

IN THE MATTER OF  
THE HOUSE OF SCHILLER, INC., ET AL.

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

*Docket C-2723. Complaint, Aug. 27, 1975-Decision, Aug. 27, 1975*

Consent order requiring a Long Island City, N.Y., manufacturer and distributor of plastic slipcovers, among other things to cease using bait and switch tactics in the sale of its merchandise.

*Appearances*

For the Commission: *Jerry R. McDonald.*

For the respondents: *Pro se.*

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 House of Schiller, Inc., a corporation, and Lawrence Kane and Donald Sherman, individually and as officers of said corporation, 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 The House of Schiller, 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 41-40 27th St., Long Island City, N.Y.

Respondents Lawrence Kane and Donald Sherman are individuals and are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of plastic slipcovers to members of the purchasing public at retail.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said merchandise, when sold, to be shipped from their place of business located in the State of New York, to purchasers thereof located in various other States, and maintain, and at all times mentioned herein

have maintained, a substantial course of trade in said merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their merchandise, respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers of general interstate circulation and by oral statements and representations of their sales representatives and agents to prospective purchasers with respect to said merchandise and services.

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

Sofa \$14.95 Chair \$8.50 3 piece sectional \$29.95

PAR. 5. By and through the use of said above quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with the oral statements and representations of respondents' salesmen to customers and prospective customers, respondents have represented and are now representing directly or by implication that:

1. Respondents are making a bona fide offer to sell the advertised merchandise at the price and on the terms and conditions stated in the advertisements.

PAR. 6. In truth and in fact:

1. Respondents' offers are not bona fide offers to sell said merchandise at the price and on the terms and conditions stated in the advertisements. To the contrary, said offers are made for the purpose of obtaining leads to persons interested in the purchase of plastic slipcovers. Members of the purchasing public who respond to said advertisements are called upon in their homes by respondents or their salesmen who make little or no effort to sell to the prospective customer the advertised merchandise. Instead, they exhibit what they represent to be the advertised merchandise which, because of its poor appearance and condition, is frequently rejected on sight by the prospective customer. Higher priced merchandise of superior quality is thereupon exhibited, which by comparison disparages and demeans the merchandise. By these and other tactics, purchase of the advertised merchandise is discouraged, and respondents, through their salesmen, attempt to sell and frequently do sell the higher priced merchandise.

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

PAR. 7. In the course and conduct of their business as aforesaid, and at all times mentioned herein, respondents have been, and now are, in

substantial competition in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, with corporations, firms and individuals engaged in the sale of merchandise of the same general kind and nature as the aforesaid merchandise sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, acts 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 such advertisements and representations were and are true, and into the purchase of substantial quantities of respondents' said merchandise by reason of said erroneous and mistaken beliefs.

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 methods of competition and unfair and deceptive acts and practices in or affecting commerce 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 respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the New York Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; 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 aforesaid draft of complaint, 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 sixty (60) 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 The House of Schiller, Inc. is a corporation organized, existing and doing business under and by virtue of the laws

of the State of New York with its offices and principal place of business located at 41-40 27 St., Long Island City, N.Y.

Respondents Lawrence Kane and Donald Sherman are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation.

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 The House of Schiller, Inc., a corporation, its successors and assigns, and its officers, and Lawrence Kane and Donald Sherman, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale and distribution of plastic slipcovers or other merchandise to the public at retail, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner, a sales plan, scheme, or device wherein false, misleading, or deceptive statements or representations are made in order to obtain leads or prospects for the sale of plastic slipcovers or other merchandise or services.

2. Making representations, directly or indirectly, orally, or in writing, purporting to offer merchandise or services for sale when the purpose of the representation is not to sell the offered merchandise or services but to obtain leads or prospects for the sale of other merchandise or services at a higher price.

3. Disparaging in any manner, or discouraging the purchase of any merchandise or services which are advertised or offered for sale.

4. Representing, directly or indirectly, orally or in writing, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell such merchandise or services.

