

Complaint

-96-F.T.C.

IN THE MATTER OF
FORD MOTOR COMPANY

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

Docket 9105. Complaint, Jan. 10, 1978—Decision, Oct. 2, 1980

This consent order requires, among other things, a Dearborn, Mich. motor vehicle manufacturer to cease failing to supply consumers, on request, with "Technical Service Bulletins" which clearly describe engine or transmission problems that could cost over \$125; preventative maintenance steps to take; and the extent of any reimbursements or free repairs. The company is required to establish a toll-free number and mail to all requesting consumers bulletins that affect their cars. Each car owner must be notified by mail whenever warranty protection covering engine, transmission or other significant problems is extended. Respondent is further required to announce the existence of its automobile information program in various national publications, and copy test all ads before publication to ensure that the required information is communicated as effectively as their regular product advertising. Additionally, the order requires that consumers be advised of the availability of the repair information and possible post-warranty reimbursement for repairs through warranty and owner manuals, dealer showroom posters, and individual mailings to all 1979 and 1980 Ford car owners. Under the terms of the order, the company is required to follow procedures to ensure reimbursement of each owner who incurred expenses for repairs prior to notification of adjustment programs; make replacement parts available to dealers; and pay all costs for parts and labor incurred by dealers in repairing specified conditions.

Appearances

For the Commission: *Richard H. Gateley, Barbara Arnold Maier, Paul D. Gandola, Robert P. Weaver, Noble F. Jones and David V. Plottner.*

For the respondent: *Lloyd T. Williams, Jr. and David R. Larrouy, Dearborn, Mich.; Robert L. Wald, Wald, Harkrader & Ross, Washington, D.C.*

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 Ford Motor Company, 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:

PARAGRAPH 1. For the purpose of this complaint, the following definitions shall apply:

"Piston scuffing" is metal to metal contact between the pistons and the cylinder walls.

A "defect" in a motor vehicle or component thereof occurs if the motor vehicle or component thereof is subject to or potentially subject to a significant number of failures in normal operation, including failures occurring under operating conditions that either are within the parameters specified by the manufacturer or reflect reasonably expected ordinary vehicle abuse or failures to maintain. For purposes of this definition, failures attributable to normal deterioration of a component as a result of age and wear are excluded.

PAR. 2. Respondent Ford Motor Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at The American Road, Dearborn, Michigan.

PAR. 3. Respondent is now, and has been, engaged in the manufacture, advertising, offering for sale, sale, and distribution of various motor vehicles.

PAR. 4. In the course and conduct of its aforesaid business, respondent causes the said motor vehicles, when sold, to be transported from its places of business located in various States of the United States to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended.

PAR. 5. On or about February 3, 1976, if not before, respondent received information by which it knew, or had reason to believe that there was a defect, later identified as piston scuffing, in several engines manufactured by respondent, including the engine described as the 4-cylinder, 2.3-liter engine, and the engine described as the 6-cylinder, 250 c.i.d. engine.

PAR. 6. Respondent verified in or about August, 1976, if not sooner, that piston scuffing was due to inadequate lubrication of internal parts of such engines. Respondent subsequently modified said

engines, by drilling oil squirtholes to help ensure adequate lubrication.

PAR. 7. Between May 9, and July 20, 1977, respondent initiated programs to compensate purchasers whose engines developed piston scuffing. However, in many instances purchasers are not compensated. In most, if not all, instances such purchasers are not compensated because they are not aware of respondent's programs, or because of limitations upon the programs such as model year or mileage of the motor vehicle, or because dealers do not abide by the program.

PAR. 8. In the course and conduct of its business, respondent has disseminated and caused the dissemination of advertisements and other promotional materials concerning its motor vehicles in or affecting commerce by means of advertisements printed in magazines and newspapers and advertisements transmitted by television and radio stations located in various States of the United States and in the District of Columbia, having sufficient power to carry such broadcasts across state lines, and through various other outlets, including point of sale displays and materials for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said motor vehicles.

PAR. 9. Respondent has represented, directly or by implication, through representations contained in said advertisements and other promotional materials, that its motor vehicles are durable and reliable and are built to perform well under tough operating conditions.

PAR. 10. In truth and in fact, certain models of respondent's motor vehicles or the component parts thereof are not durable and reliable and suffer or may suffer from piston scuffing, which substantially affects or may substantially affect the reliability, durability, or performance of such motor vehicles. Therefore, said representations were and are false, misleading, or deceptive.

