

IN THE MATTER OF
CHILDREN'S ADVERTISING

TRR No. 215-60. Interlocutory Order, March 7, 1979

ORDER MODIFYING SCHEDULE

Effective March 9, 1979, the Commission will be temporarily reduced to four members, of whom two are not presently participating in the instant proceeding. Whether or not two Commissioners might properly exercise certain decisionmaking authority under these circumstances, the Commission believes that, if at all reasonably possible, it is in the public interest that Commission decisions of significance with respect to this proceeding be taken with the participation of no fewer than three Commissioners. At the same time, certain phases of most Magnuson-Moss rulemaking proceedings, including this one, typically involve little or no intervention by the Commission because of the wide latitude to conduct hearings vested in the presiding officer. It would be productive of considerable delay, and manifestly not in the public interest, were such phases of a matter to be suspended merely because of the desire of the Commission that decisions to be made at some unspecified time in the future be made with the participation of no fewer than three members.

In light of the foregoing, the Commission can perceive no reason why the presently ongoing "legislative" hearings in this matter, which are subject to the direction of the presiding officer, ought not proceed as scheduled. Nor does any reason appear why interested parties may not thereafter propose issues for designation, or why the presiding officer may not subsequently recommend designation of such issues.¹ However, it is the present intention of the Commission that it will not designate such issues as contemplated by the Initial Notice of Rulemaking, 43 F.R. 17967, 17971 (April 27, 1978) until it may do so pursuant to a vote in which at least three members of the Commission participate. To achieve these results the following order is issued:

It is ordered, That following completion of the Washington, D.C. "legislative" hearing in this matter, persons wishing to do so must submit to the presiding officer on or before April 30, 1979, or by such other time as the presiding officer may in his sole discretion establish (1) proposed disputed issues of fact that are material and

¹ The Initial Notice of Proposed Rulemaking, 43 F.R. 17967, *et seq.* (April 27, 1978), makes no express reference to the role of the presiding officer in the designation process. It was the Commission's intention that the presiding officer should make a recommendation to the Commission as to what issues, if any, should be designated.

necessary to resolve at a disputed issues hearing, (2) requests to cross-examine at a disputed issues hearing witnesses who appeared at the "legislative" hearings, and (3) requests to present oral rebuttal at a disputed issues hearing.

It is further ordered, That following receipt of the submissions ordered above, the presiding officer shall make a recommendation to the Commission identifying disputed issues of fact, if any, that are material and necessary to resolve at a disputed issues hearing.

It is further ordered, That subsequent proceedings in this matter shall be had at such time as the Commission shall hereafter order.

Chairman Pertschuk and Commissioner Pitofsky did not participate.

IN THE MATTER OF
TRW, INC., ET AL.

FINAL ORDER, OPINION, ETC., IN REGARD TO ALLEGED
VIOLATION OF THE FEDERAL TRADE COMMISSION AND CLAYTON
ACTS

Docket 9084. Complaint, June 17, 1976 — Final Order, March 8, 1979

This order, among other things, requires a Cleveland, Ohio manufacturer and seller of electronic point-of-sale credit authorization equipment to cease having on its board of directors any individual who is simultaneously serving as a director of Addressograph-Multigraph Corp., or any other competitive business entity. The order also prohibits Horace A. Shepard from simultaneously serving as a director of TRW, Inc. and any other competing company.

Appearances

For the Commission: *John M. Mendenhall* and *Paul P. Eyre*.

For the respondents: *Richard W. Pogue, Robert H. Rawson* and *Brent L. Henry, Jones, Day, Reavis & Pogue*, Cleveland, Ohio and *Joseph D. McGarth*, Baker Heights, Ohio.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents have been and are in violation of the provisions of Section 8 of the Clayton Act, as amended, and Section 5(a)(1) of the Federal Trade Commission Act, as amended, and that a proceeding in respect thereof would be in the public interest, issues this complaint, stating its charges as follows:

PARAGRAPH 1. Respondent TRW, Inc., (hereinafter TRW), is an Ohio corporation and maintains its principal office at 23555 Euclid Ave., Cleveland, Ohio. TRW has capital, surplus, and undivided profits aggregating more than One Million Dollars (\$1,000,000). TRW is engaged in commerce, as "commerce" is defined in Section 1 of the Clayton Act, and is engaged in or its business affects commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 2. Respondent Addressograph-Multigraph Corporation (hereinafter Addressograph) is a Delaware corporation and maintains its principal office at 20600 Chagrin Boulevard, Shaker Heights, Ohio. Addressograph has capital, surplus, and undivided profits aggregating more than One Million Dollars (\$1,000,000). Addressograph is engaged in commerce, as "commerce" is defined in Section 1 of the Clayton Act, and is engaged in or its business affects commerce, as