

Complaint

86 F.T.C.

IN THE MATTER OF

BORG-WARNER CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE
CLAYTON ACT*Docket C-2716. Complaint, Aug. 20, 1975—Decision, Aug. 20, 1975*

Consent order requiring a Chicago, Ill., automotive parts manufacturer, among other things to divest itself, within 18 months, of all assets acquired as a result of its acquisition with Unit Parts Company, reestablishing Unit Parts as a competitor. Further, respondent is required to obtain Commission approval before acquisition of any automotive parts rebuilder for a period of 10 years.

Appearances

For the Commission: *K. Keith Thurman, Roger J. McClure and Anne R. Schenof.*

For the respondent: *Charles W. Houchins, Chicago, Ill.*

COMPLAINT

The Federal Trade Commission having reason to believe that Borg-Warner Corporation, (hereinafter "B-W"), a corporation subject to the jurisdiction of the Commission, has acquired Unit Parts Company, (hereinafter "U-P"), a corporation, in violation of Section 7 of the Clayton Act, as amended (15 U.S.C. §18), and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. §45), and that a proceeding in respect thereof would be in the public interest hereby issues this complaint, pursuant to Section 11 of the Clayton Act (15 U.S.C. §21) and Section 5 of the Federal Trade Commission Act (15 U.S.C. §45) stating its charges in that respect as follows:

I. Definitions

1. For the purpose of this complaint, the following definitions shall apply:

(a) "Automotive" refers to parts used on all self-propelled land vehicles, including automobiles, trucks, buses, tractors, self-propelled agricultural equipment and construction equipment, but excluding motorcycles.

(b) "Clutches" are clutch discs, clutch cover plates, and complete clutch assemblies.

(c) "Carburetor parts" are individual parts and kits containing such parts used to repair carburetors.

(d) "rebuilt parts" are automotive parts, exclusive of engines, crankshafts and automatic transmissions, remanufactured for resale on a production line basis.

(e) "Independent aftermarket" includes all sales by manufacturers or reboxers of automotive parts directly to wholesalers or retailers for replacement use. It excludes sales by vehicle manufacturers or engine manufacturers directly to vehicle dealers.

(f) "Reboxer" refers to a manufacturer of one or more lines of automotive parts who purchases for resale under its own brand, individual items which it does not manufacture. A reboxer competes at the manufacturers' functional level.

(g) "Automotive aftermarket" includes all sales by manufacturers of automotive parts for replacement use.

(h) "Market" includes all shipments of the relevant products manufactured in the United States or imported into the United States.

II. Borg-Warner Corporation

2. Respondent Borg-Warner Corporation is now, and was at all times relevant herein, a corporation, and its present principal office and place of business is located at 200 S. Michigan Ave., Chicago, Ill.

3. As a result of its acquisitions described below and its internal growth, B-W by 1971 had become the 110th largest industrial corporation in the nation. In 1971, B-W had sales of \$1.148 billion and assets of \$932 million. In that year, B-W had five sales divisions which accounted for the following percentages of its total sales:

- (a) Air conditioning and building products (22 percent);
- (b) Chemicals and plastics (14 percent);
- (c) Industrial and steel products (30 percent); and
- (d) Transportation equipment (34 percent).

4. B-W was formed in 1928 through the merger of four leading automotive parts producers. These companies were Borg and Beck Company, Marvel Carburetor Co., Warner Gear Co. and Mechanics Universal Joint Co. Borg and Beck Company was a leading manufacturer of clutches. Marvel Carburetor Co. manufactured carburetors and parts therefor. Warner Gear Co. was a leading producer of gears for automotive manual transmissions. Mechanics Universal Joint Co. manufactured automotive universal joints.

5. By adherence to a plan of continued acquisitions and resulting internal expansion, B-W has enlarged and has plans to continue to enlarge its position as a producer and/or supplier of various types of automotive parts.

6. B-W has made a succession of acquisitions and has plans to continue to acquire manufacturers and/or sellers of various types of

automotive parts which it already sold prior to such acquisitions, including among others:

(a) Century Gas Equipment Company, a California corporation located in Paramount, California, acquired in 1957 and a leading producer of LPG carburetors and parts therefore;

(b) Shurhit Products, Inc., an Illinois corporation, located in Dixon, Ill. acquired in 1963, and a supplier of replacement ignition and carburetor parts;

(c) Precision Automotive Components Company, a Missouri corporation, located in Baldwin, Mo. acquired in 1965, and a large supplier of replacement carburetor parts;

(d) Tillotson Manufacturing Co., an Ohio corporation, located in Toledo, Ohio, acquired in 1969, and a manufacturer of small engine and industrial carburetors and parts therefor; and

(e) The Warneford group, a group of Australian limited liability proprietary businesses, acquired in 1974.

