

Complaint

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IN THE MATTER OF
SPIEGEL, INC.*ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8869. Complaint, Nov. 8, 1971—Decision, Jan. 9, 1973.*

Order requiring a Chicago, Illinois, catalog retailer, among other things to cease representing free trial offers, percentage savings, or reductions in price to prospective and established credit customers without stating in immediate conjunction therewith, any conditions or restrictions; failing to disclose that savings offers are only offered on condition of approved credit.

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 Spiegel, Inc., a corporation, 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 Spiegel, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 2511 West 23rd Street, Chicago, Illinois.

PAR. 2. Respondent is a catalog retailer and is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of clothing, household appliances, kitchenware, bedding, furniture, radios, luggage, tools, tires and various other articles of merchandise.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, its said products, when sold, to be shipped from its place of business in the State of Illinois to purchasers thereof located in various other states of the United States and the District of Columbia, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

*Petition for Review was filed on March 12, 1973 in the Court of Appeals for the Seventh Circuit.

PAR. 4. For the purpose of inducing the purchase of said products, respondent has made various statements in certain of its circulars and seasonal catalogs respecting merchandise being offered for a free trial or at a reduction in price.

Among and typical, but not all inclusive of said statements, are the following:

A. ON CATALOG SENT TO NEW CUSTOMERS:

30 DAY FREE TRIAL—SEND NO MONEY—TRY BEFORE YOU BUY
These outstanding values are yours to try for 30 Days Free! You're invited to order any item that you would like to see and use * * * without risking a penny * * * without obligation to buy. Send No Money * * * list your selections on the special order blank enclosed in this 30 DAY FREE TRIAL OFFER!

SEND NO MONEY!—Try any of these values 30 days FREE!

B. ON CIRCULAR SENT TO ESTABLISHED SIEGEL CUSTOMERS:

Dear Customer:

You're invited to see and use any or all of the enclosed 20 outstanding values in your home for 30 days FREE! Each item is of the high quality that Spiegel customers have come to expect and prices are the lowest we can offer. We want you to try them *at our risk*, free from pressure or persuasion, with absolutely no obligation to buy!

DON'T SEND A PENNY * * * just make your selections, fill out the order blanks and mail them in the enclosed postage-free envelope.

SEND NO MONEY! Just choose the items you wish to try * * * fill out and sign the order blanks * * * detach and mail them to us. We'll rush your merchandise to you. After you've checked the performance and beauty of these items (and compared prices anywhere), we're confident you'll be delighted and want to keep them. However, if for any reason you are not completely happy, send them back and we'll even pay the return postage. No questions asked. If you do keep the merchandise we'll add the amount to your Spiegel Budget Power account.

C. ON CIRCULAR TO NEW CUSTOMERS:

25% OFF!—on everything we sell * * *

25% off on your first credit order!

What better way to get our cash customers to try the Budget Power Credit Plan than to offer 25% off on the FIRST CREDIT ORDER ONLY?

—Naturally to be accepted for a Spiegel Budget Power account, you must be steadily employed, reside at a permanent address, and have a good record.

PAR. 5. Through the use of said statements and representations, and others of similar import and meaning but not specifi-

cally set out herein, respondent has represented, and is now representing, directly or by implication, that the free trial offer and the 25 percent discount offer are available without condition or restriction to anyone receiving such offers.

PAR. 6. In truth and in fact, the offers of a free trial and of 25 percent off are not available without condition or restriction to anyone receiving such offers since:

(a) Such of these offers as are directed to new Spiegel customers are not available and the merchandise is not shipped to them unless and until they qualify for credit under Spiegel's credit standards;

(b) Such of these offers as are directed to established Spiegel credit customers are not available and the merchandise is not shipped to them if the total price of the merchandise ordered when added to the customers' pre-existing credit charges exceeds the total amount of the credit which Spiegel had previously determined to allow such customers under its "Budget Power" account; and

(c) Spiegel does not accept orders from persons in certain geographical areas where it has experienced high credit losses unless the person is an established credit customer whose account is not delinquent.

Therefore, the statements and representations set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. In the conduct of its business, and at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of clothing, household appliances, kitchenware, bedding, furniture, radios, luggage, tools, tires and various other articles of merchandise of the same kind and nature as that sold by respondent.

