Modifying Order

IN THE MATTER OF

BAYER AG, ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE CLAYTON ACT


This order reopens the proceeding and modifies the Commission's order issued on January 15, 1980, 95 F.T.C. 254, by deleting Paragraphs I-IV from the order, so as to relieve respondent of the requirement of divesting assets used to manufacture allergenic extracts. Accordingly, the portion of Paragraph VII concerning respondent's divestiture efforts has also been deleted.

REOPENING AND MODIFICATION OF ORDER DOCKET NO. C-3007

By petition filed on February 26, 1982, respondent Miles Laboratories, Inc. ("Miles"), requests on behalf of itself, Bayer AG, and Rhinechem Corporation that the Commission's order in Docket No. C-3007 be modified so that Miles no longer would be required to divest assets used to manufacture allergenic extracts. Pursuant to Section 2.51 of the Commission's Rules of Practice the petition was placed on the public record and Mr. Stanford Yates, representing Kallestad Laboratories, Inc., and Dr. Raymond Rosedale filed comments.

Miles previously had petitioned the Commission to modify the order. However, the Commission by a letter dated May 22, 1981 denied the earlier petition but granted a year's extension of the time in which Miles was required to divest its allergenic extracts assets.

Upon consideration of Miles' petition and supporting material and the public comments, the Commission now finds that due to a Food and Drug Administration proposal to eliminate Category III(A) as a classification for biologics, Miles is unable to sell its allergenic extracts business as a complete, viable competitor. In denying Miles' previous petition, the Commission noted that the proposed elimination of Category III(A) might constitute a changed circumstance sufficient to warrant modification of the order. Events since then have established that modification is now warranted. For this reason the Commission has determined that the order should be modified.

Accordingly,

It is ordered, That the proceeding be, and it hereby is, reopened.

It is furthered ordered, That the order to cease and desist be, and it hereby is, modified by deleting Paragraphs I-IV of the order and so
Modifying Order

much of Paragraph VII as relates to reports of Miles' divestiture efforts. Paragraph VII will now read:

It is further ordered, That respondents shall annually, on the anniversary date of this order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which each or every respondent intends to comply, is complying or has complied with the order.
Complaint

IN THE MATTER OF

AMERICAN MOTORS CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3093. Complaint, July 6, 1982—Decision, July 6, 1982

This consent order requires a Southfield, Mich. motor vehicle manufacturer and its subsidiary to cease, among other things, failing to disclose that the Jeep CJs handle and maneuver differently from ordinary passenger cars under certain reasonably expected driving conditions; and that sharp turns or abrupt maneuvers on pavement may result in loss of control or an accident. The order requires the company to place a prescribed sticker on the windshield of all new Jeep CJs warning owners of the Jeep's handling and maneuvering limitations; provide all existing Jeep CJ owner's manuals with an informational supplement concerning on-pavement driving and update the owner's manual to include this supplemental information. The company is also required to provide its dealers with a point-of-sale display designed to call attention to the Supplement, and with a sufficient quantity of the Supplement to enable dealers to make it available to each person who requests it. The order further requires the company to send to current registered owners of Jeep CJs since 1972, the sticker and the Supplement, together with a letter advising the owner to affix the sticker to his/her Jeep.

Appearances

For the Commission: Barry E. Barnes, Rachel W. Sesser and Paula K. Stein.


COMPLAINT

The Federal Trade Commission, having reason to believe that American Motors Corporation and Jeep Corporation, corporations (hereinafter "respondents"), have violated Section 5 of the Federal Trade Commission Act, and that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Allegations in this complaint in the present tense include the past tense. For purposes of this complaint the following definitions shall apply:
Complaint

(1) *Jeep CJ(s)* means CJ5, CJ6 or CJ7 model Jeep motor vehicles manufactured by Jeep Corporation.

(2) *Ordinary passenger car* means a vehicle designed primarily for non-commercial on-pavement usage and excludes utility vehicles, vans, buses or trucks.

(3) *Advertisement* means any written, verbal or audiovisual statement, illustration, depiction or presentation, which is designed to effect the sale or lease of any Jeep CJ, or to create interest in the purchasing or leasing of such vehicles whether such statement, illustration, depiction or representation appears in a brochure, newspaper, magazine, leaflet, circular, mailer, book insert, catalog, billboard, public transit card, point-of-sale or lease materials, film strip, video presentation, or in a radio or television broadcast or in any other media, regardless of whether such statement, illustration, depiction or presentation is characterized as promotional, educational or informative.

PAR. 2. Respondent American Motors Corporation (hereinafter "AMC") is a Maryland corporation with its principal place of business at 27777 Franklin Road, Southfield, Michigan.

Respondent Jeep Corporation (hereinafter "Jeep") is a Nevada corporation with its principal place of business at 27777 Franklin Road, Southfield, Michigan.

AMC dominates and controls the acts and practices of its wholly owned subsidiary Jeep.

PAR. 3. AMC's net sales for the fiscal year ending September 30, 1979 were in excess of $3.1 billion. Jeep CJ sales for the fiscal year ending September 30, 1979 were in excess of $485 million with advertising expenditures of approximately $5 million.

PAR. 4. Respondents AMC and Jeep individually or collectively engage in the manufacture, advertising, sale, lease or distribution of Jeep CJs. AMC and Jeep cause Jeep CJs to be shipped interstate from various manufacturing locations.

Therefore, respondents maintain a substantial course of business in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. The Jeep CJ handles and maneuvers differently from an ordinary passenger car under certain reasonably expected driving conditions; sharp turns or abrupt maneuvers on-pavement may result in loss of control or an accident.

PAR. 6. The facts alleged in Paragraph Five are material facts which if known would be considered in a consumer's purchase and use decision. Respondents' have failed to disclose these facts. Such
failure constitutes a material omission of fact and is therefore a deceptive act or practice.

PAR. 7. By and through the use of advertisements such as "Legendary" and "Luxury" (copies of which are attached hereto and identified as Exhibits 1 and 2 and incorporated by reference herein) and other advertisements not specifically set forth herein, respondents represent, directly or by implication, that the Jeep CJ may be driven on-pavement like an ordinary passenger car.

PAR. 8. In light of the advertising representations referred to in Paragraph Seven, respondents' failure to disclose facts referred to in Paragraph Five renders the advertisements misleading and is therefore a deceptive act or practice.

PAR. 9. Respondents' acts or practices as alleged above have the capacity and tendency to mislead members of the public. Such acts and practices may prevent consumers from making informed purchase and use decisions. Therefore, such acts or practices cause substantial economic injury to members of the public and deprive consumers of information necessary for proper use of the vehicle when driven on-pavement.

PAR. 10. The aforesaid acts or practices of respondents are all to the prejudice and injury of the public and constitute deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. These acts and practices, as herein alleged, are continuing and will continue in the absence of the relief requested.
Complaint

1. (MUSIC UNDER) ANNCR: (VO) The legendary Jeep vehicle.

2. They've been transporting cargo...

3. delivering mail...

4. weathering storms...

5. and driving miles longer than a lot of vehicles have even existed.

6. Today's Jeep CJ is taking more kids to school...

7. more couples out on the town...

8. and more families to places far and wide.

9. And, getting more miles per gallon than any four-wheel drive in America.

10. 1981 Jeep CJ. The legend lives on.

11. From Jeep Corporation...

12. Of American Motors. (MUSIC OUT)
COMPTON ADVERTISING, INC.
65 Madison Avenue, New York, N.Y. 10016
Telephone: Plaza 4-1100

CLIENT: JEEP CORPORATION
PRODUCT: 1981 JEEP CJ
TITLE: "LUXURY"
COMMIT: TIMING: 30 SECONDS
DATE: 5/32/80

1. (MUSIC UNDER) ANNCR: "You always knew it could take you here in style.
2. room for 4,
3. air conditioning, stereo...
4. Or that it could give you the luxury and comfort of soft bucket seats.
5. room for 4,
6. air conditioning, stereo...
7. 1981 Jeep CJ.
8. You always knew it could take you here in style.
9. 1981 Jeep CJ.
10. How you know why the legend lives on...
11. From Jeep Corporation...
12. of American Motors. (MUSIC OUT)
The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the New York Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent American Motors Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business at 27777 Franklin Road, Southfield, Michigan.

   Respondent Jeep Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada with its office and principal place of business at 27777 Franklin Road, Southfield, Michigan.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

This Order applies to respondents American Motors Corporation (hereinafter "AMC") and Jeep Corporation (hereinafter "Jeep"), their successors, assigns, officers, agents, representatives, and em-
ployees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale, lease or distribution of Jeep CJ(s) in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, within the United States, including the Commonwealth of Puerto Rico and any territory or possession of the United States.

Definitions: For purposes of this Order, the following definitions shall apply:

1. **Jeep CJ(s)** shall mean CJ-5, CJ-6, or CJ-7 model Jeep vehicles built since 1972, which are or were manufactured or distributed by AMC or Jeep, and vehicles of substantially equivalent design and performance. Substantially equivalent performance means a vehicle which is substantially similar with respect to its ability to make sudden sharp turns and abrupt maneuvers on-road. For purposes of this definition, other Jeep motor vehicles built from 1972 to 1982 are not of substantially equivalent design to Jeep CJs.

2. **Dealer(s)** shall mean all independent person(s), partnership(s) or corporation(s) which, pursuant to a dealer's sales and service agreement, receive on consignment or purchase new Jeep CJ(s) from AMC or Jeep for resale or lease to the public. The term dealer(s) shall also mean all person(s), partnership(s) or corporation(s) owned or operated by respondents which sell or lease new Jeep CJ(s) to the public.

I.

It is ordered, That respondents shall, within 120 days from the date of service of this Order, affix a sticker to each new Jeep CJ vehicle manufactured or distributed by AMC or Jeep. The sticker shall read as follows:

This multipurpose vehicle handles and maneuvers differently from an ordinary passenger car. As with other vehicles of this type, sudden sharp turns and abrupt maneuvers may result in loss of control. Read driving guidelines in Owner's Manual and Supplement.

WEAR SEATBELTS AT ALL TIMES

Respondents shall affix the sticker to the instrument panel or windshield frame of each new Jeep CJ in a prominent location. The sticker shall be printed in a typeface and color which are clear and conspicuous. Respondents shall advise their dealers in writing not to remove the sticker.
II.  

It is further ordered, That respondents shall, within 120 days from the date of service of this Order, distribute an informational supplement to the Owner’s Manual for new Jeep CJ(s) (hereinafter "Supplement") which is similar in scope and subject matter to the current pamphlet "Driving Your 4-Wheel Drive Vehicle" a copy of which is attached as Exhibit A. The supplement shall include the following statement in an on-pavement driving section:

Utility vehicles have higher ground clearance and narrower track to make them capable of performing in a wide variety of off-road applications. Specific design characteristics give them a higher center of gravity than ordinary cars. An advantage of the higher ground clearance is a better view of the road allowing you to anticipate problems. They are not designed for cornering at the same speeds as conventional 2WD vehicles any more than low-slung sports cars are designed to perform satisfactorily under off-road conditions. If at all possible, avoid sharp turning maneuvers. As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or an accident.

The Supplement shall also include the following statement in the introduction:

As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or an accident. Be sure to read on-pavement and off-road driving guidelines which follow.

The above-required language shall be printed in a typeface at least as large as that which is used in the main body of the Supplement. Nothing contrary, inconsistent or in mitigation of the above-required language shall be used in the Supplement.

III.  

It is further ordered, That respondents shall, within 120 days from the date of service of this Order, revise the Owner’s Manual for new Jeep CJs to include the information that is required by Part II of this Order. Headings, typeface, and other devices consistent with those used for warnings in the Owner’s Manual shall be used to ensure clarity and prominence of the information required. Nothing contrary, inconsistent or in mitigation of the information required shall be used in the Owner’s Manual.

IV.  

It is further ordered, That any substantive modification of the information required by Part II or Part III of this Order may be
made only upon prior written approval of the Commission. A request for approval shall be in writing and shall be deemed granted if not disapproved within 60 days after receipt by the Commission.

V.

It is further ordered, That respondents shall, within 120 days after service of this Order, insert a copy of the Supplement and the Owner's Manual into the glove box of each new Jeep CJ prior to the distribution of the vehicle.

VI.

It is further ordered, That respondents shall provide to each dealer a reasonable number of free copies of the Supplement to enable dealers to make the Supplement available to each prospective Jeep CJ purchaser or lessee who requests it. Respondents shall also provide to each dealer one free point-of-sale display designed to call attention to the Supplement. Respondents shall advise their dealers in writing to (1) maintain such point-of-sale display in a prominent location in the dealer's showroom and (2) provide a copy of the Supplement to each person who requests it. Respondents shall implement the requirements of this Part within 120 days from date of service of this Order.

VII.

It is further ordered, That respondents shall, within 150 days after service of this Order, send by first-class mail to each identifiable current registered owner of Jeep CJ(s) from the 1972 model year to the effective date of this Order the following materials: (1) the sticker required by Part I; (2) the Supplement required by Part II; and (3) a letter advising the owner to affix the sticker to the Jeep CJ. Current registered owners shall be deemed identifiable if they can be traced using the same sources used to develop lists for recall notifications pursuant to the National Traffic and Motor Vehicle Safety Act of 1966.

VIII.