At all times relevant herein, each of the above-named United States corporations was engaged in commerce as commerce is defined in the Federal Trade Commission Act.

7. Since its inception, B-W has significantly expanded its position in the clutch market, both by acquisition and internal development. In the year following its inception, B-W had clutch sales of \$4.139 million from its Borg and Beck plant.

8. In 1929, B-W acquired Long Manufacturing Co., (hereinafter "Long"), a leading manufacturer of clutches. At the time of its acquisition, Long was a corporation organized and existing under the laws of the State of Michigan, with its principal place of business located in Detroit, Mich.

9. In 1929, Long's sales of clutches were \$3.098 million.

10. At all times relevant herein, Long sold and shipped its products in many States of the United States and was engaged in commerce as "commerce" is defined in the Federal Trade Commission Act.

11. In 1929, B-W acquired Rockford Drilling Machine Co., (hereinafter "Rockford"), a significant manufacturer of clutches. At the time of its acquisition, Rockford was a corporation organized and existing under the laws of the State of Illinois, with its principal place of business located in Rockford, Ill.

12. In 1928, Rockford's total sales were \$1.071 million and consisted of clutch sales of about \$752,400.

13. At all times relevant herein, Rockford sold and shipped its products in many States of the United States and was engaged in commerce as "commerce" is defined in the Federal Trade Commission Act.

14. In 1970, B-W completed integration of all its clutch rebuilding operations into a plant located in Ottawa, Illinois. This plant took over the clutch rebuilding operations which B-W had conducted at its Borg & Beck, Rockford and Long plants.

15. In 1972, B-W acquired U-P, one of the nation's four largest full-line rebuilders. At the time of its acquisition, U-P was one of the four largest rebuilders of clutches and a significant supplier of replacement clutches.

16. In its 1972 fiscal year, U-P's sales of \$26.704 million consisted of sales of \$4.41 million of rebuilt clutches.

17. In 1971, B-W was a significant seller of original equipment clutches, automotive transmissions, torque converters, drive line assemblies, spin resistant differentials, axles, brake controls, carburetors, radiators, seals and automotive replacement parts. B-W's total sales of transportation equipment in 1971 were \$387.3 million of which \$84.7 million were to the independent aftermarket.

18. In 1971, B-W had warehouses located throughout the United States. Through these warehouses and its sales force, B-W distributed its products directly to over 1705 wholesalers of which 1306 were warehouse distributors.

19. B-W has achieved a dominant position in the sale of clutches in the nation due in part to its numerous acquisitions. In 1971, B-W was the nation's leading seller of clutches for use in the assembly of new vehicles, and of clutches for replacement use, as well as the nation's largest clutch rebuilder.

20. In 1971, B-W's shipments of replacement clutches were \$166 million. B-W accounted for 21 percent of the total shipments of clutches for replacement use in that year.

21. In 1967, B-W had shipments of about \$2.943 million of rebuilt clutches. In 1967, B-W accounted for 10 percent of total rebuilt clutch shipments.

22. In 1971, B-W's rebuilt clutch shipments were \$6.733 million, accounting for about 17 percent of such shipments.

23. In 1967 and 1971, B-W sold new water pumps to the independent aftermarket. In 1967, B-W sold \$.846 million of water pumps to the independent aftermarket and accounted for 3 percent of the sales to that market.

24. B-W has a corporate policy to consolidate and enhance its market power in the sale of replacement automotive parts, through merger or acquisition, particularly of parts sold to the independent aftermarket of those product lines with which it competes or is one of the most likely entrants.

25. At all times relevant herein, B-W sold and shipped its products

throughout the United States and was engaged in "commerce" as commerce is defined in the Clayton Act, as amended, and in the Federal Trade Commission Act.

III. Unit Parts Company

26. On or about Sept. 29, 1972, B-W acquired U-P by merger of U-P into B-W through an exchange of 305,313 shares of B-W stock for the assets of U-P. At the time of the acquisition the B-W stock exchanged for U-P was valued at approximately \$10 million.