PAR. 11. Respondent has represented, directly or by implication, by and through the offering for sale of its motor vehicles, that its motor vehicles do not have any latent defect which substantially affects the reliability, durability, or performance of such motor vehicles.

PAR. 12. In truth and in fact, in a significant number of instances, respondent's motor vehicles suffer or may suffer from piston scuffing and other latent defects which substantially affect or may substantially affect the reliability, durability, or performance of such motor vehicles. Therefore, said representations were and are unfair or deceptive.

PAR. 13. Notwithstanding its knowledge of piston scuffing, respondent is failing and has failed to disclose to prospective purchasers

and purchasers of motor vehicles with said engines information concerning the possibility of substantial damage to the engines through piston scuffing in said engines, and the nature and extent of repairs which may be necessary to correct piston scuffing. Respondent therefore is failing and has failed to disclose material facts which, if known to prospective consumers, would be likely to affect their consideration of whether to purchase a motor vehicle from respondent. Failure to disclose the aforesaid facts to present owners of affected vehicles may cause them substantial economic harm due to inability on their part to avoid or prevent substantial damage to the engines of their vehicles. Such failures to disclose are deceptive or unfair acts or practices.

PAR. 14. Respondent is failing and has failed to disclose to prospective purchasers and purchasers of motor vehicles with said engines the existence of its adjustment program and limitations thereto described in Paragraph Seven, above. Respondent therefore is failing and has failed to disclose material facts which, if known to prospective consumers, would be likely to affect their consideration of whether to purchase a motor vehicle from respondent. Failure to disclose the aforesaid facts to present owners of affected vehicles may cause them substantial economic harm. Such failures to disclose are deceptive or unfair acts or practices.

PAR. 15. The use by respondent of the aforesaid acts and practices has had, and now has, the capacity and tendency to mislead members of the consuming public who are purchasing or who have purchased substantial quantities of motor vehicles equipped with the engines described in Paragraph Five.

Therefore, the aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and constitute unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act, as amended.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of the complaint, amended thereafter by the administrative law judge, together with a notice of contemplated relief; and

The respondent, its counsel, and counsel for the Commission having thereafter executed an agreement containing a consent

order, an admission by the respondent of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 3.25 of its Rules; and respondent having submitted a proposed modification of the definition appearing at paragraph I.10 of said consent agreement, which proposed modification was duly placed on the public record as a comment pursuant to Section 3.25(f) of the Rules and duly considered as such comment by the Commission; and respondent and Commission counsel having agreed to said proposed modification, which has been duly incorporated into the Order appearing below; now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings, and enters the following order:

1. Respondent Ford Motor Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its executive offices and principal place of business located at The American Road, Dearborn, Michigan.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I

For the purposes of this order, the following definitions shall apply:

1. "Piston scuffing" is metal-to-metal contact between the pistons and cylinder walls of the engine block in: (a) 2.3 liter engines used in 1974 through 1977 model year vehicles and built by respondent prior to March 1, 1977, and (b) 200/250 CID engines used in 1975 through 1977 model year vehicles and built by respondent between September 9, 1974 and July 2, 1977.

2. "Camshaft/rocker arm wear" is surface scratching or scoring which results from metal-to-metal contact between the camshaft and rocker arms in 2.3 liter engines used in 1974 through 1978 model year vehicles and built by respondent prior to March 1, 1978.

3. "Cracked engine block" is an engine block cracking condition which results in a hairline crack in the tappet valley wall in: (a) 400-W CID engines used in respondent's 1974 through 1977 model year vehicles and containing blocks made prior to March 1, 1977, and (b) 351-M/400-C CID engines used in respondent's 1976 and 1977 model year vehicles containing blocks made prior to March 1, 1977, cast at the Michigan Casting Center.

4. "Vehicle" is a passenger car or a truck with a gross vehicle weight rating no greater than 8,500 pounds.

5. "Affected vehicles" are those which are subject to piston scuffing, camshaft/rocker arm wear, or cracked engine block, as these terms are defined in paragraphs 1, 2 and 3.

6. "Extended policy programs" are, for piston scuffing, the Ford program codes A52, A53, A56 and A57; for camshaft/rocker arm wear, Ford program codes A54 and A55; and for cracked engine block, Ford program codes A60, A61 and A62.