It is further ordered, That respondents distribute a copy of this Order to all present and future personnel who have supervisory responsibility with respect to the subject matter of this Order. Respondents shall secure from each such person a signed statement
acknowledging receipt of this Order. Respondents shall also distribute a copy of this Order to each dealer.

IX.

It is further ordered, That respondents shall maintain documents demonstrating compliance with this Order. Upon reasonable request, respondents shall make available to the Commission or its staff for inspection and copying documents which shall include, but not be limited to, the following:

A. The name and last known address of each owner who was sent the materials required by Part VII of this Order.
B. The name and last known address of each owner whose materials were returned undelivered by the United States Postal Service.
C. Communications from dealers regarding the distribution of the Supplement which are received by the department responsible for such distribution.

X.

It is further ordered, That in the event that respondent AMC or Jeep merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation, respondent AMC or Jeep shall require said successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this Order; provided, that if respondent AMC or Jeep wishes to present to the Commission any reasons why said Order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

XI.

It is further ordered, That respondents shall, within one hundred and eighty (180) and three hundred and sixty-five (365) days after the date of service of this Order, file with the Commission reports setting forth in detail the manner and form in which they have compiled with this Order.
Driving Your 4-Wheel-Drive Vehicle

And Getting Along With The Environment

Jeep, Owner's Manual Supplement
Small Sports Utility Edition
(CJ-5, CJ-7 and Scrambler)

Important Guidelines Inside:
On-Pavement Driving
Off-Road Driving
Contents

1. The world of 4-wheeling

2. Important differences between Jeep AWD vehicles and 2-wheel-drive vehicles.

3. General

4. On-Pavement Driving Guidelines

5. Off-Pavement Driving Guidelines

6. Adverse weather

7. General

8. Special Off-Road Uses

9. Tips on Saving Fuel

10. A Psednplis on 4-wheeling
Important Differences Between Your Small Jeep 4WD Vehicle And Ordinary 2-Wheel-Drive Vehicles

Your Jeep vehicle is a descendant of the original tough quad-cam military vehicle that served the country so well during World War II. The transition from the legendary military model to civilian versions of the vehicles and rugged off-road capabilities was a smooth one with the introduction of the Jeep CJ-5 in 1955. But CJ models were only the beginning of the Jeep story. The introduction of the CJ-7 in 1972, the CJ-8 in 1974, and the Wrangler YJ in 1986, set the Jeep CJ 4WD vehicle on a path to becoming the first choice of many professional and amateur off-roaders than any other 4WD vehicle.

By design it can go places off the road that you would not dream of driving in your family car. Let's examine the main differences between it and most conventional cars.

Your Jeep Vehicle Is Higher, Shorter, Narrower.

Higher ground clearance allows your Jeep vehicle to go over rugged terrain without hanging up on rocks or logs. The higher ground clearance results in a higher center of gravity, which in turn creates handling characteristics different from those of a conventional passenger car.

A shorter wheelbase and short front and rear overhangs along with the high ground clearance means that your vehicle can approach inches and go over the crest of a hill without hanging up the vehicle or damaging its frame or chassis components. The shorter wheelbase also makes your vehicle more responsive to steering than vehicles with longer wheelbases.

These differences—higher ground clearance, higher center of gravity, shorter wheelbase, and narrower body width and mass—are all important features for off-road driving. However, they also mean that on-pavement driving, handling, and stopping will be different than you would experience with a conventional 2-wheel-drive car.

On the following pages, we will discuss on-pavement driving techniques. Be aware: tire pressure, size and weight of cargo, or towing a trailer can alter the driving characteristics of your vehicle.

Special Tires It is important that a 4WD vehicle be equipped with tires of the same size and type at each axle. So if you use special off-road tires or tires for mud or snow, install them on the same axle. This is necessary to prevent the tires from becoming overheated. Tires on the same axle should be replaced as companion sets. Don't mix radial and white-side tires with conventional bias-ply tires or bias-ply tires. This could result in severe steering difficulties. Be sure to check and maintain recommended tire pressure. Also, some combinations of replacement wheels and tires can increase tire measurement and change the steering and suspension characteristics of your Jeep vehicle. Check tire and wheel sizes recommended by Jeep Corporation.

Size and Design of Cargo. The weight of passengers and cargo can affect the center of gravity and the vehicle's handling characteristics. As a general rule, do not carry high or heavy cargo. Never exceed the load limits described in your Owner's Manual and be certain the cargo you carry is properly placed in front of the rear axle. Too much weight or improperly placed weight over or behind the rear axle can cause serious steering problems. These exist because of frame and control link failures.

Putting a Trailer. Remember that everything you place in your vehicle adds to the gross vehicle weight rating (GVWR) of your Jeep vehicle. Do not exceed the gross vehicle weight rating for your Jeep vehicle. Putting trailer and equipment over 1,000 pounds (454 kg) on the front or rear of the vehicle can cause serious steering problems. Use a trailer specifically designed to pull with a small vehicle. Contact your Owner's Manual for specifics.
Getting Along With The Environment

Before you get into the benefits of off-roading, always remember we are responsible stewards of the land. The land is precious and it is important that we respect the environment because you can't expect future generations of off-roaders to enjoy the beauty of this land, unharmed and undisturbed.

The vast majority of off-roaders own a vehicle that is street-legal and street-legal for the environment. It is important to realize the ability to drive an America you might even see you in a 4WD vehicle as a privilege. You can pay for that privilege by always respecting the land and environment. If you need the following guidelines in mind, you'll be doing your part to maintain a healthy environment.

- Get along with the environment. Your positive action and good example are always needed to offset the irresponsible actions of a few thoughtless drivers.

Consider the ability to explore an America you might never see in a 4WD vehicle as a privilege. You can pay for that privilege by always respecting the land and environment. If you need the following guidelines in mind, you'll be doing your part to maintain a healthy environment.

- If you enjoy off-roading, be responsible enough to go only in areas designated for such use. Remember, you are the visitor and your "visit" should leave no scars on the land.

- Drive on established trails only. There are many designated for 4WD vehicles exclusively.

- Don't litter and if you see your favorite area littered, clean it up. Set a good example for the next person.

- Stay off land owned by others. Use the laws and regulations of public lands and private property holders to determine where you can drive. Most private property owners have a gate with a "no trespassing" sign, such as land managed by the Bureau of Land Management, the Forest Service, or the Bureau of Land Management office.

- Leave the wildlife alone. Disturbing the balance of nature harms all.

- Keep your vehicle in good mechanical condition for safety's sake and to prevent excess noise being

- Harmless a noise, but it can cause unnecessary noise pollution. Do not leave engines idle and make sure they're turned off before you break camp.

- Don't take advantage of the land you're on. Avoid cutting trees, bushes, or any vegetation. Do not use your vehicle unnecessarily. Your wheel tracks could cause erosion or other damage.

