

not completed on time, the consent agreement would permit the Commission to appoint a trustee to complete the transactions. In addition, the consent agreement would require the respondents, for ten years, to obtain Commission approval before acquiring any interest in a cigarette manufacturer or any assets used to manufacture or distribute cigarettes in the United States.

**DATES:** Comments must be received on or before March 13, 1995.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Joseph Krauss, FTC/H-324, Washington, DC 20580. (202) 326-2713.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

#### Agreement Containing Consent Order

The agreement herein, by and between B.A.T Industries p.l.c., Brown & Williamson Tobacco Corporation, by their duly authorized officers, hereafter sometimes referred to as respondents, and their attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent B.A.T Industries p.l.c. (BAT) is a public limited company incorporated under the laws of England, with its headquarters and principal place of business located at Windsor House, 50 Victoria Street, London, England, SW1H 0NL.

2. Respondent Brown & Williamson Tobacco Corporation (B&W) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its headquarters and principal place of business located at 1500 Brown & Williamson Tower, P.O. Box 35090, Louisville, Kentucky, 40232.

3. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violation of section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and have filed an answer to said complaint denying said charges.

4. Respondent B&W, and for the purposes only of this agreement and any proceedings arising out of, or to enforce, this agreement, the order herein, and the Preservation Agreement attached hereto as Appendix I, respondent BAT, admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

5. Respondents waive:

- a. Any further procedural steps;
- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and
- d. Any claim under the Equal Access to Justice Act.

6. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision containing the Order herein, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the Commission's complaint, or that the facts as alleged in the complaint, other than jurisdictional facts, are true.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's rules, the Commission may, without further notice to respondents, (1) issue its decision containing the following order to divest in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order to divest shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for

other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to-order to respondent's attorneys, at the addresses as stated in this agreement, shall constitute service. Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

9. Respondents have read the complaint and order contemplated hereby. Respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

#### Order

I

*It is ordered* That, as used in this order, the following definitions shall apply:

A. *BAT* means B.A.T Industries p.l.c., its subsidiaries, divisions, and groups, including Brown & Williamson Tobacco Corporation, its subsidiaries, divisions, and groups, and affiliates controlled by Brown & Williamson Tobacco Corporation ("B&W"), their successors and assigns, and their directors, officers, employees, agents, and representatives.

B. *American Brands* means American Brands, Inc., its subsidiaries, divisions, and groups, including The American Tobacco Company ("ATC"), their successors and assigns, and their directors, officers, employees, agents, and representatives.

C. *Commission* means the Federal Trade Commission.

D. *Acquisition* means the acquisition of ATC from American Brand by BAT.

E. The *Reidsville Assets* means all real property, fixtures and equipment at ATC's location at North Scales Street, Reidsville, NC 27320, including but not limited to, the following:

1. All machinery, fixtures, equipment, vehicles, transportation facilities, furniture, tools and other tangible personal property;

2. Inventory and storage capacity;

3. All rights, titles and interests in and to owned or leased real property, together with appurtenances, licenses and permits;

Provided however That the Reidsville Assets shall not include: