hearing examiner with instructions that he expedite the proceedings in this case.

ORDER RULING ON CERTIFICATION OF NECESSITY FOR POSTPONING HEARING DATE

This matter has come on for a hearing upon the examiner's certification of the question of the necessity for postponement of formal hearings until October 1966.

On May 18, 1966, the examiner directed counsel to file not later than June 10, 1966, their requests, if any, for hearings at more than one time and place and designating the earliest feasible dates and places of such hearings, with their reasons, a list of witnesses and exhibits, such stipulations as have been agreed upon, and all other motions and requests which would further the expedition of the hearings.

In a motion filed May 25, 1966, complaint counsel assert, among other things, that the filings required by the examiner's order would be premature and could not be made with the aura of finality which should accompany such filings, and they contend that a different prehearing timetable as suggested by such counsel would dispose of many pending prehearing matters and point toward commencement of the hearings at the earliest possible date. Specifically, on the question of setting the date of hearings, complaint counsel assert that when they advised the examiner mid-October 1966 was the earliest possible hearing date, they "were dealing with many areas of guesswork which are still uncertain," and that while they still adhere to their original date, they emphasize that this is merely an estimate.

The examiner states that in light of the record, which includes complaint counsel's motion of May 25, 1966, he is of the opinion that the request of such counsel is reasonable and that the hearings should be deferred until October 1966. He requests the authority for such deferment.

The examiner, we believe, misconceives his role and his authority in connection with the conduct of a Commission proceeding. The examiner clearly must guard against any unwarranted delays in the prehearing stage and exercise his powers in such a way as to bring the matter to trial at the earliest possible date. However, within that limitation, if such it be, he has broad discretion in all pretrial procedures and arrangements and specifically in the matter of fixing an appropriate date for the formal hearings. We note that even at this time it apparently is uncertain whether or not the hearings can be set for October 1966, since the time for these hearings will depend upon the disposition of various pretrial matters. In such circumstances, the Commis-

sion is not in a position to make a sound decision in the matter. This is something peculiarly within the hearing examiner's province, especially since he is in a position to call the parties together and to iron out difficulties, if any, so that the hearings can commence with all possible speed.

The Commission notes that the formal complaint in this proceeding was issued more than six months ago, and the hearing examiner has not yet fixed a definite date for the commencement of hearings. The Commission believes that altogether too much time for utilization of prehearing procedures has already elapsed. We do not know where the fault, if any, lies; but it is the special duty of complaint counsel and the hearing examiner to carry out both the Commission's statutory obligation to "proceed with reasonable dispatch" (Section 6(a) of the Administrative Procedure Act) and its expressed policy that adjudicative proceedings "shall be conducted expeditiously" (Section 3.1 of the Commission's Rules of Practice). We stress that the examiner should brook no undue delay. He has, we believe, all of the powers necessary to see to it that the parties dispose of all pretrial matters in a reasonable time and to get on with the trial of the case. He should use them.

It is ordered, That this matter be, and it hereby is, remanded to the examiner for further conduct of the proceedings in accordance with the views herein expressed.

THE MENTHOLATUM COMPANY

Docket 8644. Order and Opinion, June 8, 1966

Order rejecting stipulation of respondent pursuant to order of April 26, 1966, and remanding case to hearing examiner for trial unless, within 10