

Modifying Order

IN THE MATTER OF
HASTINGS MANUFACTURING COMPANY

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF SEC.
2(A) OF THE CLAYTON ACT

Docket 4437. Decision, Dec. 9, 1944—Modifying Order, Feb. 28, 1980

This order modifies an order issued on December 9, 1944, 10 FR 773, 39 F.T.C. 498, by deleting the phrase "or all such products of any competitor of respondents" from the second paragraph of the original order which barred respondent from offering stock lifts as an inducement to dealers to carry its products exclusively or in place of a competing line stocked by the dealer. The revised order prohibits only stock lifts to induce exclusive dealing arrangements.

ORDER MODIFYING ORDER TO CEASE AND DESIST

Following extensive briefing by respondent Hastings Manufacturing Company and the Commission's Bureau of Competition, the Commission on December 20, 1979, issued an order to show cause why the cease and desist order issued in this proceeding in 1944¹ should not be modified. The Commission stated that stock lifting, when not employed to induce exclusive dealing arrangements, ordinarily is an unobjectionable form of competition by suppliers for dealers.² Little different from a price discount, stock lifting is likely to promote price competition and, if the market is otherwise competitive, ultimately benefit the consumer. The Commission concluded that it appeared to be in the public interest to modify the 1944 order so that it would no longer prohibit stock lifting for purposes, or with effects, other than to induce exclusive dealing. The show cause order invited interested parties to comment on the proposed change.

The Commission having considered the comments submitted by several members of the public,³

Now, therefore, *it is hereby ordered*, pursuant to Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) and Rule 3.72(b) of the Commission's Rules of Practice (16 CFR 3.72(b)), That the 1944 cease and desist order be modified in part as follows (deleted language is hyphenated out):

It is ordered, That respondent Hastings Manufacturing Co., its officers, representatives, agents, and employees, directly or through

¹ Hastings Mfg. Co., 39 F.T.C. 498, 509 (1944).

² The Commission noted that there are exceptions. For example, stock lifting to encourage dealers to carry the stock lifter's goods in place of one of several existing lines might violate Section 3 of the Clayton Act (15 U.S.C. 14) if the practice's effect might be to substantially lessen competition. In addition, if the stock lifter possessed monopoly power and its stock lifting functioned as a form of predatory pricing, the practice might constitute monopolization.

³ Neither the respondent nor the Bureau of Competition filed comments in response to the order to show cause.

Modifying Order

95 F.T.C.

any corporate or other device, in connection with the offering for sale, sale, and distribution of piston rings and other automotive replacement parts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from doing, directly or indirectly any of the following acts or things (when done as an inducement to the distributor of automotive parts concerned to discontinue handling all products competitive with respondent's and thereafter handle respondent's products in lieu thereof, or when done upon any express or implied condition, agreement, or understanding that such distributor will discontinue handling all products competitive with those of respondent, ~~or all such products of any competitor of respondent~~, and will handle respondent's products in lieu thereof):

1. Purchasing from any distributor or prospective distributor of respondent's piston rings or other replacement parts his stock, or stocks recalled by him from his customers, of the products of another manufacturer which are competitive with respondent's products.
2. Making any loan to a distributor or prospective distributor of respondent's piston rings or other replacement parts.
3. Guaranteeing to distributors or prospective distributors of respondent's piston rings or other replacement parts increased gross profits from the handling of respondent's products as compared with gross profits previously obtained from the handling of products competitive with those of respondent.

Modifying Order

IN THE MATTER OF

ARTHUR MURRAY, INC., ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 7845. Decision, July 26, 1960—Modifying Order, March 10, 1980

This order modifies an order issued on July 26, 1960, 25 FR 9673, 57 F.T.C. 306, by inserting a Roman numeral one before the preamble of the original order; vacating the *It is further ordered* paragraph therein; and adding new Parts II, III, IV and V. The modified order strengthens the 1960 order by giving consumers the right to unilaterally cancel contracts with the company and receive prescribed refunds within 30 days of cancellation. Respondent is additionally required to direct franchisees and sub-franchisees to comply with the terms of the order, institute a program of continuing surveillance designed to reveal non-conformers, and terminate dealings with such parties.

ORDER MODIFYING ORDER TO CEASE AND DESIST

The Commission on September 18, 1979, issued its order to show cause why this proceeding should not be reopened and its order of July 27, 1960 (hereafter sometimes referred to as "the Commission Order of 1960"), modified.

Respondents having consented to the reopening of this proceeding and the modification of the Commission Order of 1960, as set forth in the show cause order and the Commission having considered the comments filed by interested persons,

Now, therefore, *it is hereby ordered*, That the Commission Order of 1960 be, and it hereby is, modified by inserting a Roman numeral one, I, before the preamble of the Commission Order of 1960, by vacating the *It is further ordered* paragraph therein, and by adding new Parts II, III, IV, and V so that the Modified Order will read as follows:

ORDER

I.

It is ordered, That respondent Arthur Murray, Inc., a corporation, and its officers, and respondents Arthur Murray, Kathryn Murray and David A. Teichman, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, or through any licensee, in connection with the solicitation, advertising or sale of dancing instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from: