

IN THE MATTER OF
PAY 'N PAK STORES, INC.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-2780. Decision, Jan. 16, 1976 — Modifying Order, April 9, 1976

This order reopens proceeding and modifies a consent order issued on Jan. 16, 1976, 41 FR 9862, 87 F.T.C. 99, against a chain of hardware and plumbing supply stores by allowing a general limitation disclosure on "closeout" merchandise but not as to "clearance" merchandise; further, the disclosure requirements of order paragraphs III and IV.B are changed by deleting the word "specifically."

ORDER REOPENING THE PROCEEDING AND MODIFYING DECISION AND
ORDER

On January 16, 1976, the Commission issued a decision and order against Pay 'N Pak Stores, Inc. in connection with the availability and pricing of advertised specials. The order includes a provision which allows Pay 'N Pak to advertise merchandise for sale when there is a clear and conspicuous disclosure of any specific exception, limitation or restriction with respect to store, item or price.

On October 31, 1979, Pay 'N Pak Stores, Inc. petitioned the Commission pursuant to Section 2.51 of the Commission's Organization, Procedures and Rules of Practice, 16 CFR 2.51, to reopen the proceeding and modify the decision and order to allow a more general limitation disclosure for "closeout" and "clearance" merchandise. "Closeout" merchandise was defined as merchandise whose entire inventory is being disposed of at a reduced price and which is not planned to be restocked. "Clearance" merchandise was defined as merchandise whose price has been reduced to reduce the inventory of such merchandise.

After due consideration, the Commission believes that the public interest will be served by modifying the decision and order to allow a general limitation on "closeout" merchandise but not as to "clearance" merchandise.

It is ordered, That the proceeding is reopened.

It is further ordered, That the decision and order issued on January 16, 1976 is modified as follows:

The following language is added to the first proviso in Provision I:

For closeout items, in instances where an advertisement is for more than one store, the specific limitation will be deemed to be complied with by disclosures that "quantities are limited to stock on hand" and that the items are closeout items. Closeout designation is only appropriate for items where Pay 'N Pak both is disposing of the entire inventory of

an item at a reduced price and is not planning on restocking the item. For all advertised items not meeting the closeout exception, quantity limitations must specify the number available.

This addition will follow the sentence "Provided it shall be deemed a violation . . . the customer's specifications."

The disclosure requirements of III and IV.B are modified by deleting the word "specifically." Provision III will read:

III. *It is further ordered*, That respondent cease and desist from disseminating, or causing the dissemination of any advertisement by any means which offers any items for sale at a stated price, unless the advertisement contains a statement that: "Each of the advertised items is required to be readily available for sale at or below the advertised price in each Pay 'N Pak store, except as noted in this ad," and a statement of the specific period during which the items will be available at the advertised prices.

Provision IV.B will read:

B. A statement that: "All items listed in the above advertisement are required to be readily available for sale at or below the advertised price, except as noted in the above advertisement."

Complaint

95 F.T.C.

IN THE MATTER OF

KETTLE MORaine ELECTRIC, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-3016. Complaint, April 16, 1980 — Decision, April 16, 1980*

This consent order requires, among other things, a Kewaskum, Wis. manufacturer, distributor and installer of cellulose insulation to cease disseminating advertising or promotional material containing false or unsubstantiated representations concerning the performance characteristics of its products. The order further requires that scientific tests be conducted on insulation previously manufactured by the company and already installed to identify buildings that might contain inadequate fire resistant insulation. Owners of those buildings must be notified of the potential fire hazards, and substandard material timely replaced by insulation that meets government specifications. Should such replacement be declined, the firm must install a smoke detector system acceptable to the consumer.

*Appearances*For the Commission: *Jerome S. Lamet.*For the respondents: *Gerald Kiefer, McKenna & Kiefer*, Kewaskum, Wis.

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 Kettle Moraine Electric, Inc., a corporation, and Alois J. Beisbier, individually and as an officer of said corporation, hereinafter sometimes 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 Kettle Moraine Electric, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business at 1261 Fond du Lac Ave., Kewaskum, Wisconsin.

Respondent Alois J. Beisbier is an officer of the corporate respondent named herein. He formulates, directs and controls the acts and practices of said corporate respondent, including the acts and practices