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terms to all other customers competing in the distribution or resale of such products.

It is further ordered, That respondent 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 the order set forth herein.

IN THE MATTER OF

THE PAPERCRAFT CORPORATION

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

Docket 8489. Complaint, June 4, 1962—Decision, Dec. 24, 1963

Order requiring a Pittsburgh, Pa., manufacturer of gift wrappings, ribbons and related products, to cease misrepresenting the size of rolls of gift wrapping papers by such practices as packaging the rolls in display boxes with two inches of empty space at either end, thus creating the false impression that the rolls were as wide as the containers.

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 Papercraft Corporation, a corporation, hereinafter referred to as the 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, The Papercraft Corporation, is a corporation organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business located at 5850 Centre Avenue, Pittsburgh, Pennsylvania.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the manufacture, offering for sale and sale of gift wrappings, ribbons and related products to distributors and retailers for resale to the consuming public.

PAR. 3. In the course and conduct of its business, the respondent now causes, and for some time last past has caused, its gift wrappings and related accessories when sold, to be shipped from its places of business in Pennsylvania to purchasers thereof located in various other

states of the United States. The respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent packages various assortments of gift wrapping papers in display boxes which reveal the number of rolls of such materials enclosed and the individual designs appearing upon each roll (Fig. 1). There is imprinted upon each box the number of rolls of gift wrapping paper contained therein, and the respective widths and lengths of the papers wrapped upon each roll, but certain of the boxes contain almost four inches of empty headspace (approximately two inches at either end) which is not readily apparent to prospective purchasers (Fig. 2). Other boxes are designed in a manner which partially covers the extended cores or tubes of a number of narrow-width papers in an assortment (Figs. 3 and 4).*

PAR. 5. While the respondent discloses the actual measurements of the wrapping papers contained in the various assortments, the method of packaging such papers creates the impression that such items are, in fact, as wide as the respective containers and that each roll of paper is of equal or uniform width.

PAR. 6. The impression created by the aforesaid method of packaging is false, misleading and deceptive. In truth and fact, certain of the wrapping papers are substantially narrower than the display boxes indicate.

PAR. 7. Respondent causes certain prices to be imprinted upon the cartons or display boxes in which gift wrappings are packaged for retail sale, thereby representing, directly or by implication, that such prices are the regular and usual retail prices for said merchandise. In truth and in fact, said imprinted prices are not the regular and usual retail prices of such items but are fictitious and greatly exaggerated prices.

PAR. 8. By packaging and pricing its merchandise as aforesaid, respondent supplies the means and instrumentalities by and through which retailers may mislead the purchasing public as to the contents and the usual and regular retail price of respondent's merchandise.

PAR. 9. 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 paper gift wrappings of the same general kind and nature as that sold by the respondent.

* Figures 1, 2, 3, and 4 are omitted in printing.

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PAR. 10. The use by the respondent of the aforesaid false, misleading and deceptive statements, representations, and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

PAR. 11. 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 in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

Mr. DeWitt T. Puckett, Mr. David J. Eden supporting the complaint.

Mr. Martin L. Friedman, Mr. Michael J. Shea, Chapman and Friedman, Wash., D.C., for the respondent.

Mr. Samuel Kaufman, Kaufman and Kaufman, Pittsburgh, Pa., and

Mr. Leonard H. Marks, Cohn and Marks, Wash., D.C. for the respondent.

INITIAL DECISION BY ELDON P. SCHRUP, HEARING EXAMINER

APRIL 3, 1963

STATEMENT OF PROCEEDINGS

The Federal Trade Commission on June 4, 1962, issued its complaint charging The Papercraft Corporation, a corporation, with violation of Section 5 of the Federal Trade Commission Act. The complaint alleges the respondent corporation to be engaged for some time last past in the manufacture and the interstate sale of gift wrapping products to distributors and retailers for resale to the consuming public.

Respondent's gift wrapping papers, as in part illustrated by the photographic attachments to the complaint, are packaged in display boxes which reveal through a transparent front cover the number of rolls and the color and particular designs appearing on the paper on each of the rolls contained in the box. Imprinted on each box cover is a further statement as to the number of rolls therein and the respective width and length in inches of the wrapping paper on each

of the various rolls. It is alleged in the complaint that despite this disclosure of actual measurements, prospective purchasers are misled as to the width of some or all of the enclosed wrapping papers contained in some of such boxes.

It is alleged that certain of such boxes are so constructed as to conceal four inches of empty end space or approximately two unfilled inches at each box end; other of the challenged boxes are alleged to be constructed in such manner as to conceal the fact that some of the wrapping papers are not equal in width to other of the papers in the assortment therein presented. It is alleged that such method of packaging creates the impression that all the wrapping papers in such boxes are of equal and uniform width and approximately as wide as the box within which they are enclosed. The complaint charges this alleged impression created on the purchaser by such method of packaging to be false, misleading and deceptive, because in truth and in fact some or all of the said wrapping papers are substantially narrower in width than the size or the manner of construction of said display boxes would allegedly visually represent and indicate.

