

having been filed and the Commission having determined that the case should not be placed on its own docket for review, pursuant to Section 3.53 of the Commission's Rules of Practice;

It is ordered, That the initial decision and order of the administrative law judge be, and they hereby are, adopted as the decision and final order of the Commission.

IN THE MATTER OF

MILTON BRADLEY COMPANY

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

Docket 8926. Complaint, April 13, 1973-Decision, June 5, 1975

Consent order requiring a Springfield, Mass., manufacturer of toy, craft and hobby products, among other things to cease packaging its products in oversized containers creating the impression that purchasers are receiving a larger product or greater quantities; and providing others with the means to deceive the purchasing public.

Appearances

For the Commission: *Herbert S. Forsmith, Alan F. Rubinstein and Armando Labrada.*

For the respondent: *Charles V. Ryan and William G. White,*
Springfield, Mass.

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 Milton Bradley Company, a corporation, hereinafter 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 Milton Bradley Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts with its principal office and place of business located at 443 Shaker Road, East Longmeadow, Mass.

PAR. 2. Respondent now, and for some time last past has been engaged in the advertising, offering for sale, sale and distribution of toy, gift and hobby products to jobbers and retailers for resale to the public.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, said products, when sold, to be shipped from its place of business in the State of Massachusetts to purchasers thereof located in various other States of the United States, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Among the products which are offered for sale and sold by the respondent are a number of toy, gift and hobby products offered under the names "Crafts by Whiting" and "Lisbeth Whiting." Through the use of certain methods of packaging, respondent has represented and has placed in the hands of others the means and instrumentalities through which they might represent, directly or indirectly, that certain of the above products, as depicted or otherwise described on the exteriors of packages, corresponded, in their lengths and widths and thicknesses, with the packages in which they were contained, and that others of such products were offered in quantities reasonably related to the size of the packages in which they were presented for sale.

PAR. 5. In truth and in fact, such products often have not corresponded with their package dimensions and are often not offered in quantities reasonably related to the size of packages in which they are presented for sale. Purchasers of such a product are thereby given the mistaken impression that they are receiving a larger product or a product of greater volume than is actually the fact.

Therefore, the methods of packaging referred to in Paragraph Four hereof were and are unfair and false, misleading and deceptive.

PAR. 6. In the conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as the products sold by the respondent.

PAR. 7. The use by respondent of the aforesaid unfair, false, misleading and deceptive methods of packaging has had, and now has, the capacity and tendency to mislead members of the purchasing public

into the erroneous and mistaken belief that the quantum or amount of the product being sold was and is greater than the true such quantum or amount, and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of the 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 and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with a copy of that complaint, together with a proposed form of order; 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the complaint to issue herein, 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 considered the agreement and having provisionally 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 issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Milton Bradley Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its offices and principal place of business located at 1500 Main Street, Springfield, Mass.
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 Milton Bradley Company, a corporation, and its officers, and respondent's agents, representatives, employees, successors and assigns, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of hobby products, toy craft products and activity toys such as those which have been manufactured or distributed by the Crafts by Whiting division of Milton Bradley Company, and any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Packaging said products in oversized boxes or other containers so as to create the appearance or impression that the width or thickness or other dimensions or quantity of products contained in a box or container is appreciably greater than is the fact; but nothing in this order shall be construed as forbidding respondent to use oversized containers if respondent justifies the use of such containers as necessary for the efficient packaging of the products contained therein and establishes that respondent has made all reasonable efforts to prevent any misleading appearance or impression from being created by such containers;

2. Providing wholesalers, retailers or other distributors of said products with any means or instrumentality with which to deceive the purchasing public in the manner described in Paragraph (1) above.

It is further ordered, That respondent or its successors or assigns 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 corporate respondent which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent distribute a copy of the order to all operating divisions and subsidiaries of said corporation, and also distribute a copy of this order to all firms and individuals involved in the formulation or implementation of respondent's business policies, and all firms and individuals engaged in the advertising, marketing, or sale of respondent's products.

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

LIBRARY MARKETING SERVICE, INC.

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Complaint

report in writing setting forth in detail the manner and form in which it has complied with this order.
