

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This petition replaced an earlier petition filed on April 2, 1987, that was subsequently withdrawn.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

them through in-home sales talks, telephone solicitations, and over-the-counter sales. EB publishes and markets both the Encyclopaedia Britannica and the Compton's Encyclopedia brands of encyclopedias. BHLS publishes and markets the annual supplements to encyclopedias published by EB. [4]

#### DESCRIPTION OF THE ORDER

The order comprises nine parts. Part I prohibits certain misrepresentations during employee recruitment and requires that certain information be supplied to prospective recruits. Part II prohibits certain misrepresentations during marketing of merchandise or services and requires that certain information be supplied to prospective buyers. Part III prohibits creation of any training devices or sales aids which are inconsistent with Parts I or II of the order. Part IV prohibits certain misrepresentations in the marketing of continuity book programs and requires that certain information be supplied to prospective buyers. Part V prohibits certain misrepresentations during attempts to collect debts. Part VI requires measures to ensure compliance to the order by all respondents and their agents. Parts VII through IX are standard provisions requiring distribution of the order, notification to the Commission of any change in the corporate respondents, and filing of a compliance report with the Commission.

#### SUMMARY OF EB'S ARGUMENTS FOR REOPENING AND VACATING OR SUNSETTING THE ORDER

In a request to reopen based on changed conditions or on public interest considerations, the burden is on the respondent to make the requisite satisfactory showing. Both the language of Section 5(b) and its legislative history make it clear that the petitioner has the burden of showing, other than by conclusory [5] statements, why an order should be modified. The Commission may properly decline to reopen an order if a request is "merely conclusory or otherwise fails to set forth specific facts demonstrating in detail the nature of the changed conditions and the reasons why these changed conditions require the requested modification of the order." S. Rep. No. 96-500, 96th Cong., 1st Sess. 9-10 (1979). The Commission is not required to reopen the order if the petitioner fails to meet its burden of making the satisfactory showing required by the statute. In the present case, the petitioner has not met its burden to show that the order should be vacated or set to expire, and the Commission now declines to reopen the order to consider granting such relief.

Respondent alleges that three changed conditions of fact require the reopening and setting aside or modification: (1) the ownership and control of EB had been transferred to a private, noncommercial foundation, with profits from its operation going to the University of Chicago; (2) EB has instituted policies and procedures rendering the order unnecessary; and (3) EB has ceased the practices which caused the Commission to issue the complaint.

None of these allegations set forth changed conditions of fact that support reopening this matter. The Commission has previously considered and rejected in the context of EB's 1982 petition the argument that its transfer of ownership to the University of Chicago constitutes a change in fact. The implementation of internal policies to ensure adherence to an [6] order, and the alleged cessation of the practices giving rise to an order, are not the type of conduct to be rewarded by termination of an order, but are the minimum we require of a respondent for it to avoid civil penalties for violating the order.

Respondent further alleges that two changed conditions of law require the reopening and setting aside or modification: (1) consumer protection statutes and regulations now render the order unnecessary; and (2) EB's situation is similar to that of various respondents whose orders (in decisions cited) were sunsetted or modified.

EB misconstrues the requirements for reopening an order based upon changed conditions of law. The Commission has consistently declined to reopen proceedings based upon changed conditions of law absent a specific showing that the order prohibits activity that subsequently has been found or made lawful. The petition makes no such showing, and therefore fails to state sufficient cause on this ground.

EB has cited several cases as precedent for reopening and sunseting or vacating orders on public interest grounds. These cases establish that the petitioner must demonstrate either that an order places it at a competitive disadvantage in the marketplace or that an order is no longer necessary because of changes in the marketplace. EB has shown neither.

EB has similarly not made a sufficient showing to support [7] reopening the order to sunset the affirmative disclosure requirements on public interest grounds.

#### EB'S REQUESTS FOR MODIFICATIONS TO SPECIFIC PROVISIONS

Respondent's petition alternatively alleges that several specific

modifications to the order should be made. On December 29, 1987, EB stated that it would accept certain alternative modifications to those proposed in the petition. On January 22, 1988, EB provided additional evidence and clarification of its arguments for specific modifications. On June 9, 1988, EB stated that it would accept a proviso limiting Para. II.L. of the order in lieu of the deletion of that paragraph as EB had originally requested.

