

IN THE MATTER OF

ILLINOIS CENTRAL INDUSTRIES, INC., ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE
CLAYTON ACT

Docket C-2370. Decision, Mar. 26, 1973-Modifying Order, Nov. 24, 1975

Order modifying an earlier order dated Mar. 26, 1973, 82 F.T.C. 1097, 38 F. R. 10707, by changing the compliance reporting requirements for Paragraphs IIE and IIF from 30-day intervals to semi-annual reports on Dec. 15, 1975, and on June 15, 1976, after which only annual reports will be required in lieu of monthly reports with respect to the divestiture order.

Appearances

For the Commission: *K. Keith Thurman, James C. Egan, Jr. and James C. Hamill, Jr.*

For the respondents: *Robert Mitten, Chicago, Ill., Lloyd N. Cutler, Wilmer, Cutler & Pickering, Wash., D.C. and Bertrom M. Kantor, Wachtell, Lipton, Rosen & Katz, New York City.*

ORDER REOPENING AND MODIFYING ORDER TO CEASE AND
DESIST

Respondent, by letter dated Sept. 12, 1975, which will be treated as a petition to reopen this proceeding, has requested that the requirement that it file compliance reports at 30-day intervals for Paragraphs II E and II F, contained in the order to cease and desist issued Mar. 26, 1973 [82 F.T.C. 1097], be modified so as to require semiannual reports on Dec. 15, 1975, and on June 15, 1976, and each calendar year thereafter.

The Commission has duly considered respondent's request and has determined that it should be granted.

It is ordered, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the order to cease and desist be, and it hereby is, modified by requiring that the compliance reporting for Paragraphs II E and II F of the order be changed to a semiannual basis by submitting such reports on Dec. 15, 1975, and on June 15, 1976, and thereafter for each calendar year in lieu of the monthly reports heretofore required with respect to the divestiture provisions of the order.

IN THE MATTER OF
KELLOGG COMPANY, ET AL.

Docket 8883. Order, Nov. 25, 1975

Denial of (1) complaint counsel's application for review of administrative law judge's order setting a schedule for pretrial briefing and trial in this matter, and (2) administrative law judge's order denying motion for reconsideration.

Dismissing as moot complaint counsel's petition for stay of action by Commission on administrative law judge's report and orders of Oct. 14, 1975.

*Appearances**

For the Commission: *Robert B. Greenbaum* and *Steven A. Newborn*.

ORDER DENYING APPLICATION BY COMPLAINT COUNSEL FOR
REVIEW OF THE SUBSTITUTE ADMINISTRATIVE LAW JUDGE'S
ORDERS AND DISMISSING PETITION FOR STAY

This matter is before the Commission upon an uncertified application for review.

On Oct. 22, 1975, Administrative Law Judge Joseph P. Dufresne¹ denied complaint counsel's motion that he reconsider and amend his order of Oct. 14, 1975, setting a schedule for pretrial briefing and trial in this matter. The law judge's order, setting Jan. 26, 1976 as the date for the commencement of hearings on complaint counsel's case, was issued pursuant to the Commission's orders of Sept. 16, 1975, and Sept. 23, 1975, requiring that the law judge, after consultation with the parties, promptly establish a schedule for trial and certify to the Commission a status report on this matter.

The law judge has also declined to make a determination that his rulings are appropriate for interlocutory review under Section 3.23(b) of the rules of practice.

Complaint counsel have now applied for review of the law judge's orders of Oct. 14, 1975, and Oct. 22, 1975. They contend that the judge's failure to determine that this matter is appropriate for review under Section 3.23(b) was a clear abuse of discretion and that the rulings setting a briefing and trial schedule were likewise abuses of discretion.

Complaint counsel ask that the scheduling of this matter be "returned to the discretion of Judge Hinkes to set a schedule consistent with the record, the needs of the parties, and the interests of the public in a proper resolution of this important matter. If the Commission

* For additional appearances see p. 650, herein.

¹ Judge Dufresne was designated to substitute for Harry R. Hinkes, the law judge to whom this matter was assigned, who was required to be absent from the Commission for personal reasons.