

least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other changes in the corporation which may affect compliance obligations arising out of this order.

X

It is further ordered, That the compliance report heretofore filed by respondent shall be considered by the Commission as if it had been filed under this order.

XI

It is further ordered, That this order shall become effective upon service.

IN THE MATTER OF

BRITISH OXYGEN COMPANY LIMITED, ET AL.

ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE
CLAYTON ACT

Docket 8955. Complaint, Feb. 26, 1974—Final Order, Dec. 8, 1975

Order requiring a London, England, manufacturer of industrial gases, among other things to divest itself of all the stocks and assets of Airco, Inc., a Montvale, N.J., producer of industrial gases and medical products, within one (1) year of the issuance of the order. Respondent is further prohibited from acquiring any corporate stocks or assets in any field related to production of industrial gases or medical products for a period of 10 years without prior F.T.C. approval. British Oxygen and Airco, Inc. must also cease any representation on each other's respective boards of directors.

COMPLAINT

The Federal Trade Commission, having reason to believe that British Oxygen Company Ltd. (hereinafter "BOC"), BOC Financial Corporation (hereinafter "BOC Financial"), BOC Holdings Ltd. (hereinafter "BOC Holdings"), and British Oxygen Investments Ltd. (hereinafter "BO Investments"), respondents herein, have violated the provisions of Section 7 of the Clayton Act, as amended (15 U.S.C. §18), and that the above named respondents and Airco, Inc. (hereinafter "Airco"), respondent herein, have further violated the provisions of Section 5 of the Federal Trade Commission Act (15 U.S.C. §45), through the

acquisition by BOC Financial of four million shares of stock of Airco, and that a proceeding in respect thereof would be in the public interest, issues the complaint, stating its charges as follows:

I

Definitions

1. For the purpose of this complaint, the following definitions shall apply:

(a) "Industrial gases" are gases in compressed, liquid and solid form including acetylene, carbon dioxide, carbon monoxide, argon, helium, hydrogen, nitrogen, oxygen, nitrous oxide, other medical gases, rare gases, and mixtures and combinations thereof.

(b) "Inhalation anesthetic equipment" is equipment and accessories used in the administration of gas for anesthetic purposes.

(c) "Inhalation therapy equipment" is equipment and accessories used in the administration of gas for therapeutic purposes.

(d) "Medical pipeline systems" are networks of equipment used to transport medical gas from hospital storage facilities to patient and operating rooms.

II

British Oxygen Company Limited

2. Respondent, BOC is a United Kingdom Company with principal executive offices at Hammersmith House, London W6, England.

3. BOC is engaged in the manufacture and sale of industrial gases, including rare gases and medical gases; welding equipment; special metals; air separation equipment; medical equipment, including inhalation anesthetic equipment, inhalation therapy equipment and medical pipeline equipment; aircraft breathing equipment; vacuum equipment and instrumentation; and food products. In 1972 BOC group sales totalled 252.6 million pounds sterling, or \$606 million at an exchange rate of \$2.40 to the pound.

4. Since 1968, BOC has actively attempted to enter the United States market and has contacted several smaller U.S. firms in the industrial gases, inhalation therapy equipment, inhalation anesthetic equipment, and medical pipeline system markets regarding possible acquisition by BOC. It is considered to be one of the very few companies with the expertise, capital, incentive, and interest to enter the U.S. markets described above.

5. In October 1973, BOC established Medishield, Inc., a Delaware corporation, to act as a holding company in consolidating BOC medical

product activities in the United States and Canada and in attempting to become a major factor in the United States markets.

6. BOC competes directly with Airco in the United States markets in inhalation anesthetic equipment and inhalation therapy equipment. It is the largest manufacturer and distributor of inhalation anesthetic equipment in the United Kingdom and is a significant competitor in this market in the European Economic Community.

7. BOC is a substantial competitor in the United States market in inhalation anesthetic equipment. It manufactures and distributes inhalation anesthetic equipment in the United States through its subsidiaries, Harris Lake and Fraser Sweatman.

8. BOC is the largest manufacturer and distributor of inhalation therapy equipment in the United Kingdom and is a significant competitor in this market in the European Economic Community. BOC markets inhalation therapy equipment in the United States through its subsidiary, Harris Lake.

