

(cc) days after service upon them 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.

IN THE MATTER OF
NEW ORLEANS MEATS, INC., doing business as HUTCHESON
MEATS, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATIONS
OF THE FEDERAL TRADE COMMISSION ACT, SECS. 5 & 12, AND THE
TRUTH IN LENDING ACT

Docket C-2496. Complaint, Mar. 20, 1974—Decision, Mar. 20, 1974

Consent order requiring a Kenner, La., seller and distributor of beef and other meat products, among other things to cease using bait advertisements; misrepresenting the price, quality, and quantity of its products; and violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

Appearances

For the Commission: *Creighton Chandler.*

For the respondents: *Harvey G. Gleason, New Orleans, La.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of 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 New Orleans Meats, Inc., a corporation, doing business as Hutcheson Meats, and Robert E. Brannan, individually and as officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, and the implementing regulation promulgated under the Truth in Lending 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 New Orleans Meats, Inc., also doing

business as Hutcheson Meats is a corporation organized existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 1636 Airline Highway, Kenner, La.

Respondent Robert E. Brannan, is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including acts and practices hereinafter set forth. His address is the same as that of the Corporate respondent.

PAR. 2. Respondents are now and for some time last past have 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.

COUNT I

Alleging violations of Section 5 and 12 of the Federal Trade Commission Act, the charges of Paragraphs One and Two hereof are incorporated by reference herein as set forth verbatim.

PAR. 3. In the course and conduct of their aforesaid business, respondents have disseminated and caused the dissemination of certain advertisements 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 have disseminated and caused the dissemination of advertisements as 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.

PAR. 4. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with firms and individuals in the sale of beef and other meat of the same general kind and nature.

PAR. 5. Typical but not all inconclusive of the statements appearing in the newspaper disseminated as aforesaid are the following:

SAVE LIKE NEVER BEFORE
PHONE ANYTIME TO OPEN ACCOUNT

3 Bundles to choose from as low as \$6.40 per week for 17 weeks—same as cash—no finance or other charges added on approved credit

Bundle #1 U.S.D.A. INSPTD. RIB & CHUCK Consist of

Club Steak	Minute Steaks
Swiss Steak	Bar-B-Que Ribs
Belmonico Steak	Chuck Roasts
Prime Rib Steak	Pot Roasts

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Bar-B-Que Steak	Ground Beef	\$6.49 PER WEEK
10 Lbs. Chicken	5 Lbs Pork	FOR 17 WEEKS
EXAMPLE ONLY: 175 Lbs at 63¢ lb.		\$110.95
Avg. Wt. 175-225 lbs.		

Bundle #2 U.S.D.A. INSPTD. LOIN & RIB Consists of

Club Steak	T Bone Steak	
Rib Steak	Sirloin Steak	
Delmonico Steak	Filet	
Porterhouse Steak	Sirloin Tip	
Rib Roast	Roast	\$7.30 PER WEEK
Minute Steaks	10-12% Ground Beef	FOR 17 WEEKS
EXAMPLE ONLY: 180 Lbs. at 69¢ lb.		\$124.20
Avg. Wts. 170-225 lbs.		

Bundle #3 U.S.D.A. INSPTD. LOIN & ROUND Consists of

T-Bone Steak	Sirloin Tip	
Round Steak	Roast	
Porterhouse Steak	Minute Steaks	
10-12% Ground Steak	Rump Roast	
	Eye Roast	\$7.83 PER WEEK
	Round Roast	FOR 17 WEEKS
EXAMPLE ONLY: 185 Lbs. at 72¢ lb.		\$133.20
Avg. Wts. 175-225 lbs.		

U.S.D.A. CHOICE TENDER AND DELICIOUS BEEF SIDES

EXAMPLE ONLY: 300 LBS. AT 71¢ \$213.00 ONLY \$12.53 PER WEEK FOR 17 WEEKS, SAME AS CASH ON APPROVED CREDIT. 71¢ Lb.

AVG. WT. 300 to 400 LBS.

U.S.D.A. PRIME BEEF SIDES

EXAMPLE ONLY: 300 LBS. AT 77¢ \$231.00 ONLY \$13.59 PER WEEK FOR 17 WEEKS, SAME AS CASH ON APPROVED CREDIT. 77¢ Lb.