5. Failing to maintain and produce for inspection and copying for a period of three years adequate records to document for the entire period during which each advertisement was run and for a period of six weeks after the termination of its publication in press or broadcast media:

a. the cost of publishing each advertisement including the preparation and dissemination thereof;

b. the volume of sales made of the advertised product or service at the advertised price; and

c. a computation of the net profit from the sales of each advertised product or service at the advertised price.

*It is further ordered,* That respondents shall maintain for at least a one (1) year period, following the effective date of this order, copies of all advertisements, including newspaper, radio and television advertisements, direct mail and in-store solicitation literature, and any other such promotional material utilized for the purpose of obtaining leads for the sale of plastic slipcovers and other merchandise, or utilized in the advertising, promotion or sale of plastic slipcovers and other merchandise.

*It is further ordered,* That respondents, for a period of one (1) year from the effective date of this order, shall provide each advertising agency utilized by respondents and each newspaper publishing company, television or radio station or other advertising media which is utilized by the respondents to obtain leads for the sale of plastic slipcovers and other merchandise, with a copy of the Commission's news release setting forth the terms of this order.

*It is further ordered,* That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents who are engaged in the offering for sale and sale of respondents' products, or in any aspect of preparation, creation, or placing of advertising and that respondents secure a signed statement acknowledging receipt of said order from each such person and that respondents distribute a copy of this order to each of their operating divisions.

*It is further ordered,* That respondents maintain full and complete records of all complaints and correspondence received from customers, or any memoranda in connection therewith, for a period of two years after receipt.

*It is further ordered,* That respondents notify the Commission at least thirty (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 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 addresses and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

*It is further ordered,* That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or

Complaint

86 F.T.C.

exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or State regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by, the Federal Trade Commission.

*It is further ordered,* That respondents 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.

---

IN THE MATTER OF

THE BUDD COMPANY

DISMISSAL ORDER, OPINIONS, ETC., IN REGARD TO ALLEGED  
VIOLATION OF SEC. 7 OF THE CLAYTON ACT

*Docket 8848. Complaint, June 18, 1971—Decision, Aug. 29, 1975*

Order dismissing complaint issued against a Philadelphia, Pa., automotive parts supplier for alleged violation of Section 7 of the Clayton Act. The Commission vacated the initial decision of the administrative law judge, finding respondent's acquisition of Gindy Manufacturing Corporation to be procompetitive rather than anticompetitive as alleged in the complaint.

*Appearances*

For the Commission: *K. Keith Thurman, Ronald J. Dolan and James C. Egan, Jr.*

For the respondent: *Ralph W. Brenner, Edward R. Sandell and T. Michael Mather, Montgomery, McCracken, Walker & Rhoads, Philadelphia, Pa.*

COMPLAINT

The Federal Trade Commission having reason to believe that The Budd Company, a corporation subject to the jurisdiction of the Commission, has acquired the stock of Gindy Manufacturing Corporation, a corporation, in violation of Section 7 of the Clayton Act (15 U.S.C. §18), hereby issues this complaint, pursuant to Section 11 of that Act (15 U.S.C. §21), stating its charges in that respect as follows:

## I. Definition

1. For the purposes of this complaint, the following definitions shall apply:

(a) "Containers and chassis," as used here, refer to large, closed box-type structures which can be used for the intermodal transportation of goods, by rail, ship or motor carrier and chassis used to transport containers. The container is detachable from the chassis of a trailer or semi-trailer when so used. Sizes are now generally standardized to 8 feet wide, 8 feet high and either 20 feet or 40 feet long, although a few odd sizes are also made.

(b) "Van trailer," as used here, refers to a large box-type structure attached permanently to a chassis for use as a truck trailer or semi-trailer. Among the principal types are:

- (1) Closed-top dry freight
- (2) Open-top.

## II. The Budd Company

2. Respondent, The Budd Company (hereafter "Budd") is now, and was at the time of the acquisition, a Pennsylvania corporation with its principal office, and place of business located at 2450 Hunting Park Ave., Philadelphia, Pa.

