

FEDERAL TRADE COMMISSION DECISIONS

Findings, Opinions, and Orders

IN THE MATTER OF

NOVARTIS CORPORATION, ET AL.

MODIFYING ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9279. Final Order, May 13, 1999—Modifying Order, July 2, 1999

This order modifies the final order, issued in 1999, by revising Part IV of the order concerning the corrective advertising notice for Doan's. Part IV of the order, as modified, will remain in effect for five additional years.

ORDER MODIFYING ORDER,
DENYING PETITION FOR RECONSIDERATION,
AND DENYING AS MOOT APPLICATION FOR STAY

Respondent Novartis Corporation and Novartis Consumer Health, Inc. (collectively "Novartis") have petitioned the Commission, pursuant to Rule 3.55 of the Commission's Rules of Practice, 16 CFR 3.55, to reconsider and to stay Part IV of our final order in this matter.

Rule 3.55 requires that such a petition "must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Commission." 16 CFR 3.55. Novartis argues that reconsideration is appropriate because factual developments since the record has been closed undermine certain factual predicates of our corrective advertising order, and because the contours of the corrective advertising requirements imposed in the order raises issues not addressed by the parties. We are not entirely satisfied that relief pursuant to Rule 3.55 is warranted here. Novartis could have introduced the recent factual developments upon which it now relies before this late stage. Moreover, while the parties in their briefs primarily addressed the propriety of the performance-based standard for the duration of corrective advertising urged by complaint counsel, the durational requirements of prior corrective advertising orders might have alerted Novartis that the information it now adduces would be relevant here. *See FTC v. Warner-Lambert Co.*, 562 F.2d 749, 753, 764 (D.C. Cir. 1977)