- Have respect for your fellow off-roaders.

- Drive off-road vehicles in areas that are designed for this activity. Avoid letting your vehicle or person in an area covered with dry grass or leaves. Vehicle off-road systems can set fire to dry vegetation.

- Join your local off-road vehicle club as a working member and spread the word on the proper use of our outdoor resources.

On-Pavement Driving Guidelines

Before you enter your vehicle on paved roads or highways, it is important that you know how to handle your vehicle in traffic properly and responsibly. The next pages in this brochure provide important guidelines to help you enjoy your off-road vehicle while driving on paved roads and highways.

- Know Your Vehicle

- Learn specifically how to drive your vehicle on paved roads or highways. Start with an understanding of the limits of your vehicle. Your vehicle may not be as capable as you think it is, but you will learn to push your limits. Your vehicle may not be as capable as you think it is, but you will learn to push your limits.

- Know Your Vehicle

- Learn specifically how to drive your vehicle on paved roads or highways. Start with an understanding of the limits of your vehicle. Your vehicle may not be as capable as you think it is, but you will learn to push your limits. Your vehicle may not be as capable as you think it is, but you will learn to push your limits.

- Know Your Vehicle

- Learn specifically how to drive your vehicle on paved roads or highways. Start with an understanding of the limits of your vehicle. Your vehicle may not be as capable as you think it is, but you will learn to push your limits. Your vehicle may not be as capable as you think it is, but you will learn to push your limits.

- Know Your Vehicle

- Learn specifically how to drive your vehicle on paved roads or highways. Start with an understanding of the limits of your vehicle. Your vehicle may not be as capable as you think it is, but you will learn to push your limits. Your vehicle may not be as capable as you think it is, but you will learn to push your limits.

- Know Your Vehicle

- Learn specifically how to drive your vehicle on paved roads or highways. Start with an understanding of the limits of your vehicle. Your vehicle may not be as capable as you think it is, but you will learn to push your limits. Your vehicle may not be as capable as you think it is, but you will learn to push your limits.

- Know Your Vehicle

- Learn specifically how to drive your vehicle on paved roads or highways. Start with an understanding of the limits of your vehicle. Your vehicle may not be as capable as you think it is, but you will learn to push your limits. Your vehicle may not be as capable as you think it is, but you will learn to push your limits.

- Know Your Vehicle

- Learn specifically how to drive your vehicle on paved roads or highways. Start with an understanding of the limits of your vehicle. Your vehicle may not be as capable as you think it is, but you will learn to push your limits. Your vehicle may not be as capable as you think it is, but you will learn to push your limits.

- Know Your Vehicle

- Learn specifically how to drive your vehicle on paved roads or highways. Start with an understanding of the limits of your vehicle. Your vehicle may not be as capable as you think it is, but you will learn to push your limits. Your vehicle may not be as capable as you think it is, but you will learn to push your limits.

- Know Your Vehicle

- Learn specifically how to drive your vehicle on paved roads or highways. Start with an understanding of the limits of your vehicle. Your vehicle may not be as capable as you think it is, but you will learn to push your limits. Your vehicle may not be as capable as you think it is, but you will learn to push your limits.
Avoid Sharp Turning Maneuvers

Small utility vehicles have higher ground clearance and handle better on steep roads and rough terrains compared to conventional 4WD vehicles. The increased ground clearance and lower center of gravity give them a higher ground clearance than similar cars. A smaller center of gravity can be a disadvantage on rough roads, however. It is advisable to avoid sharp turning maneuvers.

Proceed With Care On Roads With A Pronounced Slope To The Shoulder

All roads are designed with a "crown" or high center to assist water drainage. Occasionally you may find yourself on an Older, rutted, loose, road with a higher-than-normal crown. These roads can cause an unbalanced feel toward the outer edge of your vehicle. You can reassess the steering, control, or braking system to avoid the crowning effect. If the road is also rutted, you may need to drive more slowly and carefully.

Approach Curves Cautiously, Slowly

The proper speed at which to take a curve is determined in part by the centrifugal force that will be exerted on the driver. To determine the correct speed for an approach curve, the weight of the vehicle, the surface conditions, and the friction between the tires and the road must be considered. Therefore, you should always approach curves at normal driving speeds. You should not attempt to go as fast through turns as you might in a low-speed sports car, or perhaps even your family car.

Regularly Check And Maintain Your Vehicle Equipment

Keep your vehicles in top running order. Maintain routine checks of the vehicle's steering system, power train, suspension, brakes, shock absorbers, and tires. Check your tire pressure and maintain it at the level recommended for your vehicle and road conditions. Remember to regularly check the fluid levels in your engine and transmission.

Road Conditions And Surfaces Affect The Way You Drive

Your driving style will influence the way you drive. The surface of the road, whether it is smooth or rough, will affect the way you drive. Some surfaces are smooth; others are bumpy. Snow, ice, and mud will affect the way you drive. Some surfaces, such as ice, may affect the way you drive. Some surfaces, such as mud, may affect the way you drive. Some surfaces, such as ice, may affect the way you drive. Some surfaces, such as mud, may affect the way you drive. Some surfaces, such as ice, may affect the way you drive.
On-Pavement Driving
In Adverse Weather

When the road surface becomes difficult to travel because of deteriorating weather conditions such as snow or heavy rain, be cautious when you are traveling on the roadway. You should take in to account the conditions on the roadway, the road itself, the road surface, and the weather conditions. Also, if you are using an automatic transmission, you may want to use the versatility of your "advanced" AWD system. You should continue to maintain your grip on the steering wheel and be prepared. Be sure to the problem situation, you may be facing that could create a hazardous situation for you.

Snow

In snow, road conditions are always important. They are often difficult to maintain because of the snow and ice layers. Keep in mind the following guidelines:

1. Use the proper type of tire tread for the road conditions
2. Use the proper type of tire for the road conditions
3. Use the proper type of tire for the road conditions
4. Use the proper type of tire for the road conditions
5. Use the proper type of tire for the road conditions
6. Use the proper type of tire for the road conditions
7. Use the proper type of tire for the road conditions
8. Use the proper type of tire for the road conditions
9. Use the proper type of tire for the road conditions
10. Use the proper type of tire for the road conditions

General Recommendations For Driving In Adverse Weather

Safe driving with a 4WD jeep requires the sensible application of long-established principles of safe driving:

- Drive slowly
- Keep the vehicle momentum
- Use proper visibility
- Use proper foot tread
- Use proper tire tread
- Use proper tire pressure
- Use proper tire pressure
- Use proper tire pressure
- Use proper tire pressure
- Use proper tire pressure
- Use proper tire pressure
- Use proper tire pressure

In addition, you should:

- Use 4WD when road surface requires slow speeds and high traction
- Turn on your headlights
- Use warmed-up wipers (rain or snow)
- Check rearview mirrors frequently
- Drive slowly
- Allow extra following distance
- Keep tires properly inflated and in good condition
Off-Road Driving Guidelines

Off-road operation is what your Jeep vehicle was designed to do. Under certain conditions you may feel attracted to off-road operation. But as with any road operation, off-road driving must be conducted with respect for the environment and the capability of the vehicle. Conditions change constantly, therefore you must be prepared for the unexpected. Always keep in mind that driving off-road is an adventure and, at times, a challenge. This manual contains specific guidelines to help you prepare for your off-road operation.

