

IN THE MATTER OF
GLENDINNING COMPANIES, INC.

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

Docket 8824. Decision, Oct. 26, 1976—Modifying Order, Feb. 24, 1981

This order reopens the proceeding and modifies the cease and desist order issued against the company In the Matter of Glendinning Companies, Inc., *sub nom.*, The Coca-Cola Company, et al., on October 26, 1976, 88 F.T.C. 565, 41 FR 53653, by deleting the language "including all entry forms submitted by participants therein," from Paragraph 1(c), which required the company to keep all entry forms submitted in connection with both games of chance and games of skill, and adding to Paragraph 2 of the order, specified language which limits respondent's record-keeping obligation to maintaining only those entry forms submitted for games of skill.

ORDER REOPENING THE PROCEEDING AND MODIFYING CEASE AND
DESIST ORDER

Petitioner, Glendinning Companies, Inc., seeks the modification of a record-keeping provision of the Order to Cease and Desist issued on October 26, 1976. Petitioner is engaged in the manufacture, promotion, sale, and distribution of promotional games used to induce the sale of products. On October 23, 1980, petitioner sought from the Commission an advisory opinion, pursuant to Rule 2.41 of the Federal Trade Commission's Rules of Practice, interpreting the phrase "all entry forms" in Paragraph 1(c) of the Order to apply solely to games of skill, and not to games of chance. On November 7, 1980, petitioner was informed that an advisory opinion was not the appropriate vehicle for the requested relief, and that the request would be treated as a Petition to Reopen and Modify the Order pursuant to Rule 2.51 of the Rules of Practice. The petition was accordingly placed on the public record for comment for thirty days. No comments were received.

Paragraph 1(c) now orders petitioner to cease and desist from:

1. Engaging in, promoting the use of, or participating in any such promotional game, contest, sweepstake or similar device, by means of any announcement, notice or advertisement, unless:

- (c) There are maintained by respondent or its designee for a period of at least two years after the closing of each such promotional game or contest and the awarding of all prizes in such connection therewith, full and adequate records *including all entry forms submitted by participants therein*, which clearly disclose the operation of such promotional game or contest, the basis or method used to determine entitlement to prizes, and the facts as to the receipt of such prizes by participants entitled thereto;

which said records and documents shall be open for inspection during normal business hours by each contest participant or his duly authorized representative. (Emphasis supplied.)

Thus, petitioner is currently required to save, for two years, all entry forms submitted in both chance and skill contest promotions. Petitioner asserts that while this requirement makes sense when applied to games of skill, it serves no useful purpose in the case of games of chance. In skill contests, entry forms can be inspected by the Commission to determine whether prizes were awarded to contestants who submitted the correct entries. In games of chance, however, all entry forms are identical, and winners are selected by random drawing. The forms are therefore of no value in determining whether the promotion was fairly conducted. The storage of these forms does, however, impose significant costs upon petitioner.

Petitioner and Compliance staff have agreed upon proposed modifications to the Order that would limit petitioner's obligation to maintain all entry forms to those submitted in games of skill. This would be accomplished by moving the language requiring petitioner to maintain entry forms from Paragraph 1 of the Order, which governs both skill and chance promotions, to Paragraph 2, which only concerns skill contests. The Commission, having considered the Petition, determines that petitioner has made a satisfactory showing that the public interest requires that the Order be reopened and modified as requested.

It is therefore ordered, That the proceeding is hereby reopened and the Decision and Order issued on October 26, 1976, is hereby modified by:

- (1) Deleting the italicized language from Paragraph 1(c):

There are maintained by respondent or its designee for a period of at least two years after the closing of each such promotional game or contest and the awarding of all prizes in such connection therewith, full and adequate records *including all entry forms submitted by participants therein*, which clearly disclose the operation of such promotional game or contest, the basis or method used to determine entitlement to prizes by participants entitled thereto; which said records and documents shall be open for inspection during normal business hours by each contest participant or his duly authorized representative; and

- (2) Adding the following language to Paragraph 2:

- (f) Respondent or its designee maintains for at least two years

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after the closing of each skill contest and the awarding of all prizes in connection therewith, in addition to the records required by Paragraph 1(c), all entry forms submitted by participants in such skill contests.

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

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IN THE MATTER OF

REVLON, INC., ET AL.
and
DELUXOL LABORATORIES, INC., ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF
SECTIONS 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Dockets C-2868 and C-2869. Decision, Jan. 3, 1977—Modifying Order, Feb. 24, 1981.

This order reopens the proceeding and modifies the Commission order issued on January 3, 1977, 42 FR 17108, 89 F.T.C. 1, by amending Paragraph IA4 to permit conditioning and manageability claims with proper substantiation.

ORDER GRANTING REQUEST TO REOPEN THE PROCEEDING AND
MODIFYING ORDER TO CEASE AND DESIST

Revlon, Inc., on behalf of itself and its subsidiaries Revlon-Realistic Professional Products, Inc. and Deluxol Laboratories, Inc., having requested on December 4, 1980 that the Commission reopen the proceedings in Dockets C-2868 and C-2869 for the purpose of modifying the Order to Cease and Desist entered in those dockets; and

The Commission having placed such request, together with supporting documents attached thereto, upon the public record for a period of thirty (30) days, pursuant to Section 2.51 of its Rules; and

The Commission having duly considered the comments filed thereafter by interested persons; and

The Commission being of the opinion that the public interest would be served by such reopening of the proceedings;

Now, therefore, it is ordered, That the proceedings in Dockets C-2868 and C-2869 be, and they hereby are, reopened; and

It is further ordered, That the Order in Dockets C-2868 and C-2869 be modified by amending Paragraphs IA4 as follows:

4. Any hair straightening product conditions or helps condition or improves condition of hair or makes or helps make hair more manageable, unless, at the time the representation is made, respondents have in their possession a reasonable basis, consisting of competent and reliable controlled tests, to support such representation.

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