

IN THE MATTER OF

THE AMERICAN COLLEGE OF RADIOLOGY

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

*Docket C-2871. Consent Order, Mar. 1, 1977—Modifying Order, Mar. 29, 1985*¹

This order reopens the proceeding and modifies the Commission's consent order issued March 1, 1977 (89 FTC 144) by allowing respondent to participate in discussions concerning other organizations' development of new or alternative types of health care financing, including those using relative value scales.

ORDER REOPENING AND MODIFYING FINAL ORDER

By petition filed December 3, 1984, the American College of Radiology ("ACR") asked the Commission to reopen and modify the Commission order in Docket No. C-2871 entered by consent against ACR on March 1, 1977 ("order"). ACR requested that the Commission modify the order by a) deleting paragraph II(B) of the order, which prohibits ACR from advising in favor of or against any relative value scale developed by third parties (except that ACR is permitted to provide historical data), and b) inserting a provision identical to a provision contained in the Commission's order in *Michigan State Medical Society*, Docket No. 9129, 101 FTC 191 (1983) ("*Michigan State*") that would allow ACR more freedom to discuss issues relating to reimbursement with third-party payers and governmental entities. ACR's petition was placed on the public record and no comments were received.

Upon consideration of ACR's petition and other relevant information, the Commission finds that the public interest would be served by deleting paragraph II(B) of the order and by inserting the relevant provision contained in the order in *Michigan State*. The Commission's order against the American College of Obstetricians and Gynecologists ("ACOG") in Docket No. 2855 is similar to the ACR order, and the Commission recently reopened and modified the ACOG order, finding that its restriction on ACOG's ability to discuss relative value scales with third-party payers and governmental entities has caused injury to ACOG and the public that outweighed any benefit that might

¹ This matter was inadvertently omitted from the Federal Trade Commission Decisions-Volume 105.

be derived from the restriction. ACR's petition is based on ACOG's petition and the Commission has determined that its finding in ACOG is applicable to ACR. Accordingly, the Commission has modified the ACR order in the same manner as it modified the ACOG order. The modification is also consistent with the Commission's decision in *Michigan State*.

The order continues to prohibit ACR from developing or circulating its own relative value guide for use by its members. In addition, although the order no longer will prohibit ACR from discussing relative value scales with governmental entities and third-party payers, serious antitrust concerns would arise were ACR to negotiate or attempt to negotiate an agreement with any such party or engage in any type of coercive activity to effect such an agreement.

Accordingly, *it is ordered*, that this matter be, and it hereby is, reopened and that the order in Docket No. C-2871 be modified 1) to delete paragraph II(B) and to redesignate paragraphs II(C) and II(D) of the order as paragraphs II(B) and II(C) respectively; 2) to renumber paragraphs III, IV and V of the order as paragraphs IV, V and VI respectively; and 3) to insert the following:

III.

It is further ordered, That this order shall not be construed to prevent ACR from:

A. Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government, executive agency, or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding.

B. Providing information or views, on its own behalf or on behalf of its members, to third-party payers concerning any issue, including reimbursement.

IN THE MATTER OF
OUTDOOR WORLD CORPORATION

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

Docket 9229. Complaint, July 17, 1989—Decision, April 2, 1990*

This consent order requires, among other things, a membership campground promoter, based in Bushkill, Pa., to cease and desist from representing that any consumer will receive a prize, award, gift, bonus, premium, or any other good or service at no cost without disclosing any cost the consumer must pay to receive such good or service. The consent order also requires the respondent to retain accurate records, for a period of 3 years, of all advertising and promotional materials containing representations regarding prize or gift offerings, and records of all prizes and gifts awarded. In addition, respondent is required to notify the Commission of any proposed corporate changes.

Appearances

For the Commission: *Lawrence M. Hodapp* and *Eileen Harrington*.

For the respondent: *Alan Schlaifer*, Washington, D.C.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with the notice of contemplated relief; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

*Complaint previously published at 113 FTC 70 (1990).