

Complaint

IN THE MATTER OF

RONZONI MACARONI CO., INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
CLAYTON ACT, SECTION 2 (a)*Docket C-2244. Complaint, July 11, 1972—Decision, July 11, 1972.*

Consent order requiring a Long Island City, New York, manufacturer of macaroni, macaroni products, sauces and grated cheeses to cease discriminating in price between competing resellers or distributors of its products.

COMPLAINT

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

PARAGRAPH 1. Respondent Ronzoni Macaroni 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 office and principal place of business located at 50-02 Northern Boulevard, Long Island City, New York.

PAR. 2. Respondent has been and is now engaged in the manufacture, sale and distribution of macaroni, macaroni products, sauces and grated cheeses. Respondent sells its said products to a large number of customers located in many parts of the United States purchasing such products for use, consumption or resale therein, including wholesalers, retailers and retail chain stores. Respondent's sales of its products are substantial, exceeding \$10,000,000 annually.

PAR. 3. Respondent sells and causes its products to be transported from its principal place of business in the State of New York to purchasers located in other States of the United States. There has been at all times mentioned herein a continuous course of trade in said products in commerce, as "commerce" is defined in the Clayton Act, as amended.

PAR. 4. In the course and conduct of its business in commerce, respondent sells its products of like grade and quality to purchasers who are in substantial competition with each other in the resale and distribution of respondent's like products.

PAR. 5. In the course and conduct of its business in commerce, and particularly since 1968, respondent has discriminated in price between different purchasers of its products of like grade and quality by selling said products to some purchasers at higher and less favorable prices than the prices charged competing purchasers for such products of like grade and quality.

PAR. 6. For example, in Philadelphia, Pennsylvania, respondent deviated from its published price lists, and gave certain retail food chain stores substantial price discounts on its entire line of products, but did not offer or grant such discounts to competing customers purchasing substantially the same quantity of products of like grade and quality from respondent.

PAR. 7. The effect of such discriminations in price made by respondent in the sale of its products, as hereinbefore set forth, may be substantially to lessen competition or tend to create a monopoly in the lines of commerce in which the favored purchasers from respondent are engaged, or to injure, destroy or prevent competition with the favored purchasers from respondent who receive the discriminatory lower prices.

PAR. 8. The discriminations in price made by respondent in the sale of its products, as hereinbefore alleged, are in violation of subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman 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 Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with a violation of the Clayton Act, as amended, and

The respondent and counsel for the Commission having thereafter executed an agreement containing 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 respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated said Act, and that complaint should issue stating its charges

in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Ronzoni Macaroni Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Its principal office and place of business is located at 50-02 Northern Boulevard, Long Island City, 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 Ronzoni Macaroni Co., Inc., a corporation, and its officers, employees, agents and representatives, directly or through any corporate or other device, in or in connection with the offering for sale, sale or distribution of any of its products in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from discriminating, directly or indirectly, in the price of such products of like grade and quality by selling to any purchaser at net prices higher than the net prices charged any other purchaser competing in fact in the resale or distribution of such products. "Net price" as used in this order shall mean the ultimate cost to the purchaser, and, for purposes of determining such cost, there shall be taken into account all rebates, allowances, commissions, discounts, credit arrangements, terms and conditions of sale, and other forms of direct and indirect price reductions, by which ultimate cost to the purchaser is affected.

It is further ordered, That respondent Ronzoni Macaroni Co., Inc., shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent Ronzoni Macaroni Co., Inc., notify the Commission at least 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 or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent Ronzoni Macaroni Co., Inc., 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.

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IN THE MATTER OF
LOVE TELEVISION & STEREO RENTAL, INC., ET AL.

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

Docket C-2245. Complaint, July 11, 1972—Decision, July 11, 1972.

Consent order requiring three firms, located in Atlanta, Georgia, Jacksonville, Florida, and Houston, Texas, engaged in the sale and rental of television sets and stereo equipment to cease, among other things, misrepresenting the cost and selling terms and conditions of their merchandise.