The Commission concludes that it is in the public interest to reopen the order and grant some of the modifications sought by the petitioners, but to deny other modifications requested.

*Para. II.C.—Telephone Talks*

Para. II.C. requires EB to disclose the sales purpose of a telephone call before beginning any "sales presentation." The respondent complains that it has expended considerable legal resources in defining what constitutes a "sales presentation." As respondent devises new telephone talks in the future, it is likely that this issue will continue to arise.

To prevent this, EB proposed in its petition that Para. II.C. be modified to require that in any telephone sales call, EB [8] disclose the sales purpose within thirty seconds of the beginning of the call, and that in any call to set a sales appointment, EB disclose the sales purpose of the appointment before setting the date and time of the appointment. However, EB fails to show that it is in the public interest to reopen the order and grant a proposed modification that would, in effect, lessen consumer protection.

In its letter of December 29, 1987, EB indicated that it would accept a more limited modification of Para. II.C., which would require that EB disclose the sales purpose of a call or an appointment within thirty seconds of beginning a sales call or a call to make a sales appointment. This modification would not lessen consumer protection, and would effectively eliminate any conceivable ambiguity by establishing a bright line standard to measure future compliance.

Because of these advantages, we conclude that it is in the public interest to modify Para. II.C. of the order in accordance with the proposal in the letter of December 29, 1987.

*Para. II.L. No-Contact Period*

Para. II.L. forbids EB from contacting purchasers during the "cooling off" period when purchasers may cancel their contracts. One

effect of this paragraph is to prevent EB from correcting certain inadvertent errors during this period.

In its petition, EB alleges that Para. II.L. should be deleted in the public interest to allow EB to contact consumers [9] before the cooling-off period has expired so that EB may expedite corrections in the interests of consumers. EB has stated that this paragraph sometimes prevents it from contacting consumers to correct errors, such as when salespersons calculate incorrectly the date until which a consumer may cancel his or her order under the Commission's *Trade Regulation Rule, Cooling-Off Period for Door-to-Door Sales* (16 CFR 429.1). Such a calculation, if uncorrected, could mistakenly deprive a consumer of his or her rights. Therefore, there would be some benefit to the public if EB were allowed to contact persons to correct inadvertent mistakes or oversights. However, EB has not shown that it would be in the public interest to delete Para. II.L. and allow EB to have unrestricted access to contact purchasers. EB has not shown that allowing such unrestricted access would benefit the public, or that allowing such access would relieve a burden from EB without potentially harming consumers' interests. On the other hand, we find that it would be in the public interest to modify the order to include the proviso to Para. II.L. agreed to by EB in its June 9, 1988 letter. That proviso allows EB to contact purchasers to correct inadvertent errors on sales forms, or to obtain necessary information that EB inadvertently failed to obtain during a sales presentation. [10]

#### *Preambles*

The Preambles to paragraphs I through IV define the scope of coverage of the order. In its petition, EB alleges that changes in fact require that the Preambles to paragraphs I through IV be modified so that the order covers EB subsidiaries only when they are engaged in certain selling practices and only when they are marketing merchandise or services related to encyclopedias, textbooks, reference materials, or educational materials. EB alleges that, because it has diversified its business, this modification is necessary to prevent the order from requiring EB to demand "false statements" from employees, *i.e.*, statements from employees that they will comply with the order when in fact the order does not apply to them. However, the present order merely requires an agreement that the employee will comply with the order, and assumes that they are engaged in practices covered by the order. Obviously if the employee is not engaged in

practices covered by the order, no obligation arises. EB has not made a showing sufficient to reopen the order for this proposed modification, because no requirement exists that employees file "false statements."

In its letter of December 29, 1987, EB indicated that it would accept a more limited modification of the Preambles. This modification would clarify that the order applies only to subsidiaries and employees of EB engaged in selling or being recruited to sell via in-home, over-the-counter, direct mail, or telephone solicitations. Such has been the interpretation FTC [11] staff has worked under, and the more limited modification is therefore a clarification of the coverage of this order.

