

IN THE MATTER OF  
GENERAL ELECTRIC COMPANY

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

*Docket C-1251. Complaint, June 30, 1967—Decision, June 30, 1967*

Consent order requiring a major manufacturer of electrical equipment with headquarters in Schenectady, N.Y., to cease conditioning its promotional payments to builders and contractors upon restrictive purchase agreements.

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 corporation listed above in the caption hereof and more particularly described and referred to hereinafter as respondent, has violated the provisions of Section 5 of the said Act (U.S.C., Title 15, Section 45), 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 General Electric Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1 River Road, Schenectady, New York.

PAR. 2. Respondent is now and for a number of years has been engaged in the manufacture, distribution and sale of numerous household or consumer products and appliances, such as, but not limited to, ranges, refrigerators, freezers, dishwashers, disposals, washers, dryers, water heaters, air conditioners and other equipment of various description.

Respondent is also presently engaged in the manufacture, distribution and sale of electric furnaces and resistance heating cables for homes heated by electricity.

Respondent's consumer goods and products are generally sold through its General Electric Supply Company Division, with offices and branches nationwide, and through independent distributors.

Respondent is the largest producer of such household or con-

sumer products and appliances in the United States and its volume of business in the sale and distribution of such products and appliances is substantial.

PAR. 3. In the course and conduct of its business, respondent General Electric Company has been for some time past, and is now, engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act, in that it has shipped and sold its products, or caused them to be transported from its place of manufacture and business for sale to customers with places of business located in the several States of the United States.

PAR. 4. Except to the extent that competition has been frustrated, hindered, lessened and eliminated as hereinafter set forth, respondent is, and has been for a substantial time in the past in competition with firms, partnerships and corporations engaged in the aforesaid business of manufacturing, distributing and selling residential electric heating equipment and major household appliances to residential accounts in commerce between and among various of the States of the United States.

PAR. 5. Respondent initiated a program in 1956 known as the Live Better Electrically program. Said program consisted of an advertising campaign aimed at the promotion and sale of electric home heating, lighting and appliances. In connection therewith respondent applied to the United States Patent Office for registration of certification marks, obtaining Mark Number 674342 on February 17, 1959, and Mark Number 692579 on February 2, 1960. Each of said Marks was used to certify that the home to which the Mark was applied, or the plans and specifications therefor, conformed to minimum standards set by the respondent as to home electrification; that is, lighting, wiring, and number of major electrical appliances. Respondent thereafter used said Marks as an incident to its Medallion Home Program, under which many of the leading electric utilities in the United States were appointed as agents of respondent to administer its said program and to grant the right to affix said Mark to homes which qualified by meeting said minimum standards.

On April 29, 1960 respondent made an assignment of all rights, title and interest in said Marks to the National Electrical Manufacturer's Association, hereinafter sometimes referred to as NEMA, under which it was agreed that respondent has the right to demand, and NEMA agreed to reassign to respondent all property rights herein conveyed, should NEMA thereafter cease to administer said program in the manner as outlined in a "Manual

for Utilities" prepared by respondent, and made a part of said assignment.

PAR. 6. In conjunction with this industry program, respondent initiated in 1960 its own medallion programs, administered by both its Major Appliance and Hot Point Divisions. The purpose of respondent's medallion programs has been and is to promote the offering for sale and sale of General Electric products for use and installation in medallion homes.

The program administered by respondent's Major Appliance Division is presently known as the "Construction Market Development Operation," hereinafter sometimes referred to as CMDO. The program administered by respondent's Hot Point Division is known as the "Local Medallion Allowance Plan," and it is substantially identical to the CMDO program.

PAR. 7. In the course and conduct of its business, respondent, through its aforesaid medallion homes programs, has been and is now engaged in unfair methods of competition and unfair acts and practices in that it has adopted, placed into effect and has been and is carrying out a policy, plan or scheme under which it has entered into restrictive arrangements, agreements or understandings with home and apartment builders or contractors whereby such builders or contractors are, expressly or impliedly, required to restrict their purchases of major household appliances, radiant heating equipment and wiring devices for use and installation in homes and apartments constructed for speculation to respondent's products, and prohibited from purchasing such products from competitors.

Such restrictive arrangements, agreements or understandings have been and are, expressly or impliedly, contained in the terms and conditions of respondent's medallion homes programs. For example, in promoting the offering for sale and sale of its major household appliances, radiant heating equipment and wiring devices to a substantial number of home and apartment builders or contractors, respondent's CMDO program contains and imposes requirements which are as follows:

1. A Bronze Medallion home—any home which includes a minimum of four major General Electric Appliances, one of which must be a range; Textolite (where applicable); and meets the local electric utility's lighting and "Full House Power" requirements.

2. A Bronze Medallion home (special)—any home which includes a minimum of four major General Electric appliances, one

of which must be a range; a General Electric gas or oil furnace; Textolite (where applicable); and meets the local electric utility's lighting and "Full House Power" requirements.

3. A Bronze Medallion home (plus)—any home which includes a minimum of four major General Electric appliances, one of which must be a range; a General Electric gas or oil warm air furnace plus central air conditioning; Textolite (where applicable); and meets the local electric utility's lighting and "Full House Power" requirements.

4. A Gold Medallion Home—any total electric home which includes all the maximum requirements in the Bronze Medallion category plus a service entrance panel of 150 or 200 amp. capacity as required, and a General Electric electrical heating and air conditioning system.

