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Order

IN THE MATTER OF

READER'S DIGEST ASSOCIATION, INC.

Docket C-2075. Interlocutory order, Dec. 17, 1974

Order denying respondent's request to reopen proceeding for modification of order provision prohibiting respondent from "using or distributing simulated checks, currency, 'new car certificates'; or using or distributing any confusingly simulated item of value."

Appearances

For the Commission: *J. Thomas Rosch.*

For the respondents: *William Barnabas McHenry* for Reader's Digest Association, Inc.

ORDER DENYING REQUEST TO REOPEN PROCEEDING

This matter is before the Commission on Reader's Digest Association's petition, dated Nov. 2, 1974, to reopen the proceeding in the above-captioned matter for modification of the order provision that prohibits respondent from "using or distributing simulated checks, currency, 'new car certificates'; or using or distributing any confusingly simulated item of value."

Reader's Digest requests that the Commission delete the aforesaid provision and substitute therefor the following: "representing that promotional materials are negotiable instruments which can be cashed, redeemed, or exchanged for money."*

Respondent's principal contention in support of this request is that the language: "confusingly simulated items of value," is so broad that it does not permit the application of reasonable standards to be consistently applied in determining whether respondent's promotional material violates the order.

Complaint counsel, in their answer received Nov. 26, 1974, object to the modification, pointing out that the "myriad of forms and materials submitted by respondent in connection with its promotions" makes any single or objective standard "other than that they should not simulate checks, currency, etc.," not practical.

We agree that the language of the subject order provision should not be narrowed. While the Commission strives in each order to set stan-

*By a petition dated Nov. 27, 1974, Reader's Digest requested that the proposed modification be changed to delete a second sentence which read: "The clear and conspicuous use of the term, 'non-negotiable,' on the face of the promotional materials shall act as a disclaimer of the ability to be cashed, redeemed or exchanged."

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dards of conduct that can be adjudged objectively, the nature of the practices subject to the order often are such that a less definitive standard is necessary. Such is the case here.

Accordingly, *it is ordered*, That the request that this matter be reopened for modification of the order be denied.

Commissioner Thompson abstaining.
