

IN THE MATTER OF

THE ASSOCIATED OCTEL COMPANY LIMITED

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-3913. Complaint, Dec. 22, 1999--Decision, Dec. 22, 1999*

This consent order, among other things, requires The Associated Octel Company Limited, the leading manufacturer of lead antiknocks worldwide, to provide Allchem Industries, Inc., with quantities of lead antiknock compounds pursuant to the terms and conditions of their supply agreement and subject to the termination provision.

Participants

For the Commission: *Geoffrey Green, Veronica Kayne and Richard Parker.*

For the respondent: *Mark Kovner, Kirkland & Ellis, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent The Associated Octel Company Limited ("Octel"), a corporation subject to the jurisdiction of the Commission, has agreed to acquire all of the voting securities of Oboadler Company Limited, 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 by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

I. RESPONDENT

1. Respondent The Associated Octel Company Limited ("Octel") is a corporation organized, existing and doing business under and by virtue of the laws of the United Kingdom, with its office and principal place of business located at Berkeley Square House, Berkeley Square, London, W1X 6DT, England, United Kingdom.

2. Octel is engaged in, among other things, the manufacture and sale of lead antiknock compounds. Octel is the leading manufacturer of lead antiknocks worldwide, accounting for approximately 80

percent of global production. In the United States, lead antiknock compounds manufactured by Octel are distributed by two firms: Octel America Inc. (a subsidiary of Octel), and Ethyl Corporation.

3. For purposes of this proceeding, respondent is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. 12, and is a corporation whose business is in or affects commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44.

II. THE ACQUIRED COMPANY

4. Oboadler Company Limited ("Oboadler") is a corporation organized, existing and doing business under and by virtue of the laws of the United Kingdom, with its office and principal place of business located at High Field, Row Dow Lane, Shoreham, Kent, United Kingdom TN15 6XN.

5. Oboadler holds all of the issued share capital of three operating companies: Alcor Chemie AG, Alcor Chemie Vertriebs AG, and Novoktan GmbH. Through its subsidiaries, Oboadler is engaged in, among other things, the manufacture and sale of lead antiknock compounds. In the United States, lead antiknock compounds manufactured by Oboadler are distributed by Allchem Industries, Inc.

6. Oboadler is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. 12, and is a corporation whose business is in or affects commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44.

III. THE ACQUISITION

7. Pursuant to a Share Purchase Agreement dated June 1, 1999, Octel will acquire all of the issued share capital of Oboadler Company Limited for approximately \$100 million ("the Acquisition").

IV. THE RELEVANT MARKET

8. For purposes of this complaint, the relevant line of commerce in which to analyze the effect of the Acquisition is the manufacture and sale of lead antiknock compounds. Lead antiknock compounds are gasoline additives that contain tetraethyl lead. This product is used to increase the octane rating of gasoline, and thereby eliminate engine knock during the combustion cycle and improve fuel efficiency.

Currently in the United States, lead antiknock compounds are added to aviation fuel for piston engine aircraft and to certain motor gasoline for racing cars. There are no substitutes for lead antiknock compounds to which customers would switch in response to a small but significant increase in the price of lead antiknock compounds.

9. For purposes of this complaint, the relevant geographic area in which to analyze the effect of the Acquisition on competition in lead antiknock compounds is the world.

10. The world market for the manufacture and sale of lead antiknock compounds is highly concentrated as measured by the Herfindahl-Hirschman Index. Octel and Oboadler are two of only three firms in the world that manufacture lead antiknock compounds. Further, Octel and Oboadler are the only two manufacturers of lead antiknock compounds whose product is sold in the United States.

11. Entry into the market requires significant sunk costs and would not be timely, likely and sufficient to deter or counteract the adverse competitive effects described in paragraph 12 because of, among other things, the length of time and expense necessary to construct production facilities, environmental regulations pertaining to manufacturing operations that utilize lead, the ongoing decline in worldwide demand for lead antiknock compounds, and the cost of environmental remediation at the manufacturing site when, due to decline in demand, production is no longer commercially practicable.

V. EFFECTS OF THE ACQUISITION

12. The effect of the Acquisition may be substantially to lessen competition in the relevant market 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, in the following ways, among others:

(a) By eliminating direct actual competition between Octel and Oboadler in the relevant market;

(b) By increasing the likelihood of coordinated interaction between the remaining competitors in the relevant market; and

(c) By increasing the likelihood that consumers of lead antiknock compounds will be forced to pay higher prices.

VI. VIOLATIONS CHARGED

13. The Share Purchase Agreement described in paragraph 7 constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

14. The Acquisition described in paragraph 7, if consummated, would constitute a 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.

Commissioner Leary not participating.

DECISION AND ORDER

The Federal Trade Commission ("the Commission") having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent 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 respondent with violations of the Clayton Act and the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent 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 respondent 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 has reason to believe that the respondent has violated the said Acts, 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 sixty (60) days, and having considered the comments filed thereafter by interested persons pursuant to Section 3.25(f) of its Rules, now in further conformity with the procedure described 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 The Associated Octel Company Limited is a corporation organized, existing and doing business under and by virtue of the United Kingdom, with its office and principal place of business located at Berkeley Square House, Berkeley Square, London, W1X 6DT, England, United Kingdom.