This proposed modification, which merely states the Commission's interpretation of the order more clearly than does the present language, should be made for purposes of clarification, and we so modify the order. Consistent with this modification and with our interpretation of the scope of the order, we interpret the phrase "successors and assigns, officers, agents, representatives and employees" in the preambles to Paras. I.-IV. as "excluding independent retailers who derive the majority of their income from products or services not covered by the order, and who sell in-store." We also interpret the phrase "any of the publications, merchandise or services included in this order" in Para. VI.A. of the order as referring only to "any textbook, encyclopedia, reference or educational product or any publication, merchandise or service related thereto." And finally, we interpret the phrase "any person" in Para. VI.A. to exclude independent retailers who derive the majority of their income from products or services not covered by the order, and who sell in-store. We note that the exclusion of retailers is meant only to allow bona fide independent retailers to sell publications or merchandise covered by the order without being required to have their employees or assigns agree to the terms of the order, and without risking liability for infractions of the order. We note, however, that EB and BHLS are still liable under this order for violations of the order incurred "through any [12] . . . device," including those incurred by independent retailers and their successors and assigns, officers, agents, representatives and employees, directly and indirectly.

*Paras. I.B., I.D., I.E.*

Para. I.B. prohibits EB from making misrepresentations regarding certain factors that would affect a recruit's income. Paras. I.D. and

I.E. require certain disclosures be made to prospective sales representatives.

In its petition, EB alleges that Para. I.B. should be modified, and Paras. I.D. and I.E. deleted, to allow EB more flexibility in presenting prospective sales recruits with disclosures regarding employment. EB alleges that this modification would serve the public interest by eliminating needless burdens upon EB.

EB has not demonstrated that any burdens presented by the language it seeks to modify in Para. I are so great as to outweigh benefits conferred by the language. If the order were modified as proposed, EB would not be required to make the disclosures which are presently required. These disclosures are necessary to inform prospective sales representatives of EB's unusual compensation methods, which in many ways treat the sales representatives as independent contractors rather than employees, and which require sales representatives to bear many costs and risks normally borne by an employer rather than by a salesperson. [13]

*Para. II.H. Instant Research Service*

Para. II.H. requires EB to disclose conditions and limitations on the use of its research services in writing in promotional materials and orally during sales presentations.

In its petition, EB alleged that Para. II.H. should be modified in the public interest to require respondents to disclose orally only that conditions and limitations upon its Instant Research Service exist. The petition also proposes to confine written disclosures to a single document that would be given to consumers during oral sales presentations, but would not necessarily be left with consumers. EB argues that this change would eliminate the present burden upon EB sales representatives to recite certain disclosures regarding EB's Instant Research Service to prospective purchasers when those same disclosures are given in writing to prospective purchasers. However, EB fails to show that it is in the public interest to reopen and modify the order as proposed.

In its letter of December 29, 1987, EB indicated that it would accept a modification of Para. II.H. that would require all advertising describing the features of a research service to disclose that conditions and limitations exist, and would require that these conditions and limitations be fully described in a written document to be left with purchasers during oral sales presentations. This modification would



still lessen consumer protection, though less so than the modification proposed in the [14] petition, because EB would no longer have to orally disclose the features of a research service to consumers. Such oral disclosure is more likely to ensure effective understanding by consumers than is a written disclosure, which may or may not be read by consumers. Therefore, it is not in the public interest to modify Para. II.H.

*Para. IV. Continuity Book Sales*

Para. IV.C. requires respondents EB and BHLS to make detailed disclosures about EB's continuity book plans on the return coupons, order forms, or any other documents used for responding to those plans.

