

The Commission agrees with the examiner, substantially for the reasons stated by him in paragraphs 2 and 3 quoted above, that no persuasive showing of the appropriateness of, or need for, the requested action has been made by respondent here. Accordingly,

It is ordered by the Commission, That respondent's motion be, and it hereby is, denied.

IN THE MATTER OF
PROSPECT BRACELET COMPANY, INC., ET AL.

Docket 8611. Order, July 30, 1964

Order denying respondents' motion that complaint against them be dismissed on the ground that the Commission made certain changes in policy relating to so-called foreign origin matters.

ORDER DENYING MOTION TO DISMISS

On July 17, 1964, the hearing examiner, acting pursuant to Section 3.6(a) of the Commission's Procedures and Rules of Practice, certified to the Commission a motion by respondents to dismiss the complaint. Respondents' motion, filed while the proceeding is still before the hearing examiner who has not yet rendered an initial decision, alleges that subsequent to the issuance of this complaint the Commission made certain changes in policy relating to so-called foreign origin matters, and that "the entry of an order here would be arbitrary and capricious." Complaint counsel has filed an answer in opposition to the motion.

Upon consideration of the foregoing, and it appearing that the policy matters alleged in respondents' motion do not provide justification for the extraordinary action now requested,

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

BENRUS WATCH COMPANY, INC., ET AL.

Docket 7352. Order, July 31, 1964

Order denying without prejudice respondents' request for modification of de-sist order of Feb. 28, 1964, 64 F.T.C. 1018, on the conclusion that the public interest and competition in the watchcase industry would best be served

by a determination on an industrywide basis whether a revision in the trade practice rule involved is required.

ORDER DENYING RESPONDENTS' PETITION

This matter has come on to be heard by the Commission upon a petition filed July 1, 1964, on behalf of all respondents except three individuals, requesting that this proceeding be reopened for the purpose of reconsidering paragraph 5 of the final order and for modification of that paragraph; and upon answer in opposition to said motion.

Paragraph 5 of the final order requires respondents to cease and desist from:

5. Offering for sale or selling watches, the cases of which are in whole or in part composed of base metal which has been treated with an electrolytically applied flashing or coating of precious metal of less than 1-1/2/1000 of an inch over all exposed surfaces after completion of all finishing operations, without clearly and conspicuously disclosing on such cases or parts that they are base metal which have been flashed or coated with a thin and unsubstantial coating.

In substance, respondents contend that paragraph 5 should be modified so as to permit the sale of watch cases bearing only the designation "20 Micron Gold Electroplate," which coating is less than the thickness specified in the order. In support of their motion, respondents state that there have been substantial improvements in the electroplating art since 1948, the year in which the Commission promulgated its Trade Practice Rules for the Watch Case Industry which set forth the standards embodied in paragraph 5 of the order. [16 CFR 174.2 (9)] Respondents further state that the electroplating process they now use results in a quality of gold covering equal or superior to coverings which meet the standards expressed in said Trade Practice Rules.

The Commission in considering this motion takes note of the fact that other watch companies are the subjects of orders containing prohibitions consistent with the requirements of the applicable trade practice rule. In view thereof and in light of the asserted changes in the electroplating processes in the industry since the date of said rules, the Commission has concluded that the public interest and competition in the watch case industry would best be served by a determination on an industrywide basis as to the propriety of the present application of the standards expressed in the aforesaid trade practice rule.

Accordingly, the Commission will immediately direct its Bureau of Industry Guidance to institute a proceeding for the purpose of determining whether a revision in the specific trade practice rule

here involved [16 CFR 174.2(9)] is required. If, as a result of said proceeding, the rule is revised, respondents may then request modification of the pertinent paragraph of the order in any respect which they deem appropriate by reason of that revision.

On the basis of the foregoing,

It is ordered, That respondents' petition filed July 1, 1964, be, and it hereby is, denied without prejudice, however, to respondents' right to renew their request if and when the applicable trade practice rule is revised.
