By the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–20905 Filed 8–22–95; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. 5448]

Rubber Manufacturers Association, Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set aside order.

SUMMARY: This order reopens a 1948 consent order—which prohibited the Association from formulating or enforcing resale price agreements, exchanging resale price information or entering into price-fixing agreements—and sets aside the consent order as to respondent Rubber Manufacturers Association pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

DATES: Consent order issued February 2, 1948. Set aside order issued July 19, 1995.

FOR FURTHER INFORMATION CONTACT: Elizabeth Piotrowski, FTC/S–2115, Washington, D.C. 20580. (202) 326–2623.

SUPPLEMENTARY INFORMATION: In the Matter of Rubber Manufacturers Association, Inc., et al. The prohibited trade practices and/or corrective actions are removed as indicated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Commissioners: Robert Pitofsky, Chairman, Mary L. Azcuenaga, Janet D. Steiger, Roscoe B. Starek, III, Christine A. Varney

In the Matter of—

Rubber Manufacturers Association, Inc., a corporation;
George Flint, an individual;
Auburn Rubber Corporation, a corporation;
Avon Sole Company, a corporation;
Dryden Rubber Company, a corporation;
Essex Rubber Company, a corporation;
The B.F. Goodrich Company, a corporation;
Goodyear Tire and Rubber Company, a corporation;
Alfred Hale Rubber Corporation, a corporation;
The Holtite Manufacturing Company, a corporation;
Hood Rubber Company, a corporation;
The I.T.S. Company, a corporation;
The O'Sullivan Rubber Company, a corporation;
Panther-Panco Rubber Company, Inc., a corporation;
Seiberling Rubber Company, a corporation;
United States Rubber Company, a corporation;
Rubber Heel & Sole Manufacturers Association, a trade association;
R.S. Crawford, an individual;
Avon Sole Company, a corporation;
The Bearfoot Sole Company, Inc., a corporation;
Beebe Brothers Rubber Company, a corporation;
Bradstone Rubber Company, a corporation;
The Hagerstown Rubber Company, a corporation;
Hanover Rubber Company, a corporation;
Lynch Heel Company, a corporation;
The Monarch Rubber Company, Inc., a corporation;
The Norwalk Tire & Rubber Company, a corporation;
Plymouth Rubber Company, Inc., a corporation;
Quabaug Rubber Company, a corporation;
Travelite Rubber Company, Inc., a corporation;
Victor Products Corporation of Pennsylvania, a corporation;
Webster Rubber Company, a corporation;
Connecticut Leather & Findings Association, Inc., a corporation;
Harry Diamond, an individual;
Bridgeport Leather Company, a corporation;
Maurice Greenberg, an individual;
Diamond Leather Company, a corporation;
Louis Geghter, an individual;
New Haven Leather Company, Inc., a corporation;
Puzzo Brothers Company, a corporation;
Rochina Decroce and Anthony Decroce, Copartners d/b/a Torrington Leather Company;
Zich Leather Company, a corporation; and
Cat's Paw Rubber Company, Inc., a corporation.

Order Reopening Proceeding and Setting Aside Order as to Respondent Rubber Manufacturers Association, Inc.

On March 17, 1995, Rubber Manufacturers Association, Inc. (''Rubber Manufacturers'') one of forty-three respondents named in this consent order,[1] filed its Petition to Reopen and Set Aside Consent Orders (''Petition'') in this matter. Rubber Manufacturers requests that the Commission set aside the 1948 consent order in this matter pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 C.F.R. 2.51, and the Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued on July 22, 1994, and published at 59 FR 45,286–92 (Sept. 1, 1994) (''Sunset Policy Statement''). In the Petition, Rubber Manufacturers affirmatively states that it has not engaged in any conduct violating the terms of the order. The Petition was placed on the public record, and the thirty-day comment period expired on May 10, 1995. One comment, relating to general policy issues concerning the Commission's Sunset Policy Statement, was received.

The Commission in its July 22, 1994, Sunset Policy Statement said, in relevant part, that ''effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than twenty years.''[2] The Commission's consent order in Docket No. 5448 was issued on February 2, 1948, and has been in effect for forty-seven years. Consistent with the Commission's July 22, 1994, Sunset Policy Statement, the presumption is that the order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket No. 5448 as to respondent Rubber Manufacturers.

Accordingly, *it is ordered* That this matter be, and it hereby is, reopened;

It is further ordered, that the Commission's order in Docket No. 5448 be, and it hereby is, set aside, as to respondent Rubber Manufacturers, as of the effective date of this order.

By the Commission.

Benjamin I. Berman,

Acting Secretary.

Concurring Statement of Commissioner Mary L. Azcuenaga in Rubber Manufacturers Association, Inc., D. 5448 and D. 7505

I concur in the decision to grant the request of the Rubber Manufacturers Association, Inc. to set aside the 1948 order in Docket No. D. 5448 and the 1962 order in Docket No. D. 7505. I dissent from the decision to limit the

---

[1] The remaining respondents did not petition the Commission to reopen and set aside the order as to them.

[2] See Sunset Policy Statement, 59 Fed. Reg. at 45,289.

setting aside of the order to the association, instead of setting aside the order in its entirety.