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 Love Television & Stereo Rental, Inc., Love Television & Stereo Rental of Jacksonville, Inc., Love Television & Stereo Rental of Houston, Inc., Gates Rental, Inc., and Babcock Management Corporation, corporations, and Melvin D. Babcock and Galen E. Gates, individually and as officers of said corporations, hereinafter referred to as respondents, have 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 Love Television & Stereo Rental, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its principal office and place of business located at 493 Peachtree Street, Atlanta, Georgia.

Respondent Love Television & Stereo Rental of Jacksonville, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 1876 West 45th Street, Jacksonville, Florida.

Respondent Love Television & Stereo Rental of Houston, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 4826 Almeda Road, Houston, Texas.

Respondent Gates Rental, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 9221 Jensen Drive, Houston, Texas.

Respondent Babcock Management Corporation is a corporation organized, existing and doing business under and by virtue of the laws

of the State of Georgia, with its principal office and place of business located at 3355 Lenox Road, Suite 226, Atlanta, Georgia. Respondent Babcock Management Corporation owns and controls all the shares of the other corporate respondents.

Respondents Melvin D. Babcock and Galen E. Gates are officers of said corporations. They formulate, direct and control the policies, acts and practices of said corporations and their address is 3355 Lenox Road, Suite 226, Atlanta, Georgia.

PAR. 2. Respondents are now, and for some time in the past have been, engaged in the advertising for sale and rental, sale and rental of televisions and stereophonic equipment to the public in the states of Georgia, Florida and Texas.

COUNT I

Alleging a violation of the Federal Trade Commission Act, the allegations of Paragraphs One and Two above are incorporated by reference as if fully set forth herein verbatim.

PAR. 3. In the ordinary course and conduct of their business, as aforesaid, respondents now cause and for some time in the past have caused their merchandise to be advertised, rented, sold and distributed from their home office in Atlanta, Georgia to consumers in several other States of the United States, and maintain, and at all times mentioned herein, have maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the ordinary course and conduct of their aforesaid business and for the purpose of promoting the sale or rental of their merchandise, respondents have made and are now making statements and representations in oral sales presentations to prospective customers, and in advertisements transmitted by radio, newspaper and other media with respect to the cost and terms of sale of their merchandise.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

* * * * *
We guarantee to you—our customer—the best Christmas present at the lowest price in town. Everything we have in stock is going for 1/3 to 1/2 off the original price. Yes, now you can open your account with Love T.V. for less than what you would pay for a child's toy. * * * We do not check your credit. We have no down-payment. All the rent goes toward the purchase * * *

* * * * *
Yes, it's really true now you can have a wooden cabinet console color TV with 23 inch square picture tube delivered to your home just by calling Love 876-1561.

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*** You can't beat their low, low rates. You can have a TV and Stereo for only \$9. per week. That's LOVE TV AND STEREO where there are no credit checks, no credit delays or red tape. ***

*** Are you worried about your credit? Don't be *** Love rentals doesn't check your credit. *** And Love has free delivery within the Hour. If your T.V. or Stereo should ever break down Love will fix it free *** never a service charge. *** You can still open your account with us for just one dollar and remember all the rent you pay goes toward the purchase.

That's right. *** For only \$2; you get delivered right to your home a brand new 1972 Model color Television. *** Ask the man from Love just how easy it is. *** No red tape, no credit check, free delivery, and never. *** I said never a repair bill to pay at Love TV and Stereo Rental. *** Brand new merchandise delivered to your home for only \$2. down.

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning not expressly set out herein, both separately and in conjunction with the oral statements and representations of their employees made to prospective purchasers, respondents have represented, and are now representing, directly or by implication, that:

1. Respondents' "rent-to-buy plan" is an easy, inexpensive way to purchase a television or stereo.
2. Respondents will deliver a brand new television or stereo to a customer's home without obligating the customer to pay more than an initial \$2.
3. Respondents will deliver and repair all merchandise free of charge.