3. In 1967, Budd had sales of \$330.9 million, and assets of \$264.5 million. In that year it was the 250th largest industrial corporation in the Nation in total sales. In 1968, its sales increased to \$469.5 million and assets increased to \$346.7 million making it the nation's 209th largest industrial corporation in total sales. By 1969, Budd had annual sales of \$561.7 million and assets of \$402 million and in terms of sales had progressed to rank 191st among the nation's largest industrial corporations.

4. Budd is one of the largest independent automotive suppliers in the nation and the largest independent supplier of body components to the automotive industry. Budd manufactures automotive bodies, wheels, rims, hubs, drums, brakes and other automotive products. It also produces jigs, dies and fixtures used in the manufacture of automotive bodies and components, railroad cars, metal stampings and industrial plastic products. Approximately 85 percent of its sales are in the automotive field.

5. Prior to its acquisition of Gindy Manufacturing Corporation, Budd surveyed the transportation equipment field, including manufacturers of van trailers and containers and chassis, with a view to acquisition of such companies. As a major manufacturer of metal stampings and parts such as wheels, rims, hubs, and drums, Budd made

many of the parts used in the manufacture of van trailers and container chassis. Furthermore, Budd has designed and produced components used in the manufacture of stainless steel dry freight van trailers and aluminum containers.

6. By virtue of its position as a substantial manufacturer and supplier of transportation equipment and component parts, its financial resources, its marketing knowledge and its demonstrated interest in entering the van trailer and container and chassis industry, Budd was, prior to Oct. 22, 1968, one of the most likely potential entrants into the manufacture and sale of van trailers and containers and chassis.

7. At all times relevant herein, Budd sold and shipped its products throughout the United States and was and is now engaged in commerce as "commerce" is defined in the Clayton Act.

### III. Gindy Manufacturing Corporation

8. Prior to its acquisition by Budd on Oct. 22, 1968, Gindy Manufacturing Corporation (hereafter "Gindy") was a Pennsylvania corporation with its principal office and place of business located in Downingtown, Pa.

9. Gindy was engaged principally in the manufacture, sale and distribution of van trailers and containers and chassis. Its manufacturing and assembly facilities were located in Eagle, Lebanon and Honey Brook, Pa.; Pennsauken, N.J.; Collinsville, Va.; and St. Louis, Mo.

10. For the fiscal year ending May 31, 1968, Gindy's sales were approximately \$32.2 million, and its assets amounted to approximately \$44 million.

11. In calendar year 1968, Gindy was a substantial manufacturer and seller of van trailers and containers and chassis. With sales of \$32.2 million, it ranked fourth in the country in the sale of van trailers; with sales of \$26.7 million, it ranked fourth in the country in the sale of closed-top dry freight van trailers; with sales of \$3.1 million, second in the sale of open-top van trailers; and, with sales of \$3.1 million, sixth in the sale of containers and chassis. In that year, Gindy accounted for 8.4 percent of van trailer shipments, 10.8 percent of closed-top dry freight van trailer shipments, 15.9 percent of open-top van trailer shipments and 3.8 percent of container and chassis shipments. In calendar year 1969 Gindy's shipments of van trailers increased to \$42.6 million, and its market share increased to 8.8 percent. In that same year its shipments of closed-top dry freight van trailers increased to \$40.3 million, making Gindy the 3rd largest supplier with 12.9 percent of shipments. A significant increase in Gindy's position in the shipment of containers and chassis also occurred in 1969; its value of shipments increased to



\$9.0 million making it the 3rd largest supplier with 9.9 percent of that market.

12. At all times relevant herein Gindy sold and shipped its products throughout the United States and engaged in commerce as "commerce" is defined in the Clayton Act.

#### IV. The Acquisition

13. On or about Oct. 22, 1968, Budd acquired all of the then issued and outstanding capital stock of Gindy, aggregating 62,730 shares, for approximately 900,000 shares of Budd common stock. At the time of the acquisition the Budd stock exchanged for Gindy was valued at approximately \$24 million. Gindy has been operated as a Budd subsidiary since the acquisition.

