

Modifying Order

101 F.T.C.

IN THE MATTER OF

U.S. PIONEER ELECTRONICS CORP.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2755. Consent Order, Oct. 24, 1975—Modifying Order, March 8, 1983*

This order reopens the proceeding and modifies the Commission's order issued on Oct. 24, 1975 (86 F.T.C. 1002), by modifying Paragraph I(11), so as to allow the company to impose non-discriminatory standards on the kind of retailers its distributors and dealers can serve.

ORDER MODIFYING DECISION AND ORDER

The Commission on November 5, 1982 having reopened the order and issued an order against respondent to show cause why the consent order to cease and desist entered on October 24, 1975 should not be modified as set forth therein; and respondent thereafter having answered that it has no objection to modification of the consent order as set forth in the order to show cause;

Accordingly, *it is ordered* that Paragraph I(11) of the order in this matter is modified to read:

Preventing or prohibiting any independent dealer or distributor from reselling his products to any person or group of persons, business or class of businesses, except as expressly provided herein. This order shall not prohibit respondent from establishing lawful, reasonable, and nondiscriminatory minimum standards for its dealers, including standards that relate to promotion and store display, demonstration, inventory levels, service and repair, volume requirements and financial stability nor shall this order prohibit respondent from requiring its dealers who sell respondent's products for resale to make such sales only to dealers who maintain such minimum standards.

IN THE MATTER OF

OCCIDENTAL PETROLEUM CORPORATION, ET AL.

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

Docket C-2492. Consent Order, March 18, 1974—Modifying Order, March 9, 1983

This order reopens the proceeding and modifies the Commission's order issued on March 18, 1974 (83 F.T.C. 1374). The modification deletes the order's "fencing-in" provision, including the requirement that prohibited Occidental from preparing statistical data comparing its purchases from a company to its sales to that company, and vacates the order in its entirety 10 years after its March 1974 issue date.

REOPENING AND VACATING IN PART AND MODIFYING IN PART
ORDER ISSUED MARCH 18, 1974

On November 8, 1982, respondent Occidental Petroleum Corporation ("Occidental") filed a "Request To Reopen And Vacate Or Modify Consent Order" ("Petition"), pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b) and Section 2.51 of the Commission's Rules of Practice. The Petition asks the Commission to reopen the consent order, issued on March 18, 1974 ("the Order"), and either: vacate the Order in its entirety; modify to limit the duration to a ten-year period; or modify "to bring it in line with current case law and enforcement attitudes."

Section 5(b) of the Federal Trade Commission Act provides that the Commission shall reopen an order at the request of a respondent upon a "satisfactory showing that changed conditions of law or fact require" modification. In addition, Section 5(b) provides that the Commission has discretion to modify orders whenever, in its opinion, the public interest requires.

After reviewing respondent's Petition, the Commission has concluded that respondent has not made a satisfactory showing that changed conditions of law or fact have occurred that require the modification or vacation of the Order. However, the Commission has determined that the public interest warrants modifying the pending Order in two respects.

First, a number of the Order's provisions are aimed at "fencing-in" respondent's future conduct. *See FTC v. National Lead Co.*, 352 U.S. 419 (1957). Although some of these provisions may have been justified at the time the Order was initially approved, their continued existence unnecessarily inhibits respondent from engaging in conduct which, in and of itself, is innocuous and may, in certain circum-