

tion to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in the rules in this part.

PART 155—RAYON AND SILK DYEING, PRINTING AND FINISHING INDUSTRY

Sec.

- 155.1 Misbranding and misrepresentation.
- 155.2 Deceptive concealment.
- 155.3 Substitution of products.
- 155.4 Imitation or simulation of trade-marks, trade names, etc.
- 155.5 Defamation of competitors.
- 155.6 Disparagement of products of competitors.
- 155.7 Commercial bribery.
- 155.8 Procurement of competitors' confidential information by unfair means and wrongful use thereof.
- 155.9 Inducing breach of contract.
- 155.10 Unlawful interference.
- 155.11 Unfair threats of infringement suits.
- 155.12 Coercing purchase of one product as a prerequisite to the purchase of other products.
- 155.13 Bogus independents.
- 155.14 Selling below cost.
- 155.15 Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.
- 155.16 "End piece pilfering," false invoicing, etc.

AUTHORITY: §§ 155.1 to 155.16, inclusive, issued under sec. 5, 38 Stat. 719, sec. 3, 52 Stat. 112; 15 U.S.C. 45.

SOURCE: In §§ 155.1 to 155.16, inclusive, the numbers to the right of the decimal point correspond with the respective rule numbers in Trade Practice Rules, Rayon and Silk Dyeing, Printing and Finishing Industry, Federal Trade Commission, Dec. 12, 1941; 6 F.R. 6369.

§ 155.1 *Misbranding and misrepresentation.* The false or deceptive marking or branding of products of the industry, or the making or publishing of any false or deceptive advertisements, statements, or representations, concerning the dyeing, printing, bleaching, finishing, or processing of any products of the industry, or concerning their quality, quantity, weighting, fiber content, or preparation, or in any other material respect, is an unfair trade practice.

§ 155.2 *Deceptive concealment.* It is an unfair trade practice for any member of the industry to use, or directly or indirectly to assist others in the use of, any deceptive selling method or other deceptive act or practice by concealing or failing to disclose textile content, weight-

ing, and other information required to be disclosed by Parts 123 and 135 of this chapter, or other applicable rules; or by any other means to engage in deceptive selling methods.

§ 155.3 *Substitution of products.* The practice of shipping or delivering products which do not conform to samples submitted, or to representations made prior to securing the order, without the consent of the customers to such substitutions, or with the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public, is an unfair trade practice.

§ 154.4 *Imitation or simulation of trade-marks, trade names, etc.* The imitation or simulation of the trade-marks, trade names, brands, or labels of competitors, with the tendency and capacity or effect of thereby misleading or deceiving the purchasing or consuming public, is an unfair trade practice.

§ 155.5 *Defamation of competitors.* The defamation of competitors by falsely imputing to them dishonorable business conduct, inability to perform contracts, questionable credit standing, or by other false representations, is an unfair trade practice.

§ 155.6 *Disparagement of products of competitors.* The false disparagement of the grade, quality, quantity, weighting, fiber content, character, or processing of competitors' products or services is an unfair trade practice.

§ 155.7 *Commercial bribery.* It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to contract for the processing of goods or products by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing with competitors.

§ 155.8 *Procurement of competitors' confidential information by unfair means*

and wrongful use thereof. Obtaining information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements, by the impersonation of one in authority, or by any other unfair means, and using the information so obtained in such a manner as to injure said competitor in his business or to suppress competition or unreasonably restrain trade, is an unfair trade practice.

§ 155.9 *Inducing breach of contract.* Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice.

§ 155.10 *Unlawful interference.* It is an unfair trade practice for any member of the industry, by means of any monopolistic practices, or through combination, conspiracy, coercion, boycott, threats, or any other unlawful means, directly or indirectly, to interfere with a competitor's right to purchase his materials and supplies from whomsoever he chooses, or to sell to whomsoever he chooses.

§ 155.11 *Unfair threats of infringement suits.* The circulation of threats of suit for infringement of patents or trade-marks among customers or prospective customers of competitors, not made in good faith but with the effect of intimidating such customers or prospective customers, or of hampering or injuring competitors in their businesses, is an unfair trade practice.

§ 155.12 *Coercing purchase of one product as a prerequisite to the purchase of other products.* The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice.

§ 155.13 *Bogus independents.* It is an unfair trade practice to sell or offer to sell industry products through a pretended independent concern in such manner as to mislead or deceive customers or prospective customers into the erroneous belief that such concern is independent and in competition with that member of the industry owning or controlling such concern.

§ 155.14 *Selling below cost.* The practice of selling industry products below the seller's cost, when pursued with wrongful intent of thereby injuring a competitor and where the effect of such practice is to unreasonably restrain trade, tend to create a monopoly, or substantially lessen competition, is an unfair trade practice.

This section is not to be construed as prohibiting all sales below cost, but only such selling below the seller's cost as is resorted to and pursued as a monopolistic practice with the wrongful intent referred to and coupled with the effect of unreasonably restraining trade, tending to create a monopoly, or substantially lessening competition.