#### V. Trade and Commerce

14. The relevant geographic market involved in this complaint is the United States as a whole. The relevant product markets are:

- (a) Van trailers
- (b) Containers and chassis.

The relevant product sub-markets are:

- (a) Closed-top dry freight van trailers
- (b) Open-top van trailers.

15. The manufacture of van trailers and containers and chassis is a significant industry in the United States. During 1968, the approximate total value of shipments in the relevant markets and submarkets by domestic producers was as follows:

- (a) Van trailers, \$381.7 million;
- (b) Closed-top dry freight van trailers, \$246.1 million;
- (c) Open-top van trailers, \$19.8 million; and
- (d) Containers and chassis, \$81.6 million.

During 1969, the approximate total value of shipments in the relevant markets and submarkets by domestic producers was as follows:

- (a) Van trailers, \$486.4 million;
- (b) Closed-top dry freight van trailers, \$312.3 million;
- (c) Open-top van trailers, \$16.3 million; and
- (d) Containers and chassis, \$91.6 million.

16. The van trailer manufacturing industry is marked by a high degree of concentration. In 1968, the four largest companies accounted for approximately 58.9 percent and the eight largest companies for approximately 81.1 percent of total industry sales. The closed-top dry freight van trailer market is even more highly concentrated with the

top four firms accounting for 65.9 percent of 1968 shipments and the top eight firms accounting for 84.8 percent. Concentration in the open-top van trailer market is also high, with the top four firms accounting for 56.9 percent of 1968 shipments and the top eight firms accounting for 72.1 percent. Concentration in the sale of containers and chassis is extremely high; in 1968 four firms accounted for 90.4 percent of shipments and the top eight for virtually all of the shipments in this market.

17. By 1969 concentration in the shipment of van trailers and closed-top dry freight van trailers had increased. In that year the top four firms accounted for 61.5 percent of van trailer shipments and the top eight firms for 81.7 percent. In 1969 the top four firms accounted for 72.0 percent of closed-top dry freight van trailer shipments and the top eight firms for 88.7 percent.

18. Of major importance to most purchasers of van trailers and containers and chassis, in many instances governing the purchaser's choice of supplier, are the terms relative to extent, duration, and rate of financing for proposed sales transactions. Access to significant financial resources which will permit a manufacturer to extend generous credit on easy repayment terms constitutes a decisive competitive advantage in the sale of van trailers and containers and chassis.

19. Entry into the manufacture and sale of van trailers and containers and chassis is difficult. A successful manufacturer and supplier of van trailers and containers and chassis must possess manufacturing and marketing knowledge of transportation equipment, must have ample financial resources, and must possess the ability to accept, service and dispose of substantial numbers of used trade-in van trailers.

#### VI. Effect of the Acquisition

20. The effects of the acquisition of Gindy by Budd may be substantially to lessen competition or to tend to create a monopoly in the manufacture and sale of: (1) van trailers, (2) closed-top dry freight van trailers, (3) open-top van trailers, and (4) containers and chassis throughout the United States in violation of Section 7 of the Clayton Act, as amended, in the following ways among others:

(a) Substantial potential competition between Budd and Gindy in each such line of commerce has been eliminated.

(b) Potential competition in each such line of commerce has been substantially lessened.

(c) Other manufacturers in each such line of commerce may be led to agree to acquisition by financially strong companies for defensive or retaliatory reasons.

(d) Barriers to entry of new manufacturers into each such line of commerce have been raised significantly.

### VII. The Violation Charged

21. The acquisition of Gindy by Budd constitutes a violation of Section 7 of the Clayton Act, as amended (15 U.S.C. §18).

INITIAL DECISION BY RAYMOND J. LYNCH, ADMINISTRATIVE  
LAW JUDGE

MARCH 8, 1974

#### PRELIMINARY STATEMENT

The Federal Trade Commission, on June 18, 1971, issued its complaint in this proceeding alleging that The Budd Company, a corporation, hereinafter referred to as Budd, by its acquisition of the stock of the Gindy Manufacturing Corporation, hereinafter referred to as Gindy, violated Section 7 of the Clayton Act (15 U.S.C. §18).

