

FEDERAL TRADE COMMISSION DECISIONS

Findings, Opinions and Orders

IN THE MATTER OF

ENCYCLOPAEDIA BRITANNICA, INC., ET AL.

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

Docket 8908. Final Order, March 9, 1976—Modifying Order, July 5, 1988

This order reopens the proceeding and modifies the Preambles to Paragraphs I through IV, Paragraph II.C (Telephone Talk), and Paragraph II.L (No-Contact Period) of the Commission's final order issued on March 9, 1976 [87 FTC 421]. The Commission concludes that the modifying order is in the public interest. The modification of the Preambles clarifies that the Commission's final order applies only to subsidiaries and employees of Encyclopaedia Britannica, Inc. engaged in selling or being recruited to sell via in-home, over-the-counter, direct mail, or telephone solicitations. The modification of Paragraph II.C requires respondents to disclose the sales purpose of a call or an appointment within 30 seconds of beginning a sales call or a call to make a sales appointment. The modification of Paragraph II.L allows respondents to contact purchasers to correct inadvertent errors on sales forms, or to obtain necessary information that respondent inadvertently failed to obtain during a sales presentation.

ORDER REOPENING THE PROCEEDING AND MODIFYING CEASE AND DESIST ORDER

On September 22, 1987, Encyclopaedia Britannica, Inc. ("EB") filed with the Commission a request that the above-referenced proceeding be reopened and that the order issued therein on March 9, 1976, either

- (1) be set aside in its entirety; or
- (2) be modified by setting a date certain when the order would expire and in the interim modifying specific provisions; or
- (3) be modified by altering specific order provisions. The specific modifications requested were alterations to Parts I.B., II.C, II.H., IV., and the Preambles I- IV, and deletion of Parts I.D., I.E., II.L., and V. [2]

This petition replaced an earlier petition filed on April 2, 1987, that was subsequently withdrawn.

The petition contends that changed conditions of fact and law and the public interest require that the proceeding be reopened and the order be set aside or modified as respondent requests. One comment was received from placement of the petition on the public record.

On December 11, 1987, EB asserted that its petition had requested sunseting of the order in its entirety, or, in the alternative, sunseting of all the affirmative fencing-in provisions of the order. We disagree with EB. The petition sets forth the relief requested in its first page, and does not request sunseting all of the affirmative fencing-in provisions. If EB had wished to request such action, it could have clearly done so in its subsequent refiling of January 22, 1988 so that the request would have clearly been presented to the public for comment. EB failed to do so. Even if the petition did request such relief, we would deny it for the reasons we here deny a sunseting of the entire order.

On December 29, 1987, EB submitted alternative language for the requested specific modifications and stated that it would accept whatever modifications the Commission would agree to.

On January 19, 1988, another comment regarding EB was received.

On January 22, 1988, EB withdrew its petition, and simultaneously refiled its petition with the addition of two [3] affidavits, one from the president and one from the general counsel of EB. These affidavits provided clarification and additional evidence of some of the assertions EB made in its petition.

HISTORY OF THE ORDER AGAINST EB

The complaint against EB and Britannica Home Library Services, Inc., ("BHLS") was issued by the Commission on December 11, 1972. It alleged that EB and BHLS had made certain false and misleading representations to induce consumers to purchase encyclopedias and accessories, to induce job recruits to accept sales positions, and to collect debts.

After several years of litigation, the Commission issued an order on March 9, 1976, which became effective on March 17, 1980, after the company exhausted its appeals. Since its effective date, the order has twice been modified at EB's request, first on October 28, 1980, and again on October 5, 1982.

DESCRIPTION OF EB

EB publishes encyclopedias and continuity book plans. and markets