27. Prior to its merger into B-W, U-P was an Oklahoma corporation with its principal office and place of business located at 4600 S.E. 59th St., Oklahoma City, Okla.

28. In 1971, U-P was engaged in the production and sale of a full line of rebuilt automotive parts including clutches, water pumps, ignition parts, brake shoes, disc brake pads, and fuel pumps. Since 1970, U-P had sold rebuilt automotive air conditioning compressors. Prior to its acquisition, all of U-P's sales were to the independent aftermarket.

29. In its fiscal year ending June 30, 1972, U-P had four lines of automotive parts which accounted for the following percentages of its total sales: (1) clutches (17.7 percent), (2) engine components and air conditioning parts (24.4 percent), (3) ignition parts (43.3 percent) and (4) brake system parts (14.6 percent).

30. In 1972, U-P was one of the two largest domestic rebuilders of automotive parts. In its fiscal year ending June 30, 1972, it had sales of \$26.704 million and assets of \$7.8 million.

31. Immediately prior to its acquisition, U-P was one of the largest domestic rebuilders of clutches. In its fiscal year ending June 30, 1972, U-P's sales of clutches were \$4.41 million. U-P's sales of rebuilt clutches in that year represented approximately 10 percent of total domestic sales of rebuilt clutches in 1971.

32. U-P was a significant rebuilder of water pumps. In its fiscal year ending June 30, 1972, U-P's sales of rebuilt water pumps were \$4.51 million. U-P's sales of rebuilt water pumps in that year represented approximately 13 percent of the total domestic sales of rebuilt water pumps in 1971.

33. At all times relevant herein, U-P sold and shipped its products throughout the United States and was engaged in commerce as "commerce" is defined in the Clayton Act, as amended, and in the Federal Trade Commission Act.

IV. Trade and Commerce

34. The relevant geographic market is the United States as a whole. The relevant product markets are:

- (a) Manufacture and sale of replacement clutches;
- (b) Manufacture and sale of rebuilt clutches; and
- (c) Manufacture and sale of water pumps to the independent aftermarket.

A. *Replacement Clutches*

35. Clutches represent a unique product which enables the engine and transmission of a vehicle to engage or disengage the drive-line of a vehicle at the command of the driver. Clutches are subject to wear and must be periodically replaced.

36. Generally, a supplier of replacement clutches must have a distribution system designed to reach the numerous outlets which replace worn or damaged clutches. An OEM-installation seller of clutches need only sell to one or a very few customers. A seller of replacement clutches must offer clutches having application on a range of models and fitting vehicles made in different years. In general, a replacement clutch supplier offers clutches having application on all vehicles which have more than minimal usage. In stark contrast, an OEM-installation clutch supplier need only supply clutches to vehicles in current production and often does not sell clutches for a wide range of model applications. Because of the need of replacement suppliers to cover more years and models of automotive vehicles as compared to OEM-installation suppliers, the production and sale of replacement clutches differs from OEM-installation clutch production. Replacement clutches generally are produced in far shorter production runs than are used to produce OEM-installation clutches.

37. Most clutch producers serve only the replacement clutch market.

38. Replacement clutches command a price considerably in excess of similar units sold to the OEM-installation market.

39. The demand for replacement clutches is somewhat predictable as it is based primarily on the number and make of vehicles in use which have clutches and the usage or age of those vehicles. In contrast, the OEM-installation clutch demand fluctuates considerably from year to year and is dependent upon the level of vehicle sales.

40. Most replacement clutches are sold individually packaged whereas OEM-installation clutches are sold in bulk.

41. In 1971 the total shipments of replacement clutches were about \$80.7 million. Such shipments have been increasing, in recent years, going from \$53.8 million in 1967 to about \$90 million in 1972.

42. Concentration is high in the replacement clutch market. In 1971, the four largest firms accounted for 43 percent of replacement clutch shipments and the eight largest 62 percent.

43. The barriers to entry into the replacement clutch market are high. Replacement clutches are precision machined metal and friction material products produced to close tolerances. Their production requires specialized machinery and testing equipment. A clutch plant is expensive to erect and equip.

44. The number of producers of replacement clutches has been declining. In part this decrease is due to acquisitions, including several acquisitions by the largest producers of other replacement clutch remanufacturers.

