

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of MWE Investments, LLC
File No. 2223012

The Federal Trade Commission (the “Commission”) has accepted, subject to final approval, an agreement containing a consent order from MWE Investments, LLC, a manufacturer and licensor of the Westinghouse brand mark for use on outdoor power equipment (“Respondent” or “Westinghouse”).

The proposed consent order (“Proposed Order”) has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement, along with any comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the Proposed Order.

This matter involves the warranty that Westinghouse offers to purchasers of its outdoor generators. According to the Commission’s complaint, the warranty is conditioned on purchasers using authorized Westinghouse parts and accessories; otherwise, the warranty is void.

Based on the foregoing, the Commission alleges that Respondent violated the Magnuson-Moss Warranty Act and regulations promulgated thereunder and engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The Proposed Order contains injunctive provisions addressing the alleged deceptive conduct. Section I prohibits Respondent from expressly or implicitly conditioning a warranty on a consumer’s use of any article or service which is identified by brand, trade, or corporate name, unless the article or service is offered for free or the Commission has issued a waiver to the company, or from otherwise violating the Warranty Act or the Rules promulgated thereunder. Section II prohibits Respondent from representing to consumers, expressly or by implication, (a) that its warranties will be void if they use third-party parts or services or if they modify or alter the product without authorization, or (b) that consumers should only use branded parts or have their product repaired, altered or serviced by authorized service providers, but permits Respondent to represent that it will exclude warranty coverage and deny warranty claims if a generator is modified in a manner that results in increased carbon monoxide emissions, or that results in the removal of carbon monoxide sensors, safety warnings, guards, or other parts that affect the safe or intended performance or use of the generator. Section II also requires Respondent to include language in the warranty that affirmatively notifies consumers of their rights to use third-party services and parts under the Magnuson-Moss Warranty Act and enjoins Respondent from both misrepresenting any material facts to consumers about the warranty.

Sections III and IV require Respondent to inform its customers whose products are under warranty, as well as authorized dealers and repair shops, that its warranty has

been updated, and that the updated warranty is not conditioned on the use of authorized parts or services. Respondent must clearly and conspicuously post and keep on its website the notice and its updated warranty terms, and it must submit reports regarding its notification program.

Sections V through VII of the Proposed Order are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondent to provide information or documents necessary for the Commission to monitor compliance with the Proposed Order. Section IX states that the Proposed Order will remain in effect for twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the Proposed Order. It is not intended to constitute an official interpretation of the complaint or Proposed Order, or to modify in any way the Proposed Order's terms.