

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECTION 2(d) OF THE CLAYTON ACT

Docket C-2575. Complaint, Oct. 16, 1974—Decision, Oct. 16, 1974

Consent order requiring a Los Angeles, Calif., manufacturer and distributor of salad dressings, seasonings, and other food products, among other things to cease discriminating in paying promotional allowances among competing distributors of its products.

Appearances

For the Commission: *Paul R. Roark.*

For the respondent: *Thomas J. McDermott, Jr., Kadison, Peaelzer, Woodward & Quinn, Los Angeles, Calif.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the party named in the caption hereof, and hereinafter more fully described, has violated and is now violating the provisions of Section 2(d) of the

Clayton Act, as amended (U.S.C. Title 15, Section 13), and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Lawry's Foods, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 568 San Fernando Road, Los Angeles, Calif.

PAR. 2. Respondent is now and has been for many years engaged in the manufacture, distribution and sale of salad dressings, seasonings and other food products to customers throughout the United States. These customers offer such merchandise for sale to the public.

PAR. 3. In the course and conduct of its business, respondent is now and has been at all times referred to herein engaged in commerce, as "commerce" is defined in the Clayton Act, as amended. Respondent ships its products or causes such products to be shipped from its factory in Los Angeles, Calif., to purchasers located in other states. Respondent's sales of its products are substantial, and in the calendar year of 1971 amounted to \$32,550,838.

PAR. 4. In the course and conduct of its business in commerce, respondent sells its products of like grade and quality, consisting of salad dressings, seasonings and other food products to purchasers who are in substantial competition with each other in the sale and distribution of such products.

PAR. 5. In the course and conduct of its business in commerce as aforesaid, respondent has paid or authorized payment of money, goods or other things of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished or agreed to be furnished by or through such customers in connection with the handling, sale or offering for sale of respondent's products and respondent has not made or offered to make such payments, allowances or consideration available on proportionally equal terms to all of its other customers competing with the customers so favored in the sale and distribution of its products.

For example, respondent has paid promotional allowances to certain customers wherein minimum purchases were required to obtain such promotional allowances. Proportionally equal promotional allowances were not made available to those competing customers who could not meet the stated minimum purchase requirements.

PAR. 6. Respondent's acts and practices as alleged in Paragraph Five above are in violation of Section 2(d) of the aforesaid Clayton Act, as amended.

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 Los Angeles Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of Section 2(d) of the Clayton Act as amended (U.S.C. Title 15, Section 13); 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 sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Lawry's Foods, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 568 San Fernando Road, Los Angeles, Calif.

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 Lawry's Foods, 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 sale of salad dressings, seasonings, and other food products, in commerce as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Making or contracting to make to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for any promotion or any other services or facilities furnished by or through such customer, in connection with the handling, offering for sale, or sale of said products, unless such payment or consideration is made available on proportionately equal terms to all other customers competing in the distribution of such products.

It is further ordered, That respondent shall forthwith distribute a copy of this order to all directors and officers of Lawry's Foods, Inc., and to any operating divisions if and when they are established.

It is further ordered, That 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 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

ODEN DISTRIBUTING CO., INC., ET AL.

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

Docket C-2576. Complaint, Oct. 16, 1974—Decision, Oct. 16, 1974

Consent order requiring an Omaha, Neb., retailer of sewing machines and other products, among other things to cease using deceptive contests and false pricing claims to sell sewing machines and other products.