45. The production of replacement clutches is highly profitable, with a leading producer experiencing a before tax return on investment in excess of 35 percent.

46. In 1971, U-P had total sales of replacement clutches of \$4.410 million, accounted for about 5 percent of sales in that market and ranked 5th among suppliers to that market. In that same year, B-W had total sales of replacement clutches of \$16.632 million, accounted for 21 percent of sales in that market and was the largest supplier to that market. The combined sales of B-W and U-P in 1971 accounted for 26 percent of the sales of replacement clutches and the combination would have been by far the largest supplier of replacement clutches.

B. *Rebuilt Clutches*

47. Rebuilt clutches have different primary uses from new clutches. All rebuilt clutches are produced for replacement use, primarily on vehicles over two years of age. In contrast, most new clutches are produced for use in new vehicle assembly. New clutches produced for replacement use are generally installed on late model vehicles, generally vehicles two or less years old.

48. Rebuilt clutches are sold to different customers than are new clutches. Rebuilt clutches are generally sold direct to dealers or wholesalers. New clutches are sold or transferred to vehicle manufacturers for incorporation in new vehicles or for resale as replacement parts on late model vehicles.

49. The rebuilding of clutches requires several extra steps not performed in producing and distributing new clutches. The raw materials for producing a new clutch consist of new component parts. A new clutch manufacturer either purchases or produces new component parts, assembles these parts into a clutch unit and ships the completed clutch unit to his customer. In contrast, a clutch rebuilder relies on used clutches and their components as his primary raw material. The clutch rebuilder secures these used clutches from his customers or from a

used parts supplier and disassembles the used units into their component parts. The clutch rebuilder then cleans the components, inspects the components to determine which are salvageable, sorts the salvageable components into lots to be used in reassembling the units, procures new component parts in those instances in which insufficient salvageable parts are available, and reassembles the units from a combination of new and used component parts. The clutch rebuilder ships finished units to his customers and receives in exchange from his customers worn out units replaced by the newly rebuilt units.

50. Different firms, in general, produce new clutches compared to rebuilt clutches. There were many firms in the United States in 1972 who produced *only* rebuilt clutches.

51. The price of rebuilt clutches is significantly lower than the price of new clutches sold to the aftermarket. On the average, a rebuilt clutch for a given application sells for 25 to 50 percent less than a new replacement clutch fitting that same application.

52. Rebuilt parts in general and rebuilt clutches in particular are recognized as a separate market from new parts or clutches. There is an industry trade association, Automotive Parts Rebuilding Association (APRA), whose membership is limited to rebuilders and their suppliers. For many years, the Bureau of the Census has separately reported shipments of rebuilt parts. In the last two *Census of Manufactures*, the Bureau of the Census has separately reported shipments of rebuilt and new clutches.

53. In 1971, the total shipments of rebuilt clutches were about \$41 million. Such shipments have been increasing in recent years, going from \$29.4 million in 1967 to about \$43.5 million in 1972.

54. Concentration is high in the rebuilding of clutches. In 1971, the four largest firms accounted for 50 percent and the eight largest firms accounted for 74 percent of total rebuilt clutch shipments.

55. It is difficult to enter into the rebuilding of clutches. One of the principal barriers to entry is the difficulty of securing customers. Most rebuilders sell to a number of customers and utilize an extensive sales organization to reach customers. Any new supplier must possess an extensive sales organization or incur the time and expense necessary to secure such an organization. The prime customers of clutch rebuilders are extremely reluctant to shift suppliers, especially to take on a new supplier whose product quality and ability to provide the necessary sales support are unknown.

56. The number of producers of rebuilt clutches has been declining. This decrease is due to acquisitions, including several horizontal acquisitions by the largest rebuilt clutch producers of other clutch rebuilders.

57. The production of rebuilt clutches is highly profitable, with a leading producer earning a return on investment of 62 percent.

58. In 1971, U-P had total sales of rebuilt clutches of \$4.410 million, accounted for 10 percent of sales in that market, and ranked 3rd among suppliers to that market. In that same year, B-W had total sales of rebuilt clutches of \$6.733 million, accounted for 17 percent of sales in that market and was the largest supplier to that market. The combined sales of B-W and U-P in 1971 accounted for 27 percent of sales of clutches and would have accounted for by far the largest single supply of rebuilt clutches.

