

IN THE MATTER OF

GENERAL MOTORS CORPORATION, AND GENERAL
MOTORS SALES CORPORATION

COMPLAINT, FINDINGS, AND MODIFIED ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF SEC. 3 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914

Docket 3152. Complaint, June 15, 1937—Decision, Nov. 12, 1941

Where a corporate automobile manufacturer, products of which, including parts and accessories made through several subsidiaries, constituted a substantial portion of all those made and sold in the United States, and which operated through five motorcar divisions, named to correspond with the cars made by it; and a sales corporation to and through which it competitively sold such automobile parts, etc., and which (1) supervised its dealers through a large field organization, (2) entered into agreements or "franchises" with them, under which dealer undertook not to sell or use second-hand parts or any not made or authorized by manufacturer, seller had right to check dealer's stock of parts, and dealer, if it thought such stock insufficient, was obligated to order immediately such parts as it might recommend; and (3) construed dealer's obligation to stock only "genuine parts" as covering, in addition to items for repair and replacement, its various accessories also—

In carrying on not as incident to their sale of automobiles, but as substantial portion of their entire business, to the promotion of which they directed numerous activities, sale of "parts" and accessories, which included a great variety of items theretofore sold in competition with the independent jobber and identical therewith, such as ball bearings, battery cables, brake linings, and numerous others; embraced many made by independent manufacturers for aforesaid manufacturer, differing from said manufacturers' similar items, sold through such jobbers, only in their sale, by said sales corporation, under its own identification, as "genuine"; and included many others which were made by many reputable manufacturers and were of like quality and design; or which, not necessary to the car's mechanical operation, had no bearing upon its performance and good-will—

- (a) Adopted a program of acts and practices which were designed to and did intimidate and coerce its dealers and compelled them to purchase parts and accessories solely from said selling corporation, and prohibited purchases from outside sources except in cases of emergency when the "genuine" part or accessory was not available in the warehouse of manufacturer in question; and as a part of said various acts and practices—
- (1) Made its indeterminate dealer franchises a means of coercion and intimidation through its practice of renewing or canceling such franchises at the annual meetings called by the zone managers for their respective districts, at which time each dealer, following personal interviews with representatives of the parts and accessories and other departments, and final interview with the zone manager, as condition to renewal, was required to secure the approval of each and agree with said manager on his prospective requirements;

- (2) Coerced, through threat of cancellation implicit in aforesaid practice, dealers into the purchase of parts and accessories beyond their requirements, and, under its plan designed to limit dealer's purchases of parts and accessories to those sold by it, delivered, in many cases, automobiles equipped with various accessories which he had not ordered; shipped to him, with or without cars and without prior order therefor, accessories; and, in many cases, made shipments of parts and accessories, treating as orders therefor, dealer's required projection of future needs;
- (3) Made use of its monthly parts order plan—under which dealer's last monthly order was compared with the present one—to intimidate, coerce and compel dealers to buy parts and accessories;
- (4) Made use of its monthly inspection of the dealers' stocks and establishments to coerce them into purchasing its parts and accessories only, through threatening, directly and by implication, upon discovery of parts and accessories other than those supplied by it, that unless practice was discontinued, recalcitrants' contracts would be canceled; furthering such threats through arrangements for interviews with respective zone managers, in whom, as was known, rested power to recommend cancellation; and
- (5) In some cases delayed new car shipments to dealers who had refused to handle only parts and accessories sold by it, and in certain cases canceled dealers' contracts after controversy over use of parts and accessories, though, ostensibly, upon other grounds;

With the result that independent jobbers who, as competitors, sold the products of independent manufacturers, including numerous items identical with those sold by two corporations in question, and embracing many sold also by said corporations under their own identification as "genuine" replacement parts, and many others not necessary to the car's mechanical operation and having no bearing upon its performance or good-will, were thereafter unable to sell in substantial quantities to dealers such parts and accessories as heaters, radios, antifreeze solutions, spark plugs, and many others; dealers of said sales corporation were intimidated, coerced and compelled to purchase accessories and supplies only from it; substantial trade was diverted to corporations in question from their competitors engaged in the manufacture and interstate sale and distribution of automobile accessories and supplies; competing manufacturers were deprived of a market for their products; and there was a tendency unduly to hinder competition and create a monopoly in said first named corporation in automobile accessories and supplies;

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and said corporations' competitors, and constituted unfair methods of competition in violation of section 5 of the Federal Trade Commission Act; and

Where aforesaid corporations—

- (b) Entered into agreements or "franchises" with dealers handling their respective lines of automobiles, parts and accessories and sold their parts on the condition, agreement or understanding that the purchaser would not sell or use parts other than those acquired from them, without limitation to parts' necessity to car's mechanical operation and lack of availability, in like quality and design, from other sources;

With the tendency to create a monopoly in replacement parts used on said manufacturer's cars; of removing as customers of independent manufac-