Under the express or implied terms and conditions of the aforesaid CMDO program, a home and apartment builder or contractor is required to purchase packages of four or more products sold by respondent including as a part thereof certain specifically designated appliances, equipment and devices, and to refrain from purchasing the designated appliances, among other products, from competitors of respondent.

Thus, respondent's competitors and others have been, and are now, unable to make sales to home and apartment builders or contractors which they could have made but for the restrictive arrangements, agreements or understandings described herein.

PAR. 8. As part and in furtherance of the aforesaid policy, plan or scheme, respondent has afforded and given to home and apartment builders or contractors who have entered into the restrictive arrangements, agreements or understandings, heretofore described, special treatment and valuable benefits which are not granted or afforded to other builders or contractors. The valuable benefits furnished by respondent include, among other things, contributions to the builder or contractor of substantial amounts of money for advertising. For example, in one instance alone, a builder who entered into the restrictive arrangements, agreements or understandings, heretofore described, received from respondent a contribution in excess of \$900,000 for advertising as consideration for purchasing over \$8,000,000 worth of respondent's electrical equipment and products for installation in a single housing development.

PAR. 9. The purpose, intent or effect of the aforesaid methods, acts and practices of the respondent has been, is, or may be,

substantially to lessen, hinder, restrain and suppress competition in the manufacture, distribution and sale of major household appliances, radiant heating equipment and wiring devices in interstate commerce, to cause a substantial number of builders or contractors to refrain from buying major household appliances, radiant heating equipment and wiring devices for use and installation in homes and apartments from competitors; to exclude, or tend to exclude competitors or potential competitors of respondent from selling major household appliances, radiant heating equipment and wiring devices to a substantial number of home and apartment builders or contractors; to foreclose competitors or potential competitors of respondent from a substantial share of the home and apartment construction market in various trade areas; to appropriate to respondent the exclusive right to supply and sell substantially the entire major household appliance, radiant heating equipment and wiring devices requirements of a substantial number of home and apartment builders or contractors; and to enhance further the dominant position of respondent in the electrical products industry and thereby to tend to create a monopoly in respondent in the sale of major household appliances, radiant heating equipment and wiring devices for use and installation in newly constructed homes and apartments in interstate commerce.

PAR. 10. The acts and practices of respondent, as alleged in this complaint, are to the prejudice of competitors of respondent and of the public; have a tendency to hinder and prevent, and have actually hindered and prevented, competition in the purchase and sale of major household appliances, radiant heating equipment and wiring devices; have a tendency to obstruct and restrain, and have actually obstructed and restrained such commerce in major household appliances, radiant heating equipment and wiring devices; and constitute unfair methods of competition and unfair acts and practices in commerce within the intent and meaning and 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 Bureau of

1598

## Order

Restraint of Trade 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 and counsel for the Commission having thereafter executed an agreement containing, *inter alia*, 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 provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondent has violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent General Electric Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1 River Road, in the city of Schenectady, State of New York.
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

*It is ordered,* That respondent, General Electric Company, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of radiant electric heating equipment and major household appliances, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from conditioning the granting of any promotional allowance or discount in lieu thereof to any home or apartment builder or contractor purchasing any such product from respondent by requiring that said home or apartment builder or contractor, in order to qualify for and/or receive such promotional allowance or discount in lieu thereof, must purchase at the same time two or more separate and dissimilar General Electric products.

Order

71 F.T.C.

*Provided, however,* That the above "*It is ordered*" paragraph shall not apply to any such allowance or discount in lieu thereof made by General Electric Company, its officers, representatives, agents and employees within the period terminating two years from the effective date of this order, if, and only if, such allowance or discount in lieu thereof is pursuant to the provisions of an agreement, arrangement or understanding which was entered into prior to the entry of this order.

*It is further ordered,* That the 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.

Commissioners Elman and Reilly did not concur in the issuance of the complaint.

INTERLOCUTORY, VACATING, AND  
MISCELLANEOUS ORDERS

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AMERICAN CYANAMID COMPANY ET AL.

*Docket 7211. Order, Jan. 3, 1967*

Order denying motion by Olin Mathieson Chemical Corporation that proceedings against it in connection with the price aspects of this case be dismissed.

ORDER DENYING MOTION TO DISMISS

Respondent Olin Mathieson Chemical Corporation, by motion filed December 27, 1966, having requested that further proceedings against it in connection with the price aspects of this matter be dismissed without prejudice and, in the alternative, having suggested that this part of the case be considered separately from the patent aspects, with separate briefing schedule and oral argument; and

The Commission having already determined that all contested issues of fact and law presented by the entire record will be considered and having set the time for the filing of briefs on such issues:

*It is ordered,* That the motion filed by respondent Olin Mathieson Chemical Corporation be, and it hereby is, denied.

Commissioner Dixon not participating.

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ALLEGHANY PHARMACAL CORP. ET AL.

*Docket 7176. Order, Jan. 6, 1967*

Order denying complaint counsel's request for permission to file interlocutory appeal from rulings complained of.

ORDER DENYING REQUEST FOR PERMISSION TO FILE  
INTERLOCUTORY APPEAL

This matter is before the Commission upon complaint counsel's request for permission to file an interlocutory appeal from the