PAR. 6. In truth and in fact:

1. The purchase price of a television or stereo under respondents' plan is in virtually all instances far in excess of the generally prevailing trade area price of the merchandise.
2. Customers are obligated for the downpayment plus the charge for the first rental period at the time the merchandise is delivered to their home.
3. Customers pay a highly inflated rental charge which includes the charge for delivery and repairs.

Therefore, the statements and representations set forth in Paragraphs Four and Five hereof were, and are, false, misleading and deceptive.

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and

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individuals, engaged in the sale and rental of merchandise of the same general kind and nature as that sold by the respondents.

PAR. 8. The use by respondents 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 and rental of substantial quantities of respondents' merchandise by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

COUNT II

Alleging violation of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two and Three are incorporated by reference as if fully set forth herein verbatim.

PAR. 10. In the ordinary course and conduct of their aforesaid business respondents cause and for some time in the past have caused their customers to execute a document designated as a rental agreement, hereinafter referred to as the contract. In addition to the terms of the contract set forth in writing, respondents make oral representations to their customers which they incorporate by reference into the contract. Illustrative but not inclusive of these oral terms is respondents' promise to relinquish all their rights to the leased merchandise after the customer has made a specified number of rental payments.

PAR. 11. By and through the practice of disclosing some terms of the contract in writing and others orally respondents deprive their customers of full knowledge of their rights and obligations under the contract and deny them the means of enforcing those terms of the contract most favorable to the purchaser. Therefore, the aforesaid method of contracting constitutes an unfair act or practice in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the

complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Love Television & Stereo Rental, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its office and principal place of business located at 605 Ashby Street, in the city of Atlanta, State of Georgia.

Respondent Love Television & Stereo Rental of Jacksonville, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 5412 Norwood Avenue, in the city of Jacksonville, State of Florida.

Respondent Love Television & Stereo Rental of Houston, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 4826 Almeda Road, in the city of Houston, State of Texas.

Respondent Gates Rental, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 9221 Jensen Drive, in the city of Houston, State of Texas.

Respondent Babcock Management Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 2030 Pernoshal Court, DeKalb County, State of Georgia. Respondent Babcock Management Corporation owns and controls all the shares of the other corporate respondents.

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Respondents Melvin D. Babcock and Galen E. Gates are officers of said corporations. They formulate, direct and control the policies, acts and practices of said corporations, and their principal office and place of business is located at 2030 Pernoshal Court, DeKalb County, State of Georgia.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Love Television & Stereo Rental, Inc., Love Television & Stereo Rental of Jacksonville, Inc., Love Television & Stereo Rental of Houston, Inc., Gates Rental, Inc. and Babcock Management Corporation, corporations, and their officers, and Melvin D. Babcock and Galen E. Gates, individually and as officers of said corporations, and their successors or assigns, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale or rental or sale or rental of televisions, stereophonic equipment or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any advertisement, directly or by implication, or in any oral statements made to a customer, that an individual can rent or purchase any of respondents' merchandise at a discount price, or an inexpensive price, or an advantageous price, or for any specified amount, payment or period of time without disclosing in every instance in a clear and meaningful way, the average prevailing retail price of the merchandise or comparable merchandise using the term "average retail price" together with either:

(a) the total dollar cost to the individual of purchasing the same merchandise under respondents' "rent-to-buy" plan, using the term "our total purchase price;" or

(b) the total charge for renting the same merchandise for twelve months, using the term "rent for one year."

In determining average retail price respondents shall conduct a statistical survey of ten principal retail establishments in their trade area to establish the average retail price of the same or comparable merchandise, and obtain and maintain for at least two years all documents establishing the manner in which the survey was conducted, including:

(I) the name(s) of respondents' representatives who performed the survey;

(II) the names of the retail establishments surveyed;

(III) the date(s) of the survey;

(IV) identification (including name of manufacturer and serial number) of the same or comparable merchandise surveyed;

(V) price at which the same or comparable merchandise was offered for sale by the retail establishments surveyed.

2. Representing, directly or by implication, that respondents will perform any service or offer any merchandise free of charge to any customer.

