

IN THE MATTER OF
NATIONAL DAIRY PRODUCTS CORPORATION
MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 2 (a)
OF THE CLAYTON ACT

Docket 8548. Final Order, Oct. 2, 1969—Modifying Order, July 27, 1982

This order reopens the proceeding and modifies the Commission's Final Order issued on October 2, 1969 (76 F.T.C. 392), to ease restrictions on pricing for jams, jellies and preserves, so that only those price differences that injure competition would violate the order. The Commission declined Kraft's request to rescind the order or have it expire in 1987.

ORDER MODIFYING FINAL ORDER

Whereas, a "Petition of Kraft, Inc. to Reopen And Modify Cease And Desist Order" was filed on March 10, 1982 by Kraft, Inc. the successor to National Dairy Products Corporation, pursuant to Section 2.51 of the Commission's Rules of Practice, 16 C.F.R. 2.51, wherein Kraft, Inc. seeks to have the order that was issued on October 2, 1969 rescinded or modified;

Whereas, the matter was thereafter placed on the public record for thirty (30) days pursuant to Section 2.51(c) of the Commission's Rules of Practice, 16 C.F.R. 2.51(c), during which time comments from the public were received; and

Whereas, the Commission thereafter considered the petition presented by Kraft, Inc. and all of the information submitted as comments on the petition and has determined that the petition makes a satisfactory showing that changed conditions of fact or law or that the public interest requires that the order be reopened for the purpose of modification.

Accordingly, *It is ordered*, that the matter be reopened and that the order be modified so that it will read:

It is ordered, That respondent Kraft, Inc. a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporate device, in connection with the sale or offering for sale of jam, jelly or preserve products of its Retail Foods Group, in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Discriminating, directly or indirectly in price between different purchasers of such products of like grade and quality for resale at the same level of distribution where the effect of such discrimination may be substantially to lessen competition or tend to create a

monopoly in the manufacture of jam, jelly or preserve products; *Provided, however,* that it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish any affirmative defense set forth in Sections 2(a) or 2(b) of the Clayton Act or Section 8 of the Motor Carrier Act of 1980.

It is further ordered, That respondent's request to rescind the order or to have the order expire in 1987 is denied.

IN THE MATTER OF
ASH GROVE CEMENT COMPANY

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5
OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE
CLAYTON ACT

Docket 8785. Order, June 24, 1975—Modifying Order, July 29, 1982

This order reopens the proceeding and modifies the Commission's Order issued of June 24, 1975, (85 F.T.C. 1123) by deleting Paragraph IV from the Order, so as to allow respondent to retain the assets of its divested subsidiary, which it reacquired when the purchaser of the divested plant defaulted on its payments to respondent.

ORDER MODIFYING CEASE AND DESIST ORDER ISSUED JUNE 24, 1975

The Federal Trade Commission having considered the June 2, 1982 petition of Ash Grove Cement Company to reopen this matter and to modify the order to cease and desist issued by the Commission on June 24, 1975, and having determined that changed conditions of fact and the public interest warrant reopening and modification of the order,

It is ordered, That this matter be, and it hereby is, reopened and that Paragraph IV of the Commission's order be, and it hereby is, deleted.