For the purposes of the complaint, the Commission has chosen the following definitions:

(a) "Containers and chassis," as used here, refer to large, closed box-type structures which can be used for the intermodal transportation of goods, by rail, ship or motor carrier and chassis used to transport containers. The container is detachable from the chassis of a trailer or semi-trailer when so used. Sizes are now generally standardized to 8 feet wide, 8 feet high and either 20 feet or 40 feet long, although a few odd sizes are also made.

(b) "Van trailer," as used here, refers to a large box-type structure attached permanently to a chassis for use as a truck trailer or semi-trailer. Among the principal types are:

- (1) Closed-top dry freight
- (2) Open-top

In addition, the relevant product markets are:

- (a) Van trailers
- (b) Containers and chassis

The relevant product submarkets are:

- (a) Closed-top dry freight van trailers
- (b) Open-top van trailers

and the relevant geographic market involved in the complaint is the United States as a whole.

Further, Budd's acquisition of Gindy violated Section 7 of the Clayton Act.

## Summary of Proceedings

On Oct. 22, 1968, Budd acquired all the then outstanding capital stock of Gindy Manufacturing Corporation, a Pennsylvania corporation with its principal office and place of business located in Downingtown, Pa.

Although an initial investigation was conducted by the Federal Trade Commission at the time of the acquisition, no action was taken at that time. Several years later, on June 18, 1971, the Federal Trade Commission issued a complaint charging that Budd's aforesaid acquisition of Gindy violated Section 7 of the Clayton Act. An answer and an amended answer were duly filed by the respondent, admitting in part and denying in part the various allegations of the complaint.

Prehearing conferences were held on several occasions between Dec. 15, 1971 and May 15, 1973. In addition, depositions of three foreign nationals were taken in England, France and Belgium during the month of April 1973. The course and conduct of the prehearing procedures were regulated by the administrative law judge through the issuance of a series of prehearing orders.

Presentation of the case-in-chief began in Wash., D.C., on July 30, 1973, hearings being held continuously through Aug. 16, 1973, on which date they were adjourned until Sept. 17, 1973, on which latter date, in that city, complaint counsel rested their case.

Respondent filed a motion to dismiss with a supporting memorandum of law. Complaint counsel filed a memorandum of law in opposition. The administrative law judge denied the motion on Sept. 17, 1973, to hear respondent's defense.

Respondent's defense was presented at hearings held in Washington, D.C., during the periods Sept. 17 through Oct. 3, 1973, Oct. 29, 1973 through Oct. 31, 1973, and on Nov. 15, 1973, on which latter date respondent rested its defense and complaint counsel presented rebuttal.

The record, which included a transcript of testimony of 2,273 pages, was closed on Nov. 26, 1973. Upon order of the administrative law judge, both counsel for the respondent and complaint counsel filed proposed findings of fact and conclusions of law on Dec. 26, 1973, and filed reply briefs on Jan. 11, 1974.

Any motions not heretofore or herein specifically ruled upon, either directly or by the necessary effect of the conclusions in this initial decision, are hereby denied.

This proceeding is before the administrative law judge upon the complaint, answer and amended answer, testimony and other evidence, proposed findings of fact and conclusions of law filed by counsel supporting the complaint and by counsel for respondent. The proposed

findings of fact, conclusions and arguments of the parties have been carefully considered, and those findings not adopted either in the form proposed or in substance are rejected as not supported by the evidence or as involving immaterial issues not necessary for this decision.

References to the record are made in parentheses, and certain abbreviations, as hereinafter set forth, are used:

CX - Commission's Exhibits.

RX - Respondent's Exhibits.

The transcript of the testimony is referred to with either the last name of the witness and the page number or numbers upon which the testimony appears or with the abbreviation Tr. and the page.

