

Complaint

96 F.T.C.

IN THE MATTER OF
CHRYSLER CORPORATION

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

Docket C-3033. Complaint, Aug. 12, 1980—Decision, Aug. 12, 1980

This consent order requires, among other things, a Highland Park, Mich. manufacturer of motor vehicles to cease failing to notify owners of 1976/1977 Aspens and Volares, purchased or driven in specified states and locales, of the availability of replacement and reimbursement programs for premature rusting; remove and replace, without charge, the front fender(s) of vehicles that began to experience premature rusting within 36 months-in-service; and reimburse owners of affected vehicles for costs incurred in attempting to correct the premature rusting problem. The manufacturer is further required to notify dealers, in writing, of the existence of premature rusting; supply them with an adequate supply of replacement parts; and inform them of the firm's obligations under the terms of the order.

Appearances

For the Commission: *Aaron H. Bulloff, Richard H. Gateley, David Montgomery, Noble F. Jones and David V. Plottner.*

For the respondent: *Robert T. Talbot-Stern, Detroit, Mich.*

COMPLAINT

Having reason to believe that Chrysler Corporation, a corporation, has violated Section 5 of the Federal Trade Commission Act, and that a proceeding against it would be in the public interest, the Federal Trade Commission issues this complaint stating its charges. This complaint is issued pursuant to the provisions of and by virtue of the authority granted by the Federal Trade Commission Act.

PARAGRAPH 1. Respondent Chrysler Corporation is a Delaware corporation. Respondent's address is 12000 Lynn Townsend Drive, Highland Park, Michigan.

PAR. 2. Respondent is now, and has been, engaged in the manufacture, advertising, sale, and distribution of motor vehicles.

PAR. 3. Respondent causes motor vehicles to be shipped to purchasers in various states, and therefore maintains, and at all times mentioned in this complaint has maintained, a substantial course of trade in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. For the purpose of this complaint, "premature rusting"

shall mean rusting which may perforate the top rear portion of the front fenders of 1976 and 1977 model year Aspens and Volares. Rusting attributable to normal deterioration as a result of age is excluded.

PAR. 5. Aspen and Volare vehicles produced from 1975 through 1977 are subject to premature rusting.

PAR. 6. Notwithstanding its knowledge since 1977 of premature rusting, respondent has failed, and is failing, to disclose to owners of Aspen and Volare vehicles the possibility of premature rusting, and the nature and extent of repairs necessary to correct such rusting. Respondent's failure to disclose this information to owners of vehicles subject to such rusting may cause owners substantial economic harm due to their inability to avoid or prevent premature rust. Such failure to disclose is an unfair or deceptive act or practice.

PAR. 7. In some cases, when owners have complained of premature rusting, respondent has provided replacement fenders free of charge. In other cases, respondent has provided replacement fenders free of charge and has paid labor costs for installing replacement fenders. In most instances, however, owners are not compensated because they are unaware of respondent's actions with respect to providing replacement fenders free of charge or paying labor costs.

PAR. 8. Respondent has failed, and is failing, to disclose to owners of Aspen and Volare vehicles its actions with respect to providing replacement fenders free of charge or paying labor costs. Respondent's failure to disclose such actions to owners of affected vehicles may cause them substantial economic harm by denying them an opportunity to request compensation from respondent. Such failure to disclose is an unfair or deceptive act or practice.

PAR. 9. Respondent's acts and practices, as alleged in this complaint, were and are all to the prejudice and injury of the public and constitute unfair or deceptive acts or practices in or affecting 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Cleveland Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its counsel, 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, 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 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following Order:

1. Respondent Chrysler Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 12000 Lynn Townsend Drive, in the City of Highland Park, State of Michigan.

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 definitions shall apply:

1. "Motor vehicle(s)" shall mean all 1976 and 1977 model year Aspens and Volares.

2. "Premature rusting" shall mean the presence of holes, blisters or bubbles in exterior paint caused by rust in the top rear portion of the front fender(s) of motor vehicles within two feet of the rear edge of such fender(s).

