

FEDERAL TRADE COMMISSION DECISIONS

Findings, Opinions, and Orders

IN THE MATTER OF

AMERADA HESS CORPORATION, ET AL.

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

Docket C-2456. Consent Order, Sept. 18, 1973--Set Aside Order, Jan. 3, 1995

This order reopens a 1973 consent order (83 FTC 487) -- which required that the Clarco Pipe Line be divested and prohibited Amerada, VGS Corporation and Clarco Pipe Line Company from acquiring assets related to the transportation or refining of crude oil produced in either Mississippi or Alabama without prior Commission approval -- and sets aside the consent order pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires setting aside competition orders in effect for more than 20 years.

ORDER REOPENING PROCEEDING AND SETTING ASIDE ORDER

On September 12, 1994, Amerada Hess Corporation ("Amerada Hess") filed a Request to Reopen and Vacate Order ("Request") in this matter.¹ Amerada Hess requests that the Commission set aside the 1973 consent order in this matter, pursuant to Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the Commission's July 22, 1994, 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 ("Sunset Policy Statement").²

Leon Hess, also a respondent in this matter, joined in Amerada Hess' Request, by letter dated September 21, 1994. Southland Oil Company, successor to respondent VGS Corporation, filed a Statement in Support of Request to Reopen and Vacate Order on October 21, 1994. In addition, on October 20, 1994, Hunt Refining Company, the purchaser of assets from respondent Clarco Pipe Line Company, filed a petition requesting, among other things, that the Commission reopen the proceeding and vacate the order as to Hunt

¹ See *Amerada Hess Corp.*, 83 FTC 487 (1973).

² The Sunset Policy Statement is published at 59 Fed. Reg. 45,286 (Sept. 1, 1994).

("Petition"). Amerada Hess' Request, Hunt's Petition and the information supplied by Leon Hess and Southland Oil Company were placed on the public record pursuant to Section 2.51 of the Commission's Rules of Practice and Procedure, 16 CFR 2.51.³ No comments were received.

The Commission in its July 22, 1994, Sunset Policy Statement 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."⁴

The Commission's order in Docket No. C-2456 was issued on September 18, 1973, and has been in effect for more than twenty-one years. Consistent with the Commission's July 22, 1994, Sunset Policy Statement, the presumption is that the order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket No. C-2456.

Accordingly, *It is ordered*, That this matter be, and it hereby is, reopened;

It is further ordered, That the Commission's order in Docket No. C-2456 be, and it hereby is, set aside, as of the effective date of this order.

³ The fifth respondent named in the order died in 1989.

⁴ Sunset Policy Statement, 59 Fed. Reg. at 45,289.

IN THE MATTER OF

THE AMERICAN TOBACCO COMPANY

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

Docket C-3547. Complaint, Jan. 3, 1995--Decision, Jan. 3, 1995

This consent order prohibits, among other things, a Connecticut-based company from disseminating advertising, for Carlton or any other cigarettes, that represents that consumers will get less tar or nicotine by smoking any number of cigarettes of any of its brands than by smoking one or more cigarettes of any other brand, unless such representations are both true and substantiated by competent and reliable scientific evidence.

Appearances

For the Commission: *Shira D. Modell.*

For the respondent: *Daniel O'Neill* and *Thomas Beazon*,
Chadbourne & Park, New York, N.Y.

COMPLAINT

The Federal Trade Commission, having reason to believe that The American Tobacco Company, a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent The American Tobacco Company is a Delaware corporation, with its office and principal place of business located at 281 Tresser Boulevard, Stamford, Connecticut.

PAR. 2. Respondent has manufactured, labelled, promoted, offered for sale, sold, and distributed cigarettes, including Carlton brand cigarettes, to consumers.

PAR. 3. The acts or practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondent has disseminated or has caused to be disseminated advertisements for its Carlton brand cigarettes, including, but not necessarily limited to, the attached Exhibits A-C,