Sand
Sand or dirt roads that are dry and dusty are often characterized by "loose" or "soft" shoulders and curves, while the crown of the road may be smooth and compact. Ideally, you should drive all four wheels on the smooth surface, so drive as high up on the crown as possible while staying on your side of the road. If you have automatic transmission, use the low range gear or in second range if you have manual transmission. Use low range on wet sand or mud. When the vehicle's speed drops to 20 mph or less, engage 4WD low to avoid losing traction.

Mud
Driving in mud is similar to driving in snow. When a high-geared 4WD mode is selected, carefully lift the wheels off the ground. Engage 4WD low if you have a manual transmission or high range in an automatic transmission. Use the low range gear or in second range if you have a manual transmission. When the vehicle's speed drops to 10 mph or less, engage 4WD low to avoid losing traction.

Gravel
Gravel roads have a smooth, hard surface with loose sand or gravel. This can cause the vehicle to side-slip. Stay on the crown of the road and drive in low range. Make sure that you do not skid or spin the tires. If you lose traction, engage 4WD low to avoid losing traction.

In summary, off-road driving is an exciting experience. Always be aware of your surroundings and take precautions to ensure your safety and the safety of others.
General Recommendations
For Off-Road Driving
Before you leave for the back country there are some
general things you should do or check:
* Inspect the vehicle
* Check the tires
* Check the fluids
* Check the brakes
* Check the lights
* Check the steering

Steep Inclines
When preparing to climb a steep incline, first try to find out
what you are up against. What's on top? What the course is
that you are about to enter. Are there potential hazards?

Driving Off-Road
On Steep Inclines
And Sidehills
Before renewing how to drive up steep hills and along side
hills, make note of an important point, if you don't make it to
the top of a hill, the vehicle will not be able to climb it.

Steep Inclines
When preparing to climb a steep incline, first try to find out
what you are up against. What's on top? What the course is
that you are about to enter. Are there potential hazards?

Driving Off-Road
On Steep Inclines
And Sidehills
Before renewing how to drive up steep hills and along side
hills, make note of an important point, if you don't make it to
the top of a hill, the vehicle will not be able to climb it.
Driving Off-Road On Rock And Sand

Before attempting driving on rocks or sand, one caution is necessary. After you've driven in one of these situations, your brakes should be checked. Excessive braking on sand or loose gravel may cause a brake system to fail. Heavy-duty maintenance is suggested after the initial use.

Rock

The basic technique for driving on rock consists of four factors: 1) Low range. 2) Careful throttle control to keep the engine from stalling. 3) Careful shifting. 4) Good throttle control in the neutral, high range position. After you've driven on the rock, clean your brakes, and then go back on the road in high range.

If you have a choice between driving a wheel over a large rock or setting the rock under the vehicle, always put the wheel on it. Usually on it. Then you know where the rock is and that it can't go to high-center you or damage your vehicle undercarriage.

If you do get high-centered, hang on to an object that sticks out of the tire to keep from driving on it. Keep the engine running at a steady speed at all times. If it doesn't hold, then you have to get serious about getting the rock. This means lowering the tire that isn't getting a grip. Under the tire you stuff rocks, dirt, wood, brush, whatever. You do this until, in effect, the mud has been built up to the point that you can drive off the offending object. Then move the vehicle—SLOWLY—after removing the jockey.

Sand

The technique for driving in sand involves two or three principles, the most important of which is slow on top of it. You can do this by driving with enough speed to maintain momentum, by having big tires, or by greatly reducing the pressure in your tires. Low tire pressure on the rear, you make sure that whatever tires you use are designed for sand. If you use high pressure on the rear, the tires will dig in the sand, and the vehicle will not be able to go through the sand. If you have a short patch of soft sand to be crossed, you can use the engine to drive it across. Study the situation; decide where you're going to go, then back up a little bit at it, and move through it, at a steady pace, not slopping, not making abrupt changes of direction, and not hesitating on the way.

If you're in deep sand, a sand wash is going to be necessary. If the sand is not too deep, drive the lightest weight and the softest tires, and don't try to use your low range. If you're going over a big dune, and you have high pressure on the rear, you might want to consider using a sand wash. If there's a sand wash, you're going to have to drive it over to let air out of your tires. Then use the engine to drive it across. A sand wash is better able to conform to whatever surface it encounters than a hard tire. So a soft tire will develop traction and provide good headroom where a hard tire won't. The tire should be less than 10 psi. So soft you can see a pinhead bulge in the sidewall where it's in contact with the surface. With hollow tires you can travel sand with relative ease. Once the tire is back on hard sand, just a few miles on pavement could cause fundamental damage to the tire.

If driving on an ocean beach, be sure to thoroughly wash under damage to prevent corrosion.
Driving Off-Road In Mud And Rain

Mud

The problems encountered in mud are somewhat similar to those of driving in snow. In fact, they're sometimes even more difficult. The problem is that mud doesn't come in a wide variety of forms. The mud encountered in a desert is likely to be a thick, heavy sludge, while the mud encountered in a rain-soaked area may be a soft, muddy goo. Both types of mud are difficult to drive through, but the type of mud you're encountering will determine the best way to handle the situation.

In general, what you need to do is use light-controlled gear power in most instances. This will allow you to maintain your speed and travel at a steady rate. If you're driving through deep mud, don't change your mind halfway through. Clean, churn and keep churning until you're off the mud packing again.

All the other extremes are a slow film of clay. Here you use some of the same techniques as driving on ice. Especially staying on or near the crown of the road.

Rain

Ordinary rain creates no problems that require special techniques from the driver of a car. Except some sources of trouble. Usually rain can cause on nowhere where special driving techniques may be needed, however. Floodwaters provoke demand extreme caution. Driving into unknown water is like walking around timetables. That drop off may be an inch or two. Or it may be a precipice. When it is necessary to drive through deep water, get into low range and maintain a steady, smooth, plash-eased pace. As very little power may be necessary to maintain a smooth, steady plash ezed pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace. As very little power may be necessary to maintain a smooth, steady pace. Turning vehicles into an immobilizing, slushy, slush-eased pace.
4-Wheel-Drive Clubs And Activities

What They Can Do For You

With the high interest in off-road driving, many recreational opportunities have opened up across America. More than 1,500 four-wheel-drive clubs have been formed. Their role is not just transportation, but also to make it an enjoyable, exciting family outing. Clubs can be organized for many reasons, depending on the needs and desires of the people involved. Some like the challenge of competitive events. Others have become dedicated to the specialty organized search-and-rescue units. And still others take great pride in preserving and displaying antique and sports cars.

