

Consent order requiring a Miamisburg, Ohio, manufacturer and seller of amateur radio equipment to cease discriminating in the price of such products in violation of Section 2(a) of the Clayton Act by selling to any purchaser at net prices higher than the net prices charged any competing purchaser.

COMPLAINT

The Federal Trade Commission, having reason to believe that R. L. Drake Co., a corporation, has violated the provisions of subsection (a) of Section 2 of the Clayton Act, as amended (15 U.S.C. Sec. 13), hereby issues its complaint stating its charges with respect thereto, as follows:

PARAGRAPH 1. Respondent R. L. Drake Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its headquarters and principal place of business located at 540 Richard Street, Miamisburg, Ohio.

PAR. 2. Respondent is now, and for some time last past has been, a manufacturer, distributor and seller of assembled amateur radio equipment, including, but not limited to transmitters, receivers and transceivers. Respondent manufactures its amateur radio equipment at its plant located at Miamisburg, Ohio.

Respondent distributes and sells its said products of like grade and quality to a large number of purchasers located throughout many States of the United States purchasing such products for use and resale therein.

Respondent's sales of its products are substantial, exceeding \$2,600,000 for the fiscal year 1969.

PAR. 3. In the course and conduct of its said business, respondent is now, and for some time last past has been, shipping its products from the State of Ohio to purchasers located in other states in commerce, as "commerce" is defined in the Clayton Act, as amended.

PAR. 4. In the course and conduct of its business in commerce, respondent sells its products of like grade and quality to purchasers who are in substantial competition with each other in the resale and distribution of respondent's like products.

PAR. 5. In the course and conduct of its business in commerce, respondent has been discriminating in price between different purchasers of its products of like grade and quality by selling said products to some purchasers at higher and less favorable prices than the prices charged competing purchasers for such products of like grade and quality.

Illustrative of respondent's discriminatory pricing practices is the following:

Respondent, for approximately two years prior to June 1, 1970, separated its retail dealers, many of whom compete with each other in the sale of its amateur radio equipment, into three classes, "A,"

"AA" and "AAA," with members of each such class having purchased respondent's said products of like grade and quality at different prices as follows:

<i>Retail dealer class</i>	<i>% of discount from suggested retail price</i>
A	30
AA	25
AAA	20

Once respondent had assigned a retail dealer to one or another of the above classifications for pricing purposes, that dealer had been required to purchase, and had purchased, respondent's said products at the assigned discount from suggested retail price, unless and until such dealer had been reassigned to another classification. Pursuant to the above discount schedule, some retail dealers were charged higher and less favorable prices than the prices charged competing retail dealers for such products of like grade and quality.

PAR. 6. The effect of such discriminations in price made by respondent in the sale of its products, as hereinbefore set forth, has been or may be substantially to lessen competition or tend to create a monopoly in the lines of commerce in which the favored purchasers from respondent are engaged, or to injure, destroy or prevent competition with the favored purchasers from respondent who have received the discriminatory lower prices.

PAR. 7. The discriminations in price made by respondent in the sale of its products, as hereinbefore alleged, are in violation of subsection (a) of Section 2 of the Clayton Act, as amended.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the R. L. Drake Company, respondent herein, with violation of subsection (a) of Section 2 of the Clayton Act, as amended, 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

The 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 respondent that the law has been violated as set forth in such com-

plaint, and waivers and 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, now in further conformity with the procedure prescribed in § 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 R. L. Drake Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 540 Richard Street in the city of Miamisburg, State of Ohio.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

It is ordered, That respondent R. L. Drake Company, a corporation, its officers, employees, agents and representatives, directly or through any corporate or other device, in or in connection with the sale of its amateur radio equipment in commerce, as "commerce" is defined in the Clayton Act, as amended, forthwith cease and desist from discriminating, directly or indirectly, in the price of such amateur radio equipment of like grade and quality, by selling to any purchaser at net prices higher than the net prices charged any other purchaser competing in fact with such unfavored purchaser in the resale and distribution of such amateur radio equipment.

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 herein shall 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 it of this order, file with the Commission a report in writing setting forth in detail the manner in which it has complied with this order.

Complaint

79 F.T.C.

IN THE MATTER OF

BORDEN, INC.

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

Docket 8809. Complaint, Mar. 9, 1970—Decision, July 13, 1971

Order adopting the initial decision of the hearing examiner which dismissed a complaint against a New York City seller of ice cream and other frozen desserts in the Little Rock, Ark., area which charged price discrimination between competing retailers. Newly discovered evidence revealed that respondent had omitted certain basic pricing information from the material furnished on the Commission's investigational request.

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent Borden, Inc., has violated the provisions of subsection (a) of Section 2 of the Clayton Act (U.S.C., Title 15, Section 13) as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint charging as follows:

PARAGRAPH 1. Respondent Borden, Inc., formerly The Borden Co. and hereinafter referred to as "Borden," is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office and place of business located at 350 Madison Avenue, New York, New York.

PAR. 2. Respondent Borden is a holding and operating company having on December 31, 1967, a 100 percent voting power in approximately 22 subsidiary corporations.

Respondent Borden has approximately 200 plants in the United States and Canada that are managed by five operating divisions. A diversified dairy business, including virtually all branches thereof, is conducted by Borden's Dairy and Services Division (formerly the Milk and Ice Cream Division). For this division, Borden's chief trade name is "Borden." Borden also uses several other labels, including "Glacier Club."

Respondent Borden owns, maintains and operates a large number of receiving stations, processing and manufacturing plants and distribution depots located in various States of the United States from which it sells and distributes its said products to purchasers.

Borden's net sales amounted to \$1,669,405,399 in 1968, \$1,588,426,036 in 1967 and \$1,545,509,820 in 1966.