

Order

58 F.T.C.

IN THE MATTER OF

INTERSTATE ELECTRIC COMPANY ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8023. Complaint, June 27, 1960—Order, June 1, 1961*

Order dismissing without prejudice—the public interest considered to be fully protected by recent amendment to the Communications Act of 1934—complaint charging illegal payment of “payola” to radio and television disc jockeys.

Mr. Harold A. Kennedy and *Mr. Arthur Wolter, Jr.* for the Commission.

Lemle & Kelleher, by *Mr. Murphy Moss*, of New Orleans, La., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated June 27, 1960, the respondents are charged with violating the provisions of the Federal Trade Commission Act in connection with the sale of phonograph records to various retail outlets. The respondents filed answer to the complaint in the nature of a general denial. No hearings have been held in this proceeding.

On March 27, 1961, counsel supporting the complaint filed a motion requesting that the complaint be dismissed without prejudice, stating:

“... as a result of specific Congressional action, counsel supporting the complaint considers the continued prosecution of this matter an unnecessary expenditure of time, effort and funds in determining the legality of the alleged practice since the protection of the public interest is now fully assured by specific statute.”

Upon consideration, the hearing examiner is of the opinion that the motion to dismiss should be granted.

It is ordered, That the complaint in this proceeding be, and it hereby is, dismissed, without prejudice, however, to the right of the Commission to issue a new complaint against the respondents at any time in the future as may be warranted by the then existing circumstances.

FINAL ORDER

By its order of May 15, 1961, the Commission extended until further order the date on which the initial decision of the hearing examiner herein would become the decision of the Commission; and

CAPITOL RECORDS DISTRIBUTING CORPORATION 1015

1014

Decision

The Commission now having concluded that said initial decision