

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TRUTH IN LENDING ACTS

Docket C-2023. Complaint, Sept. 2, 1971—Decision, Sept. 2, 1971

Consent order requiring a Norwich, Conn., individual selling and distributing beef and other meat products in Connecticut and New Hampshire to cease using bait advertising, failing to disclose that payments on extended credit must be made to third parties, failing to disclose all terms of a guarantee, advertising regular prices as "sale" or "special," failing to grade lower cuts of meat as below "U.S.D.A. Prime," failing to include on the face of installment contracts that third party takers are subject to all defenses of the makers, and failing to make all disclosures required by Regulation Z of the Truth in Lending Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Angelo Cofone, an individual trading as T-Ville Freezer Meats, Taftville Beef Company, and as Beefland Beef Company, hereinafter referred to as respondent, has violated the provisions of said Acts, 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 Angelo Cofone is an individual, trading under the name and style of T-Ville Freezer Meats, Taftville Beef Company, and as Beefland Beef Company, whose address and principal place of business is located at One Jewett City Road, Norwich, Connecticut. Respondent also does business at 110 Prospect Street, Enfield, Connecticut and 84 South State Street, Concord, New Hampshire.

PAR. 2. Respondent is now, and for some time last past has been engaged in the advertising, offering for sale, sale and distribution of beef and other meat products which come within the classification of food as the term "food" is defined in the Federal Trade Commission Act, to members of the purchasing public.

PAR. 3. In the course and conduct of his business, at all times mentioned herein, the respondent has been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of beef and other meat or food products.

PAR. 4. In the course and conduct of his business, respondent has disseminated and does now disseminate certain advertisements by the United States mails and by various means in commerce as "commerce" is defined in the Federal Trade Commission Act, including advertisements in daily newspapers of general circulation, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of food, as the term "food" is defined in the Federal Trade Commission Act; and has disseminated and caused the dissemination of advertisements by various means, including those aforesaid, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of food in commerce as "commerce" is defined in the Federal Trade Commission Act.

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PAR. 5. Typical of the statements appearing in the advertisements disseminated as aforesaid are the following:

U.S. INSPECTED
SAMPLE ORDER

FOR EXAMPLE: 100 lbs. at 43¢ lb. TOTAL PRICE ONLY \$43

U.S.D.A. CHOICE—AS LOW AS 59¢ lb.

GUARANTEE—All graded beef guaranteed for tenderness and flavor. Return in 10 days and your order will be replaced.

* * * * *

U.S. INSPECTED
SAMPLE ORDER

FOR EXAMPLE: 50 lbs. at 49¢ lb. TOTAL PRICE ONLY \$24.50

* * * * *

NO MONEY DOWN

* * * * *

CHARGE IT 105 DAYS SAME AS CASH!

* * * * *

CHARGE IT, NO PAYMENTS TIL APRIL 1, 1970 (ADVERTISEMENT
PUBLISHED FEBRUARY 27, 1970)

* * * * *

CALL FOR APPOINTMENT OR TO OPEN YOUR ACCOUNT IN ADVANCE

* * * * *

SPECIAL 4-DAY BEEF SALE U.S.D.A.

CHOICE HINDQUARTERS (with Roast Section) 59¢ a lb.—WAS 69¢ lb.—
THIS WEEK ONLY 59¢ lb.

* * * * *

ALL BEEF SOLD GROSS WEIGHT

* * * * *

BEEF-EATERS BEEF SALE REPEATED BY POPULAR DEMAND NO
MONEY DOWN—90 DAYS—SAME AS CASH OR TAKE UP TO 6 MONTHS
TO PAY

* * * * *

AS LOW AS \$3.79 PER WEEK FOR 17 WEEKS, NO MONEY DOWN, 3 MONTHS
SAME AS CASH. NO INTEREST OR CARRYING CHARGES ADDED

* * * * *

U.S. INSPECTED BEEF SIDES EXAMPLE: 250 lbs. only \$7.21 PER WEEK
FOR 17 WEEKS—49¢ lb.—WTS. 250 to 450 lbs.

* * * * *

BEEF SALE—DOLLAR DAYS

* * * * *

FREE—18-20 lb. TURKEY FOR OPENING YOUR ACCOUNT IN ADVANCE

* * * * *

U.S.D.A. INSPECTED (PICTURE OF A LEAN STEAK)

3 BUNDLES TO CHOOSE FROM—YOUR CHOICE FOR ONLY \$3.65 PER WEEK FOR 17 WEEKS SAME AS CASH (EXAMPLES FOLLOW LISTING OF CUTS OF BEEF INCLUDED. PRICE RANGE IS \$61.74 to \$62.00)

* * * * *

INCLUDE 17.46% simple int. 52 WKS.

* * * * *

PAR. 6. Through use of the aforesaid language in the above-mentioned advertisements and others not specifically set out herein respondent has represented, directly and by implication that:

(1) Offers set forth therein are bona fide offers to sell beef portions at the advertised price per pound.

(2) Purchasers, in the ordinary course of respondent's business, may arrange for the extension, by respondent, of credit for purchases of beef portions from respondent.