PAR. 8. 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 said statements and representations were and are true and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondent, as

herein alleged, were, and are, all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

Mr. Charles W. O'Connell, supporting the complaint.

Mr. Jacob A. Stein, and *Mr. Martin W. Bell*, Washington, D. C. for respondent.

INITIAL DECISION BY DAVID H. ALLARD, HEARING EXAMINER
JUNE 23, 1972

PRELIMINARY STATEMENT

The Federal Trade Commission on November 8, 1971, issued its complaint in this proceeding, charging Spiegel, Inc., a corporation, with violating Section 5 of the Federal Trade Commission Act.

A hearing was held at Chicago, Illinois on April 18, 1972. At that hearing, testimony and documents were incorporated into the record in support of the complaint as well as in opposition thereto. This proceeding thus is before the hearing examiner upon the complaint, answer, testimony and other evidence, proposed findings of fact and conclusions, and briefs filed by counsel supporting the complaint and by counsel for respondent. The proposed findings of fact, conclusions, and briefs in support thereof submitted by the parties have been carefully considered by the examiner, and those findings not adopted, either in the form proposed or in substance, are rejected as not supported by the evidence or as involving immaterial matter.

The sole issue in this proceeding, as stipulated by the parties, is whether Spiegel's advertisements of free trial offers are unfair or deceptive because of the manner in which consumers are notified of respondent's requirement of credit approval in order to obtain the benefits of such offers.¹

Having heard and observed the witnesses and having care-

¹ At the prehearing conference on March 7, 1972, the following stipulation was agreed upon by the parties. This stipulation set forth the only issue in the proceeding: "Credit approval is the only qualification or condition by Spiegel, Inc. with respect to free trial offers advertised * * *. As a corollary to that, and it would remain the issue, is the manner in which Spiegel notifies the consumer of the need for credit approval such that, it requires the issuance of an order." (Prehearing Conference p. 75, 76; see also CX 1-A-B)

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fully reviewed the entire record² in this proceeding, together with the proposed findings, conclusions, and briefs submitted by the parties as well as replies, the examiner makes the following findings as to the facts, conclusions, and order:

FINDINGS OF FACT

1. Respondent Spiegel, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 2511 West 23rd Street, Chicago, Illinois (Comp. par. 1; Ans. par. 6).

2. Respondent is a catalogue retailer. It is now, and for some time last past has been, engaged in the advertising, offering for sale, sale, and distribution of clothing, household appliances, kitchenware, bedding, furniture, radios, luggage, tools, tires, and various other articles of merchandise (Comp. par. 2; Ans. par. 6).

3. Respondent had net sales in 1968 of \$320,248,000 (CX 7, p. 14). It does business nationwide, strictly through catalogue sales (Tr. 22). Over 90 percent of Spiegel's business is in interstate commerce (Tr. 22).

4. As a method of merchandising its products, respondent has made various statements in certain of its circulars and seasonal catalogues in which it offered its merchandise for free trial or at a reduction in price.

A. On Catalogues Sent to New Customers

Among and typical, but not all inclusive, of said statements are the following, which appear on the face of almost all of the catalogues:

30 DAY FREE TRIAL-SEND NO MONEY-TRY BEFORE YOU BUY
These outstanding values are yours to try for 30 days Free! You're invited to order any item that you would like to see and use * * * without risking a penny * * * without obligation to buy. Send No Money * * * list your selections on the special order blank enclosed in this 30 DAY FREE TRIAL OFFER!" (CX 1-C)

(1) Catalogues sent to prospective credit customers are referred to internally by Spiegel, and hereinafter, as "hot merchandise" catalogues (Tr. 23).

² References to the record are made in parenthesis, and certain abbreviations are used as follows:

Comp.—Complaint
Ans.—Answer

Tr.—Transcript page
CX—Commission Exhibit
RX—Respondent Exhibit

(2) The hot merchandise catalogues are sent out weekly from January through November each year and the number totals 40 million annually (Tr. 42).

(3) Names of persons to whom these catalogues are sent are obtained from mailing lists which conform to Spiegel's demographic model (Tr. 46).

(4) Respondent also makes general solicitation, without regard to demographic standards, by inserting hot merchandise catalogues in metropolitan newspapers. No particular criteria are used to determine which newspapers or which cities will receive distribution of the catalogues. The essential consideration is the cost of distribution (Tr. 83-84).