C. Water Pumps

59. Water pumps are an unique product which assures the circulation of coolant on water cooled vehicles. Water pumps are subject to wear and damage and must be periodically replaced.

60. A supplier of water pumps to the independent aftermarket must possess an extensive distribution network designed to reach numerous wholesalers or retailers. In contrast, a supplier of water pumps to the OEM-installation or OEM-service markets need only have a minimal distribution organization since the number of his customers is very small. Water pumps are sold individually boxed to the independent aftermarket. Water pumps can be, and generally are, sold in bulk to the OEM-installation and service markets. A supplier to the independent aftermarket must offer water pumps having application on most vehicles in use, whereas a supplier to the OEM-installation and service markets can offer a much more limited line of products. Brand identity is important in the sale of water pumps to the independent aftermarket. Brand identity is of limited importance in the sale of water pumps to the OEM-installation and OEM-service markets.

61. In 1967, the total shipments of water pumps to the independent aftermarket were \$24.634 million.

62. Concentration is high in the sale of water pumps to the independent aftermarket. In 1967, the four largest firms accounted for about 52 percent of shipments to that market and the eight largest firms 78 percent.

63. Barriers to entry into the sale of water pumps to the independent aftermarket are high. An extensive distribution system is necessary to reach the customers in this market. A reputation for supplying defect-free products is important and becoming more important as water pump design has become more complex, the tolerances have been reduced and the stress to which the product is subjected has become more intense. Likewise, a supplier must be able to supply numerous different part numbers on demand, a problem that

has been magnified greatly in recent years as more and more different part numbers have been introduced.

64. Despite a rapidly growing market, the number of sellers of water pumps to the independent aftermarket has fallen. A few firms have entered this market, but many have exited, some due to acquisitions by leading suppliers of other suppliers to the independent aftermarket.

65. In 1967, U-P had total sales of water pumps to the independent aftermarket of \$1.681 million, accounted for 7 percent of sales in that market, and ranked about 5th among suppliers to that market. In that year, B-W had total sales of water pumps to the independent aftermarket of \$.846 million, accounted for 3 percent of sales in that market and ranked 9th among suppliers to that market. The combined sales of B-W and U-P in 1967 accounted pro forma for 10 percent of sales of water pumps to the independent aftermarket and would have ranked 4th among suppliers to that market. In 1971, U-P had sales of \$4.510 million of water pumps and accounted for 7 percent of the shipments of water pumps to the independent aftermarket.

V. Effects of the Acquisitions

66. The effects of the acquisition of U-P by B-W may be to substantially lessen competition or tend to create a monopoly in the sale of replacement clutches, rebuilt clutches, and water pumps throughout the United States in violation of Section 7 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act, as amended, in the following ways, among others:

(a) Substantial actual competition between B-W, U-P and other firms in the sale of clutches to the replacement market has been eliminated.

(b) Substantial actual competition between B-W, U-P other firms in the sale of rebuilt clutches has been eliminated.

(c) Substantial actual competition between B-W, U-P and other firms in the sale of water pumps to the independent aftermarket has been eliminated.

VI. The Violations Charged

67. The acquisition of U-P by B-W constitutes a violation of Section 7 of the Clayton Act, as amended (15 U.S.C. §18) and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. §45).

DECISION AND ORDER

The Commission having therefore issued its complaint charging the proposed respondent named in the caption hereto with violation of

Section 7 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act, as amended, and the proposed respondent having been served with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The proposed respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the proposed respondent of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and did not constitute an admission by proposed respondent that the law has been violated as alleged in such complaint, and waivers and other positions as required by the Commission's rules; and

The Commission having considered and accepted the agreement containing consent order and it having been placed on the public record for a period of sixty (60) days now and further conformity with the procedure prescribed in Section 2.34 of its rules, the Commission hereby makes the following jurisdictional findings, and enters the following order:

- (1) B-W is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 200 S. Michigan Ave., Chicago, Ill.
- (2) The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of B-W, and the proceeding is in the public interest.

ORDER

I

It is ordered, That Borg-Warner Corporation, (hereinafter "B-W") within a period not exceeding eighteen (18) months from the effective date of this order, shall divest, by sale, or by public offering or spinoff of the stock of a new corporation formed for such purpose, subject to prior approval of the Federal Trade Commission, all assets, properties, rights and privileges, tangible and intangible, including, but not limited to, all plants, equipment, machinery, inventory, customer lists, trade names, trademarks and good will, acquired by B-W as a result of its acquisition of Unit Parts Company (hereinafter "U-P") together with all additions and improvements to such assets and properties.

