

IN THE MATTER OF

KIWI BRANDS INC., ET AL.

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

Docket C-3523. Complaint, Aug. 24, 1994--Decision, Aug. 24, 1994

This consent order requires, among other things, Kiwi Brands Inc., a subsidiary of Sara Lee Corporation, to divest its Esquire and Griffin brands of shoe care products and related assets: to Hickory Industries, within one month of the date the order becomes final; or to a Commission approved acquirer, within twelve months of the date the order becomes final. If the sale is not accomplished within the specified time, the Commission would be entitled to appoint a trustee to sell the assets to a Commission approved acquirer in a manner approved by the Commission. In addition, for a period of ten years, the respondents are required to obtain prior Commission approval before acquiring any stocks or assets of any entity engaged in chemical shoe care products.

Appearances

For the Commission: *Howard Morse* and *Naomi Licker*.

For the respondents: *Louis Keilor* and *Gary Senner*, *Sonnen-schein, Math & Rosenthal*, Chicago, IL.

COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that respondent, Kiwi Brands Inc., a subsidiary of respondent Sara Lee Corporation, and Sara Lee Corporation have acquired assets of Knomark, Inc., a wholly-owned subsidiary of Papercraft Corporation, and assets of Reckitt & Colman plc in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45; and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

ALLEGATIONS OF FACT

I. THE RESPONDENTS

1. Respondent Kiwi Brands Inc., a subsidiary of Sara Lee Corporation, is a Delaware corporation with its office and principal place of business at 447 Old Swede Road, Douglassville, Pennsylvania,

2. Respondent Sara Lee Corporation is a Maryland corporation with its office and principal place of business at 3 First National Plaza, Chicago, Illinois.

3. Respondent Sara Lee Corporation, through respondent Kiwi Brands Inc., manufactures, distributes, and sells chemical shoe care products through grocery stores, drug stores, and mass merchandisers.

4. Respondents Sara Lee Corporation and Kiwi Brands Inc. (hereinafter collectively "Sara Lee") at all times relevant herein have been and are now engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. 12, and each is a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44.

II. THE ACQUISITIONS

5. On or about November 27, 1987, Sara Lee entered into agreements with Knomark, Inc. ("Knomark"), a wholly-owned subsidiary of Papercraft Corporation, and Papercraft Corporation, pursuant to which Sara Lee agreed to acquire and did acquire certain assets of Knomark (hereinafter referred to as the "Knomark acquisition"). As a result of the Knomark acquisition, Sara Lee acquired the "Esquire" brand of chemical shoe care products.

6. On or about October 4, 1991, Sara Lee entered into an agreement with Reckitt & Colman plc ("Reckitt & Colman"), pursuant to which Sara Lee agreed to acquire and did acquire certain assets of Reckitt & Colman (hereinafter referred to as the "Reckitt & Colman acquisition"). As a result of the Reckitt & Colman acquisition, Sara Lee acquired the "Griffin" brand of chemical shoe care products.

7. Sara Lee did not report either the Knomark acquisition or the Reckitt & Colman acquisition to the Federal Trade Commission or

the Department of Justice pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a.

III. THE RELEVANT MARKET

8. The relevant line of commerce in which to analyze the effects of the Knomark acquisition and of the Reckitt & Colman acquisition is the sale of chemical shoe care products used in the maintenance, cleaning, and protection of shoes, including but not limited to aerosol, liquid, wax, and cream products, through grocery stores, drug stores, and mass merchandisers, sometimes referred to as the mass market channel. The relevant line of commerce does not include sales of chemical shoe care products through shoe repair shops, independent and chain retailers, sporting goods retailers, and department stores, sometimes referred to as the specialty channel.

9. The relevant section of the country or geographic area in which to analyze the effects of the Knomark acquisition and of the Reckitt & Colman acquisition is the United States.

IV. MARKET STRUCTURE

10. Prior to the Knomark acquisition, Sara Lee produced, distributed, and sold chemical shoe care products through the mass market channel under the "Kiwi" brand that competed with those produced, distributed, and sold by Knomark under the "Esquire" brand.

11. Prior to the Reckitt & Colman acquisition, Sara Lee produced, distributed, and sold chemical shoe care products through the mass market channel under the "Kiwi" and "Esquire" brands that competed with those produced, distributed, and sold by Reckitt & Colman under the "Griffin" brand.

12. The relevant market alleged in paragraphs eight and nine was, prior to the Knomark acquisition and prior to the Reckitt & Colman acquisition, and is very highly concentrated, measured by the Herfindahl-Hirschmann Index. Prior to the Knomark acquisition, Sara Lee's share of sales in the relevant market was approximately 90%. At the time of the Knomark acquisition, Knomark's share of sales in the relevant market was about 2.5%. At the time of the Reckitt & Colman acquisition, Reckitt & Colman's share of sales in the relevant market was about 2%.

