that the Commission should issue its Findings of Fact, Conclusions and Order consistent with said Opinion.

Now therefore, it is hereby ordered, That the initial decision and proposed order of the hearing examiner be and they hereby are set aside in their entirety;

And it is further ordered, That the attached Findings of Fact, Conclusions and Order be and they hereby are entered and issued by the Commission in final disposition of this proceeding.

IN THE MATTER OF

SURPRISE BRASSIERE CO., INC., ET AL.

ORDER, OPINIONS, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SECTION 2(d) OF THE CLAYTON ACT

Docket 8584. Complaint, June 28, 1963—Decision, June 15, 1967.

Order requiring a New York City manufacturer of brassieres, girdles and corselettes to cease discriminating among its customers in the payment of promotional allowances in violation of Section 2(d) of the Clayton Act.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating the provisions of subsection (d) of Section 2 of the Clayton Act (U.S.C., Title 15, Sec. 13), as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Surprise Brassiere Co., Inc., 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 102 Madison Avenue, New York City, New York.

Samuel Dosik, an individual, is president of the above corporation and Eugene Newman, an individual, is secretary-treasurer of the same corporation. These individuals formulate, direct and control the policies, acts and practices of the above named corporate respondent.

PAR. 2. Respondents are now, and for many years past have been, engaged in the manufacture, sale and distribution of women's brassieres, girdles and corselettes with an annual gross

sales volume of approximately $5,000,000. Respondents have factories located in Woodside and Germantown, New York and in Wharton, New Jersey. Respondents also have a warehouse located at Wharton, New Jersey, from which they make all shipments of their products. The respondents sell these products for resale at retail to many customers, such as department stores, women's specialty shops and dress shops, with places of business located in various cities throughout the United States.

PAR. 3. In the course and conduct of their business, respondents engaged in commerce, as "commerce" is defined in the Clayton Act, as amended, having shipped their products or caused them to be transported from their principal places of business in the States of New York and New Jersey to customers located in the same and in other States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of their business in commerce, respondents paid, or contracted for the payment of something of value to or for the benefit of some of their customers as compensation or in consideration for services or facilities furnished by or through such customers in connection with the handling, offering for sale or sale of products sold to them by said respondents, and such payments, sometimes hereinafter referred to as promotional allowances, were not available on proportionally equal terms to all other customers competing in the distribution of their products.

PAR. 5. During 1961, and for some time prior thereto, respondents offered to their customers a cooperative advertising plan under which they agreed to pay fifty percent of the cost of newspaper advertising which featured their merchandise not to exceed 5% of the customer's total purchases for a year, and the payments were to be made only if the customer conformed to certain conditions specified by respondents.

PAR. 6. Payments made by respondents pursuant to the cooperative advertising plan referred to in Paragraph Five were not made on proportionally equal terms to all of their customers competing in the resale and distribution of respondents' products because the terms and conditions of the agreement were such as to preclude some customers from accepting and enjoying the benefits to be derived from the plan.

Furthermore, payments made by respondents were not made on proportionally equal terms to all respondents' customers competing in the resale and distribution of their products because while the payment of advertising allowances to some customers

was made in accordance with the terms of the agreement, other competing customers were provided allowances above and beyond those provided for in the agreement.

PAR. 7. The acts and practices of the respondents, as alleged above, violate subsection (d) of Section 2 of the aforesaid Clayton Act, as amended by the Robinson-Patman Act (U.S.C., Title 15, Section 13).

Mr. Austin H. Forkner and *Mr. Francis A. O'Brien* supporting the complaint.

Mr. Maxwell E. Lopin, New York, N.Y., for respondents (*Mr. Norman H. Grutman,* New York, N.Y., associated as trial counsel, and *Mr. Herman L. Wasserman,* New York, N.Y., on the briefs).[1]

INITIAL DECISION BY DONALD R. MOORE, HEARING EXAMINER

MAY 27, 1966

CONTENTS

[1] Initially, respondents' counsel was the firm of Lopin & Jacobson, by Milton Jacobson, but Mr. Jacobson died in October 1964 (Tr. 849).