Off-road driving is not only a way to enjoy an adrenaline rush, but also a way to preserve history, as well as the natural environment. Many of the clubs have adopted areas of land for the benefit of all. This land can be used for recreational purposes such as picnics, hikes, bird-watching, or simply enjoying the scenery.

Special Off-Road Uses: Rallies And Racing

If you want to participate in competition events in your 4-wheel-drive vehicle, you need a wide choice. You can find competitions that range all the way from informal family tours of club-sponsored areas to formal competitive events such as off-road races, trail drives, and rallies. For more information, contact the National Off-Road Racing Association (NORRA) at 3729 Alkman Road, Livonia, Michigan 48150, ATTN: Club Information.
Tips On Saving Fuel

- Plan ahead. That means, know where you're going and how to get there before you leave. Actually you'll want to leave some with a full tank as well as make sure you fill up on your return. Some proven camping areas have your supplies from your own fuel storage tank and will gastrointestinal ton when you stay overnight.
- Drive with the windows closed whenever you can. Open windows add substantially to wind drag, and the more wind drag, the more gas used. In fact, at highway speeds mileage can be lowered up to 10 per cent when the windows are open.
- Slow down. Speed kills any hopes of gas efficiency. The best idea is to keep your top speed under 55 mph. After you find a steady speed, maintain it. Changing speed by as little as 1 mph can increase fuel consumption by over 1 mile per gallon. Remember, don't brake unnecessarily.
- If you're going to idle longer than 30 seconds, you save gas by turning the engine off. An idling engine wastes about a quart of gas every 15 minutes. And don't warm up the engine by idling, it wastes fuel by doing so.
- "Auto-Radio" starts are dangerous on gas mileage. Accelerate slowly. Transportation experts have proven that punch starts and fast gearway can turn over 50% more gasoline than normal acceleration.
- Keep your eyes on the road. Ease up on the pedal if you see a traffic jam ahead. It can take up to 50% more gas to get to normal speed from a full stop than it does from 4 mph.
- Maintain your Jeep weight. Keep the engine properly tuned. Use the proper motor oil, depending on climate conditions. Keep an eye on your tire pressure. How you have it, to put your vehicle in top condition. Then take it that way. You could stretch gas mileage by 15%.
- Don't overheat. Replace the unnecessary gear you used with you on your last trip.
- Avoid filling your tanks to the brim, because gas expands in the sun. Buy your gas in the morning when you start driving. This way when the sun gets to it, it'll have room to expand in your tank.

A Postscript To 4-Wheelers

- The key to your 4-wheel-drive vehicle unlocks a whole new world. Things to enjoy and make the most of. You are now ready to take a trip in your 4-wheel drive vehicle to make your off-road journey successful. Here are some tips which will help you:
- Always wear a seat belt when driving, even if you are just driving around town or going out for a quick trip.
- If you are driving in unfamiliar territory, make sure you know your route before you begin your journey.
- Keep your vehicle clean and well-maintained. Regular maintenance can help improve fuel efficiency and prolong the life of your vehicle.
- Be prepared for emergencies! Always carry a first aid kit, extra food and water, a compass, a "Confidence Kit" made from extra latches, the more, the better. A CB Radio, etc. You won't regret it.
- If you're going too fast off-road and are just plain tired, stay calm. Use your compass, try to stop yourself and conserve some gas. You'll need it to get out.
- Use your common sense. It generally works when off-road, too.
- Travel in groups. No less than two vehicles per group.
- Secure permission to travel on trails, or make sure you're driving on approved 4-wheel drive terrain.
- Take care of your vehicle...it will take care of you.

- Wear Seat Belts At All Times.

And Lastly, Welcome To The
Exciting World Of 4-Wheeling!
Wear Seat Belts
At All Times.

Jeep
A Subsidiary Of American Motors Corporation
Jeep Sales Promotion & Merchandising
27777 Franklin Road, Southfield, MI 48074

Part # 675 0000
Litho USA
First Printing
1981
In the Matter of

The Times Mirror Company, Inc.

Dismissal Order, etc., in regard to alleged violation of Sec. 5 of the Federal Trade Commission Act


This order returns the matter to adjudication and dismisses the complaint charging a Los Angeles, Calif. publisher with adversely affecting competition by the use of a discriminatory rate structure for run-of-the-paper and suburban display advertising. Having considered the views of the parties and the comments received from the public, the Commission concluded that the public interest would best be served by rejecting the consent agreement and dismissing the complaint.

Appearances

For the Commission: Carleton C. Eastlake, Jon R. Calhoun and Caprice L. Collins.

For the respondent: Julian O. von Kalinowski, John J. Hanson, J. Edd Stepp, Jr., Joseph A. Collins and R.C. Lobdell, Gibson, Dunn & Crutcher, Los Angeles, Calif.

Complaint

Pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C. 41, et seq.) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the party listed in the caption hereof and more particularly described and referred to hereinafter as respondent, has violated the provisions of Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45) and Section 2(a) of the Clayton Act, as amended, (15 U.S.C. 13) and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges as follows:

Paragraph 1. Respondent Times-Mirror Company, Inc. is a corporation organized on or about October 6, 1884, and is existing and doing business under and by virtue of the laws of the State of California. Respondent maintains its home office and principal place of business at Times-Mirror Square, Los Angeles, California.

Par. 2. Respondent is the largest publicly-held publishing company in the United States. Its newspaper publishing revenues were
approximately 44% of its total revenue in 1976, or about $426 million.

Par. 3. Publication of the Los Angeles Times newspaper is the largest operation of respondent Times-Mirror Company. The Los Angeles Times enjoys an average daily circulation in excess of one million copies, and has the largest weekday circulation among the nation's standard-size newspapers. The Los Angeles Times has for many years led all newspapers in the nation in advertising volume. Its total advertising revenues for 1976 were approximately $276 million, with retail display advertising approximately one-half of total advertising revenues.

Par. 4. In connection with its newspaper publishing operations, from its home and branch offices, respondent solicits, offers to sell and sells advertising linage in the Los Angeles Times to purchasers located in the various States of the United States. In the course of such operations it frequently sends and receives contracts, rate cards, advertising materials, billings and payments across state lines.

The acts and practices herein described in connection with the promoting, offering for sale and sale of newspaper advertising linage to retail merchandisers are "in or affecting commerce" as the term "commerce" is defined by the Federal Trade Commission Act, as amended, and "in commerce," as defined in the amended Clayton Act.

