

Modifying Order

100 F.T.C.

IN THE MATTER OF

AMERICAN MEDICAL ASSOCIATION

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 9064. Final Order, Oct. 12, 1979—Modifying Order, Dec. 22, 1982*

This order reopens the proceeding and modifies Paragraph IV(A) of the Commission's order issued on Oct. 12, 1979 (94 F.T.C. 701), *modified* May 19, 1982 (99 F.T.C. 440). The modification eliminates the requirement that the AMA utilize first class mail to send a copy of the order to its members.

MODIFICATION OF DECISION AND ORDER

The American Medical Association ("AMA") has requested that the Commission modify its Order in Docket No. 9064 to relieve AMA of its obligation under Paragraph IV(A) of the Order to send by first-class mail a copy of a letter, Appendix A to the Order, to each of its present members.

After duly considering AMA's petition, the Commission on December 22, 1982 determined that public interest considerations warrant reopening of the order, and that Paragraph IV(A) should be modified to relieve AMA of the obligation to send the required letter by first-class mail. Accordingly,

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

It is ordered, That the Order be, and it hereby is, modified by substituting for Paragraph IV(A) of the Order, the following:

IV

It is further ordered, That respondent American Medical Association:

A. Send by mail under separate cover a copy of a letter in the form shown in Appendix A to this Order to each of its present members and to each constituent and component organization of respondent, within sixty (60) days after this Order becomes final.

IN THE MATTER OF
THE KROGER COMPANY

MODIFYING ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9102. Final Order, Sept. 25, 1981—Modifying Order, Dec. 29, 1982

As agreed to by the FTC and The Kroger Company, this Order modifies the Commission's Final Order issued on September 25, 1981 (98 F.T.C. 639). The Modified Final Order prohibits Kroger from advertising survey-based food price comparisons that refer to a particular city, metropolitan area or competitor, unless: (1) employees responsible for pricing Kroger's products do not know which items have been selected for the survey prior to its completion; and (2) the claim does not generalize the results of the survey to a product category that has been systematically excluded from the survey, unless such generalization clearly and conspicuously discloses that the product category has been excluded from the survey. The Order, which will remain in effect until December 31, 1984, dismisses the allegations contained in Paragraphs Six B and D, and Seven B and D of the complaint.

MODIFIED FINAL ORDER

The Kroger Company having filed in the United States Court of Appeals for the Eleventh Circuit a petition for review of the order to cease and desist issued herein on September 25, 1981; and the Commission and the Kroger Company having subsequently agreed upon the provisions of a final order modifying the order of September 25; and the Commission having the authority to modify its order by virtue of the fact that the record in the proceeding has not been filed with the court of appeals (*see* 15 U.S.C. 45(b) and Commission rule 3.72(a)); accordingly,

It is ordered That the order of September 25, 1981, be, and it hereby is, modified in accordance with the parties' agreement to read as follows:

ORDER

I.

A. *Respondent* means the Kroger Company, a corporation, its successors and assigns, and its officers, representatives, agents and employees, acting directly or indirectly through any corporation, subsidiary or other device in the sale of food, household items and other merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

b. *Survey-based food price comparison* means an advertised claim