(a) CX 1-Z-25 is an example of a hot merchandise catalogue that was distributed in this manner to the Cincinnati Enquirer of February 15, 1970;

(b) RX 1-Z-40 with the Chicago American of August 3, 1969.

(5) About 75 percent of the hot merchandise catalogues go to Spiegel's prospective credit customers and 25 percent to cash customers (Tr. 53).

B. *On Circulars Sent to Established Spiegel Customers*

Among and typical, but not all inclusive, of said statements are the following, which appear in the cover letter to the circular.

Dear Customer:

You're invited to see and use any or all of the enclosed 19 outstanding values in your home for 30 days FREE! Each item is of the high quality that Spiegel customers have come to expect and prices are the lowest we can offer. We want you to try them *at our risk*, free from pressure or persuasion, with absolutely no obligation to buy.

DON'T SEND A PENNY * * * just make your selections, fill out the order blanks and mail them in the enclosed postage-free envelope.

* * * * *

SEND NO MONEY. Just choose the items you wish to try * * * fill out and sign the order blanks * * * detach and mail them to us. We'll rush your merchandise to you. After you've checked the performance and beauty of these items (and compared prices anywhere), we're confident you'll be delighted and want to keep them. However, if for any reason you are not completely happy, just send them back and we'll even pay the return postage—with no questions asked. If you do keep the merchandise we'll add the amount to your Spiegel Budget Power account. (CX 1-Z-104)

(1) The free trial mailings to these customers consist of about 19 sheets, each of which offers an article of merchandise and has an order blank attached.

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(2) A business reply envelope that requires no postage is also enclosed (Tr. 48).

(3) From 1,800,000 to 2,500,000 of these mailings (depending upon the number of solicitable accounts) are sent out ten or eleven times a year to respondent's credit customers (Tr. 48).

C. On Circulars Sent to New Customers

Among and typical, but not all inclusive of said statements are the following, which begins on the cover memorandum of the circulars.

25% OFF! on everything we sell * * * 25% off on your first credit order!

What better way to get our cash customers to try the Budget Power Credit Plan than to offer 25% off on the FIRST CREDIT ORDER ONLY?

-Naturally to be accepted for a Spiegel Budget Power account, you must be steadily employed, reside at a permanent address, and have a good record. (Comp. par. 4(c); Ans. par. 4(c); CX 1-Z-130)

(1) Two types of "25% off" circulars were utilized by respondent. One was sent to respondent's credit customers; the other to respondent's cash customers on file (CX 1-Z-130).

(2) This type of mailing was used in 1969 and up to July in 1970 when it was discontinued because it was unprofitable (Tr. 48-49). For that reason the practice will not be resumed (Tr. 73).

(3) Approximately 1,500,000 circulars were sent to credit customers, and 1,500,000 to cash customers (Tr. 49).

5. The order blank for each of these offers is treated by respondent as an application for credit (Tr. 79).

6. The application form always noted that the order was subject to acceptance by Spiegel (Tr. 73-74).

7. In truth and in fact, respondent's advertisements of offers of a free trial and of 25 percent off fail to disclose on their face that they are not available without condition or restriction because:

A. Offers Directed to New Customers

(1) Some of these offers are directed to new Spiegel customers, but the offers are not available and the merchandise is not shipped to these new customers unless they qualify for credit under Spiegel's credit standards (Comp. par. 6(a); Ans. par. 6(a)).

B. Offers Directed to Established Credit Customers

(1) Offers that are directed to each of Spiegel's established credit customers are not available and the merchandise is not shipped if the total price of the merchandise ordered, when added

to the customer's pre-existing credit charges, exceeds the total amount of the credit that Spiegel had previously determined to allow such customer under his "Budget Power" account (CX 5).

(a) The customer has three choices: First, he can reduce the amount of the order; second, he can pay the difference between the amount of available credit and the total amount of the order; and third, he can make another selection which would not exceed the amount of available credit (Tr. 64-65).

(b) An established credit customer who receives mailings, illustrated by CX 1-Z-57 thru 129, must have his account up to date; he must have made required monthly payments on time; and he must also have had an account less than 12 months previous to the free trial order (Tr. 66).