7. "Adjustment program" refers to extended policy programs such as those referenced in paragraph 6 or any other program under which respondent undertakes, on a uniform basis and with eligibility defined in terms of specified time-in-service and/or specified mileage limits and/or specified other terms beyond those stated in respondent's applicable warranty or warranties, to pay for all or any part of the cost of repairing, or to reimburse owners for all or any part of the cost of repairing, any engine or transmission condition, or any condition other than an engine or transmission condition that may substantially affect vehicle durability, reliability or performance, other than service provided under a safety or emission-related recall campaign. This term does not include *ad hoc* adjustments made by respondent on a case-by-case basis and not pursuant to a general commitment to pay for specified services.

8. "Engine" refers to the engine block, cylinder head, all internal engine parts, intake and exhaust manifolds.

9. "Transmission" refers to the transmission case and all internal transmission parts other than the clutch and related parts.

10. "Technical Service Bulletin(s)" is (are) the document(s) or excerpt(s) therefrom issued by the Ford Parts and Service Division pertaining to (a) repair procedures for engine or transmission conditions as to which the cost of repair exceeds the reference cost, or (b) maintenance procedures designed to avoid engine or transmis-

sion conditions as to which the cost of repair would exceed the reference cost; or, should the designation "Technical Service Bulletin(s)" to identify such document(s) or excerpt(s) be discontinued or changed, any such document(s) or excerpt(s) issued thereafter which is (are) substantially the same in content and purpose.

11. "Explanatory material" refers to a document written in a manner reasonably designed to be clear and comprehensible to prospective purchasers and owners generally, containing the following information regarding the repair or maintenance procedures described in the related Technical Service Bulletin, to the extent such information is known to respondent:

- (a) a description of the condition;
- (b) a description of the symptoms indicating the condition;
- (c) the possible consequences of not effecting the indicated procedures for the condition, including the possible consequences of not effecting such procedures in a timely manner;
- (d) the estimated cost to the consumer of any such procedures (per respondent's applicable National Average Warranty Labor Rate, respondent's Labor Time Standards Manual and respondent's suggested retail prices for parts or a national mean price for parts);
- (e) the steps or possible steps that can be taken to minimize or avoid the condition, including but not limited to maintenance procedures which are specified in the owner's manual but which might otherwise be omitted by the owner;
- (f) the proper repair procedure, including the use of upgraded parts, if any; if no upgraded parts exist, a statement that the procedure may have to be repeated if such is the case; and
- (g) the terms of any applicable adjustment program.

12. "Dealer" or "dealers" refers to any person, partnership or corporation which, pursuant to a sales and service agreement with respondent, purchases, or receives on consignment, vehicles from respondent for resale or lease to the public, including persons, partnerships, firms or corporations owned or operated by respondent.

13. "Reference cost" means (a) for the first year after service of this order, \$125.00; (b) for each succeeding year during which this order or any part thereof remains in effect, \$125.00 adjusted by a ratio, the numerator of which is the most recently published monthly Consumer Price Index, and the denominator of which is the Consumer Price Index for the month in 1980 corresponding to the month of service of this order, such adjustment to be rounded to the

nearest dollar. For purposes of paragraph B(1) of section IX, the reference cost is zero.

14. "Cost of repair" refers to a calculation of expected cost to the consumer derived by adding respondent's suggested retail prices for parts or a national mean retail price for parts which are or may be required to accomplish a specified repair and respondent's applicable National Average Warranty Labor rate charges for accomplishing that repair multiplied by the time required to effectuate the repair as determined by respondent's Labor Time Standards Manual.

15. Whenever this order requires that an action be taken within a specified period of time, the month of December shall not be included in the calculation of the specified time.

II

It is ordered, That respondent, Ford Motor Company, its successors and assigns, its officers, agents, representatives, and employees, directly or indirectly or through any corporation, subsidiary, division, or device through which respondent acts in the United States, in connection with the advertising, offering for sale, sale or distribution, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, of any vehicle, do forthwith cease and desist from:

A. Failing to disclose, in a clear and conspicuous manner, in vehicle warranty information booklets, vehicle owner guides, the full-line point-of-sale catalog published by respondent for each of its vehicle divisions, and the point-of-sale catalog published by respondent for each of its vehicle lines, the following two statements:

FORD-PAID REPAIR PROGRAMS AFTER THE WARRANTY PERIOD

Sometimes Ford offers adjustment programs to pay all or part of the cost of certain repairs. These programs are intended to assist owners and are in addition to the warranty or to required recalls. Ask Ford or your dealer about such programs relating to your Ford or Lincoln-Mercury vehicle.

