING COMPANY

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

Docket C-1898. Complaint, Apr. 12, 1971—Decision, Apr. 12, 1971*

Consent order requiring a St. Louis, Mo., advertising agency retained by McDonald's Corporation in preparing its advertising to cease participating in any advertising promotion if it knows that all the prizes will not be awarded, failing to disclose that holders of winning coupons must submit to personal interviews, failing to disclose the number and nature of the prizes available, distributing winning numbers in states where they have been prohibited by law, and engaging in any contest or game of chance without disclosing the total number and exact nature of the prizes, and other significant details.

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 Consumer Protection proposed to present to the Commission for its consideration, which if issued by the Commission, would charge respondent with 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

*For complaint in this case, see consolidated complaint *In the Matter of McDonald's Corporation et al.*, Docket No. C-1897, p. 606 herein.

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 accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and having duly considered the comments filed thereafter pursuant to § 2.34(b) of its Rules, now, in further conformity with the procedure prescribed in such Rule, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent D'Arcy Advertising Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at Gateway Tower, One Memorial Drive, St. Louis, Missouri.

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 D'Arcy Advertising Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with its participation in the preparation, promotion, sale, distribution or use of any "sweepstakes," contest, game, or any other promotional device, in commerce, as "Commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. (1) Participating in promotional devices if it knows, has reason to know or should have known that all prizes of the value and type represented will not be awarded or distributed.

(2) Participating in promotional devices if it knows, has reason to know or should have known that individuals submitting winning numbers, coupons, tickets, symbols or other entries, will not be awarded any prize or award to which they are entitled.

(3) Failing to disclose, clearly and conspicuously, in all printed advertising that individuals who hold winning coupons will be asked to submit an affidavit and to submit to a personal interview; and failing to disclose all terms or conditions which individuals will be asked to or have to comply with in order to obtain a prize.

(4) Failing to disclose, clearly and conspicuously, in all printed advertising and promotional material the exact number

of prizes which will be available, the exact nature of the prizes, their approximate retail value, and the odds of winning each such prize: *Provided, however*, That in those promotional devices in which the odds cannot be determined with reasonable accuracy, respondent shall clearly and conspicuously disclose the approximate number of individuals to whom the promotional device is being disseminated.

(5) Distributing winning numbers, coupons, tickets, symbols, or other entries to states in which "sweepstakes," games, contests or any other promotional devices have been voided or prohibited by law.

(6) Representing, directly or by implication, that prizes have been purchased unless they have in fact been purchased before or during the time the promotional device is in progress.

(7) Failing to furnish or make reasonable arrangements with others to furnish to requesting individuals a complete list of the names of winners together with the address of and prize won by each.

(8) Failing to maintain or make reasonable arrangements with others to maintain adequate records (a) which disclose the facts upon which any of the representations of the type described in Paragraphs 1-7 of this order are based, and (b) from which the validity of the representations of the type described in Paragraphs 1-7 of this order can be maintained for a period of four (4) years after completion of the promotional device to which they pertain.

(9) Failing to furnish upon the request of the Federal Trade Commission:

(a) A complete list of the names and addresses of the winners of each prize, and a description of the prize, including its retail value;

(b) A list of the winning numbers or symbols, if utilized, for each prize;

(c) The total number of coupons or other entries distributed;

(d) The total number of participants in the promotion;

(e) The total number of prizes in each category or denomination which were made available; and

(f) The total number of prizes in each category or denomination which were awarded.

B. Engaging in the preparation, promotion, sale, distribution, or use of any "sweepstakes," contest, game, or other promotional device unless the following are disclosed clearly and conspicu-

ously in all printed advertising and promotional material concerning such devices:

- (1) The total number of prizes to be awarded;
- (2) The exact nature of the prizes, their approximate retail value and the number of each;
- (3) All of the terms, conditions and obligations with which individuals will be asked to or have to comply with in order to obtain a prize; and
- (4) The odds of winning each prize: *Provided, however*, That in those promotional devices in which odds cannot be determined with reasonable accuracy respondent shall clearly and conspicuously disclose the approximate number of individuals to whom the promotional device is being disseminated.

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 the 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 successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance with 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 in which they have complied with this order.

IN THE MATTER OF

LEVER BROTHERS COMPANY, INC., ET AL.

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

Docket C-1899. Complaint, Apr. 12, 1971—Decision, Apr. 12, 1971

Consent order requiring a New York City seller and distributor of home