

IN THE MATTER OF
LOUISVILLE BEDDING COMPANY, INC.

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

Docket C-2256. Complaint, July 19, 1972—Decision, July 19, 1972.

Consent order requiring a Louisville, Ky., manufacturer of mattress pads and similar products to cease representing that respondent's products are flame retardant under all laundering conditions and failing to disclose on packages and labels warning against the use of chlorine bleach, soap, and acid-sours which negate the flame retardant finish. Respondent is further required to attach a permanent, legible, sewn-in label alerting customers and commercial laundries as to the proper laundering instructions required to preserve the flame retardant effectiveness of such products.

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 Louisville Bedding Company, Inc., a corporation, sometimes hereinafter referred to as respondent, has violated the provisions of said Act, 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 Louisville Bedding Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of Kentucky and has its principal place of business at 418 East Main Street, Louisville, Kentucky and an office and showroom at 320 Fifth Avenue, New York, New York.

Respondent manufactures mattress pads, furniture pads, bedspreads, quilts, comforters, draperies and dust ruffles in factories located in Louisville, Kentucky, Mumfordsville, Kentucky, and Holland, Michigan.

PAR. 2. Respondent in the course and conduct of its business has been and is now engaged in the sale, advertising and offering for sale in commerce of mattress pads and other products, which it ships or causes to be shipped, when sold, from the States of Kentucky and Michigan to purchasers located in various other states and maintains and has maintained a substantial course of trade in said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondent is now and at all times mentioned herein, has been in substantial competition in commerce with other corporations, firms and individuals engaged in the sale and distribution of mattress pads and other products of the same kind as those sold by respondent.

PAR. 4. In the course and conduct of its business and for the purpose of inducing the purchase of said mattress pads, respondent has made statements and visual representations in the packaging and labeling, and in other advertising materials, with respect to the flame retardant characteristics of said product, and has failed to warn purchasers and prospective purchasers of the material fact of danger from flammability which may result if the product is laundered in chlorine bleach, soap, or by commercial laundries which utilize the acid-sour process.

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

- a) FLAME RETARDANT
MATTRESS PAD AND COVER

Illustrated immediately above said verbal representation, which appears in bright red letters approximately one inch in height, are bright red and orange flames covering approximately six inches in height and six inches in width of the package.

b) "Retains its effectiveness through at least 25 home washings."

c) The instructions which appear on the packaging and labeling do not contain clear and conspicuous or adequate warnings of the danger from flammability which may result from laundering this product in normal household washing agents such as chlorine bleach or soap, or at commercial laundries which utilize the acid-sour process.

PAR. 5. Through the use of the aforesaid statements and visual representations respondent has represented directly or by implication:

a) That said mattress pads will retain their flame retardant effectiveness against the dangers from flames under all conditions of laundering.

b) That said mattress pads will retain their flame retardant effectiveness against the dangers from flames through at least 25 home washings under all conditions of laundering.

c) That the packaging and labeling of said flame retardant mattress pads provide clear, conspicuous and adequate warnings of the dangers from flammability which may result from laundering this product in normal household washing agents such as chlorine bleach or soap, or at commercial laundries which utilize the acid-sour process.

d) That commercial laundries are adequately warned against the use of acid-sours, soap or chlorine bleach in laundering this product, by the instructions contained on the packaging and labeling.

PAR. 6. In truth and in fact:

a) Respondent's mattress pads will not retain their flame retardant effectiveness against the dangers from flames under all conditions of laundering.

b) Respondent's mattress pads will not retain their flame retardant effectiveness against the dangers from flames through at least 25 home washings, under all conditions of laundering.

c) The packaging and labeling of respondent's flame retardant mattress pads do not provide clear, conspicuous and adequate warnings of the dangers from flammability which may result from laundering this product in normal household washing agents such as chlorine bleach or soap, or at commercial laundries which utilize the acid-sour process.

d) Commercial laundries are not adequately warned against the use of acid-sours, soap, or chlorine bleach in laundering this product by the instructions contained on the packaging and labeling.

PAR. 7. The failure of respondent to clearly, conspicuously and adequately disclose the material fact of the dangers from flammability which might result from the use of chlorine bleach, soap, and acid-sours either at home or at commercial laundries, and the failure to warn that use of such washing agents diminishes, washes away completely, or negates the value of the flame retardant finish of its mattress pads, is unfair, 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 respondent of the aforesaid misleading and deceptive verbal and visual representations and statements and its failure to clearly and conspicuously disclose material facts and warnings, 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 verbal and visual statements and representations were and are true and complete, and into the purchase of substantial quantities of said product.

PAR. 9. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning 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 New York Regional Office 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 Louisville Bedding Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kentucky with its principal place of business located at 418 East Main Street, Louisville, Kentucky and an office and showroom at 320 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

It is ordered, That respondent, Louisville Bedding Company, Inc., a corporation, its subsidiary and affiliated corporations, its successors and assigns, its officers, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of mattress pads, furniture pads, bedspreads, quilts, comforters, dust ruffles and draperies, 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 clear and conspicuous warnings are 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 clear and conspicuous 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 respondent attach a permanent, legible, sewn-in label, having dimensions no smaller than $3\frac{1}{2}$ x 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 respondent notify the Commission at least 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 of subsidiaries or any other changes in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all personnel of respondent 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 Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.