

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

In the Matter of)
)
) Docket No. 9278
Toys "R" Us Inc.,)
a corporation.)

ORDER REOPENING AND MODIFY ING ORDER

On January 3, 2014, Toys "R" Us, Inc. ("TRU") filed a petition pursuant to Section 5(b)

horizontal agreement among the toy manufacturers violated the Sherman Act both on a per se and a rule of reason analysis. The Commission found that the vertical agreements between TRU and its suppliers violated the Sherman Act on a rule of reason analysis. The Commission found that TRU possessed market power as a purchaser and seller of toys. TRU appealed, and the Court of Appeals for the Seventh Circuit affirmed the Commission's decision on August 1, 2000.

Paragraph IA. of the Order requires TRU to cease and desist from "continuing, maintaining, entering into, and attempting to enter into any agreement or understanding with any supplier to limit supply or to refuse to sell toys and related products to any toy discounter.

Paragraph II.B. of the Order requires TRU to cease and desist from "urging, inducing, coercing, or pressuring, or attempting to urge, induce, coerce, or pressure, any supplier to limit supply or to refuse to sell toys and related products to any toy discounter."

Paragraph II.C. of the Order requires TRU to cease and desist from "soliciting, requesting or encouraging any supplier to furnish information to respondent relating to any supplier's sales or actual or intended shipments to any toy discounter."

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

Standard to Reopen and Modify

Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. § 45(b) provides that the Commission shall reopen an order to consider whether it should be modified if the respondent "makes a satisfactory showing that changed conditions of law or fact" so require. A satisfactory showing sufficient to require reopening is made when a requester identifies significant changes in circumstances and shows that the changes either eliminate the need for the order or make continued application of it inequitable or harmful to competition.

Section 5(b) also provides that the Commission may reopen and modify an order when, although changed circumstances would not require reopening, the Commission determines that the public interest so requires. Respondents are therefore invited in petitions to reopen to show

how the public interest warrants the requested modification.³ In the case of “public interest” requests, FTC Rule of Practice 2.51(b) requires an “initial satisfactory showing” of how the modification would serve the public interest before the Commission determines whether to reopen an order.

A “satisfactory showing” requires, with respect to public interest requests, that the petitioner make a *prima facie* showing of a legitimate public interest reason or reasons justifying relief. A request to reopen and modify will not contain a “satisfactory showing” if it is merely conclusory or d mlyube21(y)15gruiurru d myub b(in)]TJ -26(te)6(p is)]TJ 05(ica21(yv(l)-t-1052(r)-)3(5

