

Set Aside Order

103 F.T.C.

IN THE MATTER OF
THE MAICO COMPANY

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

Docket 5822. Consent Order, May 22, 1955—Order To Set Aside, Jan. 13, 1984

On Jan. 13, 1984, the Federal Trade Commission set aside the May 22, 1955 order issued against The Maico Co. (51 F.T.C. 1197), in light of its actions in *Beltone Electronics Corp.*, Dkt. 8928 [100 F.T.C. 68 (1982)] and *Dahlberg Electronics Corp.*, Dkt. 8229 [101 F.T.C. 703 (1983)], which set aside prohibitions on the companies' use of exclusive dealing arrangements.

ORDER TO SET ASIDE ORDER TO CEASE AND DESIST

On May 22, 1955, the Federal Trade Commission issued an order against The Maico Company in Docket No. 5822 prohibiting Maico, in the sale of its own brand name hearing aids, from imposing exclusive dealing arrangements upon its dealers. [51 F.T.C. 1197]

Two of Maico's larger competitors are now permitted by recent Commission actions to engage in the same exclusive dealing practices contained in the order against Maico. On July 26, 1982, the Commission dismissed the complaint in *Beltone Electronics Corp.*, Docket No. 8928 [100 F.T.C. 68], challenging, among other things, the same practices prohibited by the order against Maico. On April 11, 1983, the Commission in *Dahlberg Electronics, Inc.*, Docket No. 8929 [101 F.T.C. 703], set aside prohibitions on Dahlberg's use of exclusive dealing arrangements, which were similar to those contained in the order against Maico.

On December 7, 1983, the Commission, pursuant to Section 3.72(b) of the Commission's Rules of Practice, 16 C.F.R. 3.72(b), issued to Maico an order to show cause why the proceeding herein should not be reopened to set aside the final cease and desist order in Docket No. 5822, prohibiting Respondent's use of exclusive dealing arrangements. Respondent was provided an opportunity to object to the proposed set aside of the order against it, and having failed to do so, is now deemed to have consented to such action. In view of the Commission's actions in *Beltone* and *Dahlberg*, the Commission believes that this modification is in the public interest.

Accordingly,

It is hereby ordered, That this matter be, and it hereby is, reopened and that the order herein shall be set aside as of the effective date of this order.

IN THE MATTER OF

MAICO HEARING INSTRUMENTS, INC.

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

Docket 8927. Consent Order, Aug. 4, 1976—Modifying Order, Jan. 13, 1984

The Federal Trade Commission has modified the order issued against Maico Hearing Instruments, Inc. on Aug. 4, 1976 (88 F.T.C. 214). The modified order permits the company to suggest resale prices to its dealers and impose standards on the kinds of customers and territories its dealers can serve. The modification leaves intact the prohibition against resale price maintenance.

ORDER MODIFYING ORDER TO CEASE AND DESIST

On Aug. 4, 1976, the Federal Trade Commission issued an order against Maico Hearing Instruments, Inc. in Docket No. 8927 prohibiting Maico, in the sale of its own brand name hearing aids, from imposing exclusive dealing arrangements and customer and territorial restraints upon its dealers. [88 F.T.C. 214]

Two of Maico's larger competitors are now permitted by recent Commission actions to engage in the same non-price vertical restraints contained in the order against Maico. On July 26, 1982, the Commission dismissed the complaint in *Belton Electronics Corp.*, Docket No. 8928 [100 F.T.C. 68], challenging the same practices prohibited by the order against Maico. On April 11, 1983, the Commission modified the order in *Dahlberg Electronics, Inc.*, Docket No. 8929 [101 F.T.C. 703], which is also similar to the order against Maico, to set aside prohibitions on Dahlberg's use of certain non-price vertical restraints. Further, it modified that order's ban on resale price maintenance to permit Dahlberg to suggest retail prices to its dealers.

On December 7, 1983, the Commission, pursuant to Section 3.72(b) of the Commission's Rules of Practice, 16 C.F.R. 3.72(b), issued to Maico an order to show cause why the proceeding herein should not be reopened to set aside provisions of the final cease and desist order in Docket No. 8927, prohibiting Respondent's use of exclusive dealing arrangements and customer and territorial restrictions. Respondent was provided an opportunity to object to the proposed modification of the order against it, but has instead consented to such modification. In view of the Commission's actions in *Belton* and *Dahlberg*, the Commission believes that this modification is in the public interest.

Accordingly,

It is hereby ordered, That this matter be, and it hereby is, reopened