FINDINGS OF FACT—Continued

PRELIMINARY STATEMENT

The complaint in this proceeding was issued by the Federal Trade Commission on June 28, 1963, and was duly served on respondents. By answer filed on August 5, 1963, counsel for respondents noted the death of respondent Samuel Dosik. Pursuant to a stipulation of counsel (Prehearing Conference, December 12, 1963, Tr. 10–11), the complaint was dismissed as to Samuel Dosik by Hearing Examiner Laughlin in an order filed January 29, 1964. Accordingly, unless otherwise indicated, the term "respondents," as used herein, will not include respondent Samuel Dosik, now deceased.

The complaint charges respondents with violation of Section 2(d) of the Clayton Act, as amended by the Robinson-Patman

Act, 15 U.S.C. § 13(d).[2] In substance, the complaint alleges that respondents have failed to make advertising allowances available to all competing customers on proportionally equal terms because (1) the terms and conditions of respondents' cooperative advertising plans precluded some customers from receiving allowances and (2) the advertising allowances granted by respondents to some customers were "above and beyond" the terms of these plans.

Respondents filed answer through counsel on August 5, 1963, admitting certain factual allegations of the complaint, denying any violation of law, and affirmatively alleging (1) that advertising allowances were available to all customers on proportionally equal terms and (2) that the challenged practices "were performed in good faith to meet competition * * *."

After the prehearing conference on December 12, 1963, hearings for the reception of testimony and other evidence in support of the complaint were held in New York, New York, from June 16 to 19, 1964, and in Philadelphia, Pennsylvania, from June 22 to 24, 1964. Because of various exigencies, the hearings were recessed on June 24, 1964. The proceeding remained in suspense for more than a year because of the illness and death of respondents' original attorney (Mr. Jacobson) and the illness of Hearing Examiner Laughlin.

By order of the Director, Hearing Examiners, dated October 27, 1965, the present hearing examiner was designated to complete the proceeding. A conference in the nature of a further prehearing conference was held in Washington, D.C., on November 1, 1965.

Although respondents conceded, in effect, that the original hearing examiner was "unavailable" within the meaning of Section 5(c) of the Administrative Procedure Act (5 U.S.C. § 1004(c)) and Rule 3.21(c) of the Commission's Rules of Practice for Adjudicative Proceedings (Tr. 849–51), they orally presented a motion to void and commence the proceedings *de novo* (Tr. 851–58). Respondents filed a written motion to the same effect on November 5, 1965, and complaint counsel filed answer in opposition on November 12, 1965. For reasons stated on the rec-

[2] Section 2(d) provides "That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities."

ord on November 18, 1965 (Tr. 1351–68), the examiner denied the motion "without prejudice to the rights of the respondents to request the recall of specific witnesses for such further cross examination or other examination as may be appropriate" (Tr. 1365–66). On December 15, 1965, the respondents withdrew their motion for a trial *de novo,* stating that they were "content for the determination of this case to be made by the Hearing Examiner on the basis of the evidence which he has heard before him by witnesses viva voce, as well as such information or such conclusions as he may derive from an examination of the testimony which was taken before the Hearing Examiner undertook the further processing of this matter" (Tr. 2562).

Meanwhile, hearings were resumed in New York, New York, on November 15, 1965, and the case-in-chief in support of the complaint was rested on November 17, 1965 (Tr. 1155). Defense hearings were then held in New York, New York, November 17–19, 1965; November 29–December 3, 1965; December 6–9, 1965; and on December 15, 1965. Rebuttal hearings followed in New York, New York, on December 16, 1965, and in Philadelphia, Pennsylvania, on December 17, 1965, and the record was closed for the reception of evidence.

In support of their case-in-chief, complaint counsel offered the testimony of two officials of the corporate respondent (Eugene Newman, vice president and secretary, and Cecile Cohen, director of publicity, public relations, and advertising) and of representatives of 19 of respondents' customers located in New Haven and Bridgeport, Connecticut; Newark, New Jersey; and Philadelphia, Pennsylvania, encompassing some 1,142 pages of transcript. In addition, complaint counsel offered 969 exhibits, principally invoices and advertising claims.

