

IN THE MATTER OF
RADIOEAR CORPORATION

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

Docket C-2419. Consent Order, June 26, 1973—Modifying Order, Jan. 13, 1984

The Federal Trade Commission has modified the order issued against Radioear Corp. on June 26, 1973 (82 F.T.C. 1830). 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 June 26, 1973, the Federal Trade Commission issued an order against Radioear Corporation in Docket No. C-2419 prohibiting Radioear, in the sale of its own brand name hearing aids, from imposing exclusive dealing arrangements and customer and territorial restraints upon its dealers. [82 F.T.C. 1830]

Two of Radioear's larger competitors are now permitted by recent Commission actions to engage in the same non-price vertical restraints contained in the order against Radioear. 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 Radioear. 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 Radioear, 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 Radioear 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. C-2419, 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, and having failed to do so, is now deemed to have 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 and that Paragraphs No. 1, 2, 3, 4, 6, 7, 8 and 9 of Part I shall be set aside as of the effective date of this order.

It is further ordered, That Paragraph No. 5 of Part I be modified as of the effective date of this order by striking "5" and "or suggesting" and inserting "or" after "stabilizing,".

IN THE MATTER OF

HUGHES TOOL COMPANY, ET AL.

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

Docket 9138. Complaint, June 17, 1980—Decision, Jan. 16, 1984*

This consent order prohibits respondent from having on its board of directors any person who is a board member of a competing company, whose revenues derived from the relevant product or service exceed 5 million dollars. Respondent must, among other things, institute an annual monitoring program designed to detect unlawful interlocks; permit only those persons who have submitted the information required by Paragraph III(a) of the order to serve as board members; and provide present and future directors and prospective directors, including those of its subsidiaries, with a copy of the order.

Appearances

For the Commission: *Steven E. Weart, Kristin Malmberg and Edward C. Johnson.*

For the respondent: *Paul L. Mueller and Andrew S. Hanen, Andrews & Kurth, Houston, Tex., Michael Butler, Andrews & Kurth, Washington, D.C. and J.W. Stewart, in-house counsel, Houston, Tex.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named Respondents have been, and are, in violation of the provisions of Section 8 of the Clayton Act, as amended, 15 U.S.C. 19, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and that a proceeding in respect thereof would be in the public interest, issues its complaint, stating its charges as follows:

1. Respondent Hughes Tool Company (hereinafter "Hughes") is a Delaware Corporation and has its principal office at 5425 Polk Avenue, Houston, Texas. Hughes has capital, surplus, and undivided profits aggregating more than one million dollars (\$1,000,000). Hughes is engaged in commerce, as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. 12, and is engaged in or its business affects commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44. Hughes conducts its business in part through its wholly-owned and controlled

* Complaint dismissed as to respondent Ben F. Love by order of Oct. 18, 1983 (102 F.T.C. 1336).