9. BOC produces and distributes medical pipeline systems in the United Kingdom and is a significant competitor in this market in the European Economic Community.

10. In 1972, BOC was the second largest producer of industrial gas in the world. In each of the nineteen countries in which it produces industrial gas, BOC is a significant competitor, and in most of these countries BOC is the dominant competitor.

11. At all times relevant herein, BOC, through its subsidiaries, sold and shipped its products in interstate commerce and engaged in "commerce" within the meaning of the Clayton Act and the Federal Trade Commission Act.

III

BOC Financial Corporation

12. Respondent, BOC Financial is a corporation organized and existing under the laws of the State of Delaware, with a business address of 306 So. State St., Dover, Del. BOC Financial was organized solely for the purpose of acquiring shares of Airco, Inc. through a tender offer announced on Dec. 10, 1973. All BOC Financial's common stock is owned by BOC Holdings Limited.

IV

BOC Holdings Limited

13. Respondent, BOC Holdings is a United Kingdom Company with a business address of Hammersmith House, W6, England. BOC

Holdings is engaged in holding various securities of direct and indirect subsidiaries of BOC. All outstanding ordinary shares of BOC Holdings are held by BO Investments.

V

British Oxygen Investments Limited

14. Respondent, BO Investments is a United Kingdom Company with a business address of Hammersmith House, London W6, England. BO Investments is engaged in holding various securities of direct and indirect subsidiaries of BOC. BO Investments is a wholly-owned subsidiary of BOC.

VI

BOC

15. For purposes of this complaint, BOC shall be read to include all subsidiary or related corporations and all successor corporations.

VII

Airco, Inc.

16. Respondent, Airco is a publicly owned corporation, organized and existing under the laws of the State of New York, with its principal place of business in Montvale, N.J.

17. Airco is engaged in the manufacture of industrial gases, including medical gases; ferroalloys and carbide; cryogenic equipment; welding and cutting equipment; carbon; graphite; electronics; metals; and medical equipment, including inhalation anesthetic equipment, inhalation therapy equipment, and medical pipeline equipment. Airco operations in the industrial gas market are conducted through three divisions: Airco Industrial Gases Division, Airco Welding Products Divisions, and Ohio Medical Products Division. Airco is the second largest producer of industrial gas in the United States.

18. Airco operations in the markets for inhalation anesthetic equipment, inhalation therapy equipment, and medical pipeline equipment are conducted through the Ohio Medical Products Division. Airco competes directly with BOC in the United States markets for inhalation anesthetic equipment and inhalation therapy equipment.

19. Airco, through its Ohio Medical Products Division is the leading company in the United States inhalation anesthetic equipment market.

20. Through its Ohio Medical Products Division, Airco is one of the three leading companies in the United States inhalation therapy

equipment market. Through its Ohio Medical Products Division, Airco is the leading company in the medical gas pipeline systems market in the United States.

21. At all times relevant herein, Airco sold and shipped its products in interstate commerce and engaged in "commerce" within the meaning of the Clayton Act and the Federal Trade Commission Act.

VIII

The Acquisition

22. On or about July 25, 1973, BOC and Airco entered into an agreement pursuant to which they agreed to exchange confidential data regarding their respective businesses. The agreement also provided that neither company would make any offer for a period of five years to acquire any securities of the other without the prior approval of the other company's board of directors. On or about Dec. 10, 1973, BOC and Airco entered into a further agreement in which Airco approved a tender offer by BOC for three to four million of Airco's common shares. The agreement also provided for reciprocal representation by BOC and Airco on each other's board of directors. On or about Dec. 10, 1973, BOC Financial made a tender offer on behalf of BOC to purchase three to four million common shares of Airco. BOC Financial subsequently accepted four million of the Airco's common shares which were tendered to it.

IX

Trade and Commerce

23. The value of industry shipments of industrial gas in the United States was approximately \$700 million in 1972. Very high levels of concentration have prevailed in the industrial gas industry the last two decades. The four and eight largest firms during the year 1972 accounted for more than 70 percent and 90 percent respectively of the total industry shipment of industrial gases. Airco, the second largest producer, had sales of over \$120 million in 1972. Entry barriers into the industrial gas industry are high. During the period from 1958 to date, several acquisitions were made in the industry, and the number of significant full-line producers diminished considerably. During the period from 1950 to 1972, sales of industrial gas more than tripled. The only significant entrant within the last ten years was the largest of the few large international industrial gas corporations.

