required for a finding on the issue of whether or not respondents' product will preserve an existing charge in a battery to the extent necessary to give a purposeful and truthful meaning to the word "Lifetime" in the trade name.

MARCUS ROSENFELD ET AL. trading as TOWEL SHOP, ETC.

Docket 7533. Order, April 15, 1963

Order denying request to reopen cease and desist order of March 12, 1960, 56 F.T.C. 1049.

This matter having come on to be heard upon respondents' motion, filed January 30, 1963, requesting the Commission to reopen this proceeding for the purpose of permitting the taking of testimony or the filing of affidavits and the presentation of oral argument in support of respondents' contention that the order to cease and desist entered herein on March 12, 1960 [56 F.T.C. 1049], should be modified or set aside, and upon the answer of counsel supporting the complaint in opposition thereto; and

It appearing that respondents have stated as grounds for said request that the order to cease and desist entered in this proceeding, unlike an order issued by the Commission against one of respondents' competitors, requires an affirmative disclosure to be made in connection with the description of their products, and that respondents have been placed at a competitive disadvantage as a result thereof; and

It further appearing that no showing has been made that the aforesaid disclosure requirement is not necessary to prevent deception in the advertising of respondents' products or that the circumstances are such that the public interest would be better served by the elimination of this requirement; and

The Commission being of the opinion that the allegations in respondents' motion do not provide sufficient grounds to support the

conclusion that conditions of fact or of law may have so changed since the issuance of the order to cease and desist as to require a modification of said order or that the public interest may now require such modification:

It is ordered, That respondents' motion be, and it hereby is, denied.

UNITED BISCUIT COMPANY OF AMERICA

Docket 7817. Order and Opinion, Apr. 19, 1963

Interlocutory order in price discrimination case denying respondent's request for release of compliance reports of competitors, and order denying petition for reconsideration.

ORDER DENYING REQUEST FOR RELEASE OF CONFIDENTIAL INFORMATION

Respondent, pursuant to § 1.164 of the Commission's Rules of Practice, having requested on March 6, 1963, that the Commission release to it compliance reports in the matters of *National Biscuit Company*, Docket No. 5013 [38 F.T.C. 213; 50 F.T.C. 932], and *Sunshine Biscuits, Inc.*, Docket No. 6191 [51 F.T.C. 25; 52 F.T.C. 110]; and

The Commission having determined, for the reasons stated in the accompanying opinion, that the request should be denied:

It is ordered, That the respondent's request for the release of the aforementioned compliance reports be, and it hereby is, denied.

ON REQUEST FOR THE RELEASE OF DOCUMENTS

BY THE COMMISSION:

Respondent, pursuant to § 1.164 of the Commission's Rules of Practice, on March 6, 1963, filed a motion requesting that the Commission release to it compliance reports in the matters of *National Biscuit Company*, Docket No. 5013 [38 F.T.C. 213; 50 F.T.C. 932], and *Sunshine Biscuits, Inc.*, Docket No. 6191 [51 F.T.C. 25; 52 F.T.C. 110]. The National Biscuit Company meanwhile has moved to intervene in this proceeding for the purpose of opposing such motion, contending among other things that its reports contain names of customers and other intimate details of its business which ought not to be revealed to competitors.

Section 1.162(f) of the Commission's Rules of Practice in part provides: "After having been received and filed, reports of compliance filed under § 5.6, describing the manner and form in which respondents allege they have complied with the Commission's orders to cease and desist, are available at the principal office of the Commission for inspection and copying at reasonable times, unless in the

opinion of the Director of the Bureau, through which the reports of compliance were originally submitted, they contain information of a confidential nature, in which case request for release may be made to the Commission pursuant to the provisions of § 1.164." Respondent, having made a preliminary request for the aforementioned reports and having received a letter from the Commission's Bureau of Restraint of Trade stating that the reports cannot be made available, now petitions the Commission under § 1.164 for the release of the documents.

In the case of *National Biscuit Company*, Docket No. 5013, on the original order issued in 1944 a report of compliance was received and filed. In 1954, the Commission modified the order in the matter and directed a further report of compliance. Under the modified order no report of compliance has been received and filed as showing compliance. In *Sunshine Biscuits, Inc.*, Docket No. 6191, no report of compliance has been received and filed as showing compliance. In other words, the reports in both matters, aside from the report received prior to modification in *National Biscuit*, have not been formally acted upon by the Commission and are still pending before it for consideration.

The records sought, at least in one case, contain information which has been specifically determined by the Commission's Bureau of Restraint of Trade to be of a confidential character. This determination was made pursuant to Commission's Rule 1.162(f). Thus, those records presumably contain trade secrets, names of customers, or other business data which might prove detrimental to the reporting party if revealed. National Biscuit Company, in moving to intervene, asserts that its reports contain intimate details of its business, including names of customers, which should not be revealed to competitors.

Respondent requests the compliance reports for use in its pending appeal to the Commission from an initial decision of the hearing examiner in this proceeding, filed November 9, 1962, on the ground that the information might aid in its presentation of the asserted issues of (a) whether the cease and desist order is to be construed as prohibiting all quantity discounts, as such, or only specific discount practices like those charged, and (b) whether, if construed to prohibit all quantity discounts, such order is unduly broad and oppressive.

Each matter before the Commission must be considered on its own merits. Therefore, the Commission in this proceeding, if it finds that the law is violated, will enter an order in such terms as to adequately and effectively prohibit the unlawful activity. In so doing, the Commission would look at the facts as developed in this particu-

lar case. Orders in other cases, even though involving competitors, may have little relevance. Respondent has failed to sufficiently show the relevance of other orders to this case.

In addition, respondent has ample opportunity to challenge the order contained in the initial decision. If respondent believes this order is inappropriate for any reason, including the breadth of its terms as compared to orders in similar cases, it may, of course, fully pursue this question.

Finally, since the Commission has not as yet acted upon any relevant compliance reports pending before it in the *National Biscuit* and *Sunshine Biscuits* cases, it obviously will be of no use to respondent to refer to such reports as indicative of the way in which the order contained in the initial decision will be construed.

Accordingly, respondent's request for the release of compliance reports in the aforementioned cases will be denied.

ORDER DENYING PETITION FOR RECONSIDERATION

On April 19, 1963, the Commission issued its order denying, for the reasons set forth in an accompanying opinion, respondent's motion requesting the release to respondent of compliance reports relating to *National Biscuit Company*, Docket No. 5013, and *Sunshine Biscuits, Inc.*, Docket No. 6191.

On May 6, 1963, respondent filed petition for reconsideration of the Commission's action in denying such request. On May 7, 1963, National Biscuit Company requested permission to submit a supplemental answer relating to respondent's petition for reconsideration.

The Commission having considered the petition for reconsideration filed by the respondent and the request of National Biscuit Company for permission to file supplemental answer thereto and having determined that the petition and the request should be denied:

It is ordered, That respondent's petition for reconsideration of the Commission's order of April 19, 1963, and the request of National Biscuit Company for permission to file supplemental answer relating thereto be, and they hereby are, denied. (Dated May 23, 1963.)

WHITE LABORATORIES, INC.

Docket 8500. Order, April 19, 1963

Order dismissing motion to the Commission to hold settlement conference.

Respondent, on April 17, 1963, having filed motions addressed to the hearing examiner and to the Commission requesting that either