EB alleges that Para. IV.C. should be modified to require on order forms only directions on where to find accompanying detailed disclosures of the terms and conditions for continuity book programs, not the detailed disclosures themselves. EB alleges that it is presently at a competitive disadvantage in the marketplace, and that the proposed modification to Para. IV.C. would eliminate this disadvantage. EB further alleges that the proposed modification is consistent with the decisions in *G.R.I. Corp.*, 103 FTC 442 (1984) and *Golden Tabs Pharmaceutical Co.*, 101 FTC 410 (1983). Those decisions involved orders that originally required the companies to disclose all the terms and conditions to a "free" offer every time the offer was repeated within an advertisement and its attached coupon. [15]

The Commission finds that EB has not established that the present order places EB at a substantial competitive disadvantage requiring modification of the order. Furthermore, the proposed modification would lessen consumer protection by lowering the likelihood that consumers will be fully informed about the terms of sale for EB's continuity book programs. In *G.R.I. Corp.* and *Golden Tabs*, the orders contemplated that full disclosure should always be made on or near a coupon. Both orders required that disclosure be made "in close proximity to the coupon," effectively requiring that a coupon either include complete disclosure itself or be a part of a document which includes the complete disclosure. EB's proposed modification, in contrast, would require only that complete disclosure be made in an "accompanying letter or advertisement." This language would allow EB to make its disclosures on a separate document from the coupon, which consumers may lose or not locate easily. Because EB's proposed

modification to Para. IV.C. would lessen the likelihood that consumers will make fully informed decisions, it would not be in the public interest to modify the order as requested.

EB alleges that Para. IV.B.2. should be modified: (1) to clarify that EB may offer open-ended continuity book programs where the eventual number of volumes in a program is undetermined and (2) to clarify that the order requires only a disclosure that the eventual number of volumes is undetermined, and that the Para. IV preamble should be modified in accordance with EB's [16] contention that Para. IV was never intended to cover annual supplements.

EB has not made a sufficient showing to reopen the order for either modification. Para. IV has never been interpreted to make it impracticable for EB to offer open-ended continuity programs, and we decline to so interpret it today. If EB does not know the total number of volumes that will comprise a program, it may so state in its promotional material for that program, and in so doing it will be within the present order. Since the present order does not prevent EB from offering open-ended continuity programs, it is unnecessary to modify the order for the purpose of allowing EB to offer open-ended continuity programs.

We also decline to accept EB's contention that Para. IV was never intended to include annual supplements. EB has not offered any proof of its contention, but has merely pointed out that annual supplements are not mentioned in the documents recording the decisionmaking process leading to the order. However, the language of the preamble unmistakably applies Para. IV to annual supplements. Absent evidence that the Commission intended something other than the plain meaning of this provision, we decline to reopen the order to modify Para. IV.

#### *Para. V. Debt Collection*

EB alleges that deletion of Para. V is required by a change of law. It alleges that Para. V is rendered unnecessary by the Fair Debt Collection Practices Act. The order, however, covers [17] EB's collection activities related to its own debts. These activities are not covered by the Fair Debt Collection Practices Act, which primarily covers activities by third party debt collectors.

EB has not demonstrated that the requirements of Para. V are a significant burden upon it, nor has it demonstrated that these practices should not be covered by the order. Therefore, EB has not

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made a showing sufficient to warrant reopening the order for consideration of this proposed modification.

*It is therefore ordered*, That the Preambles to Paras. I through IV and Paras. II.C. and II.L. of the order be reopened and modified so that the order will read as follows:

This matter having been heard by the Commission upon the cross-appeals of complaint counsel and respondents' counsel from the initial decision and upon briefs and oral argument in support thereof and opposition thereto, and the Commission, for the reasons stated in the accompanying Opinion, having granted the appeals in part:

*It is ordered*, That pages 1-117 of the initial decision of the administrative law judge be, and they hereby are, adopted as the Findings of Fact and Conclusions of Law of the Commission, with the following exceptions: those portions of pages 103-110 ("The Remedy") which are inconsistent with the opinion of the Commission herein.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion. [18]

I. *It is ordered*, That respondent Encyclopaedia Britannica, Inc., and its successors and assigns, officers, agents, representatives and employees, directly or indirectly, through any corporation, subsidiary, division, or other device, engaged in direct selling to consumers, by means of in-home, over-the-counter, direct mail or telephone sales solicitations, in connection with the recruitment of persons to sell, rent, lease or distribute any textbook, encyclopedia, reference or educational product, or any other publication, merchandise or service, in commerce, or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, either orally or in writing, that:

