
In the Matter of)	
)	
RANDOM HOUSE, INC.,)	Docket No. 9222
a corporation.)	
)	

**ORDER RETURNING MATTERS TO ADJUDICATION
AND DISMISSING COMPLAINTS**

The complaints in these matters, issued on December 20, 1988, allege that the respondents -- six of the country's largest book publishers -- violated Sections 2(a), 2(d), and 2(e) of the Clayton Act, as amended by the Robinson-Patman Act, 15 U.S.C. §§ 13(a),(d),(e), and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. The core of the complaints is that the respondents gave certain national bookstore chains price and promotional concessions that they did not make available to independent bookstores, to the detriment of competition and consumers.

On November 12, 1992, the Secretary issued an order withdrawing these matters from adjudication so that the Commission could evaluate nonpublic proposed consent agreements signed by complaint counsel and each of the respondents. Since that time, the Commission has considered additional information concerning developments in the industry and what, if any, Commission action is appropriate. Having examined the proposed consent agreements, and having considered significant developments that have occurred in the industry since the

resource-intensive, however, and even more resources would be needed in the event that litigation became necessary. In addition, even if the Commission were to issue litigated or consent orders against these respondents, such orders might not effectively prevent the respondents from adopting, pursuant to the "meeting competition" defense, practices used by other publishers that are not subject to a Commission order. Finally, since the time that the proposed consent agreements were signed, the American Booksellers Association has filed several private actions challenging alleged discrimination in this industry, and has already obtained consent decrees against four publishers. In view of these developments, further investigation, and possibly litigation, by the Commission does not appear to be a necessary or prudent use of scarce public resources.

For these reasons, the Commission has determined to reject the proposed consent agreements, return the matters to adjudication, and dismiss the complaints. Therefore,

IT IS ORDERED that these matters be, and they hereby are, returned to adjudication, and

IT IS FURTHER ORDERED that the complaints in these matters be, and they hereby are, dismissed.

By the Commission, Chairman Pitofsky recused and Commissioner Azcuenaga dissenting.

Donald S. Clark
Secretary

Issued: September 10, 1996