

Findings, Opinions and Orders

IN THE MATTER OF

THE CLOROX COMPANY

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

Docket C-2975. Complaint, July 2, 1979 — Decision, July 2, 1979

This consent order, among other things, requires an Oakland, Calif. manufacturer of household cleansers, detergents, bleach, specialty food products and charcoal briquets to cease misrepresenting characteristics, properties, quality or use of any cleanser; to cease advertising any of the above without first having in their possession documentation supporting their claims; to cease failing to maintain adequate records of substantiation documentation; and to cease failing to disclose precautionary measures specified in the order.

Appearances

For the Commission: *Jeffrey A. Klurfeld.*

For the respondent: *James O. Cole, Oakland, Calif.*

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 The Clorox Company, a corporation, 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 as follows:

PARAGRAPH 1. Respondent The Clorox Company 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 1221 Broadway, Oakland, California.

PAR. 2. Respondent is now, and for some time last past, has been engaged in the manufacture, advertising, offering for sale and sale of household cleansers and detergents, bleach, specialty food products, and charcoal briquets. Sales by respondent for fiscal year 1978 exceeded \$1 billion.

PAR. 3. Respondent maintains, and has maintained a substantial course of business, including the acts and practices as hereinafter set

forth, which are in or affect commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In 1976, respondent introduced a new household cleanser, marketed under the name "Soft Scrub." Soft Scrub was allegedly formulated to effectively clean the following surfaces which would otherwise be abraded and scratched if cleaned with scouring powder: formica, fiberglass, plastic, stainless steel, ceramic tile, chrome, appliance enamel, porcelain and aluminum. Approximately 50% of household surfaces are composed of these materials.

PAR. 5. Since its introduction, Soft Scrub has enjoyed great success. It is estimated that approximately 8,000,000 American households use the product.

PAR. 6. In marketing Soft Scrub, respondent affixed labels to containers thereof that represented directly or by implication that Soft Scrub could be safely used on appliance enamel without risk of substantial abrasion or scratching. Among the other surfaces on which Soft Scrub was recommended were plastic and fiberglass.

PAR. 7. In truth and in fact, Soft Scrub cannot be used on appliance enamel, plastic and fiberglass without risk of substantial abrasion and scratching thereto, unless certain precautionary measures are taken. These measures involve the type of applicator used, the quantity of product used, and the degree of pressure applied in cleaning.

Therefore the representations set forth in Paragraph Six concerning appliance enamel, plastic and fiberglass were, and are, unfair or deceptive acts or practices.

PAR. 8. Through the use of the representations set forth in Paragraph Six concerning appliance enamel, plastic and fiberglass, respondent has represented, directly or by implication, that at the time it made said representations, it possessed and relied upon a reasonable basis for making the representations.

PAR. 9. In truth and in fact, respondent did not possess and rely upon a reasonable basis for making the representations set forth in Paragraph Six concerning appliance enamel, plastic and fiberglass.

Therefore the representations set forth in Paragraph Six concerning appliance enamel, plastic and fiberglass were, and are, unfair or deceptive acts or practices.

PAR. 10. In the course and conduct of its business, and at all times mentioned herein, respondent has been, and now is, in substantial competition in or affecting commerce with corporations, firms and individuals engaged in the manufacture, advertising, offering for sale and sale of merchandise of the same general kind and nature as merchandise sold by respondent.

PAR. 11. The use by respondent of the aforesaid false, misleading and

deceptive statements, representations, acts and practices, directly or by implication, has had, and now has, the capacity and tendency to mislead members of the public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete, and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

PAR. 12. The 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 and unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondent, as herein alleged are continuing, and will continue, in the absence of the relief herein requested.

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 San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, 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 the 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 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, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 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, makes the following jurisdictional findings, and enters the following order:

1. Respondent The Clorox Company 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 1221 Broadway, in the City of Oakland, State of California.

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

For the purposes of this order, the following definition shall apply: "Cleanser" is defined as "Soft Scrub," or as any other product with the same or similar chemical formulation which is manufactured, offered for sale or sold by The Clorox Company.

It is ordered, That respondent The Clorox Company, a corporation, its successors and assigns, and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, labelling, offering for sale, sale or distribution of any "cleanser," as hereinabove defined, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I

1. Misrepresenting, directly or by implication, any characteristic, property, quality or use of any cleanser.

2. Representing, directly or by implication, any characteristic, property, quality or use of any cleanser unless prior to the time such representation is first made, respondent possesses and relies upon a competent and reliable scientific test or tests or other objective data which substantiate such representation.

3. Failing to maintain accurate and adequate records which may be inspected by Commission staff members upon reasonable notice of all documentation in substantiation of any representation regarding any characteristic, property, quality or use of any cleanser.

4. Failing to clearly and conspicuously disclose (in print of a size and type no less prominent than the majority of the text) the following statement, with nothing to the contrary or in mitigation thereof, on any label affixed to any bottle or other container of any cleanser that is intended for retail sale:

ATTENTION: To prevent scratching fiberglass, plastic, and appliance enamel on refrigerators, dishwashers, oven doors and on other appliances: USE SPARINGLY: AND RUB GENTLY WITH A DAMP SPONGE.

5. Other than on any label affixed to any bottle or other container of any cleanser, failing to clearly and conspicuously disclose the

following statement, with nothing to the contrary or in mitigation thereof, in any advertisement promoting the sale of any cleanser:

Use only as directed

II

It is further ordered, That 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.

III

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.

IV

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its operating divisions.

Complaint

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IN THE MATTER OF

SKF INDUSTRIES, INC., ET AL.

FINAL ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 9046. Complaint, July 22, 1975 — Final Order, July 5, 1979*

This order, among other things, requires SKF Industries, Inc. ("SKF") and Federal-Mogul Corporation ("FM"), two bearings manufacturers, to cancel their December 17, 1974 by-sell agreement whereby SKF agrees to cease distribution of certain bearings to the automotive aftermarket in exchange for FM's agreement to purchase its tapered roller bearings requirements from SKF, and other similar arrangements between them. The order prescribes specific limitations on FM's purchases of tapered roller bearings from SKF for 12 years following the effective date of the order, and requires the companies to notify their sales and policy-making staff of the terms of the order. Additionally, twice annually for each of two years, respondents are required to publish those terms in two major trade journals.

Appearances

For the Commission: *K. Keith Thurman, John R. Hoagland, Rhett R. Krulla and Annthalia Lingos.*

For the respondents: *Larry L. Williams and Robert J. Pope, Clifford, Glass, McIlwain & Finney, Washington, D.C. for SKF Industries, Inc., Fred W. Freeman and Kenneth J. McIntyre, Dickinson, Wright, McKean, Cudlip & Moon, Detroit, Mich. for Federal-Mogul Corporation and Haliburton Fales, 2d, Peter J. Dias and Alan L. Morrison, White & Case, New York City for Aktiebolaget SKF.*

COMPLAINT

The Federal Trade Commission, having reason to believe that SKF Industries, Inc. and Aktiebolaget Svenska Kullagerfabriken, corporations subject to the jurisdiction of the Commission, have violated Section 7 of the Clayton Act, as amended, (15 U.S.C. 18), and Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45), and that Federal-Mogul Corporation, a corporation subject to the jurisdiction of the Commission, has violated the provisions of Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45) and it appearing that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint and states its charges as follows: