

IN THE MATTER OF

BRISTOL-MYERS COMPANY, ET AL.

*Docket 8917. Interlocutory Order, Jan. 17, 1980*ORDER DENYING RESPONDENT BRISTOL-MYERS' MOTION FOR ADDITION
OF PORTION OF APPENDICES TO BRIEF ON APPEAL

By motion dated January 7, 1980, respondent Bristol-Myers Company ("Bristol-Myers") requests that the Commission accept 18 pages of appendices as part of its appeal brief in this proceeding. The 18 pages concerned here represent the amount by which Bristol-Myers' 77 page main appeal brief and 31 page booklet of appendices exceed the 90 page limit on appeal briefs set by the Commission in its Order Granting Leave to File Briefs in Excess of Sixty Pages, dated November 9, 1979.

Bristol-Myers has already asked the Commission to reconsider its 90 page limit and to permit lengthier briefs. The Commission denied that request by order dated November 29, 1979. Thus, Bristol-Myers has long been on notice that the 90 page limit is firm. However, in its latest motion, Bristol-Myers provides no reason for exceeding that limit other than the difficulty of paring down its discussion of the case to the required length. Bristol-Myers' motion is therefore denied.

The Commission is nevertheless willing to grant Bristol-Myers an additional period within which to edit its appendices or main appeal brief, or both, in such a manner that the combined filing does not exceed ninety pages. If Bristol-Myers fails to submit a revised brief or revised appendices within that period, the Commission shall accept the first 13 pages of Appendix A to Bristol-Myers' appeal brief and shall reject the remainder of Appendix A and the entirety of Appendix B.

To assure complaint counsel adequate opportunity to respond to any such revisions as Bristol-Myers may make, the remainder of the briefing schedule must be readjusted. Accordingly,

It is ordered, That:

- (1) Bristol-Myers' motion to have the final 18 pages of Appendices A and B accepted as part of its appeal brief is denied;
- (2) Bristol-Myers is granted leave until and including January 28, 1980, in order to withdraw its main appeal brief and appendices and to revise them such that they total no more than 90 pages;
- (3) If no such revisions are submitted before January 28, 1980, the Secretary shall remove pages A-14 through B-11 of Appendices A and B to Bristol-Myers' main appeal brief before placing such appendices on the public record and transmitting them to the Commission; and
- (4) The briefing schedule shall be revised as follows: all answer

Interlocutory Order

95 F.T.C.

briefs shall be filed on or before March 17, 1980; and all reply briefs shall be filed on or before March 31, 1980.

Commissioner Pitofsky did not participate.

IN THE MATTER OF
MONTGOMERY WARD & COMPANY, INCORPORATED

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC.
5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3006. Complaint, Jan. 24, 1980—Decision, Jan. 24, 1980

This consent order requires, among other things, a Chicago, Ill. firm, engaged in the operation of a chain of department and catalog stores, to cease making unsubstantiated safety-related claims regarding the installation, operation or maintenance of woodburning heaters and Franklin fireplaces; or any representation that contradicts the requirements of prevailing model building or fire protection codes. Respondent is required to include in its catalogs a conspicuous notice providing minimum distances from adjacent walls at which heating devices can be safely and properly installed; and advising consumers that such information has been previously misstated; that improperly installed heating devices are fire hazards and should be immediately relocated; and that respondent, at its own expense, will reinstall improperly installed heaters and provide shields for previously purchased Franklin fireplaces. Additionally, the company is required, within six months, to revise and reprint promotional and instructional material so as to comply with the terms of the order, and provide its sales personnel with corrected installation information.

Appearances

For the Commission: *William C. Holmes.*

For the respondent: *William J. Thompson, Chicago, Ill.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Montgomery Ward & Co., Incorporated, a corporation, hereinafter sometimes referred to as "respondent," has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

I. Respondent

PARAGRAPH 1. Respondent Montgomery Ward & Co., Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal executive offices located at Montgomery Ward Plaza, Chicago, Illinois.