ALL MEAT SOLD HANGING WEIGHT & SUBJECT TO CUTTING & TRIMMING LOSS

PAR. 6. By and through the use of the aforesaid statements, and others of similar import and meaning not specifically set forth herein, respondents have represented directly or by implication that:

1. Offers set forth in said advertisements are bona fide offers to sell products of the kind therein described at the prices stated therein.
2. The advertised meat is high quality meat.
3. Meat advertised consists entirely or primarily of high quality cuts of meat including steaks.
4. Persons purchasing meat from respondents at a stated price per week or month are paying a significantly lower total price for meat than the price they had been paying.
5. Purchasers may arrange to make deferred payments for their purchases directly to respondents' retail store, and no interest and/or carrying charges will be made on such deferred payment obligation.

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 meat products at the advertised price, but, to the contrary were made in some instances to induce prospective purchasers to visit respondents' store and place of business for the purpose of purchasing meats other than the advertised meats. When prospective purchasers in response to said advertisements, attempt to purchase advertised beef, respondents and respondents' employees inform them that the advertised prices refer only to meat of low grade and quality, said meat being frequently below grade and quality of meat graded "U.S. Good" by the United States Department of Agriculture. Prospective purchasers are further informed that the said advertised meat because of its low grade and quality is subject to excessive weight loss in cutting and trimming. Respondents and their salesmen frequently display fat and unsightly beef as the advertised meat, disparaging it in a manner calculated to discourage the purchase thereof, and attempt to, and frequently do, sell much higher priced meats.

2. Persons who succeed in purchasing advertised beef products frequently find that their packaged orders contain ground beef in excess of 12% (per cent) of the total meat received.

3. Purchasers learn, contrary to respondents' advertising that payments on their installment contracts must be made to one of several finance companies with whom such contracts are placed by respondents for collection.

4. The stated prices per week do not represent a significant saving to prospective purchasers over the price of similar meat available at other retail outlets to such purchasers.

PAR. 8. Respondents by their advertisements disseminated as aforesaid have represented, and now represent, directly and by implication, and by failure to disclose the average weight loss in the meat purchased due to cutting, dressing and trimming that beef halves and hindquarters advertised will weigh approximately their advertised and/or hanging weight when cut and trimmed, and/or that other meat purchases when ready for home freezer storage will equal or approximate their total purchase weight.

Said representations were, and are contrary to the fact as beef halves, and other beef carcass sections, are sold by the pound at their carcass or uncut weight. The cutting, trimming and removal of fat, bone and waste materials greatly reduces the total weight, and a meat order when cut, trimmed and ready for home freezer storage is not equal to, nor does it approximate the total weight of said meat at the time of purchase.

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

PAR. 9. Use by respondents 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 the aforesaid products, including higher priced products than those advertised by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, including the dissemination by respondents of false advertisements as aforesaid, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

COUNT II

Alleging violation of the Truth in Lending Act and the implementing regulations promulgated thereunder, and of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 11. Subsequent to July 1, 1969 in the ordinary course and conduct of their business as aforesaid, respondents arrange for, the extension of consumer credit, as "consumer credit" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System. Respondents regularly place, and for some time last past have placed, for publication in newspapers of general circulation advertisements to aid, promote, and assist credit sales, as "credit sale" is defined in the aforesaid Regulation Z.

By and through the use of certain of said advertisements respondents have represented the amount of an installment payment, the number of installments, and the period of repayment without also disclosing 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 the downpayment required or that no down payment is required;

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

4. The deferred payment price.

PAR. 12. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failure to comply with the provisions of Regulation Z constitutes a violation of that Act and, pursuant to Section 108 thereof, respondents thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the New Orleans Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; 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 aforesaid draft of complaint, 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have 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 New Orleans Meats, Inc., doing business as Hutcheson Meats, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 1636 Airline Highway, city of Kenner, State of Louisiana.

Respondent Robert E. Brannan, is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his 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 New Orleans Meats, Inc., a corporation, doing business as Hutcheson Meats, its successors and assigns, its officers and Robert E. Brannan, individually and as an officer of said corporation, respondents' agents, representatives, salesmen and employees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of meat or other food products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which represents directly or by implication:

(a) 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.

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

(c) That any meat offered for sale is high quality meat, which in fact is either ungraded or below the grades of "Prime" "Choice" and "Good," or which is yield grade 5 of the quality grade.

(d) That the meat a purchaser will receive or take home, when untrimmed beef sides, hindquarters, forequarters, or other untrimmed pieces, "Bundles," or "Packs" are sold, will consist, after cutting, dressing and trimming, entirely or primarily of steaks, or other high quality cuts, unless such is the fact.

2. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which:

(a) Fails to disclose clearly, without ambiguity, and with prominence:

(1) That untrimmed beef sides, hindquarters, forequarters, or other untrimmed pieces, "Bundles," or "Packs," offered for sale, will suffer weight loss due to cutting, dressing and trimming.

(2) That the price charged for untrimmed meat is based on the hanging weight before cutting, dressing and trimming occurs.

(3) That correct average percentage of weight loss of such untrimmed side, quarter, piece, "Bundle," or "Pack" due to cutting, dressing and trimming.

(b) Fails to include clearly and with prominence:

(1) When United States Department of Agriculture graded meat is advertised which is below the grade of "USDA Good," the meat will be identified as grades U.S. Standard and/or U.S. Commercial.

3. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which misrepresents in any manner the price, quantity or quality of any meat or other food products, or savings available to purchasers thereof.

4. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which represents directly or by implication, that the prices stated in such advertisements are not the regular and ordinary prices at which respondents offer for sale, and sell meat or other food products, but are instead "sale" or "special" prices, and therefore are lower than respondents' regular and ordinary prices, when, in fact, such advertised prices are the prices regularly and ordinarily charged by respondents for the products advertised and do not constitute a reduction or dollar saving from respondents' regular and ordinary prices.

5. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which represents, directly or by implication:

(a) That purchasers may arrange for credit granted by respondents for purchases of meat or other food products when respondents do not in fact extend credit in the ordinary course and conduct of their business.

(b) That purchasers may arrange to make deferred payments for their purchases directly to respondents when, in the ordinary course and conduct of their business, respondents do not accept deferred payments but transfer purchasers' obligations to a finance company or other third party to whom such deferred payments must be made.

6. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which fails to disclose clearly and with prominence that purchasers' obligations will be transferred to a finance company, or other third party, when, in the ordinary course and conduct of their business, such is respondents' practice.

7. Discouraging the purchase of, or disparaging in any manner,

any meat or other food products which are advertised or offered for sale.

8. Displaying any side, hindquarter, forequarter, or other portion of a beef carcass of inferior quality and unwholesome appearance, or of fatty, wasty yield grade, to prospective customers who have answered an advertisement or sales presentation of respondents, as the meat featured in such advertisement or presentation, so as to discourage such prospective customers from seeking to purchase the meat which was the subject of the advertisement or presentation.

9. Failing to maintain for a period of two (2) years adequate records, and to permit the inspection and copying thereof by Commission representatives:

(a) Which disclose the facts upon which are based price representations and statements as to the quality and the U.S.D.A. grade of meat offered for sale, savings claims, representations as to the percentage of steaks, or other high quality cuts in advertised meat, and similar representations from the type covered by this order, and from which the validity of such statements and representations can be established; and

(b) Records from which respondents' compliance with the requirements of this order can be ascertained.

It is further ordered, That respondents New Orleans Meats, Inc., doing business as Hutcheson Meats, its successors and assigns, its officers and Robert E. Brannan, individually and as an officer of said corporation, respondents' agents, representatives, salesmen and employees, directly or through any corporation, subsidiary, division or other device, in connection with any advertisement to aid, assist or promote, directly or indirectly, any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z of the Truth in Lending Act, do forthwith cease and desist from:

1. Stating in any advertisement the amount of the downpayment required or that no down payment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period or repayment, or that there is no charge for credit, unless there is also stated, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z, all of the following items—(i) the cash price; (ii) the amount of the down payment required or that no downpayment is required, as applicable; (iii) the number, amount, and due dates or period or repayments scheduled to repay

the indebtedness if the credit is extended; (iv) the annual percentage rate; and (v) the deferred payment price.

2. Making any disclosure not in accordance with the requirements of Section 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all persons now engaged, or who become engaged, in the sale of meat or other food products as respondents' agents, salesmen, representatives or employees, and to secure from each of said persons a signed statement acknowledging receipt of a copy thereof.

It is further ordered, That respondents 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 the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them 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.

IN THE MATTER OF

DANCE WORLD, INC., ET AL.

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

Docket C-2497. Complaint, Mar. 20, 1974—Decision, Mar. 20, 1974

Consent order requiring sellers of memberships in dance and recreation clubs located in Dallas and Richardson, Texas, among other things to cease misrepresenting the