24. Sales of inhalation anesthetic equipment in the United States were over \$25 million in 1972. The four and eight largest firms during

the year 1972 accounted for more than 70 percent and 85 percent respectively of total sales. Airco was the largest producer with over 35 percent of the United States market. BOC, through its United States subsidiaries, Fraser Sweatman and Harris Lake, was the third largest producer with over 8 percent of the market. The barriers to entry are high. The number of significant manufacturers with a substantial line of equipment has diminished considerably over the past ten years. BOC, through its recent acquisitions of Fraser Sweatman and Harris Lake, is the only significant recent entry.

25. Sales of inhalation therapy equipment were over \$75 million in 1972. The four and eight leading firms accounted for over 50 percent and 65 percent respectively of sales. Airco was the second largest factor in the market in 1972. BOC was an actual competitor through sales of its Harris Lake subsidiary. Barriers to entry in the industry are high. The number of significant manufacturers with a substantial line of equipment has diminished considerably in the last ten years. Airco sales in this market were approximately \$10.5 million.

26. Sales of medical pipeline systems in the United States were approximately \$13.5 million in 1972. There were only five companies in the market. Airco is the leading company in the market with 51.5 percent of national sales. Entry barriers into the industry are high. The number of significant manufacturers with a substantial line of equipment has diminished considerably over the past ten years. There has been no recent significant new entrant.

X

Effects of the Acquisition

27. The effect of the acquisition of Airco stock by BOC may be substantially to lessen competition or to tend to create a monopoly in the manufacture, distribution or sale of industrial gases, inhalation anesthetic equipment, inhalation therapy equipment, and medical gas pipeline systems or any submarkets of the above markets throughout the United States, or sections thereof, in violation of Section 7 of the Clayton Act, as amended (15 U.S.C. §18); and the effect of the agreements by which Airco and BOC undertook to eliminate the potential and actual competition between BOC and Airco may be to unreasonably restrain trade, and to hinder or have a dangerous tendency to hinder competition unduly, thereby constituting an unfair act and practice in commerce, in violation of Section 5 of the Federal Trade Commission Act, (15 U.S.C. §45). These effects may occur in the following among other ways:

- (a) Substantial potential competition through internal expansion or

toehold acquisition, and substantial actual competition between BOC and Airco may be eliminated;

(b) The restraining influence of BOC as an actual or potential competitor may be eliminated;

(c) The competitive benefits of internal expansion and innovation by BOC may be eliminated;

(d) Already high barriers to entry of new competition may be heightened and increased;

(e) Members of the purchasing public and the ultimate consumer may be denied the benefits of free and open competition;

(f) BOC, a leading international competitor in electrical welding equipment, and gas welding and cutting equipment may be eliminated as a potential entrant into the concentrated United States electrical welding and gas welding and cutting markets by virtue of the acquisition of a large industrial gas company with presently existing substantial lines of electrical welding and gas welding and cutting equipment;

(g) Substantial competition between BOC and other companies for sale of products to Airco may be eliminated;

(h) Airco, a leading competitor may become further enhanced;

(i) Competitors of Airco may become competitively disadvantaged; and

(j) The effect of the stock acquisition may be to entrench or increase already high levels of concentration by encouraging tendencies for combination and merger by actual and potential competitors.

XI

Violations

28. The acquisition of four million shares of Airco stock by BOC and appertaining agreements between Airco and BOC, as alleged above, constitute violations of Section 7 of the Clayton Act, as amended (15 U.S.C. §18) and Section 5 of the Federal Trade Commission Act (15 U.S.C. §45).

INITIAL DECISION BY ERNEST G. BARNES, ADMINISTRATIVE
LAW JUDGE

OCTOBER 18, 1974

Appearances

For the Commission: *K. Keith Thurman, Gordon Youngwood,*

Donald E. Purcell, Daryl A. Nickel, Rhett R. Krulla and John R. Hoagland.