3. "Dealer(s)" shall mean any person(s), partnership(s), firm(s), or corporation(s) which, pursuant to a sales and service agreement with respondent receives on consignment or purchases motor vehicles from respondent for resale or lease to the public, including

any person(s), partnership(s), firm(s), or corporation(s) owned or operated by respondent.

4. "Owner" shall mean any person, partnership, firm, or corporation having custody and/or possession of a motor vehicle, including those vehicles held for resale.

5. "Remove and replace" shall mean removing any front fender affected by premature rusting and replacing it with a new, one-side galvanized front fender; *provided that* if such replacement fender is not available due to circumstances beyond respondent's control, respondent may substitute a zincrometal front fender. Also included in this term is the labor necessary to hang and paint the replacement front fender and to affix trim and accessory items, including splash shields.

6. "Months-in-service" shall be calculated as beginning on the date on which Chrysler began warranty coverage on the motor vehicle. If the date on which warranty coverage began ("in-service" date) cannot be established by Chrysler, then such date shall be calculated as beginning on:

October 1, 1976, for any 1976 model year motor vehicle;

October 1, 1977, for any 1977 model year motor vehicle.

I

It is ordered, That respondent Chrysler Corporation, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or indirectly or through any corporation, subsidiary, division, or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of vehicles in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Failing to send by first-class mail, within sixty (60) days after the date of service of this Order, a copy of the letter attached to this Order as Attachment A, incorporated herein by reference, a form approved by the Federal Trade Commission, and a self-addressed, postage-paid envelope. This material shall be sent in one envelope similar in all material respects to Attachment B of this Order, incorporated herein by reference. The letter, form, and self-addressed, postage-paid envelope shall be mailed to each owner of a motor vehicle registered in any of the following states or localities, and to each owner of a motor vehicle purchased in any of the said

states or localities, even though the vehicle is no longer registered in that state or locality.

All counties within the states of:

Connecticut	New Hampshire
Delaware	New Jersey
Illinois	New York
Indiana	Ohio
Iowa	Pennsylvania
Maine	Rhode Island
Massachusetts	Vermont
Michigan	Wisconsin

The following counties in Maryland, Minnesota and West Virginia:

Maryland

Allegheny	Garrett
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Minnesota

Anoka	Mower
Blue Earth	Nicollet
Carlton	Olmsted
Carver	Pine
Chisago	Ramsey
Dakota	Rice
Dodge	Scott
Faribault	Sherburne
Fillmore	Sibley
Freeborn	Steele
Goodhue	Wabasha
Hennepin	Waseca
Houston	Washington
Isanti	Winona
LeSueur	Wright
McLeod	

West Virginia

Brooke	Monongalia
Hancock	Ohio
Marion	Preston
Marshall	Wetzel

B. Failing to remove and replace the front fender(s) of any motor vehicle at no cost to the owner within one hundred twenty (120) days after the owner initially contacts respondent or a dealer, *provided that* respondent may require any owner to sign a statement, approved by the Federal Trade Commission, that the vehicle began to experience premature rusting within thirty-six (36) months-in-service.

C. Failing to reimburse any owner of a motor vehicle for the actual or the usual and customary charges in the owner's trade area, whichever is lower, for parts and labor for front fender repairs or replacements made at the owner's expense which eliminated, or were made in an attempt to eliminate, premature rusting, *provided that* respondent may require any owner to sign a statement, approved by the Federal Trade Commission, that the vehicle experienced premature rusting within thirty-six (36) months-in-service and to furnish reasonable evidence of repair or replacement. Such reimbursement shall be made within sixty (60) days after the owner initially contacts respondent or a dealer. For owners who were sent the letter and form pursuant to paragraph A of part I of this Order, such repairs or replacements must have been made prior to an owner's receipt of the letter and form.

D. Failing to provide all dealers with adequate supplies of front fenders and any other items necessary to effectuate removal and replacement.

