

Order

87 F.T.C.

IN THE MATTER OF
ENCYCLOPAEDIA BRITANNICA, INC., ET AL.

Docket 8908. Order, Mar. 2, 1976

Denial of respondents' motion to postpone decision.

ORDER DENYING MOTION TO POSTPONE ISSUANCE OF FINAL
DECISION AND ORDER

Respondents have moved to postpone the decision in the appeal of the above-styled matter. The motion arises out of a Freedom of Information Act request for a copy of the Analytical Program Guide for the Direct Selling Industry and other related documents. The Commission denied in part respondents' request and respondents have sought judicial review of the Commission's determination in the Federal courts. The reason set forth for respondents' motion to postpone is to afford respondents "an adequate opportunity to examine and comment upon, or take other appropriate steps with respect to, hitherto undisclosed matter which may have been considered by the Commission or the Administrative Law Judge in the course of this proceeding."

As the Commission has pointed out in denying respondents' Motion to Reopen the Record and Proceedings, the decision and order in this matter* have been based solely upon the record evidence in Dkt. 8908. Thus there is no "undisclosed matter" utilized in the Commission's determinations in this matter. Accordingly,

It is ordered, That respondents' Motion to Postpone Decision be, and it hereby is, denied.

* Reported in this Volume.

IN THE MATTER OF
PEACOCK BUICK, INC., ET AL.

Docket 8976. Order, Mar. 2, 1976

Denial of respondents' motion for reconsideration of opinion and final order forbidding the misrepresentation of the necessity of credit insurance and requiring disclosure that such insurance is not required.

Appearances

For the Commission: *Jerry W. Boykin, Michael E.K. Mpras, Michael Dershowitz and Frank H. Addonizio.*

For the respondents: *Stein, Mitchell & Mezines*, Washington, D.C.

ORDER DENYING PETITION FOR RECONSIDERATION

The Commission issued its opinion and final order in this matter on December 19, 1975 [86 F.T.C. 1532], and respondents were served with both on January 16, 1976. By motion dated February 2, 1976, respondents have petitioned for reconsideration of Paragraphs I(6) and I(7) of the order, pursuant to Section 3.55 of the Commission's Rules of Practice. Complaint counsel oppose the motion as inappropriate for reconsideration and defective on its merits.

This case involved practices in the sale of new and used cars. The Commission held that respondents had committed several violations of Section 5 of the Federal Trade Commission Act (15 U.S.C. §45), among which was that respondents, through sales agents, misrepresented to certain customers that it would be necessary for those customers to purchase credit life insurance in order to secure automobile financing from area lending institutions. In fact the lending institutions in question did not require such insurance as a precondition for extension of a loan. Order Paragraphs I(6) and I(7) were designed to remedy the violation by forbidding respondents from misrepresenting the necessity of credit insurance [Par. I(6)] and by requiring respondents to disclose affirmatively, orally and in writing, that such insurance is not required [Par. I(7)].

In their motion for reconsideration, respondents argue that the practice which the Commission's order condemns is immunized from Commission review by the McCarran-Ferguson Act (15 U.S.C. §1011, *et seq.*). This issue was briefed cursorily by respondents in the main proceeding, and dismissed by the Commission in summary fashion. Respondents in their motion for reconsideration cite certain Federal court cases reported subsequent to the time of oral argument and decision, which in their view warrant a different disposition. We agree