

IN THE MATTER OF
OWENS-CORNING FIBERGLAS CORPORATION

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

Docket C-2842. Decision, Sept. 30, 1976—Modifying Order, Jan. 28, 1981

This order reopens the proceeding and modifies the Commission order issued on September 30, 1976 (41 FR 50811, 88 F.T.C. 465), by substituting for the order in its entirety, a modified order which retains the major requirements of the original order and provides that upon the effective date of the Commission's Trade Regulation Rule on Labeling and Advertising of Home Insulation (the Rule), any provision of the order which is inconsistent with a provision in the Rule be deemed automatically deleted. The order also provides for the reinstatement of the deleted provision, should the relevant provision of the Rule be rescinded, invalidated or amended.

ORDER GRANTING REQUEST TO REOPEN THE PROCEEDING AND
MODIFYING ORDER TO CEASE AND DESIST

Respondent, Owens-Corning Fiberglas Corporation, having requested, on July 15, 1980, that the Commission reopen the proceeding in Docket No. C-2842 for the purpose of modifying the Order to Cease and Desist entered in that matter; and

The Commission having placed such request, together with supporting documents attached thereto, upon the public record for a period of thirty (30) days, pursuant to Section 2.51 of its Rules; and

The Commission being of the opinion that the public interest would be served by such reopening of the proceedings;

Now therefore, it is ordered, That the proceeding in Docket No. C-2842 be, and it is hereby, reopened; and

It is further ordered, That the Order entered in Docket No. C-2842 be modified by substituting for the Order in its entirety the following Modified Order:

I

It is ordered, That respondent Owens-Corning Fiberglas Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly or through any corporation, subsidiary, division or other device, in connection with consumer advertising, offering for sale, sale, or distribution of fibrous glass insulation for residential buildings, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Directly or by implication misrepresenting in any advertising or sales promotion material, that respondent has a reasonable basis for statements or representations which are made concerning the amount of energy or money the consumer can save as a result of installing said insulation, or concerning any recommended level of insulation, including an R-value recommendation.

B. Directly or by implication making any statements or representations in any advertising or sales promotion material, concerning insulating characteristics of said insulation, concerning savings in money or energy which consumers can realize as a result of installing said insulation, or concerning any recommended level of insulation, including an R-value recommendation, unless at the time of such statements or representations respondent has a reasonable basis for such statements or representations.

Such reasonable basis shall consist of competent scientific, engineering, or other objective material, or industry-wide standards based on such material, or reliance upon governmental laws, regulations, orders, standards or recommendations; provided, however, that in the case of reliance on governmental laws, regulations, orders, standards or recommendations: (1) such laws, regulations, orders, standards or recommendations must have been finally adopted by the agency involved; (2) such laws, regulations, orders, standards, or recommendations must be applicable to the context of the advertisement or sales promotion material and must not render any portion of the advertisement or sales promotion material misleading; and (3) the agency promulgating such laws, regulations, orders, standards, or recommendations must be identified.

C. Directly or by implication misrepresenting, in any advertising or sales promotion material, the amount of energy or money which a consumer can save by installing said insulation, or by installing any recommended level of insulation, including any recommended R-value.

D. Directly or by implication misrepresenting, in any advertising or sales promotion material, the facts, conditions, and/or assumptions which form the basis for energy savings claims, money savings claims, or R-value recommendations.

E. Failing to disclose in advertising or sales promotion material containing money or energy savings claims, facts, conditions and/or assumptions which, within the confines of the medium being used, are significant to the consumer and which affect the amount of money and energy a consumer can save by installing said insulation or by installing any recommended level of insulation, including any

recommended R-value (e.g., whether the savings claimed have taken into account the cost of the insulation and installation thereof). _____

II

It is further ordered, That any provision of this order that is inconsistent with any provision of the Commission's Trade Regulation Rule on Labeling and Advertising of Home Insulation (the Rule), as such provision is finally made effective, shall be deemed deleted to the extent of such inconsistency. This deletion shall be considered to have occurred on the date such provision of the Rule becomes effective. If such provision of the Rule shall be rescinded, invalidated or amended, the deleted provisions shall be automatically reinstated. Such reinstatement shall be considered to have occurred sixty (60) days after the date of the rescission, invalidation, or amendment.