The decision to limit relief to the Rubber Manufacturers Association, one of forty-three respondents under the order, appears to be inconsistent with the Commission's announced policy to presume ''that the public interest requires reopening and setting aside the order *in its entirety*'' (emphasis added) ''when a petition to reopen and modify a competition order is filed'' and the order is more than twenty years old.[1] The Commission's recognition of the limitations of the findings underlying an order[2] further suggests that the presumption that an order will be terminated after twenty years should apply to the order in its entirety and not be limited to the petitioner.[3]

I previously have expressed my concern that the adoption of a presumption instead of an across-the-board rule in favor of sunset ''will impose costs by requiring respondents to file individual petitions and the Commission to assess in the context of each such petition whether the presumption has been overcome for that order.''[4] Now the Commission would further increase the burden on both public and private resources by applying the presumption in favor of sunset not only on a case-by-case basis but on a respondent-by respondent basis.

The petition filed by the Rubber Manufacturers Association invoked the twenty-year presumption that the order should be set aside. No evidence of recidivist conduct by any of the forty-three respondents, having been presented to overcome the presumption,[5] the order should be set aside in its entirety.

[FR Doc. 95–20902 Filed 8–22–95; 8:45 am]

BILLING CODE 6750–01–M

[1] FTC, Statement of Policy with Respect to Duration of Competition Orders and Statement of Intention To Solicit Public Comment with Respect to Duration of Consumer Protection Orders (July 22, 1994), at 8 (hereafter ''Sunset Policy Statement'').

[2] ''[F]indings upon which [orders] are based should not be presumed to continue' for longer than twenty years. Sunset Policy Statement at 4.

[3] The presumption of termination after 20 years applies automatically for new orders in competition cases and is not limited to individual respondents, further supporting the view that the twenty-year presumption in favor of sunset for existing orders should apply to the order, not to particular respondents.

[4] Separate Statement of Commissioner Mary L. Azcuenaga on Sunset Policy (July 22, 1994), at 7 (footnote omitted).

[5] See Sunset Policy Statement at 8 n.19.

[Dkt. 7505]

Rubber Manufacturers Association, Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set aside order.

SUMMARY: This order reopens a 1962 consent order—which prohibited the Association from formulating or enforcing resale price agreements, exchanging resale price information or entering into price-fixing agreements—and sets aside the consent order as to respondent Rubber Manufacturers Association pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

DATES: Consent order issued January 6, 1962. Set aside order issued July 19, 1995.

FOR FURTHER INFORMATION CONTACT: Elizabeth Piotrowski, FTC/S–2115, Washington, D.C. 20580. (202) 326–2623

SUPPLEMENTARY INFORMATION: In the Matter of Rubber Manufacturers Association, Inc., et al. The prohibited trade practices and/or corrective actions are removed as indicated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Commissioners: Robert Pitofsky, Chairman, Mary L. Azcuenaga, Janet D. Steiger, Roscoe B. Starek, III, Christine A. Varney

In the Matter of—

Rubber Manufacturers Association, Inc., a trade association;
The Tire and Rim Association, Inc., a trade association;
The Goodyear Tire and Rubber Company, a corporation;
The Firestone Tire and Rubber Company, a corporation;
United States Rubber Company, a corporation;
The B.F. Goodrich Company, a corporation;
The General Tire and Rubber Company, a corporation;
The Armstrong Rubber Company, a corporation;
Cooper Tire and Rubber Company, a corporation;
The Dayton Rubber Company, a corporation;
Dunlop Tire and Rubber Corporation, a corporation;
The Gates Rubber Company, a corporation;
Lee Rubber and Tire Corporation, a corporation;
The Mansfield Tire and Rubber Company, a corporation;
McCreary Tire and Rubber Company, a corporation;
The Mohawk Rubber Corporation, a corporation; and
Seiberling Rubber Company, a corporation.

Order Reopening Proceeding and Setting Aside Order as to Respondent Rubber Manufacturers Association, Inc.

On March 17, 1995, Rubber Manufacturers Association, Inc. (''Rubber Manufacturers''), one of seventeen respondents named in this consent order,[1] filed its Petition to Reopen and Set Aside Consent Orders (''Petition'') in this matter. Rubber Manufacturers requests that the Commission set aside the 1962 consent order in this matter pursuant to section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 C.F.R. 2.51, and the Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued on July 22, 1994, and published at 59 FR 45,286–92 (Sept. 11, 994) (''Sunset Policy Statement''). In the Petition, Rubber Manufacturers affirmatively states that it has not engaged in any conduct violating the terms of the order. The Petition was placed on the public record, and the thirty-day comment period expired on May 10, 1995. One comment, relating to general policy issues concerning the Commission's Sunset Policy Statement, was received.

The Commission in its July 22, 1994, Sunset Policy Statement said, in relevant part, that ''effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing order in effect for more than twenty years.''[2] The Commission's consent order in Docket No. 7505 was issued on January 6, 1962, and has been in effect for thirty-years. Consistent with the Commission's July 22, 1994, Sunset Policy Statement, the resumption is that the order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket No. 7505 as to respondent Rubber Manufacturers.

Accordingly, it is ordered That this matter be, and it hereby is, reopened;

It is further ordered, That the Commission's order in Docket No. 7505

[1] The remaining respondents did not petition the Commission to reopen and set aside the order as to them.

[2] See Sunset Policy Statement, 59 Fed. Reg. at 45,289.