13. Sara Lee possesses unilateral market power, or has a dangerous probability of obtaining such market power, in the relevant market alleged in paragraphs eight and nine.

V. ENTRY CONDITIONS

14. Entry into the relevant market alleged in paragraphs eight and nine is difficult, unlikely, and would not be timely, because of the need to develop a brand name and the time and sunk costs involved in obtaining access to shelf space.

VI. EFFECTS OF THE ACQUISITIONS

15. The effect of the Knomark acquisition and of the Reckitt & Colman acquisition has been and may be substantially to lessen competition and to tend to create a monopoly in the relevant market alleged in paragraphs eight and nine in the following ways, among others:

- a. By eliminating actual competition between Sara Lee and Knomark and between Sara Lee and Reckitt & Colman;
- b. By significantly enhancing the likelihood that Sara Lee will unilaterally exercise market power;
- c. By significantly enhancing the likelihood that Sara Lee will exercise market power in coordination with other competitors; and
- d. By increasing barriers to entry into the relevant market.

16. Sara Lee undertook the Knomark acquisition and the Reckitt & Colman acquisition with the willful intention and effect of restraining, lessening, or eliminating competition, or acquiring or maintaining market power in the relevant market alleged in paragraphs eight and nine.

VIOLATIONS CHARGED

17. The Knomark acquisition violates Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

18. The Reckitt & Colman acquisition violates Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

19. Sara Lee, in making the Knomark acquisition and the Reckitt & Colman acquisition, monopolized or attempted to monopolize the relevant market alleged in paragraphs eight and nine in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

DECISION AND ORDER

The Federal Trade Commission ("the Commission") having initiated an investigation of the acquisition by Kiwi Brands Inc. ("Kiwi"), a wholly-owned subsidiary of Sara Lee Corporation ("Sara Lee"), of certain assets of Knomark, Inc., at the time of the acquisition a wholly-owned subsidiary of Papercraft Corporation, and of certain assets of Reckitt and Colman plc, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Kiwi is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of

Delaware, with its office and principal place of business located at 447 Old Swede Road, Douglassville, Pennsylvania.

2. Respondent Sara Lee is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 3 First National Plaza, Chicago, Illinois.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

I.

It is ordered, That, as used in this order, the following definitions shall apply:

A. “*Kiwi*” means Kiwi Brands Inc., its predecessors, subsidiaries, divisions, groups and affiliates controlled by Kiwi, and their respective directors, officers, employees, agents, representatives, and their respective successors and assigns.

B. “*Sara Lee*” means Sara Lee Corporation, its predecessors, subsidiaries, divisions, groups and affiliates controlled by Sara Lee, and their respective directors, officers, employees, agents, representatives, and their respective successors and assigns.

C. “*Respondents*” means Kiwi Brands Inc. and Sara Lee Corporation.

D. “*Chemical shoe care products*” means all chemical products used in the maintenance, cleaning, and protection of shoes, including, but not limited to, aerosol, liquid, wax, and cream products.

E. “*Sales through the mass market*” means all sales through grocery stores, drug stores, and mass merchandisers.

F. “*Knemark acquisition*” means the 1987 acquisition in which Sara Lee acquired the “Esquire” brand of chemical shoe care products, among other assets, from Knemark, Inc., a wholly-owned subsidiary of Papercraft Corporation.

G. “*Reckitt and Colman acquisition*” means the 1991 acquisition in which Sara Lee acquired the “Griffin” brand of chemical shoe care products, among other assets, from Reckitt and Colman plc.

H. “*Commission*” means the Federal Trade Commission.

I. "*Griffin and Esquire assets*" means all assets, tangible or intangible, acquired by Sara Lee in the Knomark acquisition and owned by Sara Lee as of January 1, 1994, relating to the production or sale of chemical shoe care products in North and South America, and all assets, tangible or intangible, acquired by Sara Lee in the Reckitt & Colman acquisition and owned by Sara Lee as of January 1, 1994, relating to the production or sale of chemical shoe care products in North and South America under the "Griffin" brand name; provided, however, that "Griffin and Esquire assets" exclude equipment and formulas used in the production of chemical shoe care products under the "Kiwi" brand. The Griffin and Esquire assets include, but are not limited to, registered and unregistered trademarks; formulas and other trade secrets; raw materials, finished goods, packaging materials, and other inventories (excluding inventories of raw materials and packaging materials for any products to be manufactured by Kiwi for Hickory Industries, Inc., after the divestiture); customer lists; and business and financial records, relating to the "Griffin" or "Esquire" brands.

