

FEDERAL TRADE COMMISSION DECISIONS

Set Aside Order

104 F.T.C.

IN THE MATTER OF
BROWN SHOE COMPANY, INC.

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

Docket 7606. Modified Order, August 3, 1966—Order to Set Aside, July 16, 1984

This order grants petition of Brown Group, Inc. (formerly Brown Shoe Company, Inc. and hereafter "Brown") to reopen the proceeding in Docket No. 7606 and set aside the 1966 order entered against Brown which prohibited the company from entering into agreements that would prevent retailers from deciding to purchase a competitor's line of shoes or the amount of competitor's shoes to stock. Upon considering Brown's petition, the public comments and other relevant information, the Commission found that granting respondent's request would be in the public interest. The Commission noted that given the present characteristics of the shoe industry and Brown's lack of market power to exclude competitors, the 1966 order now serves no procompetitive purpose and may impede respondent's efforts to achieve efficient distribution of its products through law practices available to its competitors. Accordingly, the proceeding in Docket No. 7606 is reopened and the Commission's order of August 3, 1966, 70 F.T.C. 491, is set aside.

ORDER REOPENING AND SETTING ASIDE ORDER ISSUED AUGUST 3, 1966

By a petition filed on March 19, 1984, respondent Brown Group, Inc. (formerly Brown Shoe Company, Inc. and hereafter "Brown") requests that the Commission reopen the proceeding in Docket No. 7606 and set aside the order against Brown. Upon consideration of Brown's petition, the public comments, and other relevant information, the Commission now finds that the public interest warrants reopening the proceeding and setting aside the order.

The record describes an industry in which any attempt by Brown to impose exclusive dealing on retailers today would have no significant anticompetitive effects. Imports have dramatically penetrated the market, representing about 60 percent of present domestic consumption. Some 300 manufacturers account for U.S. production, with 25 providing about half of domestic output. There is no evidence that within this fragmented market structure any single competitor, whether a domestic manufacturer or supplier of imports, has significant market power to exclude other competitors. To the contrary, significant entry continues to occur, demonstrating a lack of natural or artificial barriers to entry.

Given the present characteristics of the shoe industry and that Brown does not have market power by which it may exclude competitors, the order now serves no procompetitive purpose and may impede

Brown's efforts to achieve efficient distribution of its products through lawful practices available to its competitors.

Accordingly,

It is ordered, That this matter be, and it hereby is reopened, and that the Commission's August 3, 1966 order be and it is hereby set aside.

Complaint

104 F.T.C.

IN THE MATTER OF

CALIFORNIA-TEXAS OIL COMPANY, ET AL.

CONSENT ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-3138. Complaint, July 16, 1984—Decision, July 16, 1984*

This consent order requires a Glendale, Ca. company and its corporate president to cease making mileage or emission improvement claims for the "AWECO Mileage Extender" or any gasoline additive or automotive device, unless the claims can be substantiated by competent and reliable scientific tests. Respondents must also prominently disclose any material limitations or inferences that can be drawn from test results used to substantiate mileage or emission reduction claims. The order further bars the company from making any fuel economy or automotive emission performance claims using the phrase "up to" or words of similar import, unless a substantial number of consumers, under normal driving conditions, can achieve the maximum level of performance claimed.

Appearances

For the Commission: *Paul R. Roark*, Los Angeles, Ca.

For the respondent: *Pro se*.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that California-Texas Oil Company, a California corporation, and Eileen M. Robertson, individually and as an officer and director of said corporation, hereinafter sometimes referred to as respondents, have 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 California-Texas Oil Company ("CTO of California") is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 605 N. Louise Street, Glendale, California.

Respondent Eileen M. Robertson is president, a director and part owner of CTO of California. She formulates, directs and controls the acts and practices of said corporate respondent, including the acts and