For the respondents: *Jay H. Topkis, Lewis A. Kaplan, and Moses Silverman, Paul, Weiss, Rifkind, Wharton & Garrison, New York City for The British Oxygen Company Limited. George J. Wade, R. Bruce MacWhorter, Danforth Newcomb, Foster Wollen and J. R. Hawkins, II, Shearman & Sterling, New York City for Airco, Incorporated.*

PRELIMINARY STATEMENT

Respondents The British Oxygen Company Limited (hereinafter "BOC"), BOC Financial Corporation, BOC Holdings Limited, and British Oxygen Investments Limited (hereinafter collectively "BOC" or "BOC respondents") are charged with violation of Section 7 of the Clayton Act, as amended (15 U.S.C. § 18); and BOC respondents and respondent Airco, Incorporated (hereinafter "Airco") are further charged with violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45) through the acquisition by BOC Financial Corporation of four million shares (35 percent) of the stock of Airco for \$80 million by means of a public tender offer. The Federal Trade Commission issued its complaint on Feb. 26, 1974, approximately two months after the said acquisition occurred.

The complaint alleges that the effect of the acquisition of Airco stock by BOC respondents may be substantially to lessen competition or to tend to create a monopoly in the manufacture, distribution or sale of industrial gases, inhalation anesthetic equipment, inhalation therapy equipment, and medical gas pipeline systems or any submarkets of the above markets throughout the United States, or sections thereof in violation of Section 7 of the Clayton Act, as amended (15 U.S.C. §18); and the effect of the agreements by which Airco and BOC respondents undertook to eliminate the potential and actual competition between BOC and Airco may be to unreasonably restrain trade, and to hinder or have a dangerous tendency to hinder competition unduly, thereby constituting an unfair act or practice in commerce, in violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45). These effects may occur, the complaint alleges, in the following among other ways:

- (a) Substantial potential competition through internal expansion or toehold acquisition, and substantial actual competition between BOC and Airco may be eliminated;
- (b) The restraining influence of BOC as an actual or potential competitor may be eliminated;
- (c) The competitive benefits of internal expansion and innovation by BOC may be eliminated;

(d) Already high barriers to entry of new competition may be heightened and increased;

(e) Members of the purchasing public and the ultimate consumer may be denied the benefits of free and open competition;

(f) BOC, a leading international competitor in electrical welding equipment, and gas welding and cutting equipment may be eliminated as a potential entrant into the concentrated United States electrical welding and gas welding and cutting markets by virtue of the acquisition of a large industrial gas company with presently existing substantial lines of electrical welding and gas welding and cutting equipment;

(g) Substantial competition between BOC and other companies for sale of products to Airco may be eliminated;

(h) Airco, a leading competitor may become further enhanced;

(i) Competitors or Airco may become competitively disadvantaged; and

(j) The effect of the stock acquisition may be to entrench or increase already high levels of concentration by encouraging tendencies for combination and merger by actual and potential competitors.

On the day this proceeding was commenced, the Federal Trade Commission applied to the United States District Court for the District of Delaware for a temporary restraining order and a preliminary injunction requiring BOC to maintain Airco as a separate company and restraining it from, among other things, voting its Airco stock, having BOC personnel serve on the Airco board of directors, increasing or decreasing its holdings of Airco stock, and exchanging trade secrets and similar material with Airco pending the disposition of the administrative complaint.

On Feb. 28, 1974, the Court issued a temporary restraining order and thereafter, on Mar. 8, 1974, a preliminary injunction requiring BOC to maintain Airco as a separate company and restraining it from, among other things, exchanging trade secrets with Airco on the condition that the Commission expedite the administrative proceeding and file a report at least every ninety (90) days with respect to the status of the matter. The District Court did allow, however, BOC to vote its Airco shares and four representatives from BOC to be seated on Airco's board of directors. *Federal Trade Commission v. British Oxygen Co.*, 1974 CCH Trade Cas. ¶ 75,003 (D. Del. 1974) [9 S&D 887].

Answers were filed by Airco on Mar. 12, 1974, and by BOC respondents on Mar. 14, 1974, admitting in part and denying in part the various allegations of the complaint. On May 24, 1974, BOC respondents filed an amended answer, admitting in part and denying in part the various allegations of the complaint.