Having heard and observed the witnesses and after having carefully reviewed the entire record in this proceeding, together with the proposed findings and conclusions submitted by the parties, the administrative law judge makes the following findings:

#### FINDINGS OF FACT

##### I. Identity and Business of Respondent and Acquired Company

###### A. *The Budd Company*

1. Respondent Budd is now, and was at the time of the acquisition, a Pennsylvania corporation with its principal office and place of business located at 2450 Hunting Park Ave., Philadelphia, Pa. (complaint and answer, par. 2).

2. Since the acquisition, the executive offices of Budd have been removed from the aforesaid principal office in Pennsylvania to 2155 W. Big Beaver Road, Troy, Mich. (admitted by respondent).

3. In 1967, Budd had sales of \$330.9 million, and assets of \$264.5 million. In that year, it was the 250th largest industrial corporation in the nation in total sales. In 1968, its sales increased to \$469.5 million and assets increased to \$346.7 million making it the nation's 209th largest industrial corporation in total sales. By 1969, Budd had annual sales of \$561.7 million and assets of \$402 million, and in terms of sales had progressed to rank 191st among the nation's largest industrial corporations (complaint and answer, par. 3).

4. Budd is one of the largest independent automotive suppliers in the nation and the largest independent supplier of body components to the automotive industry. Budd manufactures automotive bodies, wheels, rims, hubs, drums, brakes and other automotive products. It also produces jigs, dies and fixtures used in the manufacture of automotive bodies and components, railroad cars, metal stampings and

industrial plastic products. Approximately 85 percent of its sales are in the automotive field (complaint and answer, par. 4).

5. Prior to its acquisition of Gindy Manufacturing Corporation, Budd surveyed the transportation equipment field, including manufacturers of van trailers and containers and chassis, with a view to acquisition of such companies. As a major manufacturer of metal stampings and parts such as wheels, rims, hubs, and drums, Budd made many of the parts used in the manufacture of van trailers and container chassis. Furthermore, Budd has designed and produced components used in the manufacture of stainless steel dry freight van trailers and aluminum containers (complaint and answer, par. 5).

6. At all times relevant herein, Budd sold and shipped its products throughout the United States and was, and is now, engaged in commerce as "commerce" is defined in the Clayton Act (complaint and answer, par. 7).

B. *Gindy Manufacturing Corporation*

7. Prior to its acquisition by Budd on Oct. 22, 1968, Gindy was a Pennsylvania corporation with its principal office and place of business located in Downingtown, Pa. (complaint and answer, par. 8).

8. Gindy was engaged principally in the manufacture, sale and distribution of van trailers and containers and chassis. Its manufacturing and assembly facilities were located in Eagle, Lebanon and Honey Brook, Pa.; Pennsauken, N.J.; Collinsville, Va.; and St. Louis, Mo. (complaint and answer, par. 9).

9. For the fiscal year ending May 31, 1968, Gindy's sales were approximately \$32.2 million, and its assets amounted to approximately \$44 million (complaint and answer, par. 10).

10. In calendar year 1968, Gindy was a substantial manufacturer and seller of van trailers and containers and chassis. With sales of \$32.2 million, it ranked fourth in the country in the sale of van trailers; with sales of \$26.7 million, it ranked fourth in the country in the sale of closed-top dry freight van trailers; with sales of \$3.1 million, second in the sale of open-top van trailers; and, with sales of \$3.1 million, sixth in the sale of containers and chassis. In that year, Gindy accounted for 8.4 percent of van trailer shipments, 10.8 percent of closed-top dry freight van trailer shipments, 15.9 percent of open-top van trailer shipments, and 3.8 percent of container and chassis shipments. In calendar year 1969, Gindy's shipments of van trailers increased to \$42.6 million, and its market share increased to 8.8 percent. In that same year, its shipments of closed-top dry freight van trailers increased to \$40.3 million, making Gindy the third largest supplier with 12.9 percent of shipments. A significant increase in Gindy's position in the shipment of containers and chassis also occurred in 1969; its value of shipments

