Order denying respondent's petition for reopening and for a stay of the effective date of the final order; granting respondent's petition for leave to file a further statement; modifying Paragraph IX of the final order of June 30, 1971 (78 F.T.C. 1352); and otherwise denying respondent's petition for reconsideration.

ORDER OF THE COMMISSION RULING ON RESPONDENT'S PETITIONS FOR RECONSIDERATION, REOPENING, STAY OF FINAL ORDER, AND PETITION FOR LEAVE

Respondent Papercraft Corporation having filed on August 12, 1971, a Petition for Reconsideration of Paragraph IX of the Commission's final order of June 30, 1971, or for reopening under Sections 3.55, 3.71, and 3.72 of the Commission's rules, and for a stay of the effective date of that final order under Section 3.55; and counsel supporting the complaint having filed its opposition thereto on August 20, 1971; and respondent Papercraft Corporation having filed on September 2, 1971, a Petition for Leave to file a further pleading

in this proceeding; and counsel supporting the complaint having filed its opposition thereto on September 8, 1971; and

The Commission having determined that respondent's Petition for Leave should be granted and having considered the contents of said further pleading; and

The Commission having determined that respondent's Petition for Reconsideration is addressed solely to a question that was presented in complaint counsel's Proposed Findings of Fact of May 12, 1970 (pp. 60 and 69), and ruled upon by the hearing examiner in his initial decision of July 27, 1970, is not "confined to new questions raised by the decision or final order of the Commission" in its decision or order of June 30, 1971 [78 F.T.C. 1352, 1427], as required by Section 3.55 of the Commission's rules and therefore should be denied; and

The Commission having determined that respondent's Petition for Reopening and for a stay of the effective date of the final order should be denied; and

The Commission having determined that Paragraph IX of its order of June 30, 1971, should be revised to make clear that it applies to direct customer accounts of CPS Industries, Inc., and should be modified to apply only to customers sold by CPS during a two (2) year period preceding the acquisition of December 27, 1967, and until divestiture hereunder;

Now therefore, it is ordered, That Papercraft's Petition for Leave to file a further statement be, and it hereby is, granted;

It is further ordered, That Paragraph IX of the Commission's final order of June 30, 1971, be, and it hereby is, modified to read as follows:

> *It is further ordered*, That for a period of three (3) years from the date of divestiture the Papercraft Corporation is prohibited from selling any decorative giftwrap products to any direct customer account of CPS Industries, Inc., which at any time during the two (2) years preceding December 27, 1967, and until divestiture is effected hereunder, has been sold any decorative giftwrap products by CPS Industries, Inc., unless such customer account was sold such decorative giftwrap products by the Papercraft Corporation prior to December 27, 1967.

It is further ordered, That respondent's Petition for Reconsideration be, and it hereby is, otherwise denied; and

It is further ordered, That respondent's Petition for Reopening and for Stay of the effective date of the Commission's final order of June 30, 1971, be, and they hereby are, denied.

THE HEARST CORPORATION, ET AL.

Docket 8832. Order and Opinion, Sept. 23, 1971

Order denying the request of two of the respondents for an interlocutory appeal from hearing examiner's order denying their motion for an order dismissing Paragraph Seven of the complaint.

Opinion and Order Denying Request for Leave To File an Interlocutory Appeal

Respondents, the Hearst Corporation and Periodical Publishers' Service Bureau, Inc., have requested leave to file an interlocutory appeal from the hearing examiner's August 10, 1971 order denying their motion for an order dismissing Paragraph Seven of the complaint.

On April 8, 1971, respondent International Magazine Service of the Mid-Atlantic, Inc. (IMS), filed with the examiner a motion to dismiss Paragraphs 4, 5, 6, and 7 of the complaint on the ground that the "matters covered therein are also the subject of an active, pending proceeding looking to the adoption of a trade regulation rule" concerning a cooling-off period in door-to-door sales, notice of which was published September 30, 1970 (35 Fed. Reg. 15164). The examiner certified this motion to the Commission pursuant to Section 2.33 of our Procedures and Rules of Practice. In the alternative, IMS moved that the adjudicative proceeding be stayed as a matter of administrative discretion pending disposition of the rulemaking proceeding.

We denied this motion to dismiss or stay by order issued May 26, 1971, pointing out *inter alia* that there was no overlap between Paragraphs 4, 5, and 6 of the instant complaint and the pending trade regulation rule. As to Paragraph 7, we noted that complaint counsel had made it quite clear during pretrial proceedings that this paragraph did not charge that gaining access to a potential customer's residence without prior invitation was itself an unlawful practice (Commission Opinion, May 26, 1971, Note p. 3 [78 F.T.C. 1588, 1590]). We also noted that the question of whether it is *per se* an unfair practice to fail to provide a right of cancellation in door-to-door sales is a major issue in the trade regulation rule proceeding and, therefore, to the extent this issue might be encompassed within the allegations of Paragraph 7, this issue was withdrawn from the complaint and Paragraph 7 modified *pro tanto*.

Respondents Hearst and Periodical have now also filed a motion seeking a dismissal of Paragraph 7 of the complaint. The hearing examiner denied this motion and respondents have requested leave to file an interlocutory appeal.