(3) Purchasers may arrange to make deferred payments for their purchases directly to the respondent, upon the alleged extension of credit by respondent.

PAR. 7. In truth and in fact:

(1) The offers set forth in said advertisements, and other offers not set forth in detail herein, were not, and are not bona fide offers to sell beef portions at the advertised price, but, to the contrary were, and are, made to induce prospective purchasers to visit respondent's place of business. When prospective purchasers in response to said advertisements attempt to purchase beef portions at the advertised prices salesmen of respondent and, often respondent himself, inform them that the beef advertised is of poor quality and inferior as to flavor and tenderness; and such salesmen and respondent make no effort to sell beef portions at the prices advertised but, in fact, disparage the beef allegedly offered for sale at the advertised prices in a manner calculated to discourage the purchase thereof, and attempt to, and often do, sell other portions of beef at considerably higher prices.

(2) Respondent has not, and does not, extend credit, in the ordinary course and conduct of his business, to purchasers of meat products offered for sale by him.

(3) Purchasers may not arrange to make deferred payments for their purchases directly to the respondent. Instead, they learn, often after purchase, that payments on their installment contracts must be made to the finance company with whom such contracts are placed by respondent for collection.

PAR. 8. Through use of the aforesaid language in the above-mentioned advertisements and others not specifically set out herein respondent has represented, directly and by implication that USDA graded beef portions and beef variety orders advertised at prices of forty-nine cents (\$.49) per pound and fifty-nine cents (\$.59) per pound and all other prices less than sixty-nine cents (\$.69) per pound are guaranteed as to tenderness and flavor, a purchaser's right being to return an unsatisfactory portion of beef within ten days of the date of purchase and have such beef portion replaced.

Said representation was, and is, contrary to the fact as respondent does not offer any guarantee of beef which he sells at prices of forty-nine cents per pound and fifty-nine cents per pound, nor does respondent guarantee beef which he sells at any other price lower than sixty-nine cents per pound.

PAR. 9. Respondent by his advertisements disseminated as aforesaid has represented, and now represents, directly, by implication, and by presenting his advertisements in such language and manner as to create the mistaken and erroneous belief in all who view such advertisements that the prices stated therein are not the regular and ordinary prices at which respondent offers for sale, and sells beef portions, but, instead are "sale" or "special" prices, and therefore are lower prices than are respondent's regular and ordinary prices.

Said representations were, and are, contrary to the fact as said "sale" or "special" prices did not constitute a reduction from respondent's regular and ordinary prices, were not bargain prices, and, were in fact the same as respondent's regular and ordinary prices.

PAR. 10. The aforesaid language in the advertisements set forth in Paragraph Five herein constitutes advertisements to aid, promote, or assist directly or indirectly consumer credit sales, as "credit sale" is defined in Regulation Z of the Truth in Lending Act.

PAR. 11. By and through the use of the advertisements set forth in Paragraph Five herein, the respondent has represented in connection with an extension of consumer credit the lack of any requirement of a downpayment, the amount of an installment, the number of installments and the period of repayment without disclosing all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

1. The cash price;
2. The amount of downpayment, or lack of any downpayment requirement;
3. The amount of payments scheduled to repay the indebtedness if the credit is extended;

4. The amount of the finance charge expressed as an annual percentage rate; and

5. The deferred payment price of the item advertised.

PAR. 12. By causing to be placed for publication the advertisements referred to in Paragraphs Five, Ten, Eleven and Twelve hereof, respondent failed to comply with the requirements of Regulation Z, the implementing regulations of the Truth in Lending Act duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 103(k) of that Act, such failure to comply constitutes a violation of the Truth in Lending Act and, pursuant to Section 108 thereof, respondent thereby violated the Federal Trade Commission Act.

PAR. 13. Respondent by his advertisements disseminated as aforesaid has represented and now represents directly, by implication, and by failure to disclose the average weight loss in the meat purchased due to cutting, dressing and trimming, that the beef portions advertised will weigh approximately the same weights stated in the advertisements when cut and trimmed.

Said representations were and are contrary to the fact as said beef portions, taken from beef carcass in bulk sections, are sold by the pound at their carcass or gross weight; the cutting, trimming and removing of fat, bone and waste materials greatly reduce the total weight, and a beef order when cut, trimmed and ready for home freezer storage is not equal to nor does it approximate the gross weight of said beef prior to cutting and trimming.

Therefore, the advertisements referred to in Paragraphs Five and Nine were, and are, misleading in material respects and constituted and now constitute "false advertisements" as that term is defined in the Federal Trade Commission Act, and the representations referred to in Paragraphs Six, Eight, Nine and Thirteen are false, misleading and deceptive.

PAR. 14. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that such statements and representations were, and are, true and into the purchase of substantial quantities of the aforesaid products, including higher priced products because of said mistaken and erroneous belief.

