

IN THE MATTER OF
THE SPERRY & HUTCHINSON COMPANY

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

Docket 8671. Final Order, Sept. 18, 1973—Modifying Order, Oct. 3, 1984

After reviewing the "Request To Reopen And Modify Order" filed by The Sperry & Hutchinson Company ("S&H"), the Commission concluded that it was in the public interest to set aside Section I of a Consent Order issued on September 18, 1973, 83 F.T.C. 478, which required the company to redeem its trading stamps for cash as well as merchandise. The company demonstrated that due to changed conditions, consumers can now readily avoid both S&H stamps and trading stamps in general in virtually all markets, and thus avoid any injury that might result from a merchandise-only redemption policy. S&H further demonstrated that the cash redemption requirement is also injuring its ability to compete against other suppliers of promotional services that are not subject to comparable restraints. Finding that the cash redemption provision no longer served any legitimate remedial purpose, the Commission reopened the matter and set aside Section I of the 1973 Consent Order.

ORDER MODIFYING DECISION AND ORDER ISSUED SEPTEMBER 18, 1973

On July 6, 1984, respondent The Sperry & Hutchinson Company ("S&H") filed a "Request To Reopen And Modify Order" ("Request"), 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 Request asked the Commission to reopen and modify the consent order issued on September 18, 1973 ("the order") by setting aside Section I. Section I of the order requires S&H to redeem its trading stamps for cash at the option of the stamp saver, at a fixed cash redemption value, if the stamps are presented in minimum quantities of 300.

After reviewing respondent's Request, the Commission has concluded that the public interest warrants reopening and modification of the order by setting aside Section I.

At the time of the original proceeding in this matter trading stamps were so pervasive in the marketplace that many consumers found them difficult if not impossible to avoid. In such a context, the cash redemption requirement of the order afforded stamp-savers an alternative to respondent's traditional policy of redeeming its stamps only for merchandise. S&H has demonstrated that conditions have now changed to the extent that consumers can readily avoid both S&H stamps and trading stamps in general in virtually all markets and, as

a consequence, can avoid any injury that might otherwise arguably result from a merchandise-only redemption policy. S&H has also shown that the continued existence of the cash redemption requirement is injuring its ability to compete against other suppliers of promotional services both inside and outside the trading stamp industry, which are not subject to comparable restraints. In view of these circumstances the cash redemption provision no longer serves any legitimate remedial purpose.

Accordingly, *it is ordered* that this matter be, and it hereby is, reopened, and that Section I of the Commission's order issued on September 18, 1973, shall be of no further force and effect as of the effective date of this order.

IN THE MATTER OF

SUN REFINING AND MARKETING COMPANY

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-3145. Complaint, Oct. 11, 1984—Decision, Oct. 11, 1984*

This consent order requires a Philadelphia, Pa. corporation, among other things, to honor the lifetime warranty on its "True Blue Lifetime Battery" ("TBLT"). The company is required to notify consumers who received a replacement battery without a lifetime warranty, that their original lifetime warranty rights would be reinstated. Further, when fulfilling warranty obligations, the company is required to provide replacement batteries that have the same technical and performance characteristics as the TBLT battery. The order also requires the firm to notify its dealers and distributors that it is reinstating the TBLT lifetime warranty and provide them with instructions for honoring the warranty.

Appearance

For the Commission: *Lemuel W. Dowdy* and *Rosemary Rosso*.

For the respondent: *E. Henneberry, Howrey & Simon*, Washington, D.C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Sun Refining and Marketing Company, a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Sun Refining and Marketing Company is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania with its office and principal place of business located at 1801 Market Street, Philadelphia, Pennsylvania

PAR. 2. Respondent is and has been engaged in the advertising, offering for sale, sale and distribution of automotive batteries as well as other consumer products.

PAR. 3. In the course and conduct of its business, respondent causes and has caused its automotive batteries and other consumer products