(1) Respondent is offering positions in such fields as advertising analysis, public relations, marketing, interviewing, or in any field other than door-to-door sales, if door-to-door sales is included, to any extent, in the position for which persons are being recruited; or misrepresenting, in any manner, the job for which any person is being solicited;

(2) persons will be trained as management trainees, or for other positions of responsibility concerned with administrative office functions unless, in fact, a formal management training program is available to persons accepting employment on the basis of such representations; or misrepresenting, in any manner, the amount and type of training that will be given;

(3) Any person who may be employed will contact prospects in their homes or places of business for the purposes of conducting surveys, advertising promotions, or other nonselling functions; or misrepresenting, in any manner, the purposes for which any person is engaged.

B. Misrepresenting, in any manner, the amount of income to be earned by any person or that may be earned by any person, the expenses [19] that may be incurred by any person, the method of payment, or any condition or limitation imposed upon the compensation of any person.

C. Failing clearly and conspicuously to disclose in all advertising offering

employment in any way involving door-to-door sales that respondent is recruiting persons for the sole purpose of soliciting or selling.

D. Failing clearly and conspicuously to provide, both orally and in writing, to any prospective sales employee at the initial face-to-face interview, and prior to executing any employment agreement with any such persons, the following information:

(1) (a) that respondent is recruiting persons for the sole purpose of soliciting or selling;

(b) that the products or services being sold are encyclopedias or services to be used in connection therewith, or in the event that encyclopedias or such related services are not being sold, the products and services being sold; and

(c) the basis for compensating persons so engaged;

(2) that conditions or limitations upon the receipt of compensation, if any, do in fact exist, together with an example of such a material condition or limitation, and that all such conditions and limitations will be stated in detail in an interview in the event an offer of employment is made to such person;

(3) where applicable, notification that such person will not be paid for time spent during orientation and training;

(4) that expenses will be incurred by such person in performing required duties, together with an example of such material expense, and that all such expense items will be stated in detail in an interview in the [20] event an offer of employment is made to such person;

(5) (DELETED)

(6) that such soliciting or selling will be on an "in-home" basis, if such is the fact, or will include soliciting or selling on an "in-home" basis, if such is the fact.

E. Failing clearly and conspicuously to provide, both orally and in writing, to any prospective sales employee at an interview at which an offer of employment is made and prior to executing any employment agreement with any such person, the following information:

(1) A complete and detailed description of each condition and limitation imposed upon the receipt of any compensation;

(2) a complete and detailed description of any expense or expenses any such person may incur in performing the required duties;

(3) (a) the total number of sales employees employed by the office offering the position during the most recent calendar quarter, and

(b) the number of sales employees employed by the office who, during the prior calendar quarter, received net earnings equivalent to or greater than the amount represented in the advertisement to which the prospective employee is responding; provided, however, that if the office has been in existence for less than three months or has fewer than five sales employees, respondents shall provide the information described above pertaining to the division in which the office is located; provided further that such information need not be furnished if the prospective sales employee contacts respondents more than ten days following the dissemination of the most recent advertisement that contains representations of earnings.

Respondent shall afford any prospective sales employee an adequate opportunity to review and consider the above information prior to [21] requesting execution of any employment agreement.

F. Failing to furnish to persons at an interview when an offer of employment is

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made, and prior to executing any employment agreement with any such person, a copy of Paragraphs I, II, III, and VI of this order, together with a cover letter as set for in *Appendix A* attached hereto. Respondent shall afford any prospective sales employee an adequate opportunity to review and consider these provisions of the order prior to requesting execution of any employment agreement.

II. *It is further ordered*, That respondent Encyclopaedia Britannica, Inc., and its successors and assigns, officers, agents, representatives and employees, directly or indirectly, through any corporation, subsidiary, division or other device, engaged in direct selling to consumers, by means of in-home, over-the-counter, direct mail or telephone sales solicitations, in connection with the publishing, advertising, offering for sale, sale, rental, lease or distribution of any textbook, encyclopedia, reference or educational product, or any other publication, merchandise or service, in commerce, or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, in any advertisement or promotional material that solicits participation in any contest, drawing, or sweepstakes, or solicits any response to any offer of merchandise, service, or information, and that employs any return card, coupon, or other device to respond to such solicitation, that a person who replies as requested will not be contacted directly by a salesperson for the purpose of selling respondents' products, unless such is the fact. Such advertisements or promotional material shall comply with this Paragraph only if they meet the criteria set forth in Appendix B. [22]

B. Failing, upon the written request of the Associate Director for Enforcement or his designee, to (1) submit any advertisement or promotional material or (2) test any such advertisement or promotional material, using the procedure set forth in Appendix B, to determine whether it complies with Paragraph II.A.