In the event that a new corporation is established as provided herein, B-W shall make available to such new corporation adequate administrative, sales and service personnel to carry on the business to be transferred to the new corporation.

II

It is further ordered, That none of the assets, properties, rights or privileges to be divested, as described in Part I of this order, shall be sold or transferred, directly or indirectly, to any person who is at the time of the divestiture an officer, director, employee, or agent of, or under the control or direction of, B-W or any of B-W's subsidiary or affiliate corporations, or anyone who owns or controls, directly or indirectly, more than 1 percent of the outstanding shares of common stock of B-W, or to anyone who is not approved in advance by the Federal Trade Commission.

III

It is further ordered, That if B-W divests the assets, properties, rights and privileges, described in Part I of this order, to a new corporation or corporations, the stock of each of which is wholly owned by B-W, and if B-W then distributes all the stock, in said corporation or corporations to the stockholders of B-W, in proportion to their holdings of B-W stock, Part II of this order shall be inapplicable, and the following Parts IV and V shall take force and effect in its stead.

IV

It is further ordered, That no person who is an officer, director, or executive employee of B-W, or who owns or controls, directly or indirectly, more than 1 percent of the stock of B-W, shall contemporaneously therewith be an officer, director, or executive employee of any new corporation or corporations described in Part III, or shall contemporaneously therewith own or control, directly or indirectly, more than 1 percent of the stock of any new corporation or corporations described in Part III.

V

It is further ordered, That any person who must sell or dispose of a stock interest in B-W or the new corporation or corporations, described in Part III, in order to comply with Part IV of this order may do so within six (6) months after the date on which distribution of the stock of the said corporation or corporations is made to stockholders of B-W.

VI

It is further ordered, That, pending divestiture, B-W shall not make or permit any deterioration in any of the plants, machinery, buildings,

equipment or other property or assets of the company to be divested which may impair its present capacity or market value.

VII

It is further ordered, That, pending divestiture, and for ten (10) years from the date this order becomes final as provided in Part I of this order, B-W shall not acquire, directly or indirectly, without the prior approval of the Commission, the share capital or assets (other than products acquired for use or resale in the ordinary course of B-W's business, or other than the acquisition by B-W of the share capital or assets of any corporation not organized in the United States of which B-W owns more than 50 percent of the issued and outstanding share capital as of the effective date of this order) of any rebuilder of automotive parts having direct sales of rebuilt parts in the United States.

Direct sales shall include all sales to purchasers for those purchasers' subsequent use in the United States or those purchasers' subsequent resale in the United States.

No acquisition made by B-W shall be deemed immune or exempt from the antitrust laws by reason of anything contained in this order.

VIII

It is further ordered, That, pending divestiture, and for ten (10) years from the date this order becomes final as provided in Part I of this order, B-W shall notify the Commission at least sixty (60) days in advance of any acquisition, directly or indirectly of the share capital or assets (other than products acquired for use or resale in the ordinary course of B-W's business, or other than the acquisition by B-W of the share capital or assets of any corporation not organized in the United States of which B-W owns more than 50 percent of the issued and outstanding share capital as of the effective date of this order) of any manufacturer of automotive parts having direct sales of such automotive parts in the United States for which prior Commission approval is not required.

Direct sales shall include all sales to purchasers for those purchasers' subsequent use in the United States or those purchasers' subsequent resale in the United States.

IX

It is further ordered, That B-W shall, within six (6) months after the effective date of this order, and every six (6) months thereafter, until B-W has fully complied with Part I of this order, submit to the Federal

Trade Commission a detailed written report of its actions, plans and progress in complying with the provisions of Part I of the order.

With respect to Parts VII and VIII of this order, B-W shall, on the first anniversary date of the divestiture provided for in Part I of this order and on each anniversary date thereafter, to and including the tenth anniversary date, submit a report, in writing, setting forth in detail the manner and form in which B-W intends to comply, is complying and has complied with Parts VII and VIII of this order.

X

It is further ordered, That B-W notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in B-W which may affect compliance obligations arising out of this order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or the creation or dissolution of subsidiaries.
