

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."² The Commission's consent order in Docket No. 7611 was issued on July 6, 1960, and has been in effect for more than twenty years. Consistent with the Commission's 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. 7611 as to WPS.

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. 7611 be, and it hereby is, set aside as to respondent Warner Publisher Services, Inc., as of the effective date of this order.

By the Commission.

Benjamin I. Berman,
Acting Secretary.

Concurring Statement of Commissioner Mary L. Azcuenaga in Independent News Company, Inc., Docket No. 7611

I concur in the decision to grant the request of Warner Publisher Services, Inc., the successor of Independent News Company, Inc., to set aside the 1960 order in this case. I dissent from the decision to limit the setting aside of the order to Warner, instead of setting aside the order in its entirety.

The decision to limit relief to Warner, one of the two respondents under the order, appears to be inconsistent with the Commission's announced policy to presume "that the public interest requires reopening and setting aside the order *in its entirety*" (emphasis added) "when a petition to reopen and modify a competition order is filed" and the order is more than twenty years old.¹ The Commission's recognition of the limitations of the findings underlying an order² further suggests that the presumption that an order will be terminated after twenty years should apply to the order in its entirety and not be limited to the petitioner.³

² See Sunset Policy Statement, 59 Fed. Reg. at 45,289.

¹ FTC, 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 (July 22, 1994), at 8 (hereafter "Sunset Policy Statement").

² "[F]indings upon which [orders] are based should not be presumed to continue" for longer than twenty years. Sunset Policy Statement at 4.

³ The presumption of termination after 20 years applies automatically for new orders in competition cases and is not limited to individual respondents, further supporting the view that the twenty-year presumption in favor of sunset for existing orders

I previously have expressed my concern that the adoption of a presumption instead of an across-the-board rule in favor of sunset "will impose costs by requiring respondents to file individual petitions and the Commission to assess in the context of each such petition whether the presumption has been overcome for that order."⁴ Now the Commission would further increase the burden on both public and private resources by applying the presumption in favor of sunset not only on a case-by-case basis but on a respondent-by-respondent basis.

The petition filed by Warner invoked the twenty-year presumption that the order should be set aside. No evidence of recidivist conduct by any respondent, including The New American Library of World Literature, Inc., having been presented to overcome the presumption,⁵ the order should be set aside in its entirety.

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[Dkt. 7614]

National Comics Publications, Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set aside order.

SUMMARY: This order reopens a 1960 consent order—which required the companies to offer promotional allowances for their publications on proportionally equal terms to all customers—and sets aside the consent order pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

DATES: Consent order issued July 6, 1960. Set aside order issued June 14, 1995.

FOR FURTHER INFORMATION CONTACT: Daniel Ducore, FTC/S-2115, Washington, DC 20580. (202) 326-2526.

SUPPLEMENTARY INFORMATION: In the Matter of National Comics Publications, Inc., et al. The prohibited trade practices and/or corrective actions are removed as indicated.

should apply to the order, not to particular respondents.

⁴ Separate Statement of Commissioner Mary L. Azcuenaga on Sunset Policy (July 22, 1994), at 7 (footnote omitted).

⁵ See Sunset Policy Statement at 8 n.19.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 15 U.S.C. 13) Commissioners: Robert Pitofsky, Chairman, Mary L. Azcuenaga, Janet D. Steiger, Roscoe B. Starek III, Christine A. Varney

Order Reopening Proceeding and Setting Aside Order

On February 16, 1995, DC Comics and Warner Publisher Services, Inc. ("WPS"), as respondents and successors to National Comics Publications, Inc. and Independent News Company, Inc.,¹ filed a Petition to Reopen and Set Aside Consent Order ("Petition"), in this matter. DC and WPS request that the Commission set aside the 1960 consent order in this matter pursuant to section 5(b) of the Federal Trade Commission Act, 14 U.S.C. 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the 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, issued on July 22, 1994, and published at 59 FR 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In its Petition, DC and WPS affirmatively state that neither has engaged in any conduct violating the terms of the order. The Petition was placed on the public record, and the thirty-day comment period expired on March 27, 1995. No comments were received.

The Commission in its 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."² The Commission's consent order in Docket No. 7614 was issued on July 6, 1960, and has been in effect for more than twenty years. Consistent with the Commission's 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. 7614.

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. 7614 be, and it hereby is, set aside as of the effective date of this order.

¹ Since the Commission issued the order in this matter, National Comics has become DC Comics, a general partnership between Warner Communications, Inc., and Time Warner Entertainment Co., L.P. Independent has changed its name to Warner Publisher Services, Inc. and is now owned by Warner Communications, Inc.

² See Sunset Policy Statement, 59 FR at 45,289.

By the Commission.