On Mar. 12, 1974, BOC respondents moved for a fixed and expedited schedule for the administrative proceeding, which motion was certified to the Commission by the administrative law judge. By order of Apr. 2, 1974, the Commission denied the motion insofar as it sought a fixed

schedule, but ordered that the proceeding be expedited (Order Denying Motion for Fixed Schedule, Apr. 2, 1974).

Prehearing conferences were held in Washington, D.C., on Mar. 12, Mar. 28, Apr. 17, and Apr. 25, 1974. At the prehearing conference held on Apr. 25, 1974, complaint counsel informed the administrative law judge and respondents that they would not offer any proof with respect to the violations alleged in the complaint relating to medical pipeline systems and electrical and gas welding and cutting equipment (PHC. Tr. 134-35).

Discovery motions were subsequently filed by complaint counsel and BOC respondents. Proposed exhibit lists, copies of proposed exhibits, and witness lists were exchanged by the parties before the hearings began. Complaint counsel, on Mar. 15, 1974, filed a statement of issues.

BOC respondents, on Mar. 19, 1974, moved for the issuance of a subpoena directed to the Commission calling for the production of certain documents obtained by the Commission staff during the course of an investigation of the industrial gases industry in the United States, for use in the preparation and defense of this matter. On Apr. 23, 1974, the administrative law judge granted this motion in part. Complaint counsel and several third parties sought interlocutory review of this order by the Commission. Following the conclusion of substantially all of complaint counsel's case-in-chief, the Commission granted the applications for review and upheld the administrative law judge's determination (Order Granting Applications for Review, May 29, 1974). Production of the documents ordered to be made available to respondents began on June 10, 1974, and was completed on June 18, 1974.

Presentation of the case-in-chief began in Washington, D.C., on May 6, 1974, and concluded on May 23, 1974, subject to the right of complaint counsel to offer certain documents into evidence. Presentation of BOC respondents' defense began in New York, N.Y., on June 5, 1974, and concluded in Washington, D.C., on June 18, 1974. Airco presented its defense in Washington, D.C., on June 18, 1974. Rebuttal was presented by complaint counsel in Washington, D.C., on June 27, 1974. The hearings were terminated on June 27, 1974, subject to the right of complaint counsel to offer into evidence certain documents subpoenaed from Stanford Research Institute.

At the hearing on June 27, 1974, the administrative law judge set July 26, 1974 for filing of proposed findings by the parties, and Aug. 5, 1974 for the filing of replies thereto. Pursuant to respondents' request, the administrative law judge issued an order on July 25, 1974, extending the time for filing proposed findings to and including Aug. 2, 1974, and for replies thereto to and including Aug. 12, 1974. Following

the receipt of further documents in evidence, on Aug. 2, 1974, the administrative law judge closed the record for the reception of evidence. Proposed findings and *confidential* proposed findings were filed by complaint counsel on Aug. 2, 1974; proposed findings and proposed findings containing *in camera* material were filed by BOC respondents on Aug. 7, 1974. On Aug. 8, 1974, the administrative law judge extended the time for filing reply briefs to and including Aug. 22, 1974. On Aug. 22, 1974, complaint counsel filed a reply brief and *confidential* reply brief. On Aug. 22, 1974, BOC respondents filed their reply brief and a reply brief containing *in camera* material. Airco's proposed findings and brief were filed on Aug. 5, 1974.

Complaint counsel called a total of twenty (20) witnesses, and respondents eight (8) witnesses. Over five hundred (500) exhibits were received in evidence during the trial.

This proceeding is before the undersigned upon the complaint, answers, testimony and other evidence, proposed findings of fact and conclusions and briefs filed by complaint counsel and by counsel for respondents. These submissions by the parties have been given careful consideration and, to the extent not adopted by this decision in the form proposed or in substance, are rejected as not supported by the record or as immaterial. Any motions not heretofore or herein specifically ruled upon, either directly or by the necessary effect of the conclusions in this decision, are hereby denied. The findings of fact made herein are based on a review of the entire record and upon a consideration of the demeanor of the witnesses who gave testimony in this proceeding.