Par. 5. The Los Angeles Times is distributed and sold primarily in Los Angeles County, Orange County, Riverside County, San Bernardino County, San Diego County, San Luis Obispo County, Santa Barbara County, Tulane County, and Ventura County in California; with some additional distribution in numerous other states and the District of Columbia. For example, the Los Angeles Times has a significant and substantial distribution in the State of Arizona and in Clark County, Nevada.

Par. 6. In the course and conduct of its business, respondent has been and is now offering to sell and sells advertising linage to various purchasers, including, among others, persons, firms and corporations engaged in the manufacture, distribution, offering for sale or sale of merchandise at retail. A substantial number of the retailer purchasers of respondent's advertisers have retail outlets in other states as well as California. The advertising linage purchased is used for the purpose of offering for sale or promotion of products, labels and materials.

Par. 7. Retail merchandisers who purchase advertising linage in the Los Angeles Times have also promoted merchandise to customers
in adjoining states, who travel into California to purchase products or purchase them by mail order. Marketers of merchandise offered for sale and sold at retail, who purchase advertising linage in the Los Angeles Times, also promote sales in some out-of-state locations thereby.

Par. 8. In the course and conduct of its business, respondent has been and is now discriminating in price, directly or indirectly, between different purchasers of its advertising linage of like grade and quality, by selling said commodities at higher prices to some purchasers than it sells to other purchasers, many of whom have been and now are in competition with the purchasers paying the higher prices. More specifically, respondent offers for sale and sells advertising linage to persons, firms or corporations engaged in the offering for sale, sale and distribution of merchandise at retail, including, but not limited to, apparel and accessories, appliances, and furniture. Such sales are made on the basis of a rate structure that results in higher advertising rates to some competing purchasers than to others.

The aforesaid rate structure provides for a cumulative volume discount on an annual basis according to the number of lines that an advertiser or prospective advertiser may purchase or agree to purchase. Advertisers or prospective advertisers who agree to purchase a specific number of lines may take advantage of yearly bulk contract rates, whereas advertisers or prospective advertisers who cannot and do not contract for a specified number of column lines pay at the "open rate" price level. The price per line purchased decreases as the linage purchased increases. The differences in rates per line are substantial.

Par. 9. Respondent's use of a cumulative volume discount advertising rate structure results in a substantial and systematic discrimination in the price of advertising linage sold to various customers, in that larger volume advertisers receive more favorable rates than smaller volume advertisers.

COUNT I

Alleging violation of Section 5 of the Federal Trade Commission Act, as amended.

Par. 10. The allegations of Paragraphs One through Nine are incorporated by reference herein as if fully set forth verbatim.

Par. 11. Respondent's advertising rate structure, and the discrimination in the price of advertising between and among various purchasers of advertising linage, adversely affect competition be-
tween those paying higher and those paying lower advertising rates, and constitute unreasonable restraints of trade and unfair methods of competition in or affecting commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act, as amended.

COUNT II

Alleging violation of Section 2(a) of the Clayton Act, as amended.

PAR. 12. The allegations of Paragraphs One through Nine are incorporated by reference herein as if fully set forth verbatim.

PAR. 13. The effect of respondent's discrimination in prices may be substantially to lessen competition or tend to create a monopoly in the lines of commerce in which its favored purchasers are engaged, or to injure, destroy or prevent competition between the favored and non-favored purchasers, and constitute violations of the provisions of subsection (a) of Section 2 of the Clayton Act, as amended.

STATEMENT OF THE COMMISSION

BY BAILEY, Commissioner

The Commission brought this case in 1977 out of a concern that the Los Angeles Times' discriminatory rate structure for run-of-the-paper and suburban display advertising adversely affected competition by disadvantaging smaller advertisers. In November 1980 the Los Angeles Times entered into a negotiated agreement and jointly with FTC staff proposed a consent order for the Commission's consideration.

On September 25, 1981, the Commission, Commissioner Clanton dissenting, provisionally accepted the consent order. At that time, however, the Commission expressed concern about whether the order would work as intended, and whether it was practical or feasible to apply similar orders to newspapers in other markets. The Commission believed it had insufficient data against which to test its concerns and so sought public comment on the order for ninety days.

The comment period produced a broad sampling of opinion: 65 newspapers and broadcasters, 13 media trade associations, 10 retailers, 7 trade associations and four individuals responded. Of the 99 comments received, 98 urged the Commission to reject the consent order.

These comments caused reexamination of two important assumptions which formed the basis of the Commission's original decision to bring the case and on which the proposed consent was based. The
first assumption was that smaller advertisers were injured competitively by the Los Angeles Times' cumulative volume discount rate structure. However, all but one of the retailers and retail trade associations which responded opposed the consent agreement and indicated no concern about competitive injury. Their position was reinforced by academics knowledgeable in the field of mass media economics, who concluded that the benefits of the proposed order were fairly speculative, and that the order might well raise prices to all advertisers. Thus, the Commission has concluded that the benefits to competition from accepting this order are much more uncertain than was originally believed.

The comments also highlighted the issue of whether the principles of this order could or should be extended beyond the Los Angeles Times. It now appears that to do so within the newspaper industry would be unwise, as the type of uniform pricing required by the order could impair the pricing flexibility of secondary size papers. Were the principles of the order to be extended to other advertising media, the uncertainties as to the trade-offs between vigorous pricing flexibility and the benefits of eliminating price discrimination increase. In particular, making cross-media comparisons for the purpose of assessing a valid meeting competition defense is likely to be impossible. Clearly, however, it was never the Commission's intention, and would be inappropriate now, to leave the Los Angeles Times as the only seller of advertising space subject to Robinson-Patman Act principles.

In conclusion, the Commission notes that the process of decision-making in this matter worked precisely as the Commission's Rules contemplate. The scope and depth of public comment contributed greatly to the Commission's ability to reach an informed decision.

SEPARATE STATEMENT OF CHAIRMAN MILLER

In concurring with the Commission's decision today, I am heartened to find that the extensive administrative exercise required to analyze this consent proposal has reached the same conclusion that my analysis of the likely economic consequences, as well as my reading of the law, would have suggested in the first instance.

First, economic analysis and overwhelming public comment have demonstrated persuasively that an order applying Robinson-Patman rules to newspaper advertising could injure competition in this industry.

Second, and more importantly, it seems quite clear that the intent
of Congress was to leave advertising rates outside the reach of the Robinson-Patman Act. While I do not dispute our role of filling inadvertent gaps in antitrust law with enforcement of the FTC Act, that role should stop short of creating law in defiance of Congress.