The costs referred to in this section are actual costs of the respective seller and not some other figure or average costs in the industry determined by an industry cost survey or otherwise.

§ 155.15 *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination—(a) General.* It is an unfair trade practice for any member of the industry engaged in commerce,¹ in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, allowance for alleged imperfect workmanship after material has been cut, or other form of price differential, where such rebate, refund, discount, credit, allowance for alleged imperfect workmanship, or other form of price differential, effects a discrimination in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved therein are in commerce,¹ and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of com-

merce,¹ or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however:*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce¹ from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (i) the market for the goods concerned, or (ii) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce,¹ in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce¹ to pay or contract for the payment of advertising

or promotional allowances or any other thing of value to or for the benefit of a customer of such member 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 member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce¹ to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale, of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce,¹ in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this section.

(f) *Purchases by schools, colleges, universities, public libraries, churches, hospitals and charitable institutions not operated for profit.* The foregoing provisions of this section relate to practices within the purview of the Robinson-Patman Antidiscrimination Act, which

¹ As used in § 155.15, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That this shall not apply to the Philippine Islands.

Act and the application thereunder of this section are subject to the limitations expressed in the amendment to such Robinson-Patman Antidiscrimination Act, which amendment was approved May 26, 1938, and reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing in the Act approved June 19, 1936 (Public, Numbered 692, Seventy-fourth Congress, second session), known as the Robinson-Patman Antidiscrimination Act, shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit. (52 Stat. 446; 15 U.S.C. 13c)

§ 155.16 "*End piece pilfering*," false invoicing, etc. (a) In the course of or in connection with conduct of business by any member of the industry involving the sale of, or contract to furnish, products of the industry to his customers, it is an unfair trade practice for any such member to use the device or scheme of false invoicing or of so-called end piece pilfering or of any other device or scheme characterized by deception or fraud.

(b) For purposes of this section, end piece pilfering shall mean the pilfering, purloining, or unauthorized conversion to his own use, by any member of the industry, of fabrics or yarn, or pieces thereof, belonging to his customers and bailed to such member for dyeing, printing, finishing, bleaching, or other processing.

PART 156—SUN GLASS INDUSTRY

Sec.

- 156.1 Misbranding of industry products.
- 156.2 Misuse of terms "ground," "polished," and "ground and polished."
- 156.3 Misuse of the word "Crookes."
- 156.4 Other misrepresentations of industry products.
- 156.5 Defamation of competitors or disparagement of their products.
- 156.6 Consignment distribution.
- 156.7 Deception as to origin.
- 156.8 Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.
- 156.9 Discriminatory returns.

AUTHORITY: §§ 156.1 to 156.9, inclusive, issued under sec. 5, 38 Stat. 719, sec. 3, 52 Stat. 112; 15 U.S.C. 45.

SOURCE: In §§ 156.1 to 156.9, inclusive, the number to the right of the decimal point corresponds with the respective rule numbers in Trade Practice Rules, Sun Glass Industry,

Federal Trade Commission, Dec. 23, 1941; 6 F.R. 6629.

§ 156.1 *Misbranding of industry products.* The false or deceptive marking, branding, or labeling of any product of the industry with respect to the grade, quality, use, effect, purpose, material, content, origin, preparation, manufacture, or distribution of such product, or concerning any component thereof, or in any other material respect, is an unfair trade practice.

§ 156.2 *Misuse of terms "ground," "polished," and "ground and polished."*

(a) In the course of or in connection with the sale or distribution of sun glasses or sun glass lenses which have not been ground and polished as hereinafter defined, it is an unfair trade practice to mark, stamp, brand, label, advertise, describe, or otherwise represent, such sun glasses or sun glass lenses, as "ground," "polished," or "ground and polished," or by words or representations of similar import or meaning, with the capacity and tendency or effect of thereby misleading or deceiving the purchasing or consuming public.

(b) For purposes of this section a ground and polished lens (as applied to sun glasses) is a lens of which both optical surfaces have first been completely removed with an abrasive to eliminate surface imperfections and to obtain the desired form for the lens (e. g., flat, spherical, toric, etc.) and then polished so as to produce an optical finish which is free from visible surface defects, such as scratches, waves, and grayness.

§ 156.3 *Misuse of the word "Crookes."*

It is an unfair trade practice, in the sale or distribution of sun glasses or sun glass lenses, to mark, stamp, brand, label, advertise, describe, or otherwise represent, such sun glasses or lenses as being "Crookes" when such is not true in fact; or to use the word "Crookes" or other words or representations in any manner as to import or imply that the lenses to which such marks, words, or representations are applied are "Crookes" lenses when such is not true in fact.

For purposes of the rules in this part a "Crookes" lens is defined as a nearly neutral colored ultra-violet absorption glass which contains sufficient crude cerium and/or rare earths to reduce the