

Interlocutory Order

113 F.T.C.

IN THE MATTER OF

FAY'S DRUG COMPANY, INC.

Docket 9227. Interlocutory Order, August 17, 1990

ORDER AMENDING COMPLAINT TO REFLECT
CHANGED NAME OF RESPONDENT FAY'S DRUG COMPANY, INC.

Pursuant to Section 3.15 of the Rules, the Joint Motion to Amend Complaint (August 17, 1990) is granted, and henceforth with respect to Fay's, the caption of the case should read Fay's Incorporated.

IN THE MATTER OF
GOODYEAR TIRE & RUBBER COMPANY, ET AL.

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

Docket 6486. Consent Order, Mar. 9, 1961—Set Aside Order, Aug. 21, 1990

The Federal Trade Commission has set aside a 1961 consent order with Goodyear Tire & Rubber Co., (58 FTC 309), which prohibited the company from entering into sales commission agreements with any oil marketing company for the marketing of tires, batteries, and accessories. The Commission concluded that changes of law warranted reopening the proceeding, and that because there is little prospect that the activities prohibited by the 1961 order could now diminish competition, there was no need to maintain the order, and it should be set aside.

ORDER REOPENING AND SETTING ASIDE FINAL ORDER
ISSUED ON MARCH 9, 1961

On April 23, 1990, the Goodyear Tire & Rubber Company ("Goodyear") filed a request to reopen and set aside the Final Order that was entered in this proceeding on March 9, 1961. Goodyear's request was on the public record for thirty days. No comments were received. The request was filed pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b) and Section 2.51 of the Federal Trade Commission Procedures and Rules of Practice, 16 CFR 2.51.

The order Goodyear seeks to have set aside, Docket No. 6486, was based on a finding by the Commission that an agreement between the Atlantic Refining Company ("Atlantic") and the Goodyear Tire and Rubber Company ("Goodyear") constituted an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act. Under the agreement, Atlantic received commissions on the sale of Goodyear products to designated Atlantic franchisees. The order prohibited Atlantic from continuing the sales commission agreement and related business practices with Goodyear or other Atlantic suppliers. The order also prohibited Goodyear from maintaining such agreements with Atlantic or any other marketing oil company.

Docket No. 6486 was fully litigated. The Commission's decision and order were affirmed and enforced by the Seventh Circuit Court of Appeals on April 24, 1964, and affirmed by the United States