

IN THE MATTER OF
WARNER-LAMBERT COMPANY

Docket 8850. Interlocutory Order, July 26, 1973.

Order directing complaint counsel to file supplemental brief in connection with interlocutory appeal regarding disclosure of certain government records; and granting respondent permission to file answering brief.

Appearances

For the Commission: *P. R. Teetor, R. Jacobs, D. A. Lofty, and T. P. Athridge.*

For the respondent: *Mudge, Rose, Guthrie & Alexander, New York, New York, Bergson, Borkland, Margolis & Adler, Washington, D. C.*

ORDER DIRECTING FURTHER BRIEFING

This matter is before the Commission upon petition of complaint counsel filed June 22, 1973, that the Commission entertain an interlocutory appeal from a ruling of the administrative law judge regarding disclosure of certain Government records. Respondent has filed an answer opposing the petition.

In order to aid further the Commission's consideration in this matter,

It is ordered, That a further supplemental brief be filed by complaint counsel directed to the following questions:

1. To what extent, if any, has complaint counsel actually used, or planned to use, the "Alphabetical List of IND Generics" print-out in preparing evidence or testimony in its case-in-chief? This information should be put in affidavit form.

2. On the question whether a firm or group of firms should be considered potential entrants into an alleged submarket because of research activity or interest, why should not the Commission, in the interest of keeping the scope of the record within reasonable bounds and confined to evidence clearly probative, grant the appeal and limit both parties' evidence and discovery to research activity that has at least reached the stage of the filing of a New Drug Application with the Food and Drug Administration?

Complaint counsel's brief shall be filed within ten (10) days of this order. Respondent may file an answering brief within ten (10) days of receipt of complaint counsel's brief.

Complaint

83 F.T.C.

IN THE MATTER OF
FOREMOST-McKESSON, INC.

CONSENT ORDER IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-2427. Complaint, July 26, 1973—Decision, July 26, 1973.

Consent order requiring a San Francisco, California, wholesale distributor of druggists' sundries, among other things to cease inducing or receiving discriminating payments, and offering anticompetitive inducements.

Appearances

For the Commission: *R. J. Dolan, J. E. Passarelli.*

For the respondent: *Ian R. Gilbert*, Foremost-McKesson, Inc., San Francisco, California.

COMPLAINT

The Federal Trade Commission, pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, having reason to believe that Foremost-McKesson, Inc., a corporation, has violated and is now violating the provisions of Section 5 of the Federal Trade Commission Act (U.S.C., Title 15, Section 45), and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in respect thereto as follows:

COUNT 1

Foremost-McKesson, Inc.

PARAGRAPH 1. Respondent Foremost-McKesson, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office located at Crocker Plaza, One Post Street, San Francisco, California.

PAR. 2. Respondent is now, and has been for many years, engaged in the wholesale distribution of, among other products, druggists' sundries with total sales of such products of \$70 million for the fiscal year ended March 31, 1971.