

(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
BI-RITE, INC. TRADING AS BARGAIN BARN
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2501. Complaint, Mar. 20, 1974—Decision, Mar. 20, 1974.

Consent order requiring an Irving, Tex., seller and distributor of beef and other meat products, among other things to cease advertising cheese, fowl or fish as meat or meat products.

Appearances

For the Commission: *John J. Hemrick.*

For the respondent: *Pro se.*

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 Bi-Rite, Inc., a corporation, trading and doing business as Bargain Barn, hereinafter sometimes 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 Bi-Rite, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 504 North O'Conner, Irving, Tex.

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 its business as aforesaid, respondent has disseminated, and caused the dissemination of, certain advertisements concerning the said product by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to newspapers for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said product; and have disseminated and caused the dissemination of advertisements concerning said product by various means, including but not limited to newspapers, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Typical and illustrative of the statements and representations in said advertisements, disseminated as aforesaid, but not all inclusive thereof, is the following:

26 lbs. of MEAT! *Only* \$18.88.

PAR. 5. By and through the use of said advertisements and others of similar import but not specifically set forth herein, respondent has represented and is now representing, directly and by implication, that:

Members of the consuming public can purchase twenty-six (26) pounds of *meat* products for the price of \$18.88.

PAR. 6. In truth and in fact, 26 pounds of meat were not being offered for sale for \$18.88, rather respondent was offering to sell for \$18.88 ten (10) pounds of chicken, eleven (11) pounds of fish and five (5) pounds of cheese.

Therefore, the advertisements referred to in Paragraph Four were and are false, misleading, and deceptive in material respects, and the representations referred to in Paragraph Five were and are false, misleading, and deceptive.

PAR. 7. The use by respondent of the aforesaid 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 purchase of substantial quantities of respondent's product. As a result thereof, substantial trade has been and is being unfairly diverted to respondent from its competitors.

PAR. 8. 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.

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 Dallas 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 Bi-Rite, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 504 North O'Conner, city of Irving, State of Texas.
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 Bi-Rite, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertisement, offering for sale, sale, or distribution of freezer meats or any other product in

commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Advertising cheese, fowl, or fish as meat or meat products.

It is further ordered, That in the event that respondent merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation or to any other person, respondent shall require said successor transferee to file promptly with the Commission a written agreement to be bound by the terms of this order; *Provided*, That if respondent wishes to present to the Commission any reasons why said order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

It is further ordered, That respondent shall forthwith distribute a copy of this order to each officer of the corporation, member of the board, organization manager, and each employee, now and in the future, involved in the writing or placement of advertising or sales.

It is further ordered, That respondent 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 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.

IN THE MATTER OF

ELECTRONIC CENTERS, ET AL.

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

Docket C-2502. Complaint, Mar. 20, 1974—Decision, Mar. 20, 1974

Consent order requiring a Houston, Tex. seller of electronic equipment normally found in the store of a retail seller of music and voice amplification equipment, among other things to cease misrepresenting the usual or regular selling price of merchandise; misrepresenting the amount of savings available to purchasers; and failing to maintain adequate records.