C. Two Categories of Language Used in Advertisements

(1) The following conditional language, which falls into two categories, summarizes the language in respondent's advertisements:

(a) On the face cover of the Spring and Summer '72 catalogue:

All orders subject to Spiegel Credit Approval (RX 1-Z-68).

(b) On the order blank section appearing as a middle insert to the catalogue:

1. The first two or four pages contain an open letter from Spiegel inviting sales and to "TRY BEFORE YOU BUY!"

a. All orders are subject to our acceptance. (CX 1-0, CX 1-Z-39, CX 1-Z-39, CX 1-Z-132, CX 6e).

b. Of course, all orders are subject to our acceptance but be sure to check how you wish to pay on the back of the order blank. (RX 1-N, RX 1-Z-24)

c. All orders are subject to acceptance by Spiegel and we cannot accept any dealer orders (RX 1-Z-11)

d. -Naturally to be accepted for a Spiegel Budget Power account, you must be steadily employed, reside at a permanent address, and have a good record. (Comp. par. 4(c); Ans. par. 4(c))

e. Of course, as with all merchants, we reserve the right to accept or reject any order according to our credit standards. (RX 1-Z-87)

f. Subject to credit approval by Spiegel. (RX-1-Z-88)

2. The order blank:

a. To open a Spiegel account and save 25% you must answer all questions on the other side. (RX 1-Z-10)

3. The credit application:

a. I understand this order is subject to your acceptance * * * (RX 1-Z-53)

b. All orders subject to acceptance by Spiegel. (RX 1-Z-11)

8. In the course and conduct of its business, respondent has been in substantial competition, in commerce, with corporations, firms, and individuals in the sale of clothing, household appliances, kitchenware, bedding, furniture, radios, luggage, tools, tires, and various other articles of merchandise of the same kind and nature as that sold by respondent (Comp. par. 7; Ans. par. 7).

CONCLUSIONS

1. The use by respondent of the aforesaid statements, representations, and practices has had and now has the capacity to mislead members of the purchasing public into the purchase of substantial quantities of respondent's products.

(a) Net sales generated by hot merchandise catalogues were estimated to be \$27 million in 1969, \$27 million in 1970, and \$30 million in 1971 (Tr. 52).

(b) The record shows that estimated mailings of free trial offers to established credit customers account for \$30 million in sales annually for respondent (Tr. 72).

2. An advertisement must be truthful. Its representations should be reasonably free of erroneous or misleading statements. To comply with the Federal Trade Commission Act, an advertisement must be akin to a passport for the complete truthfulness of the statements contained therein. Where, as here, conditions to offers exist, unsophisticated clues to the conditions should be as obvious on the face of the advertisement as the inducing offers themselves.

3. Respondent's failure to make reasonably complete disclosures on the face of the catalogues or circulars of credit conditions, restrictions, or limitations applicable to free trial offers, generally has the tendency and capacity to mislead prospective credit customers mistakenly to believe that the offers are available without qualification to any one who accepts them. Free trial offers, of course, do not involve a credit transaction unless credit is specifically requested. The simple disclosure on the cover of the Spring and Summer '72 catalogue that "all orders are subject to Spiegel credit approval" fails to adequately inform prospective customers what the real impact of the message is. From the lure of free offers on the cover, even established credit customers are not put on notice about further limitations and restrictions which would make their orders unacceptable to Spiegel. Examples of such limitations and restrictions are: orders ex-

ceeding the total amount of credit Spiegel determines to allow the customer; the fact that a customer's account must be up-to-date; the fact that monthly payments must be paid regularly by the customer; and that the customer's account must have been active within a 12-month period prior to the time the customer attempts to take advantage of a free trial order. These conditions appear inside the catalogue or circular, far removed from the enticing offers on the cover. New customers would be even less circumspect.

4. Respondent's advertisements of free trial offers are deceptive and unfair and in violation of Section 5 of the Federal Trade Commission Act because of the manner in which customers are notified of respondent's requirement of credit approval in order to obtain the benefit of the offers. In reaching this inescapable conclusion, the hearing examiner has evaluated respondent's practices in light of the capacity of the advertisements to deceive, and their inherent unfairness, and not on basis of a demonstrated injury to purchasers. *Montgomery Ward & Co. v. FTC*, 379 F.2d 666 (7th Cir. 1967); *Charles of the Ritz Distributors Corp. v. FTC*, 143 F.2d 676 (2nd Cir. 1944).

