

Modifying Order

96 F.T.C.

IN THE MATTER OF
SCHERING-PLOUGH CORPORATION

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

Docket C-2986. Decision, Aug. 10, 1979—Modifying Order, Aug. 22, 1980

This order reopens the proceeding and modifies the order issued on August 10, 1979, 44 FR 554712, 94 F.T.C. 307, by adding to Paragraph I of that order language that would permit the company, its subsidiaries, affiliates, divisions, successors and assigns to continue to market Solvex athlete's foot products, under license from the acquirer of the assets to be divested, until no later than December 31, 1980.

ORDER MODIFYING DECISION AND ORDER ISSUED AUGUST 10, 1979

The Federal Trade Commission having received respondent's request contained in its divestiture application dated June 23, 1980, to reopen this matter and to modify the consent order issued by the Commission on August 10, 1979, to allow respondent's subsidiary, Scholl, Inc., to continue to market Solvex athlete's foot products, under license from the acquirer of the divested assets, until December 31, 1980, and having placed such request on the public record for a period of thirty (30) days, and no comments thereon having been received, and having considered such request and determined that reopening and modification of the order is warranted:

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

It is further ordered, That Paragraph I of the order be, and it hereby is, modified to read as follows:

I

It is ordered, That, subject to the prior approval of the Federal Trade Commission, respondent Schering-Plough, through its officers, directors, agents, representatives, employees, subsidiaries, affiliates, divisions, successors and assigns, shall, within one (1) year from either the date Schering-Plough acquires Scholl or service of this Order, whichever comes later, divest the assets, tangible and intangible, acquired, improved or added by respondent as a result of its acquisition of Scholl and utilized by Scholl primarily for the manufacture, distribution or sale in the United States of Solvex athlete's foot products. Such assets shall include all raw material

reserves, inventory, machinery, equipment, trade names, trademarks, patents, licenses, research and development projects, good will and other property of whatever description; *provided, however*, that nothing in this provision shall prohibit or prevent Schering-Plough, its subsidiaries, affiliates, divisions, successors or assigns, from continuing to market Solvex athlete's foot products, under license from the acquirer of the assets to be divested, until no later than December 31, 1980.

Commissioner Bailey did not participate.

IN THE MATTER OF

TRANS WORLD ACCOUNTS, INC., ET AL.

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

Docket 9059. Order, Oct. 25, 1977—Modifying Order, September 2, 1980

In accordance with the mandate of the Court of Appeals for the Ninth Circuit, this order further modifies the Modified Order To Cease and Desist issued on July 25, 1979, 44 FR 49650, 94 F.T.C. 141, by inserting a new "Paragraph 3" which substitutes the term "lawsuit" for the phrase "legal action" as used in "Paragraph 3" of FTC's October 25, 1979 Order of Remand, 44 FR 66576, 94 F.T.C. 1051.

MODIFICATION OF MODIFIED ORDER TO CEASE AND DESIST

On July 25, 1979, the Commission entered a "Modified Order To Cease and Desist" in this matter, thereby effectuating those portions of its order of October 25, 1977 that had been affirmed and enforced by the Ninth Circuit Court of Appeals in *Trans World Accounts v. FTC*, 594 F.2d 212 (9th Cir. 1979). On October 25, 1979, the Commission entered an "Order on Remand", adding a new "Paragraph 3" to its order of July 25, 1979. Respondents appealed this order to the Ninth Circuit Court of Appeals, and, thereafter, respondents and the Commission entered into a stipulation before the court, which rendered its judgment modifying and enforcing as modified the order under appeal. Because both sides have waived any rights to seek further review of the court's order, it is now appropriate that the order of the Commission be rendered in accordance with the mandate of the court, 15 U.S.C. 45(i).

Therefore, it is ordered, That the Commission's "Modified Order To Cease and Desist" dated July 25, 1979, be further modified by the insertion of Paragraph 3 to read:

3. Misrepresenting directly or by implication, that a lawsuit with respect to an alleged delinquent debt has been or will be initiated, or misrepresenting in any manner the imminency of a lawsuit.