2. The Federal Trade Commission has jurisdiction of the subject matter of the proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I.

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

A. "*Octel*" or "*respondent*" means The Associated Octel Company Limited, its directors, officers, employees, agents and representatives, predecessors, successors and assigns, and its subsidiaries, divisions, groups, and affiliates controlled, directly or indirectly, by The Associated Octel Company Limited, and the respective directors, officers, employees, agents and representatives, successors and assigns of each.

B. "*Commission*" means the Federal Trade Commission.

C. "*Allchem*" means Allchem Industries, Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, and includes the assignee of Allchem Industries, Inc. (if any) under the Supply Agreement.

D. "*Supply Agreement*" means the Agreement for Supply of Tetra Ethyl Lead Additive dated as of July 19, 1999 together with and as amended by the Supplemental Agreement for the Supply of Tetra Ethyl Lead Additive dated as of July 30, 1999, between The Associated Octel Company Limited and Allchem Industries, Inc., as may be further amended from time to time in accordance with paragraph III.A of this order, and includes all appendices and schedules thereto. The Supply Agreement is incorporated by reference herein.

E. "*Compounds*" means lead antiknock compounds of the types described in Appendix 1 to the Supply Agreement.

F. "*Core Provisions of the Supply Agreement*" means each and any of the following provisions of the Supply Agreement: Paragraph 2 ("Definitions"), Paragraph 3.1 as amended by the Supplemental Agreement for the Supply of Tetra Ethyl Lead Additive dated as of July 30, 1999 ("Duration of Agreement"), Paragraph 3.2 ("Purpose of Agreement"), Paragraph 4.1 ("Product Specification"), Paragraph 4.2 ("Quantity"), Paragraph 4.5 ("Price and Payment"), and Paragraphs 25.1 and 25.2 ("Miscellaneous").

G. "*United States*" means the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, and all territories, dependencies, and possessions of the United States of America.

II.

It is ordered, That, for a period of fifteen (15) years from the date this order becomes final, respondent shall provide Allchem with all such quantities of Compounds as Allchem may order from time to time for supply to customers located in the United States, pursuant to the terms and conditions of the Supply Agreement and subject to the termination provision thereof (Paragraph 3.1 as amended by the Supplemental Agreement for the Supply of Tetra Ethyl Lead Additive dated as of July 30, 1999), and shall in all other respects remain in compliance with the Supply Agreement. Any failure of respondent to comply with the terms set forth in the Supply Agreement shall constitute a failure to comply with this order.

III.

It is further ordered, That:

A. Respondent shall not, directly or indirectly, without the prior approval of the Commission, make or agree to any amendment or modification with respect to the Core Provisions of the Supply Agreement. Provided, however, that respondent may agree to renew or extend the term of the Supply Agreement.

B. Respondent shall provide to the Commission, as promptly as possible and in any event no later than thirty (30) days after either their receipt or transmittal, copies of any: (i) communications between respondent and Allchem regarding any alleged breach of the Supply Agreement; (ii) notice of a force majeure event under the Supply Agreement; and/or (iii) amendment or modification to the Supply Agreement.

IV.

It is further ordered, That:

A. Within sixty (60) days after the date this order becomes final, respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which respondent has complied and is complying with this order.

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, respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with this order.

V.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the order.

VI.

It is further ordered, That, for the purpose of determining or securing compliance with this order, upon written request, respondent shall permit any duly authorized representative of the Commission:

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

B. Upon five days' notice to respondent and without restraint or interference from it, to interview officers, directors, or employees of respondent.

VII.

It is further ordered, That this order shall terminate on December 22, 2014.

Commissioner Leary not participating.

Complaint

128 F.T.C.

IN THE MATTER OF

CONOPCO, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3914. Complaint, Dec. 22, 1999--Decision, Dec. 22, 1999*

This consent order, among other things, prohibits the New York-based corporation, that manufactures and distributes personal care products, from disseminating advertisements, for Vaseline® Brand Intensive Care® Antibacterial Hand Lotion or any other antimicrobial product, containing claims as to the effectiveness of the product in protecting users against germs unless, the respondent possesses competent and reliable scientific substantiation.

Participants

For the Commission: *Linda Badger, Kerry O'Brien, Gwendolyn Fanger and Jeffrey Klurfeld.*

For the respondent: *Nancy Schnell*, in-house counsel, New York, N.Y.

COMPLAINT

The Federal Trade Commission, having reason to believe that Conopco, Inc., doing business as Unilever Home & Personal Care USA, a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Conopco, Inc. is a New York corporation with its principal office or place of business at 390 Park Avenue, New York, New York. Conopco, Inc. does business as "Unilever Home & Personal Care USA" and "Chesebrough-Pond's" at 33 Benedict Place, Greenwich, CT.

2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed products to the public, including Vaseline® Brand Intensive Care® Antibacterial Hand Lotion. Vaseline® Brand Intensive Care® Antibacterial Hand Lotion is a "drug," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

3. The acts and 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.