5. The aforesaid acts and practices of respondent, as herein found, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act. The deception of purchasers constitutes unfair competition. *FTC v. Winsted Hosiery Co.*, 258 U.S. 483 (1922).

ORDER

It is ordered, That respondent Spiegel, Inc., a corporation, its successors and assigns and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of clothing, household appliances, kitchenware, bedding, furniture, radios, luggage, tools, tires, and various other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

Representing, directly or by implication, that merchandise is being offered on a free trial basis or at a percentage or

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amount off the usual and regular price unless substantially all credit restrictions or conditions applicable to such offers are clearly and conspicuously disclosed in reasonably immediate connection therewith.

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 a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of 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 it has complied with this order.

SEPARATE STATEMENT OF COMMISSIONER KIRKPATRICK

I cannot agree that consumers would fail to appreciate that Spiegel's free-trial offers necessarily were subject to acceptance by Spiegel. The nature and amount of information obtained by Spiegel on its application forms, in my opinion, puts the consumer on notice that Spiegel has established criteria which prospective customers must meet prior to receiving the merchandise on a free-trial basis. It seems to me unlikely that a consumer would conclude that the information provided on the application form was irrelevant to Spiegel in deciding whether or not to provide the consumer with the offered merchandise.

Of course, it is arguable that some few prospective customers who sent in filled-in application forms may not have fully understood the conditional nature of the offer. Also, I appreciate that economic injury is not always a condition precedent to an order under Section 5. However, in the circumstances of this case where no economic loss of any consequence appears and where no testimony was received with respect to consumers' understanding of the import of the application forms or whether Spiegel's disclosures were in fact sufficient, the entry of an order is not warranted.

FINAL ORDER

This matter is before the Commission upon the cross-appeals of complaint counsel and respondent from the administrative law judge's initial decision filed June 23, 1972, and upon briefs and oral argument in support thereof and in opposition thereto; and

The Commission having determined that complaint counsel's appeal should be granted and respondent's appeal denied and that the initial decision as modified by this order should be adopted as that of the Commission:

It is ordered, That the appeal of complaint counsel be, and it hereby is, granted and the appeal of respondent be, and it hereby is, denied.

It is further ordered, That the following order be, and it hereby is, substituted for the order contained in the initial decision:

ORDER

It is ordered, That respondent Spiegel, Inc., a corporation, its successors and assigns and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of clothing, household appliances, kitchenware, bedding, furniture, radios, luggage, tools, tires, or other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, to prospective credit customers that merchandise is being offered on a free trial basis, or at a percentage or amount off the usual and regular price, unless respondent clearly and conspicuously discloses in immediate conjunction with such offer that it is subject to respondent's credit approval.

2. Representing, directly or by implication, to respondent's established credit customers that merchandise is being offered on a free trial basis unless respondent clearly and conspicuously discloses in immediate conjunction therewith any credit restriction or condition which would make a customer ineligible to qualify under

such offer or any other restriction or condition applicable to such offer.

3. Failing to clearly and conspicuously disclose at the top of questionnaires requesting information from prospective credit customers ordering merchandise pursuant to a free trial offer or other offer that it is an application for credit and that merchandise will be sent to the prospective customer only if such customer is approved for credit by respondent.

4. Representing, directly or by implication, that an offer of a free trial of merchandise, a reduction in the price of merchandise, or any other kind of offer is made or is available without conditions or restrictions when such offer is subject to conditions or restrictions not revealed therein.

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 a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of 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 it has complied with this order.

It is further ordered, That the initial decision, as modified by this order, be, and it hereby is, adopted as the decision of the Commission.

Chairman Kirkpatrick submitted a separate statement.

Complaint

IN THE MATTER OF
SPRINGS MILLS, INC.

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

Docket C-2338. Complaint, Jan. 9, 1973—Decision, Jan. 9, 1973.

Consent order requiring a York, South Carolina, manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Springs Mills, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Springs Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of South Carolina.

Respondent is engaged in the manufacture and sale of carpets and rugs with an office and place of business located in York, South Carolina.

PAR. 2. Respondent is now and for some time last past has been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, carpets and rugs, as the terms "carpet," "rug" and "commerce" are defined in the Flammable Fabrics Act, as amended, or any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.