

IN THE MATTER OF
WINN-DIXIE STORES, INC.

MODIFYING ORDER, IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT

Docket C-1110. Modified Order, June 24, 1968-Modified Order, Sept. 10, 1975

Order modifying an earlier order dated Sept. 14, 1966, 70 F.T.C. 611, 31 F.R. 13080, modified June 24, 1968, 73 F.T.C. 1056, 33 F.R. 10205, pursuant to order of the United States District Court for the Middle District of Florida, 377 F.Supp. 733, 9 S.&D. 1016, by requiring prior Commission approval of food store acquisitions by respondent only in those States or subdivisions where respondent presently operates such stores or departments.

Appearances

For the Commission: *Mary L. Azcuenaga* and *William M. Sexton*.
For the respondent: *J. Shepard Bryan, Jr.*, Jacksonville, Fla., *Collier, Shannon, Rill & Edwards*, Wash., D.C.

ORDER REOPENING PROCEEDING AND MODIFYING ORDER TO
CEASE AND DESIST

The Federal Trade Commission, having issued a consent order herein on Sept. 14, 1966, and having modified said consent order on June 24, 1968, and the United States District Court for the Middle District of Florida having enjoined the Commission from failing to reopen the consent order proceeding for the purpose of modifying the order in accordance with the order entered by the Commission against the Kroger Company in F.T.C. Docket No. C-2067; now therefore,

It is ordered, That this matter be, and it hereby is, reopened.

It is further ordered That the order issued in this matter on Sept. 14,

Order

86 F.T.C.

1966, as modified on June 24, 1968, be, and it hereby is, modified to read as follows:

It is ordered, That:

(A) For a period of ten (10) years from Sept. 14, 1966, to the extent specified in subparagraphs (B) and (C) below, Winn-Dixie Stores, Inc., shall not merge with or acquire, directly or indirectly, through subsidiaries or in any other manner, except with the prior approval of the Commission upon written application, the whole or any part of any grocery store (an establishment classified in Industry No. 5411, Standard Industrial Classification Manual, 1967 revision, or a grocery department in a nonfood store), where such acquisition involves:

(1) Five (5) or more grocery stores or grocery departments in nonfood stores, or

(2) Annual grocery store or grocery department sales of more than five million dollars (\$5,000,000), or

(3) Combined (Winn-Dixie and the grocery stores or grocery departments to be merged or acquired) grocery store or grocery department sales of more than five percent (5%) of total grocery or food store sales in any city or county in the United States.

(B) The prohibition contained in subparagraph (A) shall apply to any merger or acquisition of grocery stores or grocery departments in nonfood stores located in the following described areas of the United States: The States of Alabama, Florida, Georgia, Kentucky, North Carolina and South Carolina; that portion of the State of Tennessee east of the 86th meridian; that portion of the Commonwealth of Virginia west of the 78th meridian and south of the 38th parallel; the Parish of Concordia in the State of Louisiana and the counties of Adams, Lincoln, Pike and Forrest in the State of Mississippi and those portions of the States of Louisiana and Mississippi south of the 31st parallel; and that portion of Mississippi east of the 89th meridian; and that portion of the State of Indiana south of the 39th parallel.

(C) The prohibition contained in subparagraph (A) shall also apply to any merger or acquisition of grocery stores or grocery departments in nonfood stores located in any city or county in those portions of the United States not described in subparagraph (B), if Winn-Dixie is then operating any grocery stores or grocery departments in nonfood stores in such city or county.

(D) For a period of ten (10) years from Sept. 14, 1966, Winn-Dixie shall not merge with or acquire, directly or indirectly, through subsidiaries or in any other manner, any grocery store or grocery department in a nonfood store for which prior approval is not required pursuant to subparagraphs (A)-(C) without providing sixty (60) days' prior notification to the Commission, or, when the time schedule does

not permit such notification, without providing a letter to the Commission within ten (10) days after the agreement or understanding in principle is reached, stating that the time schedule does not permit sixty (60) days' prior notification and setting forth the reasons why such prior notification cannot be made; *Provided, however,* That for mergers or acquisitions involving not more than four (4) grocery stores or grocery departments in nonfood stores and representing annual grocery store or grocery department sales of not more than five million dollars (\$5,000,000), notification to the Commission shall be provided within thirty (30) days following the consummation of such merger or acquisition.

It is further ordered, That within (30) days from the effective date of this Order, and annually thereafter until it has fully complied with this order, Winn-Dixie Stores, Inc., shall submit a verified written report to the Federal Trade Commission setting forth in detail the manner and form in which it intends to comply, is complying, or has complied with this order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each person having authority to approve grocery store acquisitions and mergers.