II.

It is further ordered, That respondents shall divest, absolutely and in good faith, the Griffin and Esquire assets. The Griffin and Esquire assets shall be divested either:

(1) Within one (1) month of the date this order becomes final, to Hickory Industries, Inc. ("Hickory"), pursuant to the November 30, 1993, Asset Purchase Agreement between Kiwi and Hickory, as amended by Amendment One to November 30, 1993, Asset Purchase Agreement, dated March 8, 1994, attached hereto as a Confidential Appendix; or

(2) Within twelve (12) months of the date the order becomes final, to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission.

The purpose of the divestiture is to assure the continuing use of the Griffin and Esquire assets in an ongoing, independent, viable operation engaged in the sale of chemical shoe care products in the United States, and to remedy the lessening of competition resulting

from the Knomark acquisition and the Reckitt and Colman acquisition as alleged in the Commission's complaint. Provided, however, that if respondents divest pursuant to paragraph II (1) of this order, in no event shall respondents' enforcement of any security interest contained in the Asset Purchase Agreement referred to in paragraph II (1) of this order be construed to not require the Commission's prior approval, pursuant to paragraph V of this order, if such approval would otherwise be required.

III.

It is further ordered, That:

A. If respondents have not divested, absolutely and in good faith and with the Commission's prior approval, the Griffin and Esquire assets within twelve months of the date this order becomes final, the Commission may appoint a trustee to divest the Griffin and Esquire assets. In the event that the Commission or the Attorney General brings an action pursuant to Section 5(l) of the Federal Trade Commission Act, 15 U.S.C. 45(1), or any other statute enforced by the Commission, respondents shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it for any failure by respondents to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to paragraph III A. of this order, respondents shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of respondents, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If respondents have not opposed, in writing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to respondents of the identity of any proposed trustee, respondents shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Griffin and Esquire assets.

3. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in paragraph III B. 8. to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court.

4. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Griffin and Esquire assets, or to any other relevant information, as the trustee may reasonably request. Respondents shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondents shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by respondents shall extend the time for divestiture under this paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

5. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to respondents' absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer or acquirers as set out in paragraph II of this order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by respondents from among those approved by the Commission.

6. The trustee shall serve, without bond or other security, at the cost and expense of respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived

from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of respondents, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Griffin and Esquire assets.

7. Respondents shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

8. Within ten (10) days after appointment of the trustee, and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, respondents shall execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in paragraph III A. of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. The trustee shall report in writing to respondents and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV.

It is further ordered, That pending divestiture of the Griffin and Esquire assets, respondents shall maintain the viability and marketability of the Griffin and Esquire assets and shall not cause or permit the destruction, removal, wasting, deterioration or impairment of the Griffin and Esquire assets.

V.

It is further ordered, That, for a period of ten (10) years from the date this order becomes final, respondents shall not, directly or indirectly, through subsidiaries, partnerships, or otherwise, without the prior approval of the Commission:

A. Acquire any stock, share capital, equity or other interest in any concern, corporate or non-corporate, presently engaged in or within the two years preceding such acquisition engaged in the manufacture of chemical shoe care products in the United States, or the distribution or sale of chemical shoe care products through the mass market in the United States; provided, however, that an acquisition will be exempt from the requirements of this paragraph if it is solely for the purpose of investment and respondents will hold no more than one percent of the shares of any class of security traded on a national securities exchange or authorized to be quoted in an interdealer quotation system of a national securities association registered with the United States Securities and Exchange Commission; or

B. Acquire any assets used for, or previously used for (and still suitable for use for) the manufacture of chemical shoe care products in the United States, or the distribution or sale of chemical shoe care products through the mass market in the United States (including, but not limited to, brand or trade names), except in the ordinary course of business, from any concern, corporate or non-corporate, presently engaged in, or within the two years preceding such acquisition engaged in the manufacture of chemical shoe care products in the United States, or the distribution or sale of chemical shoe care products through the mass market in the United States; provided, however, that an acquisition of assets will be exempt from the requirements of this paragraph if the purchase price of the assets-to-be-acquired is less than \$100,000, and the purchase price of all assets used for, or previously used for (and still suitable for use for) the manufacture of chemical shoe care products in the United States, or the distribution or sale of chemical shoe care products through the mass market in the United States that respondents have acquired from the same person (as that term is defined in the premerger notification rules, 16 CFR 801.1(a)(1)) in the twelve-month period preceding the

proposed acquisition, when aggregated with the purchase price of the to-be-acquired assets, does not exceed \$100,000.

