

Consent order requiring a New York City manufacturer of household disinfectants and its New York City advertising agency, among other things to cease making disease-prevention claims for its Lysol Brand products or any other house disinfectants.

Appearances

For the Commission: *Thomas J. Donegan, Jr., Carleton C. Eastlake, C. O. Cook and Ellis M. Ratner.*

For the respondents: *Rogers, Hoge & Hills, New York, N.Y., Steingarten, Wedeen & Weiss, New York, N.Y.*

Complaint

84 F.T.C.

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 Sterling Drug, Inc., a corporation, and S.S.C. & B., Inc., a corporation, 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 thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Sterling Drug, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its principal offices and place of business located at 90 Park Avenue, New York, N.Y.

PAR. 2. Respondent S.S.C. & B., Inc., also sometimes known as Sullivan, Stauffer, Colwell, and Bayles, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal offices and place of business located at 575 Lexington Avenue, New York, N.Y.

The aforesaid respondents cooperate and act together in carrying out the acts and practices herein set forth.

PAR. 3. Respondent Sterling Drug, Inc. is now, and for some time past has been, engaged in the manufacturing, advertising, sale, and distribution of household disinfectants, known and sold as Lysol Brand Disinfectants.

PAR. 4. Respondent S.S.C. & B., Inc. is now, and for some time last past, has prepared and placed for publication and has caused the dissemination of advertising material, including but not limited to the advertising referred to herein, to promote the sale of the said Lysol Brand Disinfectants.

PAR. 5. Respondent Sterling Drug, Inc. causes the said products, when sold, to be transported from its place of business in various States of the United States to purchasers located in various other States of the United States and in the District of Columbia. Respondent Sterling Drug, Inc., maintains, and at all times mentioned herein has maintained, a substantial course of trade in said product in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 6. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent Sterling Drug, Inc., has been, and now is, in substantial competition, in commerce, with corporations,

LYSOL® Brand Spray Disinfectant

"Remember this"

STLS0093

30 seconds



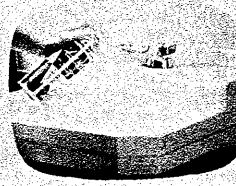
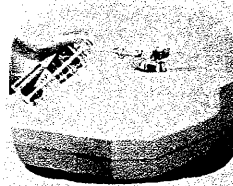
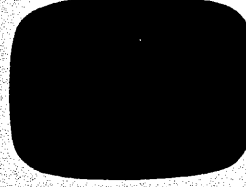
(SFX: Woman coughs)



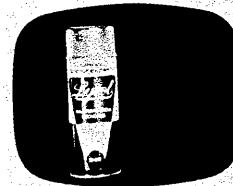
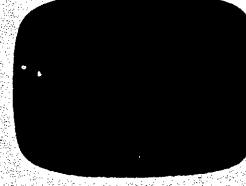
Annrc: Lysol Spray kills flu virus on environmental surfaces.



Annrc: Lysol Spray kills flu virus on environmental surfaces.



Annrc: Lysol Spray kills flu virus on environmental surfaces.



Lysol Brand Spray Disinfectant can do, remember this...



Lysol Spray kills flu virus on environmental surfaces.

Annrc: In addition to everything else
Dec. '70 - March '71
Dec. '71 - March '72

1970-72

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B.

LYSOL[®] Brand Spray Disinfectant

“BREATHE EASIER”

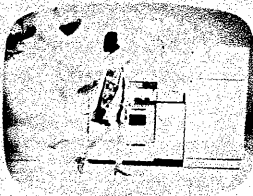
30 Second (Cold Weather Version) LS9-2-3C



(MUSIC THROUGHOUT)
ANNCR. (V.O.) The makers of Lysol Spray have something



to help you breathe easier...



Lysol Spray. It seeks out odors... and eliminates them.



On surfaces — it kills germs that cause odors...



germs that can cause illness...



even flu virus.



Smells fresh... never lingers.



Give your home a good healthy spray — with Lysol Brand Spray Disinfectant.



SFX: GREAT SIGH OF RELIEF.

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firms, and individuals in the sale of products of the same general kind and nature as that sold by said respondent.

PAR. 7. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of Lysol Brand products, the respondents have made, and are now making, numerous statements and representations in advertisements and commercials with respect to said products.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following story boards from television commercials: [See pp. 549-550 herein.]

Also typical and illustrative of said statements and representations, but not all inclusive thereof, are the following excerpts from radio commercials and newspaper and magazine advertisements:

A. You can help protect your home against flu virus by spraying Lysol on household surfaces—like bathroom sinks, tiles, telephones, garbage pails, even baby's crib. * * * helps protect your family.

B. Use Lysol Brand Spray Disinfectant to help sanitize your home this winter illness season.

C. Lysol Spray cleans the air in the great indoors * * *. Sprayed on surfaces, it kills germs that can cause illness.

D. Lysol Brand Disinfectant kills flu virus wherever you clean so it helps protect your family * * *. Lysol kills flu virus that babies can pick up.

PAR. 8. Through the use of said advertisements, and others not specifically set out herein, respondents have represented and are now representing, directly or by implication, that one should use Lysol Brand Disinfectants to kill influenza virus and other germs and viruses on environmental surfaces and in the air, and that such use will be of significant medical benefit in reducing the incidence and preventing the spread of colds, influenza, and other upper respiratory diseases within the home.