III

It is further ordered, That respondent Owens-Corning Fiberglas Corporation, 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 consumer advertising, offering for sale, sale, or distribution of fibrous glass insulation for residential buildings, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to maintain and produce accurate records which may be inspected by Commission staff members upon reasonable notice:

A. Which consist of documentation in support of any claims included in advertising or sales promotion material, insofar as the text of such material is prepared or is authorized and approved by any person who is an officer or employee of respondent Owens-Corning Fiberglas Corporation, or of any division or subdivision of respondent, or by any advertising agency engaged by respondent or by any such division or subsidiary, which concern the insulating characteristics of said insulation or the savings which consumers can realize from the installation of said insulation or of any recommended level of insulation, including any recommended R-value; and

B. Which provided the basis upon which respondent relied as of the time those claims were made; and

C. Which shall be maintained by respondent for a period of three

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(3) years from the date such advertising or sales promotion material was last disseminated.

IV

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions selling or distributing said insulation.

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 engaged in the domestic sale or distribution of fibrous glass insulation for residential buildings, or any other change in the corporation which may affect compliance obligations arising out of the order.

VI

It is further ordered, That respondent herein shall file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order, on the following dates:

- A. Within sixty (60) days after service upon it of this order;
- B. On July 1, 1981; and
- C. On January 31, 1982.

IN THE MATTER OF
CHRYSLER CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9072. Complaint, Feb. 10, 1976—Decision, Feb. 10, 1981*

This consent order requires, among other things, a Highland Park, Mich. motor vehicle manufacturer (Chrysler) and its Troy, Mich. credit corporation subsidiary (Chrysler Credit) to timely provide dealerships with a prescribed system, together with a standardized form, to be used in calculating and recording payment of surpluses realized on repossessed vehicles; and to make the "Repossessed Vehicle Surplus/Deficiency system" a part of Chrysler's Dealer Uniform Accounting System Manual. Respondents are required to conduct training programs designed to familiarize dealers with their obligations in handling repossessions; and follow up the programs with a series of audits to verify that surpluses are being correctly calculated and paid. The order further requires that Chrysler take specified measures with respect to repayment of surpluses realized by Chrysler-owned dealerships from May 1, 1974; send bulletins to dealers urging them to pay surpluses on vehicles returned to them by Chrysler Credit since May 1, 1974; and notify each customer whose vehicle is repossessed of the nature and duration of customer's rights to redemption or refund of surpluses. Additionally, Chrysler Credit is required to develop revised retail installment contract forms that include a clear, concise statement advising customers that in the event of repossession, they are entitled to a refund of any surplus realized from the resale of the vehicle.

Appearances

For the Commission: *Dean Fournier, Bruce D. Carter, Sharon S. Armstrong, David Bricklin and Stevan Phillips.*

For the respondents: *Clifford L. Johnson, House Counsel, Chrysler Corporation, Detroit, Michigan, A.L. Ronquillo, House Counsel, Chrysler Credit Corporation, Troy, Michigan and William A. Krohley, Kelley Drye & Warren, New York City.*

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the above respondents* with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondents having

* Complaint previously published at 97 F.T.C. 107.

In the original form of the complaint, Chrysler Motors Corporation was a named party and Chrysler Corporation was not. Upon advice that Chrysler Corporation had succeeded Chrysler Motors pursuant to a merger effective December 31, 1975, the complaint was amended by mutual consent on June 14, 1976 to substitute Chrysler Corporation as a party respondent in lieu of Chrysler Motors.