PAR. 15. The aforesaid acts and practices of respondent, as herein alleged, including the dissemination by respondent of false advertisements as aforesaid, were, and are, all to the prejudice and injury of the public and of respondent's competitors and constituted, and now

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constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 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 Consumer Protection proposed to present to the Commission for its consideration and 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

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, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order;

1. Respondent, Angelo Cofone is an individual doing business as T-Ville Freezer Meats, Taftville Beef Company and as Beefland Beef Company with his principal place of business located at One Jewett City Road, Norwich, Connecticut.

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 proposed respondent, Angelo Cofone, individually and doing business as T-Ville Freezer Meats, and as Taftville Beef Company, and as Beefland Beef Company, and respondent's agents, representatives and employees, directly or through any cor-

porate or other device, in connection with the offering for sale, sale or distribution of beef or any other food product, do forthwith cease and desist from :

1. Disseminating or causing the dissemination of any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication :

(a) That any product is offered for sale when such offer is not a bona fide offer to sell the advertised product.

(b) That any products are offered for sale, when the purpose of such representation is not to sell the offered products, but to obtain prospects for the sale of other products at higher prices.

2. Disseminating or causing the dissemination of any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication :

(a) That purchasers, in the ordinary course of proposed respondent's business, may arrange for the extension, by proposed respondent, of credit for purchases of beef portions when proposed respondent does not so extend credit in the ordinary course and conduct of his business.

(b) That purchasers may arrange to make deferred payments for their purchases directly to the proposed respondent, upon his alleged extension of credit, when arrangement cannot be made by purchasers to make such deferred payments directly to proposed respondent, but, instead payments must be made to a third party.

3. Disseminating or causing the dissemination of any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which fails to clearly and conspicuously disclose that purchasers' installment contracts, unless they expressly provide to the contrary, will be placed with a finance company, or any similar institution, for the purpose of collection, and, that interest and/or carrying charges will be included in the installment payments if an account is not paid within a specified period of time set by proposed respondent, said time period to appear in purchasers' installment contracts.

4. Disseminating or causing the dissemination of any advertisement by means of the United States mails, or any means in commerce, as "commerce" is defined in the Federal Trade Commission

Act, which fails to clearly and conspicuously disclose all terms of any guarantee, of beef or other food products, appearing in such disseminated advertisements, including:

- a. The U.S.D.A. grade and price of beef guaranteed by proposed respondent.
- b. The characteristics or properties of the guaranteed beef or other food product covered by the guarantee.
- c. The duration of the guarantee.
- d. The conditions to be met by a claimant under the guarantee.
- e. The manner in which proposed respondent will perform or fulfill his obligation under the guarantee.

5. Disseminating or causing the dissemination of any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication that prices stated in proposed respondent's advertisements are not the regular and ordinary prices at which proposed respondent offers for sale, and sells beef portions, but, are instead "sale" or "special" prices, and therefore lower prices than are proposed respondent's regular and ordinary prices when, in truth and in fact such stated prices are the prices regularly and ordinarily charged by proposed respondent for the products advertised, and do not constitute a reduction from proposed respondent's regular and ordinary prices.

6. Disseminating or causing the dissemination of any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which fails to clearly and conspicuously disclose:

- a. That all untrimmed beef portions are sold subject to weight loss due to cutting, dressing and trimming.
- b. That the price charged for such beef is based on the weight thereof before, cutting, dressing and trimming occurs.
- c. The average percentage of weight loss of such beef due to cutting, dressing and trimming.

7. Disseminating or causing the dissemination of any advertisement by means of the United States mails, or any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which fails to clearly and conspicuously include the statement, "this meat is of a grade below U.S. Prime, U.S. Choice and U.S. Good," when such advertisement includes United States Department of Agriculture graded meat which is below the grade, "U.S.D.A. Good."

8. Disseminating or causing to be disseminated by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any meat or other food product in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations or misrepresentations prohibited in Paragraphs 1, 2 and 5 of this order or fails to comply with the affirmative requirements of Paragraphs 3, 4, 6 and 7 hereof.

9. Discouraging the purchase of, or disparaging in any manner, or encouraging, or instructing, or suggesting that others discourage or disparage, any meat or other food products which are advertised or offered for sale in advertisements disseminated or caused to be disseminated by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act.

10. Failing to include the following legend on the face of any installment contract or instrument of indebtedness which is to be assigned or negotiated, by proposed respondent, to a third party.

Notice

Any holder of this instrument, or of the rights assigned under this installment contract, shall take it subject to any and all defenses arising in behalf of the maker, or the party to be charged, against Angelo Cofone, individually and trading as T-Ville Freezer Meats, Taftville Beef Company, and as Beefland Beef Company, or any successor thereto, which arise out of any conduct in connection with the agreement giving rise to this instrument or installment contract which violates the Federal Trade Commission Act or any other statute administered by the Federal Trade Commission.

11. Failing in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with Section 226.4 and Section 226.5 of Regulation Z, in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

12. Failing to deliver a copy of this order to cease and desist to all managers and salesmen, both present and future, and to any other person now engaged or who becomes engaged in the sale of meat or other food products as proposed respondent's agent, representative, or employee, and to secure a signed statement from each of said persons acknowledging receipt of a copy thereof.

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

It is further ordered, That the proposed respondent herein, shall within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.
