LIBBY-OWENS-FORD GLASS COMPANY ET AL.

Docket 7643. Order and Opinion, Feb. 26, 1960

Interlocutory order granting respondent's application for access to one motion picture film in investigational files—as to which counsel for CBS stated his client had no objection—but denying it as to all other confidential material.

ON APPLICATION FOR ACCESS TO CERTAIN FILE MATERIAL

By the COMMISSION:

The respondent Libby-Owens-Ford Glass Company requests that two motion picture films designated in its application, together with any other motion picture films secured in the course of the Commission's investigation culminating in the institution of this proceeding, be exhibited to respondent's representatives.

Under the Commission's Rules of Practice adopted for the protection of material and information coming into the possession of the Commission or within the knowledge of any of its officers or employees in the performance of their official duties, all file material in the category to which the application relates constitutes

confidential information. With respect to one of the films referred to in the application, namely, that prepared by United States Testing Company, Inc., for CBS Television Network, counsel for Columbia Broadcasting System, Inc., has stated in a memorandum submitted with the application that his client has no objection to the films being exhibited to counsel for respondent Libbey-Owens-Ford Glass Company. CBS Television Network presumably was one of the media through which respondents disseminated advertising during the period to which the charges of the complaint relate. The Commission has determined that the application should be granted to the extent that it requests that the film prepared for CBS Television Network be exhibited to applicant's counsel.

Broad powers of compulsory process and visitation have been conferred by law upon the Commission. The releasing of information obtained by the Commission in the discharge of its statutory duties is consistent with its responsibilities in respect thereto only when such course will serve the public interest. The effective discharge of the Commission's duties requires that it request evidentiary information and receive voluntary submissions thereof from the public and the business community; and promptness and expedition in such submittals are fostered and promoted by duly preserving the confidential status of information so received. Other considerations of public policy become governing in the event the public interest requires introduction of such information in support of charges in adversary public proceedings. It accordingly is not controlling that applicant is of the view that access to Commission investigation files may assist applicant in preparing its defense to the charges of the complaint.

The application for access to confidential material other than the aforementioned film prepared for CBS Television Network is denied. An appropriate order granting the application to the extent noted above is being entered.

Commissioner Tait did not participate in the decision of this matter.

ORDER

Respondent Libby-Owens-Ford Glass Company having made application for access to all motion picture films contained in the files of the Commission's investigation in this matter; and

The Commission having considered the matter and granted the application insofar as it relates to a motion picture film prepared for CBS Television Network by The United States Testing Company, Inc., and the Commission having additionally determined that such application should be in all other respects denied:

It is ordered, That counsel supporting the complaint in this pro-