SEPARATE STATEMENT OF COMMISSIONER CLANTON

I concur with the Commission's decision to dismiss the complaint in this matter not only for the reasons set out in the Commission's statement but for an additional reason that I expressed earlier when I voted not to accept provisionally the negotiated consent agreement. My decision to dismiss this complaint stems from my concerns about extending the coverage of Section 5 of the FTC Act to encompass commercial circumstances on which we reserved judgment in Reuben H. Donnelley Corp., 95 F.T.C. 1 (1980), rev'd sub nom. Official Airline Guides, Inc. v. FTC, 630 F.2d 920 (2d Cir. 1980), cert. denied, 101 S.Ct. 1362 (1981).

The Commission's opinion in Donnelley did not distinguish between an absolute refusal to deal and dealing on discriminatory terms. While we did not foreclose the possibility of reaching price discrimination under Section 5, we emphasized the difficulties of extending a duty to deal into the area of secondary-line discrimination, which is at issue in Times-Mirror. In Donnelley, we signaled a cautionary note for any future applications of such a duty to deal where the inevitable result would be to involve the Commission in regulatory-style monitoring of the reasonableness of pricing or other ongoing activities. 95 F.T.C. at 81. Furthermore, in defining "arbitrary" conduct in Donnelley, we indicated that our concern should be limited to "conduct which results in a substantial injury to competition and lacks substantial business justification." Id. at 82. I was persuaded earlier and remain persuaded that this matter would not be likely to meet the Donnelley standards for liability. At the least, I am persuaded that this possibility is insufficient to justify acceptance of the order, especially in light of the other significant uncertainties associated with the case.

SEPARATE STATEMENT OF COMMISSIONER PERTSCHUK

I have voted to reject the tentatively accepted order against Times-Mirror for two reasons.

First, the benefits to competition from accepting this order are much more uncertain than we had believed. The comments, by

---

1 In Senate floor debates, Senator Logan flatly replied, "No," when asked if the Act would require newspapers selling advertising to observe its price discrimination provisions. 89 Cong. Rec. 3115.
newspapers, retailers and academics alike, overwhelmingly support the view that the competitive strength of newspapers themselves require more pricing flexibility than the order allows and that smaller retailers may not be significantly helped by it.

Second, it is clear that, if we were to prohibit newspapers from giving discounts to large advertisers which are not cost-justified, we should apply the same principle to other advertising media which compete with newspapers, including network and cable television. I do not see a realistic possibility that this Commission in the foreseeable future will apply Robinson-Patman principles in this way, and I do not believe it is appropriate to single out Times-Mirror as the only company to be subjected to such standards.

Consequently, I join the Commission in rejecting this particular order. It is important to state, however, that this decision by the Commission does not represent any repudiation of Robinson-Patman principles, only a decision that it would be inappropriate to apply them in this case.¹

Finally, I note that Times-Mirror, to its credit, argued its position thoroughly and carefully on the merits and through public comment. It did not, as has increasingly become the custom, solicit members of Congress to pressure the Commission, after having heard an incomplete and biased presentation of the disputed issues.

---

FINAL ORDER RETURNING MATTER TO ADJUDICATION AND DISMISSING COMPLAINT

On November 7, 1980, this matter was withdrawn from adjudication for consideration by the Commission of a proposed consent agreement. The Commission accepted the proposed consent and placed it on the public record on September 25, 1981, for comment pursuant to Section 3.25(f) of the Commission's Rules of Practice and Procedure.

Having considered the views of the parties to the consent and the comments received from the public, the Commission has determined that the public interest would best be served by rejecting the consent agreement and dismissing the complaint. Therefore

It is ordered, That this matter be returned to adjudication and

It is furthered ordered, That the complaint issued in the matter be, and it hereby is, dismissed.

¹ I agree with Chairman Miller's point in his statement that the Commission should not defy the will of Congress. I therefore am hopeful that the Commission will continue to enforce the Robinson-Patman Act in other industries.
IN THE MATTER OF
LENOX, INCORPORATED

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

Docket 8718. Final Order, April 19, 1968—Modifying Order, July 12, 1982

This order reopens the proceeding and modifies the Commission's modified order issued on June 24, 1970, 77 F.T.C. 860, by deleting Paragraph 8 from the order, so as to allow Lenox to prevent transshipping of its products by its authorized dealers. The Commission has also included a provision which prevents Lenox from taking disciplinary action against any dealer for transshipment which occurred before the effective date of the order.

DECISION AND ORDER

Whereas, a "Request of Lenox, Incorporated for Modification of Final Order" was filed by Respondent on March 15, 1982 pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), and Section 2.51 of the Commission's Rules of Practice, 16 C.F.R. 2.51, wherein Lenox, Incorporated seeks a partial modification of the order that issued on June 24, 1970 by the deletion of Paragraph 8; and

Whereas, the matter was thereafter placed on the public record for thirty (30) days pursuant to Section 2.51(c) of the Commission's Rules of Practice, 16 C.F.R. 2.51(c), during which time comments from the public were received; and

Whereas, the Commission thereafter considered the Petition presented by Lenox, Incorporated and all of the materials and information submitted as public comments on the petition and has determined that the request makes a satisfactory showing that changed conditions of fact and law and the public interest require that the order be reopened for the purpose of modification.

Accordingly, it is ordered that the matter is reopened and that the order is modified by deleting the language of paragraph 8 that reads:

Requiring or inducing, by any means, dealers or prospective dealers to refrain, or to agree to refrain, from reselling respondent's products to any dealers or distributors;

It is further ordered, that paragraphs 9 and 10 be renumbered to 8 and 9.

It is further ordered, that nothing herein shall be construed to permit respondent to terminate or otherwise discipline any dealer for (1) having resold respondent's products to any dealer or distributor prior to the effective date of this order or (2) for any such resale.
that occurs prior to the dealer's receipt of notice that it may be disciplined for such resale.

Commissioner Bailey voted in the negative.

SEPARATE STATEMENT OF COMMISSIONER PERTSCHUK

I wish to make clear why I voted for Lenox’s petition to modify the Commission order prohibiting it from engaging in resale price maintenance. The petition persuaded me that the ban on transshipping, which was included in the order originally only as an ancillary means of deterrence, was no longer a necessary safeguard against vertical price fixing by Lenox and could safely be dropped from the order. The petition argued that the requested relief was also necessary to maintain a strong Lenox presence and vigorous interbrand competition in the houseware china business, and that it would not cause a rollback of the gains in intrabrand competition that have occurred during the life of the order. In this regard, I found the petition to be much less persuasive. I do not believe it has been established in this reopening proceeding that competition in the china industry will be improved as a result of allowing Lenox to prevent transshipping of its products by its authorized dealers. However, since Lenox has met the statutory standard for modifying orders by showing that the ancillary transshipping provision is no longer appropriate under the circumstances, it is entitled to the relief granted.