For the convenience of the Commission and the parties, the findings of fact made hereinafter include references to the principal supporting evidentiary items in the record. Such references are intended to serve as convenient guides to the testimony and exhibits supporting the findings of fact, but do not necessarily represent complete summaries of the evidence considered in arriving at such findings.

References to the record are set forth in parentheses, and certain abbreviations, as hereinafter set forth, are used:

CCPF—Proposed Findings of Fact, Conclusions of Law and Order submitted by complaint counsel, followed by the Proposed Finding being referenced.

BOC PF—Proposed Findings of Fact, Conclusions of Law and Order (*in camera* material deleted) submitted by BOC respondents, followed by Proposed Finding being referenced.

BOC PF*—Proposed Findings of Fact, Conclusions of Law and Order (*in camera* material deleted) submitted by BOC Respondents, followed by Proposed Finding page or pages being referenced.

CCRB—Reply Brief submitted by complaint counsel, followed by page or pages being referenced.

BOC RB—Reply Brief submitted by BOC respondents, followed by page or pages being referenced.

CX—Commission's exhibit, followed by number of exhibit being referenced.

BOC RX—BOC respondents' exhibit, followed by number of exhibit being referenced.

RAX—Respondent Airco's exhibit, followed by number of exhibit being referenced.

PHC Tr.—Official transcript of the prehearing conferences, followed by the page number being referenced. Reference to the official transcript of the formal hearings is by the page number being referenced preceded by the name of the witness whose testimony is being referenced.

FINDINGS OF FACT

I. *Identity and Business of Respondents*

A. BOC Respondents

1. Respondent The British Oxygen Company Limited ("BOC") is now, and was at the time of the acquisition, a publicly-held United Kingdom company with its principal executive offices at Hammersmith House, London W6, England (complaint and BOC Answer, Par. 2; Smith 1639, 1642, 1698-99).

2. BOC is engaged in the manufacture and sale of industrial gases, including rare gases and medical gases; welding equipment; special metals; air separation equipment; medical equipment, including inhalation anesthetic equipment; inhalation therapy equipment and medical pipeline equipment; aircraft breathing equipment; vacuum equipment and instrumentation; and food products. In the fiscal year ending Sept. 30, 1972, BOC sales totalled 252.6 millions pounds sterling, or \$606.2 million at an exchange rate of \$2.40 to the pound¹ (complaint and BOC Answer, Par. 3). In fiscal year ended Sept. 30, 1973, BOC had sales of approximately \$766 million (CX 292C).

3. In 1972 and 1973, BOC was the leading manufacturer of industrial gases in the United Kingdom (BOC Admissions, Pars. 32, 33, filed Apr. 12, 1974), and produced and marketed industrial gases in a number of countries throughout the world including Ireland, Australia, New Zealand, South Africa, India, Pakistan, Singapore, Malaya, Hong Kong, Canada, East Africa, Rhodesia, Zambia, Indonesia, Thailand, Fiji,

¹ Pounds sterling have been converted into dollars at the rate of \$2.40 per pound throughout this initial decision.

New Guinea, the Philippines, Bangladesh, and Italy. BOC has also recently entered the industrial gases market in Brazil (complaint and BOC Answer, Par. 10; Smith 1644-45, 1790, 1801-1806).

4. In the United Kingdom, BOC manufactures and distributes both inhalation anesthetic equipment and inhalation therapy equipment (complaint and BOC Answer, Pars. 6, 8).

5. BOC and Airco engaged in a joint venture from 1967 to 1971 for the manufacture and sale of air separation plants in the United States (BOC and Airco Admissions, Pars. 87, 88, filed Apr. 10, 1974 and Apr. 12, 1974; Smith 1716-19, 1810; Giordano 1948-50; Laister 2535).

6. Respondent BOC Financial Corporation is a corporation organized and existing under the laws of the State of Delaware, with a business address of 306 So. State St., Dover, Del. All BOC Financial Corporation's common stock is owned by BOC Holdings Limited. BOC Financial Corporation was organized by BOC solely for the purpose of acquiring Airco common stock shares through a tender offer. It presently owns the Airco stock, which acquisition is challenged in this proceeding (complaint and BOC Answer, Par. 12; CX 125 B-D).

