

Modifying Order

117 F.T.C.

IN THE MATTER OF

TICOR TITLE INSURANCE COMPANY, ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9190. Final Order, Sept. 19, 1989--Modifying Order, April 22, 1994*

This order modifies the Commission's Final Order, issued in 1989 (112 FTC 344), by deleting references to the states of New Jersey and Pennsylvania. Therefore, in accordance with the decision and judgment of the court of appeal, the order, as modified by the Commission, prohibits the companies from discussing, proposing, setting or filing any rates for title search and examination services through a rating bureau in the states of Connecticut, Wisconsin, Arizona, and Montana.

MODIFIED ORDER TO CEASE AND DESIST

The respondents having filed in the United States Court of Appeals for the Third Circuit a petition for review of the Commission's cease and desist order issued herein on September 19, 1989; and the court of appeals having rendered a decision vacating the Commission's order in its entirety; and the Commission having filed a petition for *certiorari* respecting the respondents' sale of title search and examination services in Connecticut, Wisconsin, Arizona, and Montana; and the court of appeals, after reversal and remand by the Supreme Court, having rendered a decision denying the petition for review; and the respondents' petition for a *writ of certiorari* having been denied:

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be modified in accordance with the decision and judgment of the court of appeals to read as follows:

I.

For purposes of this order, the following definition shall apply:

a. "Title search and examination services" means all activities which are designed to identify and describe the ownership of a

particular parcel of real property as well as any other actual or potential rights to, encumbrances on, or interest in the property.

II.

It is ordered, That each respondent, its successors and assigns, and its officers, agents, representatives, and employees, directly or indirectly, through any corporation, subsidiary, division or other device in connection with the sale of title search and examination services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist in Connecticut, Wisconsin, Arizona, and Montana, from discussing, proposing, setting, or filing any rates for title search and examination services through a rating bureau.

A. Provided that nothing in this order shall prohibit respondents from collectively setting or adhering to prices for title search and examination services in any state where such collective activity is engaged in pursuant to clearly articulated and affirmatively expressed state policy and where such collective activity is actively supervised by a state regulatory body.

III.

It is further ordered, That each respondent shall within thirty days after service of this order deliver a copy of this order to all its present officers, directors, and personnel having any responsibility in determining company prices as well as to the commissioner of insurance in each state listed in paragraph II of this order.

IV.

It is further ordered, That each respondent notify the Commission at least thirty days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

V.

It is further ordered, That each respondent shall, within ninety days after service upon it of this order, and at such other times as the Commission shall require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

INSTITUT MERIEUX S.A.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-3301. Consent Order, Aug. 6, 1990--Modifying Order, April 22, 1994

This order reopens the proceeding and modifies the Commission's consent order issued on August 6, 1990 (113 FTC 742), by deleting the requirement to lease to a third party the rabies vaccine business that the company acquired when it purchased Connaught BioSciences, Inc. The Commission concluded that the record does not show any approvable lessee despite Merieux's efforts to find one, and that retaining the lease requirement imposes significant costs on Merieux and could result in adverse impact on public health needs.

ORDER REOPENING AND MODIFYING ORDER
ISSUED ON AUGUST 6, 1990

On December 23, 1993, respondent Pasteur Merieux Serums et Vaccins S.A., formerly known as Institut Merieux S.A. ("Merieux"), filed a Request To Reopen the Proceeding and To Set Aside the Divestiture Obligations of the Consent 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 and Procedure, 16 CFR 2.51. In its Request, Merieux asks the Commission to reopen the proceeding and modify the consent order in Institut Merieux S.A., Docket No. C-3301 (August 6, 1990) ("order"), by setting aside subparagraphs I(3), (4) and (5), and paragraphs II through IX and XI(A) ("the divestiture provisions"). In support of its Request, Merieux argues that the modification is warranted by changed conditions of fact and by the public interest. Merieux's Request was placed on the public record for thirty days, pursuant to Section 2.51 of the Commission's Rules, and numerous comments were received.

For the reasons discussed below, the Commission has determined that the changed conditions of fact asserted by Merieux do not compel a reopening of the order, but that Merieux has demonstrated