3. Engaging in the sale or rental of their merchandise without furnishing each customer with a document which may be retained at the outset of the transaction, setting forth in writing every term and condition of said sale or rental transaction in a clear, conspicuous and meaningful manner.

4. Misrepresenting, in any manner, the advantages, amounts, rates, terms or conditions of respondents' sale or rental plans.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Complaint

IN THE MATTER OF

NEIGHBORHOOD PERIODICAL CLUB, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2246. Complaint, July 11, 1972—Decision, July 11, 1972.*

Consent order requiring a Cincinnati, Ohio, seller and distributor of magazines and periodicals to cease, among other things, representing salesmen were conducting surveys or representing bona fide non-commercial organizations, when in fact, they were selling magazine subscriptions; representing publications and gift subscriptions as being free, when in fact, their cost was included in the price of the subscription contract; failing to cancel, upon request, a contract when representation has been made that the contract will be cancellable; misrepresenting the nature, kind or legal characteristics of any document; representing that any price is a special or reduced price unless it constitutes a significant reduction from respondent's established selling price; misrepresenting the action to be taken to effect payment of any alleged debt; and failing to disclose on any sales contract, adjacent to the customer's signature, the total cash price, the downpayment, the unpaid balance and the number or period of payments scheduled.

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 Neighborhood Periodical Club, Inc., a corporation, hereinafter referred to as 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. Neighborhood Periodical Club, Inc., is a corporation, existing and doing business under and by virtue of the laws of the State of New York, with its office and principle place of business located at 733 Washington Road, Pittsburgh, Pennsylvania.

PAR. 2. Respondent is engaged in the business of selling and distributing magazines and periodicals to the general public through its franchisees and sub-franchisees, sometimes referred to as Regional Franchise Operators (RFOs) and Local Franchise Operators (LFOs). Subscription contracts are sold on an installment basis (PDS) for a large number of publications through telephone and door-to-door solicitations. Respondent authorizes the use of four trade names under which subscriptions can be solicited and written: Premium Readers'

Service, QM Readers' Service, Neighborhood Periodical Club, and Neighborhood Readers' Service.

PAR. 3. In the course and conduct of its business of selling magazines and distributing periodicals, respondent has entered into franchise agreements with various individuals and firms, and through representatives engaged by or through franchisees and sub-franchisees, have induced members of the general public to subscribe to various publications.

Respondents, through its said franchisees, sub-franchisees, and representatives engaged by or through said franchisees and sub-franchisees, place into operation and, through various direct and indirect means and devices, control, direct and implement sales methods whereby members of the general public are contacted by telephone calls and door-to-door solicitations, and by means of statements, representations, acts and practices as hereinafter set forth, are induced to sign subscription contracts purporting to list publications of the purchasers' choice, a stated subscription period for each, and the terms and conditions for payments by installments for the purchase price.

The executed subscription contracts are thereafter forwarded through various representatives engaged by or for the franchisees and sub-franchisees to respondent for processing in the usual course of respondents' business. Respondent accepts the revenues flowing from said circulation, sale and distribution of the various publications offered.

In the manner aforesaid, respondent dominates, controls, furnishes the means, instrumentalities, services and facilities for, and condones, approves, and accepts the pecuniary and other benefits flowing from the acts, practices and policies hereinafter set forth of the franchisees, sub-franchisees, and their representatives engaged by or through said franchisees and sub-franchisees, hereinafter referred to as respondent's representatives.

PAR. 4. In the course and conduct of its business as aforesaid, respondent through its representatives, solicit subscriptions for magazines in the various States of the United States. Respondent now, and for some time last past, has transmitted and received, and caused to be transmitted and received, during the course of selling subscriptions, contracts, checks, collection notices and various other kinds of commercial paper and documents in commerce. The subscription contracts sold by respondents' representatives are sent from various states to respondent's place of business in the State of Pennsylvania and are then forwarded by respondent to various publishers, many of whom are located in states other than the State of Pennsylvania. Respondent thereby maintains, and at all times mentioned herein has maintained, a sub-

