

IN THE MATTER OF

McCOLLUM FORD SALES, INC., ET AL.

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

Docket C-2562. Complaint, Oct 7, 1974—Decision, Oct. 7, 1974

Consent order requiring a Spokane, Wash., seller, lessor and distributor of new and used automobiles and automotive accessories, among other things to cease making any claims as to the fuel consumption or economy of operation or ownership of any vehicle without a reasonable basis for such claim consisting of tests or surveys using statistically valid methodology and having such results available at places of retail sales in a language understandable to the average consumer.

Appearances

For the Commission: *David R. Pender*
For the respondents: *Pro se.*

COMPLAINT

The Federal Trade Commission, having reason to believe that McCollum Ford Sales, Inc., a corporation, and H. D. Richardson and Robert D. Sackmaster, individually and as officers of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of Section 5 of the Federal Trade Commission Act, and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint stating, its charges as follows:

PARAGRAPH 1. McCollum Ford Sales, Inc., is a Washington corporation with its office and principal place of business located at 8300 East Sprague, Spokane, Wash.

H. D. Richardson and Robert D. Sackmaster are officers of McCollum Ford Sales, Inc. They formulate, direct and control the policies, acts and practices of McCollum Ford Sales, Inc., including those hereinafter set forth. Their business address is the same as that of McCollum Ford Sales, Inc.

PAR. 2. Respondents are now and have been engaged in the business of selling, leasing and distributing new and used automobiles and automotive accessories.

PAR. 3. In the course and conduct of their business, respondents cause automobiles to be transported from outside the State of Washington to purchasers within the State of Washington and other States of the United States. Business correspondence, contracts, monies, and

other documents related to the distribution of automobiles, including materials used in the preparation of the advertisements described below, are transmitted between respondents' office, customers, and other business entities located in various different states of the United States. Furthermore, respondents advertise in media of interstate circulation and broadcast. Therefore, respondents are engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course of their business, respondents have disseminated and caused to be disseminated certain advertisements concerning Ford automobiles. Typical and illustrative of such advertisements, but not all inclusive thereof, is the following newspaper advertisement, published in Feb. 1974: [See p. 645 herein.]

PAR. 5. Through the use of such advertisements, and others not specifically set out herein, respondents have represented, directly or by implication, that the fuel cost of driving a family-size Ford:

- A. Is about 30 cents a day more than the fuel cost for a small car.
- B. Does not significantly exceed the fuel cost for a small car.

PAR. 6. At the time the representations set forth in Paragraph Five were made, respondents did not have a reasonable basis from which to conclude that such representations were true.

Therefore, the advertisements and representations referred to in Paragraphs Four and Five were and are unfair or deceptive.

PAR. 7. Respondents failed to disclose the following material facts in the advertisements referred to in Paragraphs Four and Five:

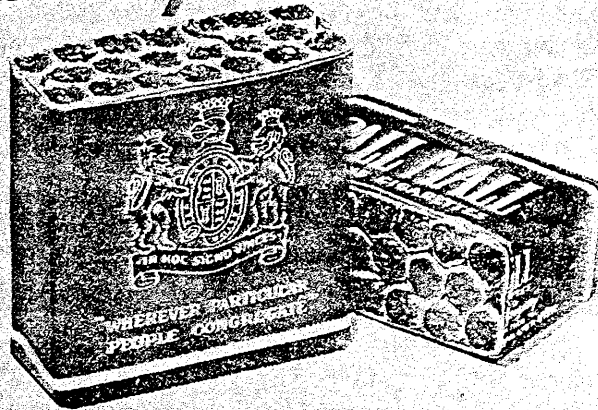
- A. The fuel cost representation was based on comparisons between the family-size Ford and only one small car—the Pinto.
- B. The fuel cost representation does not reflect the average consumer's customary or usual driving experience with the automobiles compared.

Therefore, the advertisements and representations referred to in Paragraphs Four and Five were and are unfair or deceptive.

PAR. 8. In the course of their business, respondents are in substantial competition in commerce with corporations, firms and individuals engaged in the sale, lease, and distribution of new and used automobiles of the same general type as those sold by respondents.

PAR. 9. Respondents' use of the aforesaid advertisements and representations has had, and now has, the tendency and capacity to induce members of the public to rely thereon and to purchase or lease substantial quantities of family-size Ford automobiles, thereby unfairly diverting substantial trade to respondents from their competitors.

**For a little more than
half the cost of a pack
of cigarettes a day,
you could be driving a
family-size Ford.**



It's a bargain.

Based on 10,000 miles a year, we figure the difference in fuel cost for a full-size car is about 30c a day. For the comfort, safety, room and performance, it has to be one of America's best bargains. Since the gas scare has driven prices to lows we may never see again, we also figure right now is a smart time for you to be looking. Come on out and see how much more your dollar will get you on today's market. We've got the stock!

PAR. 10. Respondents' aforesaid acts and practices were and are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair and deceptive acts and practices in commerce and unfair methods of competition 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 respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Seattle 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 sixty 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 McCollum Ford Sales, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its office and principal place of business located at 8300 East Sprague, Spokane, Wash.

Respondents H. D. Richardson and Robert D. Sackmaster are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their business address is the same as that of said corporation.

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

I. *It is ordered*, That respondents McCollum Ford Sales, Inc., a corporation, its successors and assigns, and its officers, and H. D. Richardson and Robert D. Sackmaster, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale or lease, sale, lease, or distribution of motor vehicles, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication, as to the fuel consumption or economy of operation or ownership of any vehicle or type of vehicle, unless:

A. The representation reflects the average consumer's customary or usual driving experience with the vehicles referred to;

B. At the time the representation is made, respondents:

1. have a reasonable basis for such representation, consisting of tests or surveys using statistically valid methodology, and

2. have made available to the general public, at the point of retail sale, copies of a brief but comprehensive statement of the results and methodology of such tests or surveys, in terms understandable to the average consumer;

C. In immediate conjunction with the representation, respondents clearly and conspicuously disclose:

1. the year, make, and model of each vehicle or type of vehicle referred to or used as a basis of comparison, and

2. where and how the test or survey results and methodology may be obtained; and

D. Respondents retain copies of all sales promotional materials which contain such representations, including newspaper advertisements and radio and television scripts, for a period of three years after use of such materials; and retain for a like period all records made pursuant to this order.

II. *It is further ordered*, That the corporate respondent shall forthwith distribute a copy of this order to each of its officers, agents, representatives or employees who are engaged in the preparation or placement of advertisements.

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III. *It is further ordered*, That the corporate respondent notify the Commission at least thirty days prior to any proposed change in said 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.

IV. *It is further ordered*, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment, and of their affiliation with a new business or employment, in the event of such discontinuance or affiliation. Such notice shall include their current business address and a statement as to the nature of the business or employment in which they are engaged, as well as a description of their duties and responsibilities.

V. *It is further ordered*, That the respondents shall within sixty 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

CAMP CHEVROLET, INC., ET AL.

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

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