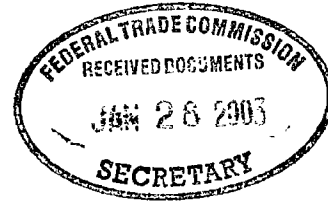


UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION



In the Matter of )  
 )  
CHICAGO BRIDGE & IRON COMPANY N.V. )  
a foreign corporation, )  
 )  
CHICAGO BRIDGE & IRON COMPANY, )  
a corporation, and )  
 )  
PITT-DES MOINES, INC., )  
a corporation. )

DOCKET NO. 9300

**ORDER ON RESPONDENTS' MOTION FOR  
DIRECTED VERDICT ON THE ISSUE OF REMEDY**

**I.**

On January 13, 2003, Respondents filed their Motion for Directed Verdict on the Issue of Remedy. Complaint Counsel filed its opposition to Respondents' motion on January 23, 2003. On January 24, 2003, Respondents filed a motion for leave to file a reply to Complaint Counsel's opposition. Complaint Counsel filed an opposition to the motion for leave to file a reply on January 28, 2003. The motion for leave to file a reply is DENIED. For reasons set forth below, the motion for directed verdict is DENIED WITHOUT PREJUDICE.

**II.**

Respondents seek a directed verdict on the issue of remedy. Respondents assert that because Complaint Counsel has completed its presentation of evidence and because Complaint Counsel did not present evidence regarding the practicality, desirability or effectiveness of Complaint Counsel's proposed remedy, directed verdict is appropriate pursuant to Rule 3.22(e) of the Commission's Rules of Practice.

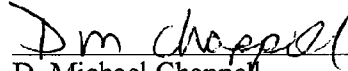
Rule 3.22(e) of the Commission's Rules of Practice sets forth: "[w]hen a motion to dismiss is made at the close of the evidence offered in support of the complaint based upon an alleged failure to establish a prima facie case, the Administrative Law Judge may defer ruling thereon until immediately after all evidence has been received and the hearing record is closed." 16 C.F.R. § 3.22(e).

Complaint Counsel's opposition asserts that a motion for directed verdict makes little sense in an administrative proceeding where there is no jury. Complaint Counsel further asserts that divestiture is required if a violation of Clayton Act § 7 is found.

**III.**

The trial of this matter concluded on January 16, 2003. The record was closed on January 28, 2003. Post trial briefing has been scheduled. Commission Rule 3.22(e) authorizes the filing of a motion to dismiss at the close of the government's case. However, Respondents' motion raises substantive issues that, at this point in the proceedings, are better addressed after a thorough review of the record and full briefing on all the legal issues raised by the violations alleged in the Complaint and any defenses thereto. Accordingly, the motion is DENIED WITHOUT PREJUDICE. The issues raised by this motion and opposition may be incorporated into the post trial briefs and will be addressed, as appropriate, in the Initial Decision.

ORDERED:

  
\_\_\_\_\_  
D. Michael Chappell  
Administrative Law Judge

Date: January 28, 2003