Order denying respondent's application for transfer of case to the Department of Justice.

OPINION OF THE COMMISSION

Respondent has filed an application requesting that the Commission transfer this proceeding to the Department of Justice "for such further action as may be just." In support of its application, respondent argues that such a transfer "would purge this proceeding of any taint from the Commission's pretrial publicity, simultaneous industry-wide investigation, promulgation of an enforcement policy and conduct of an adjudicative proceeding * * *."

Respondent's contentions with respect to the alleged prejudicial nature of the Commission's industrywide proceeding were disposed of in our opinion and order of February 6, 1967 [p. 1618 herein], denying respondent's motion to vacate the complaint herein. We adhere to the views expressed in that opinion, and there is no need to repeat them here.

Respondent has added to its previous arguments the claim that the Commission engaged in prejudicial pretrial publicity by issuing

press releases, a staff economic study, and a statement of enforcement policy involving vertical mergers in the cement industry. In our view, none of these documents contains any material prejudicial to respondent. The issuance of appropriate press releases, staff economic reports, and statements of enforcement policy is necessary to inform the public, the bar, and industry members of the Commission's actions and determinations. We find respondent's application wholly without merit, and it is denied.

Commissioner MacIntyre did not participate.

ORDER DENYING APPLICATION FOR TRANSFER OF PROCEEDING

Upon consideration of respondent's application for transfer of this proceeding to the Department of Justice, filed on February 16, 1967; and for the reasons stated in the accompanying opinion,

It is ordered, That respondent's application be, and it hereby is, denied.

Commissioner MacIntyre not participating.