7. Respondent BOC Holdings Limited is a United Kingdom company with a business address of Hammersmith House, London W6, England. BOC Holdings Limited is engaged in holding various securities of subsidiaries (direct or indirect) of BOC. All outstanding ordinary shares of BOC Holdings Limited are held by British Oxygen Investments Limited (complaint and BOC Answer, Par. 13; CX 125 B-D).

8. Respondent British Oxygen Investments Limited is a United Kingdom company with a business address of Hammersmith House, London W6, England. British Oxygen Investments Limited is engaged in holding various securities of subsidiaries (direct or indirect) of BOC. British Oxygen Investments Limited is a wholly-owned subsidiary of BOC (complaint and BOC Answer, Par. 14; CX 125 B-D).

9. In 1973, BOC Holdings Limited acquired all of the capital stock of Harris Lake, Inc. (BOC Admission, Par. 61, filed Apr. 12, 1974). In 1972, Harris Lake, Inc. had net sales of \$1,511,901, and sold in the United States, products it purchased from BOC (BOC Admissions, Pars. 54, 84, filed Apr. 12, 1974). At the time of the acquisition of Airco stock by BOC, Harris Lake, Inc. manufactured and sold inhalation anesthetic equipment in the United States (complaint and BOC Answer, Par. 7; BOC Admission, Par. 27, filed Apr. 12, 1974), and marketed inhalation therapy equipment in the United States (complaint and BOC Answer, Par. 8; BOC Admission, Par. 28, filed Apr. 12, 1974).

10. Prior to the acquisition of Airco stock by BOC, BOC acquired Cyprane, Ltd., a United Kingdom corporation of which Fraser

Sweatman, Inc., a United States corporation, was a subsidiary, and the related Canadian company, Fraser Sweatman, Ltd. (complaint and BOC Answer, Par. 7; BOC Admission, Par. 34, filed Apr. 12, 1974; CX 11L). Fraser Sweatman, Inc. manufactured inhalation anesthetic equipment in 1972, and had sales of such equipment in the United States for the fiscal years ending in 1972 and 1973 of \$2,145,484 and \$2,498,146, respectively (BOC Admissions, Pars. 51, 58, 59, filed Apr. 12, 1974). Sales of inhalation anesthetic equipment by Cyprane, Inc. in the United States for the fiscal year ending in 1972 were \$258,499 (BOC Admission, Par. 60, filed Apr. 12, 1974).

11. In or about October 1973, BOC established Medishield, Inc., a Delaware corporation, which presently owns, and owned at the time of the Airco acquisition, all of the common stock of Harris Lake, Inc. and Fraser Sweatman, Inc., which are domestic corporations, and Fraser Sweatman (Canada) Limited, a Canadian corporation (complaint and BOC Answer, Par. 5).

12. BOC respondents are engaged, and at the time of the acquisition were engaged, in commerce within the meaning of the Clayton Act and the Federal Trade Commission Act (complaint and BOC Answer, Par. 11). BOC respondents have additionally consented to the jurisdiction of the Federal Trade Commission (Topkis 126-27).

B. Respondent Airco

13. Respondent Airco, Inc. (Airco) is a publicly-held corporation, organized and existing under the laws of the State of New York, with its principal place of business in Montvale, N.J. (complaint and Airco Answer, Par. 16).

14. Airco is engaged in the manufacture of industrial gases, including medical gases; ferroalloys and carbide; cryogenic equipment; welding and cutting equipment; carbon-graphite products; electronics; metals; high-vacuum equipment; calcium carbide; and medical equipment, including inhalation therapy equipment, inhalation anesthetic equipment, and medical pipeline equipment (complaint and Airco Answer, Par. 17; Giordano 1897-1906; Dillon 2583-84; RAX 7). In 1973, Airco had net sales of \$583,811,000 and net income from continuing operations of \$19,111,000 (RAX 7, p. 45). As of Apr. 1, 1973, Airco had 95 physical plant locations and 134 sales offices and warehouses (Airco Admissions, Pars. 1-2, filed Apr. 10, 1974).

15. Airco operations in the industrial gases market are conducted through three divisions: Airco Industrial Gases Division, Airco Welding Products Division, and Ohio Medical Products Division (complaint and Airco Answer, Par. 17). Airco operations involving inhalation anesthetic

