

Modifying Order

IN THE MATTER OF

CADENCE INDUSTRIES CORPORATION, ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1918. Decision, May 13, 1971—Modifying Order, May 12, 1980*

This order reopening and modifying an order to cease and desist issued on May 13, 1971, 36 FR 11912, 78 F.T.C. 990, substitutes the name Cadence Industries Corporation for Perfect Film & Chemical Corporation and replaces paragraph 21 of the order with a new paragraph in keeping with orders issued against their competitors and the fact that some magazine publishers do not accept short-term subscriptions transferred from the lists of discontinued publications.

ORDER MODIFYING CEASE AND DESIST ORDER

In their request filed on January 22, 1980, the respondents petitioned the Commission, pursuant to Section 2.51 of its Rules of Practice, to reopen the proceedings and modify the order of May 13, 1971, entered in Docket Number C-1918. Respondents ask that the name Cadence Industries Corporation be substituted for Perfect Film & Chemical Corporation and that numbered paragraph 21 of the order be modified. The paragraph in question reads as follows:

21. Substituting, requesting substitution or permitting substitution, except at the request of the customer, at any time during the collection period of the contract, of any magazine or publication for any magazine or publication covered by the contract without first providing the subscriber an option in writing, as stated in the subscription contract, to reduce his future payments by the pro rata portion of the remaining payments due on the cancelled magazine or other publication; provided, that respondents may offer to those subscribers with paid-in-full contracts an option to either lengthen already existing subscriptions or to select from among all of respondents' then currently offered magazines or publications, a magazine or publication as a substitute for the remaining period of the subscription.

In support of their request, respondents state that the name of Perfect Film & Chemical Corporation was duly changed to Cadence Industries Corporation on October 22, 1970, by filing said change with the Secretary of State of Delaware. Respondents have also advanced a number of considerations intended to show changed conditions of fact since the order was issued and to show that the public interest will best be served by granting their request. They allege that they cannot fully comply with paragraph 21 of the order because certain magazine publishers will not accept short term subscriptions transferred from the lists of discontinued publications. They point out that the proviso in paragraph 21 requires that they offer to subscribers with paid-in-ful

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contracts the option to choose any magazine from among all their currently offered magazines or publications, and that, therefore, they are unable to execute a subscriber's choice, if it happens to be a magazine of a publisher that does not accept short term subscriptions. They also point out that no similar proviso is to be found in the orders the Commission has issued against their competitors and they cite that as a competitive disadvantage. Finally, they claim that the requested modification will serve the public interest by enabling them to better serve their subscribers in offering them as possible substitutions, only magazines of publishers that accept short term subscriptions.

Having considered the request, the Commission has concluded that it should be granted and that the modification will safeguard the public interest. Therefore,

It is ordered, That (1) the name Cadence Industries Corporation be substituted for Perfect Film & Chemical Corporation in the style of this docket and throughout the order, where it appears; and that (2) numbered paragraph 21 of the order quoted above, be replaced by the following new paragraph:

21. Cancelling a subscription contract for any reason other than a breach by the subscriber without either arranging for the delivery of publications already paid for or promptly refunding money on a pro rata basis for all undelivered issues of publications for which payment has been made in advance; and in the event of the discontinuance of publication, or other unavailability, of any magazines subscribed for, at any time during the life of the contract, failing to offer the subscriber the right to substitute one or more magazines or other publications, or the extension of subscription periods of magazines already selected.

It is further ordered, That the foregoing modifications shall become effective upon service of this order.

Dismissal Order

IN THE MATTER OF

BOC INTERNATIONAL LIMITED

formerly known as

THE BRITISH OXYGEN COMPANY LIMITED, ET AL.

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

Docket 8955. Complaint, Feb. 26, 1974—Dismissal Order, May 14, 1980*

This order reopens the proceeding and dismisses the complaint issued on February 26, 1974 charging a London, England manufacturer of industrial gases with violating the Federal Trade Commission Act, and Section 7 of the Clayton Act.

ORDER REOPENING PROCEEDING AND DISMISSING COMPLAINT

Upon the joint motion of the parties, this matter was withdrawn from adjudication for settlement purposes by an order of the Commission issued on March 21, 1980. Having considered the proposed settlement reached between the staff of the Commission and the respondents, the Commission determined not to accept the settlement and to dismiss the Complaint. Accordingly,

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

It is further ordered, That the Complaint in Docket No. 8955 be, and it hereby is, dismissed.

* For order issued in disposition of this proceeding, see 86 F.T.C. 1241.