In their defense, respondents offered the testimony of five sales representatives or sales officials, together with the testimony of seven competitors, encompassing some 1,315 pages of transcript (Tr. 1251–2566). In addition, respondents offered 32 documentary exhibits.

In rebuttal, complaint counsel offered the testimony of four of respondents' customers, encompassing some 294 pages of transcript (Tr. 2567–2861). Thus, there were 23 days of hearings, resulting in a transcript of 2,861 pages, and approximately 1,000 documentary exhibits.

The holding of hearings in New York and Philadelphia was authorized by Commission order dated March 13, 1964.

At the hearings, testimony and other evidence were offered in

support of and in opposition to the allegations of the complaint. Such testimony and evidence were duly recorded and filed in the office of the Commission.

The parties were represented by counsel and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.

After the presentation of evidence, proposed findings of fact and conclusions of law and a proposed form of order, accompanied by supporting briefs, were filed by counsel supporting the complaint and counsel for respondents. Replies or exceptions also were filed by counsel for both parties.

Proposed findings not adopted, either in the form proposed or in substance, are rejected as not supported by the evidence or as involving immaterial matters.

After carefully reviewing the entire record in this proceeding, together with the proposed findings, conclusions, and order filed by both parties, as well as their respective replies, the hearing examiner finds that this proceeding is in the interest of the public and, on the basis of such review and his observation of those witnesses who testified after he was assigned to the case, makes findings of fact, enters his resulting conclusions, and issues an appropriate order.

By order dated January 4, 1966, the Commission extended to April 18, 1966, the time for filing this initial decision. In essence, that action took account of an extension of time granted the parties, at respondents' request, for filing their proposed findings and related submittals. Initially, the parties were granted until February 17, 1966, for filing their proposals and briefs, with exceptions or replies due on February 28, 1966. Subsequently, on motion of respondents and without objection by complaint counsel, the time for filing proposed findings and supporting briefs was extended to March 3, 1966, and the time for filing reply briefs to March 23, 1966. The additional time was sought by respondents' counsel because of difficulties occasioned by the transit strike in New York City during January 1966, and also personal problems resulting from the illness of his wife. Because of the additional time thus granted the parties, the examiner requested, and was granted by Commission order dated April 14, 1966, an additional extension of time to May 18, 1966, for filing this initial decision. This was later extended to May 27, 1966.

As required by Section 3.21(b)(1) of the Commission's Rules of Practice, the findings of fact include references to principal

supporting items in the record. Such references to testimony and exhibits are thus intended to comply with that Rule and to serve as convenient guides to the principal items of evidence supporting the findings of fact, but those record references do not necessarily represent complete summaries of the evidence considered in arriving at such findings. Where reference is made to proposed findings submitted by the parties, such references are intended to include their citations to the record.

References to the record are made in parentheses, and certain abbreviations are used:

CB	Memorandum of Law (Brief) filed by Complaint Counsel.[3]
CPF	Proposed Findings, etc., of Complaint Counsel.[3]
CR	Complaint Counsel's Answer (Reply) to Respondents' Proposed Findings, etc.[3]
CX	Commission exhibits.
Guides	Guides For Advertising Allowances and Other Merchandising Payments and Services (May 19, 1960).
p.	page.
pp.	pages.
Par.	Paragraph.
RB	Respondents' Brief.[4]
RPF	Respondents' Proposed Findings, etc.[4]
RR	Respondents' Reply to Complaint Counsel's Proposed Findings, etc.[4]
RX	Respondents' exhibits.
Tr.	Transcript.[5]

Counsel supporting the complaint may be variously referred to as complaint counsel, Government counsel, or the Government, and witnesses called by Government counsel may be referred to as Government witnesses.

FINDINGS OF FACT

I. INTRODUCTION

Before setting forth the findings regarding Surprise Brassiere Co., Inc., and its practices, brief reference should be made to the time period involved in this proceeding.

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[3] References to the submittals of complaint counsel are to *page* numbers—for example, CPF 21.

[4] References to the submittals of respondents' counsel are to page numbers—for example, RPF 21.

[5] Sometimes, references to testimony cite the name of the witness and the transcript page number without the abbreviation Tr.—for example, Newman 16.