E. Failing to provide all dealers with adequate supplies of unsigned statements referenced in paragraphs B and C of part I of this Order.

F. Failing to notify all dealers in writing within ten (10) days after the date of service of this Order of the existence of premature rusting, of the necessity for using galvanized front fenders or zincrometal front fenders and of the terms and conditions of respondent's obligations under this Order.

II

It is further ordered, That respondent's obligations under paragraphs B and C of part I of this Order shall not extend to those owners who initially contact respondent or a dealer after November 1, 1980, or after 42 months-in-service, whichever date is later.

III

It is further ordered, That respondent maintain documents demonstrating compliance with this Order for a period not less than three

(3) years. Such documents shall be made available to the Commission or its staff for inspection and copying upon reasonable request, and shall include, but are not necessarily limited to, those revealing:

A. The name and last known address of each owner who was sent the disclosures required by paragraph A of part I of this Order.

B. The name and last known address of each owner who requested repairs or reimbursement for repairs for premature rusting.

C. The name and last known address of each owner whose motor vehicle was repaired or who was reimbursed for repairs as required by paragraphs B and C of part I of this Order.

D. Communications with respondent concerning repairs or reimbursements for repairs made to motor vehicles affected by premature rusting.

E. Each instance arising under paragraph C of part I of this Order where Chrysler reimbursed an owner of a motor vehicle for less than one hundred percent (100%) of the actual charges for parts and labor, and those documents revealing the underlying basis for determining the usual and customary charges in each such instance.

F. Each instance arising under paragraphs B or C of part I of this Order involving a dispute over months-in-service, unless Chrysler determined to remove or replace front fenders or reimburse an owner in accordance with said paragraphs, notwithstanding the fact that the vehicle allegedly exceeded thirty-six (36) months-in-service.

G. Each instance arising under paragraph B of part I of this Order when Chrysler failed to remove and replace the front fenders of any motor vehicle, and each instance arising under paragraph C of part I of this Order when Chrysler failed to reimburse any owner of a motor vehicle, and those documents revealing the underlying basis for such failures.

IV

It is further ordered, That respondent shall, within sixty (60) days after the date of service of this Order, and at one year intervals thereafter through 1982, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form in which it has complied with this Order.

V

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 this Order.

Decision and Order

96 F.T.C.

ATTACHMENT A
SERVICE & PARTS DIVISION

Dear Aspen or Volare owner:

Chrysler Corporation has a continuing interest in the quality of its cars. We have become aware of a condition in some 1976 and 1977 Aspens and Volares which you should know about. This condition may cause the front fenders of your Aspen or Volare to rust prematurely. In areas where roads are heavily salted, the condition is aggravated. Replacing front fenders is costly. By agreement with the Federal Trade Commission, Chrysler will replace your front fender(s) free or repay you for past repairs if:

- (a) your front fender(s) is rusted in the affected area, as described below; and
- (b) this rust appears(ed) within the car's first 36 months-in-service; and
- (c) you contact Chrysler or your dealer before November 1, 1980, or before 42 months-in-service, whichever is later.

CHRYSLER'S REPLACEMENT/REPAY PROGRAM1. Description Of The Front Fender Rust Condition

The rust problem occurs on the top horizontal part of the fender, within approximately two feet of the windshield. The fender's design sometimes hindered proper priming in this area at the factory. The rust starts on the front fender's underside. It appears first as bubbles or blisters in the paint. Soon, holes appear. The drawing at the end of this letter shows the problem area.

2. What is "Months-in-Service"?

The "36 months-in-service" limitation and the "42 months-in-service" claim limitation start the day Chrysler began warranty coverage on your car. This "in-service" date appears on the attached form.