VI.

It is further ordered, That, for a period of ten (10) years from the date this order becomes final, unless respondents are required to seek prior approval from the Commission pursuant to paragraph V, respondents shall not, without providing advance written notification to the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity or other interest in any concern, corporate or non-corporate, presently engaged in, or within the two years preceding such acquisition engaged in the manufacture, distribution, or sale of chemical shoe care products in the United States; provided, however, that an acquisition will be exempt from the requirements of this paragraph if it is solely for the purpose of investment and respondents will hold no more than one percent of the shares of any class of security traded on a national securities exchange or authorized to be quoted in an interdealer quotation system of a national securities association registered with the United States Securities and Exchange Commission; or

B. Acquire any assets used or previously used (and still suitable for use) in the manufacture, distribution, or sale of chemical shoe care products, except in the ordinary course of business, from any concern, corporate or non-corporate, presently engaged in, or within the two years preceding such acquisition engaged in the manufacture, distribution, or sale of chemical shoe care products in the United States.

Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as "the Notification"). Respondents shall provide to the Commission at least thirty days prior to acquiring any such interest (hereinafter referred to as the "first waiting period"), both the Notification and supplemental information either in respondents' possession or reasonably available to respondents. Such supplemental information shall include a copy of the proposed acquisition agreement; the names of

the principal representatives of each respondent and of the firm respondents desire to acquire who negotiated the acquisition agreement; and any management or strategic plans discussing the proposed acquisition. If, within the first waiting period, representatives of the Commission make a written request for additional information, respondents shall not consummate the acquisition until twenty days after submitting such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a.

VII.

It is further ordered, That:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until respondents have fully complied with the provisions of paragraph II or III of this order, respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with paragraphs II and III of this order. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with paragraphs II and III of the order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Respondents shall include in their compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture. Provided, however, that if, prior to the date the first report required by this paragraph is due, respondents have consummated the acquisition described in paragraph II (1) of this order, respondents shall, in lieu of the report or reports and documentary attachments required by this paragraph, submit to the Commission, within thirty (30) days of consummation of the acquisition, a verified statement that respondents have complied with paragraph II of this order, including the date of consummation.

B. One (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order

becomes final, and at such other times as the Commission may require, respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which they have complied and are complying with paragraphs V and VI of this order.

VIII.

It is further ordered, That each of the respondents shall notify the Commission at least thirty days prior to any proposed change in such 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 such respondent that may affect compliance obligations arising out of this order.

IX.

It is further ordered, That, for the purpose of determining or securing compliance with this order, and subject to any legally recognized privilege, upon written request, each of the respondents shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such respondent relating to any matters contained in this order; and

B. Upon five (5) days' notice to such respondent and without restraint or interference from it, to interview officers, directors, or employees of such respondent, who may have counsel present, regarding such matters.

Modifying Order

118 F.T.C.

IN THE MATTER OF

GENERAL RAILWAY SIGNAL CO.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 2(a) OF
THE CLAYTON ACT AND THE FEDERAL TRADE COMMISSION ACT*Docket C-837. Consent Order, Sept. 24, 1964--Modifying Order, Aug. 29, 1994*

This order reopens the proceeding and modifies the Commission's 1964 order (66 FTC 882) by terminating the order consistent with the Commission's new policy that the public interest requires setting aside orders in effect for more than twenty years.

ORDER REOPENING PROCEEDING
AND MODIFYING ORDER

On April 29, 1994, Union Switch & Signal, Inc. ("Union"), filed a Request To Reopen Proceedings and Modify Order ("Request") in this matter, pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), and Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51. Union modified its request by letter dated June 22, 1994. The Request was placed on the public record and elicited no comments.

On July 22, 1994, the Commission issued its Statement of Policy with Respect to Duration of Competition Orders and Statement of Intention To Solicit Public Comment with Respect to Duration of Consumer Protection Orders. In its Statement of Policy, the Commission said, in relevant part, that "effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than twenty years." Statement of Policy at 8.

The Commission order in Docket C-837 was issued on September 24, 1964,¹ and has been in effect for almost thirty years. Consistent with the Commission's July 22, 1994, Statement of Policy, the presumption is that the order should be terminated. Nothing to overcome the presumption having been presented,

¹ *General Railway Signal Co.*, 66 FTC 882 (1964), modified, 108 FTC 181 (1986) (petition of American Standard, successor to Westinghouse Air Brake Co.); 110 FTC 143 (1987) (petition of General Railway Signal). Petitioner Union is a successor to Westinghouse Air Brake Co., one of the two original respondents.