To get copies of any adjustment program for your vehicle or the vehicle of interest to you:

Call Ford toll-free at 1-800-000-0000

Or write Ford at:

Ford Parts & Service Division
Post Office Box ----
Dearborn, Michigan 48121

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We'll need your name and address; year, make, and model vehicle, as well as engine size; and whether you have a manual or automatic transmission.

TECHNICAL SERVICE BULLETINS

All vehicles need repairs during their lifetime. Sometimes Ford issues Technical Service Bulletins (TSBs) and easy-to-read explanations describing unusual engine or transmission conditions which may lead to costly repairs, the recommended repairs, and new repair procedures. Often a repair now can prevent a more serious repair later. Ask Ford or your dealer for any such TSBs and explanations relating to your Ford or Lincoln-Mercury vehicle.

To get copies of these Technical Service Bulletins and explanations for your vehicle or the vehicle of interest to you:

Call Ford toll-free at 1-800-000-0000

Or write Ford at:

Ford Parts & Service Division
Post Office Box ----
Dearborn, Michigan 48121

We'll need your name and address; year, make, and model vehicle, as well as engine size; and whether you have a manual or automatic transmission.

* * * * *

B. Failing to mail or cause to be mailed, either upon written request or upon oral request received pursuant to the toll-free telephone procedure described in paragraph B of section III, to requesters in a form which may be retained:

1. information concerning any adjustment programs applicable to the vehicle(s) identified in the request;
2. Technical Service Bulletins and related explanatory material issued during the then-current model year and the two preceding model years and applicable to the vehicle(s) identified in the request; and
3. information disclosing respondent's subscription program described in paragraph A of section III.

C. Failing to furnish dealers with the information, Technical Service Bulletins and explanatory material described in paragraph B, along with a means of indexing all such materials by vehicle make, engine size and transmission type in a manner designed to facilitate access to such materials by prospective purchasers and owners on the dealers' premises.

D. Failing to recommend and urge, in writing, that dealers:

1. place the display posters referenced in paragraph F of section IV in conspicuous and accessible locations within the dealer's showroom and service payment area;
2. upon request, provide in a form which may be retained the information, Technical Service Bulletins and material described in paragraph B to the extent applicable to the vehicle(s) of interest to the requester, subject to a reasonable charge for duplication; and
3. provide ready access to all materials described in paragraph B indexed in the manner provided by respondent pursuant to paragraph C.

E. Failing to include in one of respondent's Dealer Personnel Training Tapes each model year information regarding disclosures of adjustment programs, Technical Service Bulletins and explanatory material pursuant to paragraphs A-D, advice regarding the role of dealer personnel in making such disclosures, and the importance of following such advice.

F. Failing to include in an all-dealer letter once in each 6-month period a clear and conspicuous reminder to dealers regarding disclosures of adjustment programs, Technical Service Bulletins and explanatory material pursuant to paragraphs A-D, respondent's recommendations pursuant to paragraph D, and the importance of following such recommendations.

G. Failing to continue respondent's program of issuing Technical Service Bulletins in a manner comparable to the program as it existed in the period 1977 through 1979.

H. Failing to prepare explanatory material.

III

It is further ordered, That:

A. Respondent shall implement a program, and shall disclose such program in its vehicle owner guides, whereby persons may purchase a subscription to Technical Service Bulletins and explanatory material applicable to a specified vehicle. Such subscriptions shall be offered at a price not to exceed reasonable costs.

B. Respondent shall establish and maintain a toll-free telephone system designed to accommodate the volume of calls which result from the disclosures made pursuant to this order. The system shall provide that after obtaining a caller's name, address, vehicle year, make and model, engine size and type of transmission, the personnel receiving the call shall offer to mail (and, if requested, shall then

cause to be mailed) to the caller the information, Technical Service Bulletins and material described in paragraph B of section II.