3. What You Do If The Rust Appears On A Fender Now

- (a) Determine if the rust is in the front fender area described in paragraph 1. Also determine if the rust appeared during your car's first 36 months-in-service.
- (b) If so, call any Dodge, Plymouth or Chrysler new car dealer to request free fender replacement.
- (c) When an appointment has been arranged, bring the enclosed form to the dealer. Your car's fenders will be inspected. You will be asked to sign the statement on the repair part of the form certifying that the premature rust appeared within your car's first 36 months-in-service. If you qualify, the dealer will then arrange to have a new fender installed within 120 days of your request.

4. What You Do If The Rust Does Not Appear On A Front Fender Now, But Appears In The Future

Not all 1976 or 1977 Aspen or Volare front fenders will rust prematurely. But, just in case your car's front fenders rust in the future (but within 36 months-in-service), keep this letter and the form with the car. Then, you do (a), (b) and (c) in paragraph 3.

(If you sell your car, please give this letter and the form to the next owner.)

5. What You Do If You Paid For Front Fender Rust Repairs Yourself Before You Got This Letter

- (a) Determine if the rust is in the front fender area described in paragraph 1. Also determine if the rust appeared during your car's first 36 months-in-service.
- (b) Carefully read the statement (in the repayment part of the form) about when the rust first appeared on your car's front fender. If the rust occurred during the car's first 36 months-in-service, sign the statement and mail it with your original repair bills (keep a copy for yourself), copies of cancelled checks, or other proof that repairs were done, to the address shown. If you do not have your original bill, try to get one from the repair shop. If you cannot get an original, send a copy.
- (c) Chrysler will repay you for reasonable repair bills. (Chrysler may wish to see your car and proof of payment before repaying you.)

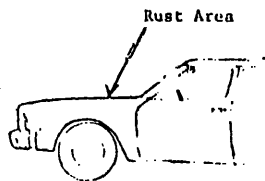
6. What You Should Remember

Chrysler's replacement program covers you only if you call or go to a Dodge, Plymouth or Chrysler dealer. Chrysler's repay program covers you only if you had repairs before you got this letter. In either case, you should act promptly after the rust appears.

Keep in mind that where road salt is used heavily our dealers' shops may be overcrowded. Also, matching paints exactly is not always possible. We deeply regret any inconvenience to you. We will handle each situation as quickly and fairly as possible. If you lose your form or if you have any problems with our program, call your local Chrysler Corporation Zone Office (listed in your Pages or Owner's Manual), or write to:

Chrysler Corporation
Service and Parts Division
Post Office Box 1718
Detroit, Michigan 48288

If you have difficulty finding your local Chrysler Corporation Zone Office phone number, you may call (313) 956-5970.



Very truly yours,

CHRYSLER CORPORATION

C. W. JOINER
General Manager -
Service and Parts Division



416-15-19
P. O. BOX 1714, DETROIT, MICHIGAN 48228 U.S.A.

IMPORTANT!

IN THE MATTER OF

DARVEL, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-3034. Complaint, Aug. 12, 1980—Decision, Aug. 12, 1980*

This consent order requires, among other things, a Bellgarden, Calif. manufacturer and distributor of wearing apparel and related accessories to cease fixing or otherwise controlling the resale prices at which its products are sold or advertised; seeking the identity of dealers who fail to adhere to suggested resale prices and sales periods; and taking any adverse action against them. Respondent is barred from restricting the lawful use of brand names and trademarks in the advertising and sale of its products, and from granting any consideration, service or benefit to any dealer because of the resale price that another dealer has advertised or sold a product. Additionally, the order prohibits the firm from suggesting retail prices for its products for a period of one year.

Appearances

For the Commission: *Jeffrey A. Klurfeld.*

For the respondent: *J. Eddstepp Jr., Gibson, Dunn & Crutcher, Los Angeles, Calif. and Hal L. Cofkey, Cofkey, Cofkey & Boxer, Los Angeles, 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 Darvel, Inc., 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:

For purposes of this complaint, the following definitions shall apply:

"Product" is defined as any item of wearing apparel or related accessory which is manufactured, offered for sale or sold by respondent.

"Dealer" is defined as any person, partnership, corporation or firm which sells any product in the course of its business.

"Resale Price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any