The complaint further alleges that respondent also causes certain prices to be imprinted upon the cover of the display boxes in which its gift wrappings are packaged for retail sale, and thereby represents, directly or by implication, that such imprinted prices are the regular and usual retail prices for said merchandise. It is alleged that said imprinted prices are not the regular and usual retail prices of such items but are fictitious and greatly exaggerated prices, and that by packaging and pricing its merchandise as foresaid, respondent supplied the means and instrumentalities by and through which retailers may mislead the purchasing public as to the contents and the usual and regular retail price of respondent's merchandise.

The complaint alleges respondent's said acts and practices to cause the public to purchase substantial quantities of respondent's products and charges the aforesaid acts and practices of the respondent to be to the prejudice and injury of the public and of respondent's competitors, and to 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.

Answer to the complaint both admitting and denying various of the allegations of the complaint was filed July 23, 1962. Said answer alleges discontinuance of the challenged packaging practices prior to the issuance of the complaint and states such practices not to be representative but to have constituted only a tiny fraction of respondent's total production. Respondent's answer also states the imprinting of

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retail prices on such merchandise to be a widespread practice in the gift wrapping industry and alleges that respondent has been unfairly singled out by being the only manufacturer subjected to a formal complaint in this particular regard.

Prior to such answer, respondent had filed a motion for more definite statement as to the complaint, and a motion to dismiss and reopen consent order proceedings with the incorporated request that such latter motion be certified to the Commission. Both motions were denied. Respondent's request for permission to reply and reply to the opposing answer to respondent's motion to dismiss and to reopen consent order proceedings was also denied. Following a prehearing conference held on August 7, 1962, and reconvened on August 22, 1962, made part of the public record by agreement of respective counsel, respondent filed another motion to suspend the proceeding and again requested that such motion be certified to the Commission. Said motion was again denied.

Notice and order setting the initial hearing herein for September 26, 1962, in Cleveland, Ohio, as agreed upon between counsel during the prehearing conference, was entered on September 5, 1962. Respondent on September 6, 1962, filed a request for permission to file an interlocutory appeal to the Commission accompanied by a request for a conference with the Commission or any designated Commission member. The Commission on September 17, 1962, entered its order denying such requests.

Pursuant to letter from respondent's counsel under date of September 18, 1962, accompanied by a medical certificate, the hearing scheduled for September 26, 1962, was ordered cancelled and reset for Cleveland, Ohio, on October 29, 1962. Respondent on October 24, 1962, filed another motion to suspend hearing date and proceeding and again requested its certification to the Commission. Said motion was denied by order dated October 25, 1962. Respondent on October 26, 1962, then filed another request for permission to file an interlocutory appeal, which was granted by the Commission on October 29, 1962, and the hearing was ordered to be suspended until disposition of said appeal. The Commission on November 19, 1962, entered its order denying respondent's said interlocutory appeal.

Following such denial by the Commission, respective counsel were directed to confer as to the earliest agreed upon available and suitable hearing date and the hearing was accordingly set for Cleveland, Ohio, to commence on January 21, 1963. Counsel supporting the complaint at such Cleveland hearing presented various witnesses and Commission exhibits marked for identification 1 through 14-B were admitted

into evidence; counsel for respondent also presented various witnesses and respondent's exhibits marked for identification 5 through 11 were admitted into evidence.

Respondent's rejected exhibits marked for identification 1, 2-A through 2-Z-30, 3-A through 3-Z-41, and 4-A through 4-Z-145 are subject to Section 4.12 (f) of the Commission's Rules of Practice for Adjudicative Proceedings which provides that rejected exhibits, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

All counsel were afforded full opportunity to be heard, to examine and cross-examine all witnesses presented, and to introduce such evidence as is provided for under Section 4.12 (b) of the Commission's Rules of Practice for Adjudicative Proceedings.

Both sides having completed their respective presentations, the case was ordered closed on January 23, 1963, and time was allowed for the filing of proposed findings, conclusions and briefs by respective counsel.

Proposed findings of fact, conclusions and supporting briefs were filed by respective counsel, and counsel supporting the complaint submitted a proposed order to cease and desist. Proposed findings and conclusions submitted and not adopted in substance or form as herein found and concluded are hereby rejected.

After carefully reviewing the entire record in this proceeding as hereinbefore described, and based on such record and the observation of the witnesses testifying herein, the following findings of fact and conclusions therefrom are made, and the following order issued.

FINDINGS OF FACT

1. Respondent, The Papercraft Corporation, is a corporation organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business located at 5850 Centre Avenue, Pittsburgh, Pennsylvania. Respondent is now, and for some time last past has been, engaged in the manufacture, offering for sale and sale of gift wrapping products to wholesalers and retailers for resale to the consuming public.¹

2. In the course and conduct of its business, the respondent now causes, and for some time last past has caused, its gift wrapping products when sold, to be shipped from its places of business in Pennsylvania to purchasers thereof located in various other states of the

¹ Comm. Ex. Nos. 9, 10, 11, 12, 13, 14; Tr. 173.
Resp. Ex. Nos. 9, 10.

