

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

**Commissioners:**

Robert Pitofsky, Chairman  
Sheila F. Anthony  
Mozelle W. Thompson  
Orson Swindle

*In the Matter of*  
**TOYS "R" US, INC., a corporation**

**Docket No. 9278**

**FINAL ORDER**

**I.**

- A. "Respondent" means Toys "R" Us, its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, and groups, and affiliates controlled by Toys "R" Us, and the respective directors, officers, employees, agents and representatives, successors, and assigns of each.
- B. "Toy discounter" means any retailer of toys, including but not limited to membership retail outlets such as Price-Costco, Sam's Club, and BJ's Wholesale Club, that sells toys at discounted prices.
- C. "Toys and related products" means any product that is sold by respondent.
- D. "Commission" means the Federal Trade Commission.

**II.**

IT IS ORDERED that respondent, directly or indirectly, through any corporation, subsidiary, division or other device, in connection with the actual or potential purchase or distribution of toys and related products, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

- A. Continuing, maintaining, entering into, and attempting to enter into any agreement or understanding with any supplier to limit supply or to refuse to sell toys and related products to any toy discounter.
- B. Urging, inducing, coercing, or pressuring, or attempting to urge, induce, coerce, or pressure, any supplier to limit supply or to refuse to sell toys and related products to any toy discounter.
- C. Requiring, soliciting, requesting or encouraging any supplier to furnish information to respondent relating to any supplier's sales or actual or intended shipments to any toy discounter.
- D. Facilitating or attempting to facilitate agreements or understandings between or among suppliers relating to limiting the sale of toys and related products to any retailer(s) by, among other things, transmitting or conveying complaints, intentions, plans, actions, or other similar information from one supplier to another supplier relating to sales to such retailer(s).

E. For a period of five years, (1) announcing or communicating that respondent will or may discontinue purchasing or refuse to purchase toys and related products from any supplier because that supplier intends to sell or sells toys and related products to any toy discounter, or (2) refusing to purchase toys and related products from a supplier because, in whole or in part, that supplier offered to sell or sold toys and related products to any toy discounter.

PROVIDED, however, that nothing in this order shall prevent respondent from seeking or entering into exclusive arrangements with suppliers with respect to particular toys.

### III.

IT IS FURTHER ORDERED that respondent shall:

A. Within thirty (30) days after the date on which this order becomes final, mail to each of its suppliers and employees who have purchasing responsibilities a copy of the Commission's complaint and order in this matter, along with a letter from respondent's chief executive officer stating that its suppliers can sell whatever products they wish to retailers, and that respondent will not take any adverse action for selling toys and related products to retailers in whole or in part due to the retailer's retail prices or price policies;

B. Within ten (10) days after the date on which any person becomes an employee of respondent with purchasing responsibilities for toys and related products, or a director, officer, or management employee of respondent, or a new supplier of respondent, provide a copy of this complaint and order to such person; and

C. Require each employee, director, or officer to whom a copy of this complaint and order is furnished pursuant to subparagraphs III A and B of this order to sign and submit to Toys "R" Us, Inc., within thirty (30) days of the receipt thereof a statement that: (1) acknowledges receipt of the complaint and order, (2) represents that the undersigned has read and understands the complaint and order, and (3) acknowledges that the undersigned has been advised and understands that non-compliance with the order may subject Toys "R" Us, Inc. to penalties for violation of the order.

### IV.

IF IS FURTHER ORDERED that respondent shall:

A. Within sixty (60) days after the date on which this order become final, and annually thereafter on the anniversary of the date this order becomes final, and at such times as the Commission may by written notice to the respondent require, file with the Commission a verified written report setting forth in detail the manner and form in which respondent has compiled and is complying with this order;

B. Maintain and make available to the staff of the Federal Trade Commission for inspection and copying, upon reasonable notice, all records of communications with suppliers of respondent relating to any aspect of actual or potential purchase or distribution of toys and related products, and records pertaining to any action taken in connection with any activity covered by paragraphs II and III of this order: and

C. Notify the Commission at least thirty (30) days prior to any change in respondent such as dissolution, assignment or sale resulting in the emergence of a successor

corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of this order.

**V.**

IT IS FURTHER ORDERED that this order shall terminate twenty (20) years after the date on which this order becomes final.

By the Commission, Commissioner Swindle concurring in part and dissenting in part.

Donald S. Clark  
Secretary

Issued: October 13, 1998

**Attachments:**

Opinion of the Commission

Opinion of Commissioner Swindle, concurring in part and dissenting in part