IV

It is further ordered, That:

A. Respondent shall (a) within 30 days of the adoption of any new adjustment program, notify all dealers and (b) within 120 days of the adoption of said program, subject to priority for safety or emission-related recalls, notify by first-class mail all owners of vehicles within or potentially within said program of the condition and circumstances giving rise to, and the principal terms and conditions of, said program. The notification shall include (to the extent known to respondent) the following information:

- (1) a description of the condition;
- (2) a description of the symptoms indicating the condition;
- (3) the possible consequences of not having the condition repaired, including the possible consequences of not having the condition repaired in a timely manner;
- (4) the steps or possible steps (if any) that can be taken to minimize or avoid the condition, including but not limited to maintenance procedures which are specified in the owner's manual but which might otherwise be omitted by the owner; and
- (5) the principal terms and conditions of the program.

B. Respondent shall include, in all mailings to owners pursuant to paragraph A, the disclosure statements, set forth clearly and conspicuously, required in paragraph A of section II, or the substantial equivalents thereof covering the same information.

C. Within 60 days of the date of service of this order, subject to priority for safety or emission-related recalls, respondent shall mail to all owners of 1979 and 1980 model year Ford and Lincoln-Mercury vehicles, determined from respondent's North American Vehicle Information Systems (NAVIS) records, a letter explaining and promoting the existence, availability, and benefits of respondent's adjustment program and Technical Service Bulletin information systems provided for in sections II and III. Such letter shall include the disclosure statements, set forth clearly and conspicuously, required in paragraph A of section II or the substantial equivalents thereof covering the same information. A further mailing will be made, if necessary, to cover additional owners purchasing 1980 model year Ford and Lincoln-Mercury vehicles after the date of

service of this order and reported in respondent's NAVIS records prior to November 1, 1980. This further mailing will be completed by December 31, 1980, subject to priority for safety or emission-related recalls.

D. In each issue of "Ford Times" beginning with an issue published no later than 6 months after the date of service of this order, respondent shall include a full-page advertisement containing the disclosure statements set forth in paragraph A of section II or the substantial equivalents thereof concerning the same information. In one such issue published during each 6-month period following the first issue that contains said advertisement, respondent shall include an article on service and maintenance tips that include information regarding any adjustment programs and Technical Service Bulletins adopted or published during the preceding 6-month period.

E. At least 5 times in the first year after the date of service of this order, at least 3 times in the second year and at least once in each year thereafter, respondent shall place and cause to be disseminated, in the national full-circulation editions of *Time*, *Newsweek*, *U.S. News & World Report*, *Sports Illustrated*, *People* and *Reader's Digest* magazines, full-page advertisements devoted to explaining and promoting the existence, availability and benefits of respondent's adjustment program and Technical Service Bulletin information systems provided for in sections II and III. Such advertisements shall include the toll-free telephone number required by paragraph B of section III.

Prior to placement of the first such advertisement, respondent shall conduct, or cause to be conducted, copy testing of said advertisement using a population representative of potential purchasers of Ford vehicles and employing the so-called "Group Depth Interview" or "Focus Group" method of copy testing, designed and implemented in accordance with respondent's usual procedures for such research under the direction of an outside research organization or consultant generally recognized as competent and experienced in this field and used by respondent for other advertising research. Said organization or consultant shall submit to respondent a report on the effectiveness of the tested advertisement, and said advertisement shall meet respondent's obligations under this paragraph if, on the basis of said report and applying criteria customarily applied to respondent's product advertising, the advertisement effectively communicates (a) that Ford makes information available which tells consumers about unexpected repairs or repair procedures which might save a consumer money, (b) how consumers can get information on programs and bulletins, and (c) that Ford sometimes

has programs after the warranty expires under which it pays all or part of the costs of certain repairs. In the event any subsequent advertisement prepared pursuant to this paragraph differs significantly from the first advertisement disseminated in accordance with this paragraph, respondent shall conduct or cause to be conducted copy testing of such subsequent advertisement in the same manner and for the same purpose as described above.

F. Within 120 days of the date of service of this order and each 24 months thereafter, respondent shall furnish to its dealers display posters at least 30" x 40" in size explaining and promoting the existence, availability and benefits of respondent's adjustment program and Technical Service Bulletin information systems provided for in sections II and III, and including the disclosure statements, set forth clearly and conspicuously, required in paragraph A of section II or the substantial equivalents thereof covering the same information.

V

It is further ordered, That under the terms and conditions of each adjustment program respondent shall implement and follow procedures to insure reimbursement of each owner who incurred expenses for repair of the condition subject to the program prior to notification thereof, comparable to the procedures for reimbursement included in respondent's extended policy programs for piston scuffing, camshaft/rocker arm wear, and cracked engine blocks, adjusted to fit the circumstances, terms and conditions of the particular program in question.