Benjamin I. Berman,

Acting Secretary.

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[Dkt. 5448]

Rubber Manufacturers Association, Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set aside order.

SUMMARY: This order reopens a 1948 consent order—which prohibited the Association from formulating or enforcing resale price agreements, exchanging resale price information or entering into price-fixing agreements—and sets aside the consent order as to respondent Rubber Manufacturers Association pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

DATES: Consent order issued February 2, 1948. Set aside order issued July 19, 1995.

FOR FURTHER INFORMATION CONTACT: Elizabeth Piotrowski, FTC/S-2115, Washington, D.C. 20580. (202) 326-2623.

SUPPLEMENTARY INFORMATION: In the Matter of Rubber Manufacturers Association, Inc., et al. The prohibited trade practices and/or corrective actions are removed as indicated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Commissioners: Robert Pitofsky, Chairman, Mary L. Azcuenaga, Janet D. Steiger, Roscoe B. Starek, III, Christine A. Varney

In the Matter of—
Rubber Manufacturers Association, Inc., a corporation;
George Flint, an individual;
Auburn Rubber Corporation, a corporation;
Avon Sole Company, a corporation;
Dryden Rubber Company, a corporation;
Essex Rubber Company, a corporation;
The B.F. Goodrich Company, a corporation;
Goodyear Tire and Rubber Company, a corporation;
Alfred Hale Rubber Corporation, a corporation;
The Holtite Manufacturing Company, a corporation;
Hood Rubber Company, a corporation;
The I.T.S. Company, a corporation;
The O'Sullivan Rubber Company, a corporation;

Panther-Panco Rubber Company, Inc., a corporation;
Seiberling Rubber Company, a corporation;
United States Rubber Company, a corporation;
Rubber Heel & Sole Manufacturers Association, a trade association;
R.S. Crawford, an individual;
Avon Sole Company, a corporation;
The Bearfoot Sole Company, Inc., a corporation;
Beebe Brothers Rubber Company, a corporation;
Bradstone Rubber Company, a corporation;
The Hagerstown Rubber Company, a corporation;
Hanover Rubber Company, a corporation;
Lynch Heel Company, a corporation;
The Monarch Rubber Company, Inc., a corporation;
The Norwalk Tire & Rubber Company, a corporation;
Plymouth Rubber Company, Inc., a corporation;
Quabaug Rubber Company, a corporation;
Travelite Rubber Company, Inc., a corporation;
Victor Products Corporation of Pennsylvania, a corporation;
Webster Rubber Company, a corporation;
Connecticut Leather & Findings Association, Inc., a corporation;
Harry Diamond, an individual;
Bridgeport Leather Company, a corporation;
Maurice Greenberg, an individual;
Diamond Leather Company, a corporation;
Louis Geghter, an individual;
New Haven Leather Company, Inc., a corporation;
Puzzo Brothers Company, a corporation;
Rochina Decroce and Anthony Decroce, Copartners d/b/a Torrington Leather Company;
Zich Leather Company, a corporation;
and
Cat's Paw Rubber Company, Inc., a corporation.

Order Reopening Proceeding and Setting Aside Order as to Respondent Rubber Manufacturers Association, Inc.

On March 17, 1995, Rubber Manufacturers Association, Inc. ("Rubber Manufacturers") one of forty-three respondents named in this consent order,¹ filed its Petition to Reopen and Set Aside Consent Orders ("Petition") in this matter. Rubber Manufacturers

¹The remaining respondents did not petition the Commission to reopen and set aside the order as to them.

requests that the Commission set aside the 1948 consent order in this matter pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 C.F.R. 2.51, and the 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, issued on July 22, 1994, and published at 59 FR 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In the Petition, Rubber Manufacturers affirmatively states that it has not engaged in any conduct violating the terms of the order. The Petition was placed on the public record, and the thirty-day comment period expired on May 10, 1995. One comment, relating to general policy issues concerning the Commission's Sunset Policy Statement, was 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."² The Commission's consent order in Docket No. 5448 was issued on February 2, 1948, and has been in effect for forty-seven 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. 5448 as to respondent Rubber Manufacturers.

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. 5448 be, and it hereby is, set aside, as to respondent Rubber Manufacturers, as of the effective date of this order.

By the Commission.

Benjamin I. Berman,
Acting Secretary.

Concurring Statement of Commissioner Mary L. Azcuenaga in Rubber Manufacturers Association, Inc., D. 5448 and D. 7505

I concur in the decision to grant the request of the Rubber Manufacturers Association, Inc. to set aside the 1948 order in Docket No. D. 5448 and the 1962 order in Docket No. D. 7505. I dissent from the decision to limit the

²See Sunset Policy Statement, 59 Fed. Reg. at 45,289.