PAR. 9. In truth and in fact, germs and viruses on environmental surfaces do not play a significant role in the transmission of colds, influenza, and other upper respiratory diseases; the use of Lysol Brand Spray Disinfectant does not eliminate significant numbers of airborne germs and viruses, which are the known cause of most colds, influenza, and other upper respiratory diseases; and the use of Lysol Brand Disinfectants will not be of significant medical benefit in reducing the incidence or preventing the spread of colds, influenza, and other upper respiratory diseases within the home.

Therefore, the statements and representations as set forth in Para-

graphs Seven and Eight above were and are false, misleading, and deceptive.

PAR. 10. The use by respondents of the aforesaid false, misleading, and deceptive statements and representations 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 said products by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents, 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 and deceptive acts and practices and unfair methods of competition in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having issued its complaint on Sept. 21, 1972, charging the consenting parties named in the caption hereof with violation of the Federal Trade Commission Act; and the consenting parties having been served with a copy of the complaint; and

The Commission having duly determined upon motion certified to the Commission that, in the circumstances presented, the public interest would be served by waiver of the provisions of Section 2.34(d) of its rules which provides that the consent order procedure shall not be available after issuance of complaint; and

The consenting parties and counsel for the Commission having executed an agreement containing a consent order, an admission by consenting parties of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by consenting parties that the law has been violated as set forth in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the aforesaid agreement and having determined that it provides an adequate basis for appropriate disposition of this proceeding, and having accepted same, and the agreement containing consent order having been placed on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34 (b) of its rules, now in further conformity with the procedure prescribed in Section 2.34 (b) of its rules,

the Commission hereby makes the following jurisdictional findings, and enters the following order:

1. Sterling Drug Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal offices and place of business located at 90 Park Avenue, New York, N.Y.

SSC&B Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal offices and place of business located at 575 Lexington Avenue, New York, N.Y.

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

ORDER

I

It is ordered, That respondents Sterling Drug Inc., a corporation, and SSC&B, Inc., a corporation, their successors and assigns and their 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 Lysol Brand Products or any household disinfectant product, shall forthwith cease and desist from representing, directly or by implication, that:

A. environmental surfaces play a significant role in the transmission of viruses or bacteria associated with influenza, colds, or streptococcal throat infection;

B. use of any household disinfectant product will be of medical benefit in reducing the incidence or preventing the spread of influenza, colds, or streptococcal throat infection;

C. use of any household disinfectant product kills airborne viruses or bacteria associated with influenza, colds, streptococcal throat infection, or other upper respiratory disease, *Provided* That nothing in this subparagraph shall be construed to otherwise restrain demonstrations of aerosol products as room deodorizers or air fresheners;

D. use of any household disinfectant product kills germs associated with disease[s], unless such representation expressly mentions the name[s] of the disease[s]; the representation is true; and respondent[s] making such representation has [have] competent and

reliable scientific evidence that such use reduces the incidence or prevents the spread of the named disease[s]; or

E. use of any household disinfectant product kills viruses or bacteria associated with influenza, colds, streptococcal infection, staphylococcal infection, or other upper respiratory diseases unless the advertisement is which such representation appears clearly and conspicuously discloses that there is no evidence that the product portrayed will protect the family against flu or strep throat, *Provided*, That nothing in this subparagraph shall be construed to apply to a representation that Lysol Brand Disinfectants kill bacteria which cause streptococcal or staphylococcal skin infections.

II

It is further ordered, That nothing herein contained shall be construed to require any alteration of, or deletion from, the labeling of any of Sterling's household disinfectant products of legends, claims or information heretofore specifically accepted by the Environmental Protection Agency or its predecessor agency pursuant to the Federal Insecticide, Fungicide and Rodenticide Acts, as amended 7 U.S.C. Sec. 135, *et seq.*

III

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 this order.

It is further ordered, That respondents forthwith distribute a copy of this order to each of its operating divisions or subsidiaries involved in the advertising, promotion, distribution or sale of Lysol Brand Disinfectants.

It is further ordered, That each respondent shall, within sixty (60) days and at the end of six (6) months after the effective date of this order, file with the Commission a report, in writing, signed by respondents, setting forth in detail the manner and form of its compliance with this order.

Complaint

IN THE MATTER OF

WILLIAM D. CAMPBELL, JR., ET AL., TRADING AS
RHODE ISLAND CARPETSCONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8946. Complaint, Dec. 7, 1973—Decision, Oct. 1, 1974*

Consent order requiring a Mt. Rainier, Md., distributor and installer of carpeting and floor coverings, among other things to cease using bait and switch tactics; disparaging merchandise; misrepresenting sale prices; failing to maintain adequate records; misrepresenting the qualifications of its staff; failing to set forth contracts in the principal language used in sales presentations (*e.g.*, Spanish); and failing to inform customers of their right to a three-day cooling-off period during which they may cancel their contract with full refund rights. Further, respondent is required to place a notice in all future advertising that F.T.C. has found that they have engaged in bait and switch tactics.

Appearances

For the Commission: *Everette E. Thomas, Jerry W. Boykin and Thomas J. Keary.*

For the respondents: *Steny H. Hoyer, Hoyer & Fannon, District Heights, Md.*

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 William D. Campbell, Jr. and Jack S. Owens, individually, trading and doing business as Rhode Island Carpets, 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 thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents William D. Campbell, Jr., and Jack S. Owens formulate, direct and control, and have cooperated and acted together in the performance of the acts and practices of the business which they have conducted and are conducting under the name Rhode Island Carpets including the acts and practices hereinafter set forth. Respondents' principal office and place of business is located at 3315 Rhode Island Avenue, Mt. Rainier, Md.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale, distribution and