C. Failing to disclose, clearly and conspicuously, during the first 30 seconds of any telephone contact with prospective customers, the fact that the individual making the call is either soliciting the sale, rental, or lease of publications, merchandise, or services for respondents, or is arranging for a sales solicitation to be made, and that if the prospective customer so agrees, respondents will send a salesperson to visit said prospect for the purpose of soliciting the sale, rental, or lease of said publications, merchandise, or services.

D. Visiting the home or place of business of any person for the purpose of soliciting the sale, rental or lease of any publications, merchandise or service, unless at the time admission is sought into the home or place or business of such person, a business card of at least 2 inches by 3-1/2 inches containing only the following information is presented to such person:

- (1) the name of the corporation;
- (2) the name of the salesperson;
- (3) the term "sales representative";
- (4) an address and telephone number at which the corporation or sales person may be contacted;
- (5) the product or the corporation logo or identifying mark.

E. Failing to give the card, required by Paragraph II(D) above, to each person and to provide each such person with an adequate opportunity to read the card before engaging any such person in any sales solicitation. [23]

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F. Representing, directly or by implication, either orally or in writing that:

(1) Any person telephoning or visiting the home of any prospective purchaser is:

(a) engaged in or connected with "advertising," "marketing," "promotion," "education" or anything other than the door-to-door sale of encyclopedias or other reference materials,

(b) conducting, taking or participating in a survey, advertising research analysis or any other information gathering activity, or

(c) telephoning or visiting the home of said prospect for the primary purpose of delivering or disseminating prizes, gifts, gift certificates, chances in any contest, drawing, sweepstakes, educational fund, or any other merchandise or item of chance.

(2) only a few minutes will be required to complete the visit inside the prospective purchaser's home or place of business; or misrepresenting, in any manner, the period of time required to complete the sales or other presentation;

(3) an offer is limited, must be accepted immediately or within any specified time period, or is a special offer, unless such is a fact; or misrepresenting, in any manner, the duration of any sales offer;

(4) any publication, merchandise or service is being offered free, without cost, or is given as a bonus or otherwise to any prospective purchaser of respondent's publications, merchandise or services agreeing to perform any advertising, promotional or selling function, including but not limited to, any of the following acts or similar acts:

(a) permit their names to be listed as local owners of the product or service;

(b) provide the name of any person who may be interested in purchasing any publication, merchandise or service; **[24]**

(c) write a letter evaluating the merits of any publication or other item which may be used in advertising; or

(5) any publication, merchandise, or service is being offered free, without cost, or is given as a bonus or otherwise to any purchaser of respondents' publications, merchandise, or services, pursuant to any agreement to purchase, rent, or lease any other publication, merchandise, service, or combination thereof from respondent, unless respondent complies with all of the terms of the Federal Trade Commission's "Guide Concerning Use of the Word 'Free' and Similar Representations," 16 CFR Part 251, which is hereby incorporated into this order, and with any modifications or changes that are made to this Guide. All of the provisions of the aforesaid Guide shall be construed as mandatory and binding upon the respondents.

G. Representing, directly or by implication, either orally or in writing that:

(1) Any person using any research service will receive answers to questions regarding all subjects other than legal or medical advice; or misrepresenting, in any manner, the research service that will be furnished to subscribers;

(2) any answer provided by any research service is the product of detailed, exhaustive or original research generated by the specific question asked by any person utilizing said service, unless such is the fact; or misrepresenting, in any manner, the extent of research, preparation or quality of any answer furnished by any such research service.

H. Failing to disclose, clearly and conspicuously, in writing on all promotional materials describing any research service, and orally during the course of any sales or