Paragraph Four of the complaint charges generally that Surprise Brassiere Co., Inc. (usually referred to herein as "Surprise"), failed to make allowances available to all competing customers on proportionally equal terms. Paragraph Five specifically refers to the Surprise cooperative advertising plan in effect during 1961 "and for some time prior thereto * * *." Paragraph Six then challenges the cooperative advertising plan in effect during that period.

Counsel for Surprise interpreted the complaint as dealing only with practices engaged in through 1961 and objected to the reception of evidence relating to any subsequent period (Tr. 101); but Hearing Examiner Laughlin overruled the objection (Tr. 102), and received evidence dealing with practices in 1962 and 1963.

Thus, even though, technically, the complaint might have been construed as embracing practices only through 1961, it now is deemed amended to include practices engaged in during 1962 and 1963. (Sec. 3.7, Rules of Practice for Adjudicative Proceedings (August 1963); see *Henry Rosenfeld, Inc.*, 52 F.T.C. 1535, 1548 (1956).)

In ruling that occurrences subsequent to 1961 were within the scope of the proceeding, Examiner Laughlin granted a request by respondents that their Answer be deemed amended to deny any violations during 1962 and 1963 (Tr. 102–03).

II. RESPONDENTS AND THEIR BUSINESS [6]

Respondent Surprise Brassiere Co., Inc., 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 at 102 Madison Avenue, New York, New York.

Respondent Samuel Dosik, until his death, was president of respondent Surprise Brassiere Co., Inc. As president, he formulated, directed, and controlled the policies, acts, and practices of Surprise (Cohen 976).

Respondent Eugene Newman was secretary-treasurer of Surprise from at least 1960 to about June 1963, when he became vice president and secretary (Tr. 16). His responsibilities have extended only to purchasing and production (Tr. 788). There is no evidence that he participated in the formulation, direction, or control of cooperative advertising policies or practices, and com-

[6] Most of the basic facts about respondents and their business are essentially undisputed. Unless otherwise indicated, the findings in this Section II are based on admissions in respondents' Answer.

plaint counsel have proposed no finding of individual liability on the part of Newman (CPF 4). Accordingly, the complaint against him in his individual capacity is being dismissed but he will be bound in whatever official capacity he may act on behalf of Surprise. Unless otherwise indicated, the term "respondent" refers hereafter only to Surprise.

Surprise has been, and is now, engaged in the manufacture, sale, and distribution of women's brassieres, girdles, and corselets. These products have been, and are, sold, for resale at retail, to many customers, such as department stores, women's specialty shops, and dress shops, with places of business located in various states of the United States.

The business of Surprise has been and is substantial, with annual gross sales approximating $4 million (Gold 1256).

Surprise owns a factory in Woodside, New York, and ships merchandise from that factory and from factories (not owned by Surprise) located in Germantown, New York, and Wharton, New Jersey, to customers in other States of the United States.

In the course and conduct of its business, Surprise has been, and is now, engaged in commerce, as "commerce" is defined in the Clayton Act, as amended. It has shipped its products or caused them to be transported from its principal place of business and from factories in the States of New York and New Jersey to customers located in other States of the United States and in the District of Columbia.

III. THE CHALLENGED PRACTICES

In the course and conduct of its business in commerce during the period 1960–63, Surprise engaged in cooperative advertising in a manner alleged to violate Section 2(d) of the Clayton Act, as amended.

The practices of respondent Surprise are attacked on the following grounds (Complaint; CPF 1, 3; CB 2–4):

1. Its advertising allowance program [7] has not been "available" to all competing customers because it has not been made known to all such customers.

2. The program has not been "available" to some customers because its terms and conditions have precluded them from receiving allowances, and they have not been offered suitable alternatives or substitutes on proportionally equal terms.

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[7] For purposes of this discussion, it is considered that Surprise had basically the same program from 1960 to 1963, although the allowance rate was modified in mid-1962 (see *infra*, pp. 878–879, 882).

3. Surprise has deviated from its program by granting some customers allowances "above and beyond" its announced terms.

Surprise's position (RPF 5–9; RB 10–12, 18–20) is (1) that its program has been "available" to all competing customers; (2) that suitable alternative or substitute promotional assistance has been offered to customers who did not receive advertising allowances; and (3) that deviations from the program—that is, allowances "above and beyond" its terms—were the result of meeting in good faith the advertising allowance payments and offers of competitors.

The findings that follow in Section IV outline the Surprise program and its manner of publication. Thereafter Section V describes the program in operation, shows the deviations from its terms, and develops the facts respecting alternative promotional assistance. Section VI analyzes the program and its operation in the light of the applicable law. And, finally, Section VII considers Surprise's "meeting competition" defense.

IV. SURPRISE'S COOPERATIVE ADVERTISING PROGRAM

The Published Plan

There is no dispute that under its published cooperative advertising programs in the period 1960–63, Surprise offered to its customers promotional assistance of two types:

(1) Payment of a stated percentage of the customer's local newspaper advertising; and

(2) Furnishing of in-store or point-of-sale advertising material, together with statement enclosures or "stuffers" designed primarily for mailing to customers or prospective customers of the store.[8]

Advertising Allowances

During the years 1960, 1961 and the first half of 1962, the plan called for Surprise to pay 50 percent of a customer's cost of advertising its products in local newspapers, provided the

[8] In addition, Surprise offered to all customers free mats. This constitutes a service that does not clearly fit into either of the categories set forth above, but it is basically auxiliary to the newspaper advertising allowance. A mat is a cardboard-like (papier-mache) cast of an actual ad, which is used by newspapers to cast the plate from which the ad is printed (Cohen 1009, 1013). These mats could be used by customers for newspaper advertising without any additional art or production cost. Generally, they were used only by the smaller stores which engaged in newspaper advertising. Large stores, with their own art and production departments, ordinarily did not make direct use of the mats. They did, however, frequently use the mat proofs for copy and layout ideas (Cohen 1009, 1085). It does not appear that the offer or furnishing of advertising mats is in issue here, but see *infra*, p. 880.

total annual payment did not exceed 5 percent of the customer's yearly purchases (Respondents' Answer, Par. 5; Cohen 94–5, 97–8; CXs 1 and 2).[9] (The record establishes, however, that from 1960 to mid-1962, some customers were granted allowances of 75 percent (*infra*, p. 883).

The 50 percent plan remained in effect until the middle of 1962, when it was modified to provide for 75 percent allowances, with the annual total again limited to 5 percent of the customer's yearly purchases (Cohen 99–100; CX 16; Respondents' Answer (Par. 5) dates the change in 1961, but this evidently was a typographical error).

Since about June 1962, Surprise has required customers, to be eligible for 75 percent allowances, to execute cooperative advertising agreements that scheduled in advance the date and size of ads, the newspapers in which they are to appear, and the garments to be advertised (Cohen 988–89, Rubin 1694; for example, CXs 7, 8, 12, 187, 188). Despite respondent's denial (RPF 33, RR 3), there is evidence that if a customer ran an unscheduled ad, the 75 percent allowance was not available and the customer was allowed only 50 percent (Velardi 237, Rubin 1694).

As far as the record shows, such a contract requirement did not exist before mid-1962 (Cohen 988–89).[10]

In the cooperative advertising agreements used subsequently to the mid-1962 change of rate, Surprise agreed to pay "75% of actual space devoted to SURPRISE garments in accredited newspapers, (based on the store's lowest earned rate), up to an amount *not to exceed 5% of annual purchases.*" The agreement further specified that it

> is limited to advertising in accredited newspapers only, (shown in Standard Rate & Data). It does not cover shopping newspapers, neighborhood publications, souvenir programs, radio, television, circulars, billboards, theatre programs, special editions, supplements, catalogues or other non-eligible media. (CXs 7, 8, 12, 187, 188.)

It appears that the media limitation spelled out in such contracts was in effect prior to 1962 (Cohen 988–89).

No evidence was adduced concerning the contents of the Stand-

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[9] The limitation to 5 percent of annual purchases was not included in the statement published in the 1960–61 and 1961–62 price lists (CXs 1 and 2) and quoted *infra*, p. 882, but there appears to be no dispute that Surprise had such a policy—a policy that was not, however, always followed (p. 894, *infra*).