VI

It is further ordered, That respondent shall comply with the terms of the extended policy programs for the conditions known as piston scuffing, camshaft/rocker arm wear, and cracked engine block, as such programs were in effect on January 9, 1980, and shall pay one hundred percent of the cost of parts and labor incurred by dealers to repair those conditions in affected vehicles in accordance with the procedures and subject to the terms set forth in the applicable extended policy programs for those conditions.

VII

It is further ordered, That respondent shall make upgraded replacement parts available to all dealers in quantities adequate to

meet the reasonably anticipated need for such parts to enable dealers to perform repairs pursuant to section VI and the extended policy programs referenced therein, and also pursuant to any future adjustment programs within the terms of paragraph A of section IV, subject to *force majeure*, labor disruptions, lack of productive capacity, and other causes outside respondent's control.

VIII

It is further ordered, That sections II, III, IV, V and VII shall expire 8 years after the date of service of this order; *provided*, that if at any time during which said sections remain in effect the Commission issues a final trade regulation rule imposing obligations on the automobile industry comparable to those imposed under any such section(s), such section(s) shall terminate upon the effective date of such rule, and in such event respondent shall advise the Commission of its intention to rely on any such rule as having terminated and superceded such section(s) of this order 30 days in advance of reliance thereon; *provided further*, that if at any time during which said section(s) remain in effect the Commission issues a final guide under Sections 1.5 and 1.6 of the Commission's Rules of Practice imposing obligations on the automobile industry comparable to those imposed under any such section, then the Commission shall, upon respondent's motion or upon its own motion, reopen this proceeding within 120 days of such motion and within a reasonable time thereafter vacate any such section(s) of this order unless the Commission finds that such action is not in the public interest; and *provided further*, that nothing herein shall preclude respondent at any time from moving the Commission to alter, modify, or set aside this order under the Commission's Rules of Practice.

IX

It is further ordered, That:

A. Respondent shall, within 120 days after the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

B. During the time that sections II, III, IV, V, and/or VII remain(s) in effect, respondent shall transmit to the Commission upon request:

(1) a copy of each Technical Service Bulletin, together with any

accompanying explanatory material required by paragraph H of section II;

(2) a copy of each communication to dealers or owners regarding an adjustment program;

(3) tearsheets, together with any copy test results, of each advertisement disseminated pursuant to paragraph E of section IV; and

(4) a copy of each poster furnished to dealers pursuant to paragraph F of section IV.

C. Respondent shall, 1 year after the date of service of this order and each year thereafter that sections II, III, IV, V, and/or VII remain(s) in effect, file with the Commission a report, in writing, setting forth the following:

(1) For each condition subject to a Technical Service Bulletin:

(a) To the extent known to respondent, a description of the nature and extent of the condition, the causes of the condition, and the parts necessary to repair the condition, identifying each part by generic name and service part number.

(b) The identification of vehicles and components thereof potentially subject to each condition:

i. vehicles shall be identified by model year, car line, the inclusive dates (month and year) of manufacture, and any other information necessary to describe the vehicles.

ii. components shall be identified by generic name (*e.g.*, cylinder block), service part number, and, if applicable, the inclusive dates (month and year) of manufacture, and any other information necessary to describe the component.

(c) The total number of vehicles stated by model year and vehicle line potentially subject to each condition.

(2) For each model year and vehicle line identified pursuant to paragraph C, disclose the total number of vehicles manufactured.

(3) Unit sales of replacement parts for each component identified pursuant to paragraph C, for the affected model year(s), and for the preceding 3 model years.

D. Once during the term of this order respondent shall file with the Commission a report setting forth in good faith its best estimates of (a) the costs and benefits, to respondent and to the public, of the obligations imposed by this order, and (b) the extent to which dealers

have displayed posters furnished to dealers pursuant to paragraph F of section IV and have provided access to Technical Service Bulletins and related explanatory material furnished by respondent as required by paragraph C of section II. Said report shall be filed within 6 months of respondent's receipt of a request therefor from the Commission or its staff and said report shall cover the period from the date of service of this order until the date of this request. Respondent shall make all underlying documents and data relating to the "cost and benefits" part of said report and used in the preparation of said report available for inspection on reasonable notice by authorized representatives of the Federal Trade Commission. If copies of any such materials are requested by such representatives, respondent may, at its option, either make such materials available to such representatives for copying purposes or provide copies at either (i) rates the Commission charges for copies of materials released pursuant to the Freedom of Information Act or (ii) respondent's costs, whichever is lower.

