

Thus, the result in this matter must be limited strictly to the singular facts here present and should not be viewed as having a broader reach.

Accordingly, on the basis of the evidence before us, we approve the proposed acquisition.

IN THE MATTER OF

ACME QUILTING COMPANY, INC., ET AL.

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

Docket C-2192. Complaint, Apr. 14, 1972—Decision, Apr. 14, 1972

Consent order requiring a New York City firm which manufactures and sells mattress pads and covers, moving van pads, bedspreads and pillow protectors to cease misrepresenting its products as flame retardant without also attaching to its products a label stating the number of washings or dry cleanings the flame retardant will withstand.

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 Acme Quilting Company, Inc., a corporation, and Ephraim S. Young, Herbert Goldman and Richard G. Rattner, individually, and as officers of said corporation, sometimes hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Acme Quilting Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of New York and has its principal place of business at 295 Fifth Avenue, New York, New York. Individual respondents Ephraim S. Young, Herbert Goldman and Richard G. Rattner are president, vice-president and treasurer and vice-president and secretary respectively of said corporation and are members of the board of directors of said corporation. The individual respondents are all equal shareholders of the corporate respondent.

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The corporate respondent manufactures mattress pads, mattress covers, moving van pads, bedspreads, and pillow protectors in three factories owned and operated by it in Hanover, Pennsylvania, Tunica, Mississippi and Bakersfield, California.

Respondents Ephraim S. Young, Herbert Goldman and Richard G. Rattner formulate, direct and control the acts, practices and policies of said corporation and its corporate subsidiaries. Their address is the same as the corporate respondent.

PAR. 2. Respondents in the course and conduct of their business have been, and are now, engaged in the sale, advertising and offering for sale in commerce of mattress pads and other products which they ship or cause to be shipped, when sold, from the States of Pennsylvania, Mississippi and California to purchasers located in various other states and maintain and have maintained a substantial course of trade in said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondents are now, and at all times mentioned herein, have been in substantial competition in commerce with other corporations, firms and individuals engaged in the sale and distribution of mattress pads and other products.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the purchase of said mattress pads, respondents have made statements and representations in the packaging, labeling, and in other advertising materials, with respect to the flame retardant characteristics of said product.

Typical and illustrative of the aforesaid statements and representations are the following:

FIREGUARD FLAME RETARDANT MATTRESS PAD AND COVER

Flame retardant fabric on BOTH sides. Complete protection won't wash out.

* * * nylon tricot skirt. Flame resistant.

100% Virgin polyester Fiberfill. Flame retardant.

Fitted style * * * Protects mattress

FLAME RETARDANT FABRIC AND FILLING

PAR. 5. Through the use of the aforesaid statements and representations and others of similar import and meaning, respondents have represented directly or by implication:

a) That the entire mattress pad had been treated with a flame retardant chemical which offered complete protection against flames.

b) That the mattress pad contained a flame retardant finish which would not wash out under any conditions of laundering.

c) That the fitted style of pad containing the nylon tricot skirt was flame resistant and offered protection against flames.

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d) That the virgin polyester filler was flame retardant and offered protection against flames.

e) That the treated pads provide security and complete protection against hazards caused by flames.

PAR. 6. In truth and in fact:

a) The entire mattress pad had not been treated with a flame retardant chemical and did not offer complete protection against flames.

b) The flame retardant finish on respondents' mattress pads will wash out under certain laundering conditions.

c) The fitted style containing a nylon tricot skirt does not resist flames and offers no protection to the mattress against lighted cigarettes or other flames which are able to burn right through and into the mattress.

d) The virgin polyester filler is not flame retardant and does not offer protection against flames.

e) The treated pads do not provide security and complete protection against the hazards caused by flames.

PAR. 7. Respondents furthermore have failed to disclose in their packaging, labeling and advertising of said product, material and relevant facts related to the proper laundering of said products in order to preserve the flame retardant finish. Respondents have failed to provide warnings to prospective purchasers and to purchasers of said product against the use of chlorine bleach, soap and acid-sours used in commercial laundries which negates the flame retardant finish under certain conditions.

The failure to disclose said material facts leads the consumer to believe that the representations being made are true and complete. Such failure to disclose material facts is unfair, and false, misleading and deceptive, and constitutes an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, acts and practices and their failure to disclose material facts, as set forth in Paragraphs Four through Seven above, has had, and now has, the tendency and capacity to mislead and deceive members of the public into the erroneous and mistaken belief that such statements and representations were and are true and complete, and into the purchase of substantial quantities of said products.

PAR. 9. The aforesaid acts and practices of respondents as herein alleged are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair methods of competi-

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tion 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 the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents 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 respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents 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, 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 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 Acme Quilting 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 office and principal place of business located at 295 Fifth Avenue, New York, New York.

Respondents Ephraim S. Young, Herbert Goldman and Richard G. Rattner are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their principal office and place of business is located at the above stated address.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Acme Quilting Company, Inc., a corporation, its subsidiary and affiliated corporations, its successors and assigns, and respondents Ephraim S. Young, Herbert Goldman and Richard G. Rattner individually, and as officers of said corporate

respondent, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale and distribution of mattress pads, mattress covers, pillow protectors, bedspreads, sheets and pillow cases in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that said products are flame retardant, or have been treated with a flame retardant finish, and from utilizing any words or depictions of similar import or meaning in connection therewith, unless all uncovered or exposed parts (except sewing threads), as well as any other parts represented directly or by implication to be flame retardant or as treated with a flame retardant finish, will retard and resist flame, flare and smouldering, or have been treated with a finish which will retard and resist flame, flare and smouldering.

It is further ordered, That in all instances where respondents represent said products to be flame retardant or treated with a flame retardant finish, that warnings be provided in or on the packaging in immediate conjunction with said representations and in type or lettering of equal size and conspicuousness, and on a label affixed to the products securely and with sufficient permanency to remain in a conspicuous, clear and plainly legible condition, of any danger from flammability which may result if these products be dry cleaned or washed by other than the recommended means or in excess of a stated number of times.

It is further ordered, That respondents attach a permanent, legible, sewn-in label, having dimensions no smaller than $3\frac{1}{2} \times 5$ inches, to any product which it may advertise as flame retardant, flame resistant, flameproof, or by means of other words or depictions of similar import or meaning, which will clearly, conspicuously and adequately alert both purchasers of such products and commercial laundries, as to the proper laundering instructions required to preserve the flame retardant effectiveness of such products, informing them as to the number of washings the flame retardant finish is designed to withstand if such laundering instructions are followed, and warning against the dangers from flammability which may result from failure to follow such instructions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed changes in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution which may affect compliance obligations arising out of the order.

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It is further ordered, That respondents deliver a copy of this order to cease and desist to all personnel of respondents responsible for the preparation, creation, production or publication of advertising, packaging or labeling of all products covered by this order.

It is further ordered, That respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commis-