complaints are issued against its competitors who are engaged in the same practices with which respondent is charged.

ORDER RULING ON MOTION FOR SUSPENSION OF PROCEEDINGS

CERTIFIED BY THE EXAMINER

The examiner has certified, with the recommendation that it be denied, respondents' motion for suspension of further proceedings in this matter until complaints are issued against certain of its competitors or, in the alternative, for dismissal

of the complaint and in lieu thereof institution of a trade practice conference proceeding. In support of these requests, respondents, in essence, contend the business practices of respondents are the same as those used by their competitors, including the dominant firm in the industry.

In his affidavit attached to respondents' motion, one of the individual respondents, William J. Greene, states that the advertisements of General Transmissions are no different from its competitors since the representations therein are essentially the same. The affidavit further alleges, in effects that the performance of General Transmissions' competitors in connection with the advertising claims under consideration in this proceeding was the same as that of respondents. According to the affidavit, the instances which it cites are only illustrative of the fact that the practices challenged in the complaint "are common, ordinary, market-wide practices used by all competitors in the metropolitan Washington, D. C. area." The affidavit concludes with the assertion that competition in the Washington market is severe. As a result, respondents claim that to require General Transmissions to discontinue the practices alleged illegal while its competitors are not similarly restricted would seriously injure them and may force them out of business before the Commission takes action in the case of its rivals.

Subsequent to the examiner's certification, respondents filed a request for leave to present oral argument and to file a brief in support of their motion.

The Commission has determined that the motion should be denied. A determination of the truth of falsity of the advertising claims under consideration here, whether made by respondents or their competitors, cannot be made on the basis of the advertisements alone. The actual performance of the advertiser is necessarily a crucial consideration. As a result, the Commission is not in a position to pass on the veracity of the advertising claims cited in the motion to suspend solely on the basis of respondents' charges. Under these circumstances, the public interest will not permit a suspension of this proceeding where the Commission has stated in the complaint that there is reason to believe that the law has been violated. If it is respondents' position that Commission proceedings against their competitors will result in orders to cease and desist, that assumption is premature and does not justify suspension of this proceeding. See *Clinton Watch Company* v. *Federal Trade Commission*, 291 F. 2d 838 (7th Cir. 1961), *cert. denied*, 368 U.S. 952 (1962). Nor is there any evidentiary basis for the inference that respondents

will be forced out of business by bringing this case to an expeditious conclusion.

Respondents' alternative request, that the Commission institute a trade practice conference proceeding in lieu of the complaint in this case, will also be denied. The Commission will consider whether an industrywide proceeding or other actions are justified in the light of the representations made by respondents. However, even if a general industrywide inquiry were instituted, this would not justify "declaring a moratorium on all enforcement activities" as to past transactions. See *Permanente Cement Company,* Docket No. 7939 (1964) [65 F.T.C. 410]; *Texas Industries, Inc.,* Docket No. 8656, and *Mississippi River Fuel Corporation,* Docket No. 8657 (Order Denying Motions To Suspend Complaints, April 14, 1965) [67 F.T.C. 1363].

Finally, respondents have made no showing that the public interest would be served by further delaying this proceeding in order to grant respondents an opportunity to present oral argument and file a brief in support of their motion. The Commission, on the basis of the examiner's certification and the pleadings already on file, has sufficient information to dispose of the issues raised by respondents' requests. Accordingly,

It is ordered, That respondents' request for suspension of these proceedings be, and it hereby is, denied.

It is further ordered, That respondents' request for institution of a trade practice conference proceeding in lieu of the complaint in this case be, and it hereby is, denied.

It is further ordered, That respondents' request for opportunity to present oral argument and to file a brief in support of their motion to suspend be, and it hereby is, denied.

STATESMAN LIFE INSURANCE COMPANY

Docket 8686. Order and Opinion, Dec. 7, 1966

Order denying respondent's request for an intra-agency document which allegedly dismisses a complaint based on facts similar to those in the instant case.

DISSENTING OPINION