E. Respondent shall:

(1) for 2 years after sections II, III, IV, V and VII cease to be effective, retain records that contain the information described in paragraphs B and C; and

(2) retain records relative to the manner and form of its continuing compliance with sections II, III, IV, V, VI and VII for a period of 3 years and make said records available for inspection on reasonable notice by authorized representatives of the Federal Trade Commission.

If copies of any such records are requested by such representatives, respondent may, at its option, either make such records available to such representatives for copying purposes or provide copies at either (a) rates the Commission charges for copies of records released pursuant to the Freedom of Information Act, or (b) respondent's costs, whichever is lower.

F. During the time that sections II, III, IV, V and/or VII remain in effect, respondent shall notify the Commission prior to any change in its corporate structure, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

G. Respondent shall forthwith distribute a copy of this order to its Ford, Lincoln-Mercury, Ford Parts and Service Divisions and dealers.

It is further ordered. That the provisions of this order shall be limited in their application to the United States.

CONCURRING STATEMENT OF COMMISSIONER ROBERT PITOFKY

Last February, I withheld a vote on acceptance of this proposed consent order in order to have the benefit of public comments. I noted then that the order was unusual and innovative in the way in which it dealt with Ford's future responsibility to notify purchasers of any serious defects that might arise in Ford cars.

The approach of the order requires Ford to make available in the marketplace a good deal of mechanical information which consumers can use to discover their automotive problems. Magazine ads would tell consumers that the mechanical information is available in the form of technical bulletins and the bulletins would be sent to those consumers who requested them. Consumers would then have to know enough to diagnose their own mechanical problems and complain to Ford if the problem is a design defect. The order does not require direct mail notification to owners of particular models and makes of cars that they may have certain described problems—a form of consumer alert which I said in February should be more effective in notifying consumers about defects. It was recognized, however, that direct mail notification can be expensive.

All knowledgeable parties who commented on the issue of the method of future notification of serious defects—including the Center for Auto Safety and two state Attorney General's offices—thought the notification method described in the order would not work.

I continue to be skeptical that consumers will seek out the kind of mechanical information that Ford will make available and that they would be likely to understand and use that kind of technical information. Nevertheless, Ford has agreed to make technical service bulletins available on an enhanced basis and the information system could have some significant pro-consumer effects. I am therefore voting in favor of acceptance of this order largely because I think the notification system it requires might be of some value, and because the Commission should learn something about automobile defect problems in implementing and studying this order. Finally, acceptance of the other provisions of the order allows the Commission to make available immediately some important benefits to consumers. For the future, however, I continue to believe that direct mail notification to consumers will probably be essential if automo-

ble companies are to discharge their responsibility to make known the existence of serious defects in the products they sell.

IN THE MATTER OF
STANDARD OIL COMPANY OF CALIFORNIA, ET AL.

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

Docket 8827. Decision, Nov. 26, 1974—Modified Order, Oct. 7, 1980

In compliance with the decision rendered by the Court of Appeals for the Ninth Circuit on July 3, 1978, 577 F.2d 653 (1978), this modified order amends the Commission's cease and desist orders issued against an oil company and its advertising agency on November 26, 1974, 40 FR 13488, 84 F.T.C. 1401, so that they refer only to future advertising of F-310, a gasoline additive product, rather than to "any product."

MODIFIED ORDER TO CEASE AND DESIST

Respondents having filed in the United States Court of Appeals for the Ninth Circuit petitions for review of the Commission's cease and desist order issued herein on November 26, 1974; and the Court having rendered its decision modifying the Commission's order and, as so modified, affirming and enforcing the order; and the time for filing a petition for certiorari having expired and no petition for certiorari having been filed:

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be, and hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read as follows:

I.

It is ordered, That respondent Standard Oil Company of California, a corporation, its successors and assigns, its officers, representatives, agents, employees, directly or through any corporate or other device, in connection with the advertising of the additive F-310, forthwith cease and desist from:

1. Representing directly or by implication that such product:

- (a) Will produce or result in motor vehicle exhaust which is pollution free or generally pollution free; or
 - (b) Will eliminate or reduce air pollution caused by motor vehicles;
- or
- (c) Will eliminate or reduce emissions from all or any number or group of motor vehicles in which it is used;
- or that: