

Interlocutory Order 97 F.T.C.

IN THE MATTER OF

PEPSICO, INC.

Docket 8856. Interlocutory Order, April 1, 1981

Dismissing proceeding without prejudice to reopen under the standards of the Soft Drink Interbrand Competition Act.

ORDER

Respondents filed in the United States Court of Appeals for the District of Columbia Circuit a petition for review of the Commission's cease and desist order issued herein on April 7, 1978. Subsequently, Congress enacted the Soft Drink Interbrand Competition Act, Pub. Law No. 96-308, 94 Stat. 939 (1980), which established standards for judging the challenged restraints which differ from those under which the Commission tried and decided these proceedings. Therefore, in September 1980, the Commission requested the Court of Appeals to set aside the Commission's order and remand these proceedings to the Commission for dismissal, without prejudice to any future proceedings under the standards of the Soft Drink Interbrand Competition Act. By an opinion and judgment dated February 5, 1981, the Court of Appeals granted the Commission's request.

Now, Therefore, *it is hereby ordered*, in accordance with the opinion and judgment of the Court of Appeals, that this proceeding be, and hereby is, dismissed, without prejudice to any future proceedings under the standards of the Soft Drink Interbrand Competition Act.

Commissioner Pertschuk did not participate.

IN THE MATTER OF

GOULD INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT AND
SECTION 8 OF THE CLAYTON ACT

Docket 9136. Complaint, May 9, 1980—Decision, April 1, 1981

This consent order requires, among other things, a Rolling Meadow, Ill. manufacturer and seller of various electrical products to cease having on its board any director who simultaneously serves as a director of a competing company, if the revenues of either corporation derived from the competing "product or service market" exceed the lesser of ten million dollars or one percent of the corporation's total sales; or any individual who fails to provide the statement required under the terms of the order. The order further requires that the company institute an annual monitoring program for the next five years, designed to detect unlawful interlocks.

Appearances

For the Commission: *Dennis F. Johnson* and *David M. Malone*.

For the respondent: *John Reilly, John Milliken* and *David Ford, Winston & Strawn*, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondent has violated the provisions of Section 8 of the Clayton Act, 15 U.S.C. 19, and Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45, and that a proceeding by it in respect thereof would be in the public interest, issues this complaint, stating its charges as follows:

COUNT I

PARAGRAPH 1. Respondent Gould Inc. ("Gould") is a corporation organized under the laws of the State of Delaware, with its principal place of business located at 10 Gould Center, Rolling Meadows, Illinois. Gould has capital, surplus and undivided profits aggregating more than one million dollars.

PAR. 2. Midland-Ross Corporation ("Midland-Ross") is a corporation organized under the laws of the State of Ohio, with its principal place of business located at 20600 Chagrin Boulevard, Cleveland,