[10] It may be only coincidental that some of the customers who were granted 75 percent allowances before that became the uniform percentage had scheduled ads in advance pursuant to agreement (CXs 3–6, 9–11, 13 A, 14 A, 15 A, 186).

ard Rate & Data publication referred to in the contracts. It is inferred that it provides information regarding circulation, advertising rates, etc. But the record is silent as to what newspapers are included or excluded.

Surprise did not require ads to be of any minimum size to be eligible for allowances, and the size of the ad depended largely on the amount of money the customer had to spend on advertising, as well as the amount of purchases from Surprise. For small retailers who did not have their own art and production departments, Surprise provided ad mats that measured 21 column inches, or approximately 300 lines. (Cohen 96, 994–95; CPF 6.)

Despite their recognition that the program imposed no minimum size requirement for cooperative advertising (CPF 6), complaint counsel have assumed that it was necessary for smaller customers to utilize the Surprise mats in order to receive payment (CPF 27; CR 17). Since the smallest mat measured 21 inches, complaint counsel contend that Surprise, in effect, imposed a minimum linage requirement (CR 17).

The examiner recognizes that there is testimony subject to that interpretation (Cohen 96–97, 994–95). But when read in context, it does not support a finding that Surprise mats had to be used, and it specifically recognizes that the ad size might be smaller than the mat. The fact that one customer did not understand that he could reduce the size of the ad (Katsoff 180–81, 200–01) does not prove that Surprise required the mats to be used without reduction.

Agreements used during and since 1962 have purported to limit the size of ads to 600 lines or 42 inches (CXs 3–12, 13 A, 14 A, 15 A, 186–88; but see *infra,* p. 896).

The advertising allowances available under the Surprise cooperative advertising plans were not predicated upon the purchase of any specific style or line of Surprise products, or upon any minimum order—except to the extent that the limitation of allowances to 5 percent of annual purchases required purchases in such volume as to make advertising money realistically available.

In the usual case, the customer and the Surprise salesman mutually agreed on those Surprise garments that would be advertised (Cohen 1022; see also Velardi 236, Knopp 363–64, Connors 559–60, Feir 582, Spitzer 799–800).

Advertising allowance payments have been made by allowing customers to take deductions from merchandise invoices (Cohen 1000).

Advertising Materials Furnished by Surprise

The in-store or point-of-sale materials offered under the Surprise program (Cohen 1007–14) included:

Glossies, or glossy print photographs of garments, about 8½ x 11 inches in size, which are intended for display in the windows or fitting rooms of stores.

Window cards, window streamers or banners, and counter cards, which depict Surprise garments and show the style numbers and suggested retail prices.

Bra, girdle, and corselet forms, commonly known as bust forms, intended for use in displaying the garments in store windows or in the store itself.[11]

In a somewhat different category are so-called statement enclosures, imprinted with the store name. These enclosures depict the Surprise garments and indicate the size range and prices. Retailers either hand them out or mail them to customers or prospective customers.

The layout and copy ideas referred to in the cooperative advertising plan are proofs of the advertising mats prepared by Surprise and may be used by any customer as suggestions for advertising formats and textual material.

The record establishes that the in-store or point-of-sale materials were furnished to customers free of charge.

The cost to Surprise for these various materials was listed as follows:

Statement enclosures—$5–$6 per thousand;

Bust forms—$5 to $20 each, depending on length; and

Mats—approximately $2 each. (Cohen 1086, 1088, 1099, 1100.)

Neither in theory nor in practice, as far as the record shows, was there any minimum purchase requirement as a prerequisite to the furnishing of display materials, nor was there any limitation on the amount of such materials to be furnished to any customer. Although it was indicated that there might be some restrictions on the distribution of bust forms because of their cost (Sanders 1548; *cf.* Cohen 1089), the record discloses no instance where a customer was refused bust forms in any quantity requested.

Like the advertising mats, the in-store displays were available to all customers—those who advertised and those who did not (Cohen 1008–12; Popkave 1812, 1851; Rubin 1691–92; James

[11] Bust forms were not specifically mentioned in the published program but might be considered embraced in the term "displays." See *infra*, p. 882.