

IN THE MATTER OF  
BAYER AG, ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5  
OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE  
CLAYTON ACT

*Docket C-3007. Final Order, Jan. 15, 1980—Modifying Order, July 6, 1982*

This order reopens the proceeding and modifies the Commission's order issued on January 15, 1980, 95 F.T.C. 254, by deleting Paragraphs I-IV from the order, so as to relieve respondent of the requirement of divesting assets used to manufacture allergenic extracts. Accordingly, the portion of Paragraph VII concerning respondent's divestiture efforts has also been deleted.

REOPENING AND MODIFICATION OF ORDER DOCKET NO. C-3007

By petition filed on February 26, 1982, respondent Miles Laboratories, Inc. ("Miles"), requests on behalf of itself, Bayer AG, and Rhinechem Corporation that the Commission's order in Docket No. C-3007 be modified so that Miles no longer would be required to divest assets used to manufacture allergenic extracts. Pursuant to Section 2.51 of the Commission's Rules of Practice the petition was placed on the public record and Mr. Stanford Yates, representing Kallestad Laboratories, Inc., and Dr. Raymond Rosedale filed comments.

Miles previously had petitioned the Commission to modify the order. However, the Commission by a letter dated May 22, 1981 denied the earlier petition but granted a year's extension of the time in which Miles was required to divest its allergenic extracts assets.

Upon consideration of Miles' petition and supporting material and the public comments, the Commission now finds that due to a Food and Drug Administration proposal to eliminate Category III(A) as a classification for biologics, Miles is unable to sell its allergenic extracts business as a complete, viable competitor. In denying Miles' previous petition, the Commission noted that the proposed elimination of Category III(A) might constitute a changed circumstance sufficient to warrant modification of the order. Events since then have established that modification is now warranted. For this reason the Commission has determined that the order should be modified.

Accordingly,

*It is ordered,* That the proceeding be, and it hereby is, reopened.

*It is furthered ordered,* That the order to cease and desist be, and it hereby is, modified by deleting Paragraphs I-IV of the order and so

much of Paragraph VII as relates to reports of Miles' divestiture efforts. Paragraph VII will now read:

*It is further ordered,* That respondents shall annually, on the anniversary date of this order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which each or every respondent intends to comply, is complying or has complied with the order.

IN THE MATTER OF  
AMERICAN MOTORS CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket C-3093. Complaint, July 6, 1982—Decision, July 6, 1982*

This consent order requires a Southfield, Mich. motor vehicle manufacturer and its subsidiary to cease, among other things, failing to disclose that the Jeep CJs handle and maneuver differently from ordinary passenger cars under certain reasonably expected driving conditions; and that sharp turns or abrupt maneuvers on pavement may result in loss of control or an accident. The order requires the company to place a prescribed sticker on the windshield of all new Jeep CJs warning owners of the Jeep's handling and maneuvering limitations; provide all existing Jeep CJ owner's manuals with an informational supplement concerning on-pavement driving and update the owner's manual to include this supplemental information. The company is also required to provide its dealers with a point-of-sale display designed to call attention to the Supplement, and with a sufficient quantity of the Supplement to enable dealers to make it available to each person who requests it. The order further requires the company to send to current registered owners of Jeep CJs since 1972, the sticker and the Supplement, together with a letter advising the owner to affix the sticker to his/her Jeep.

*Appearances*

For the Commission: *Barry E. Barnes, Rachel W. Sesser and Paula K. Stein.*

For the respondents: *John M. Sheridan and Kenneth I. Gluckman, in-house counsel, Southfield, Mich., Earl W. Kintner, Robert H. Neuman and Christopher Smith, Arent, Fox, Kintner, Plotkin & Kahn, Washington, D.C. and Robert N. Saylor and Robert M. Sussman, Covington & Burling, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that American Motors Corporation and Jeep Corporation, corporations (hereinafter "respondents"), have violated Section 5 of the Federal Trade Commission Act, and that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Allegations in this complaint in the present tense include the past tense. For purposes of this complaint the following definitions shall apply:

(1) *Jeep CJ(s)* means CJ5, CJ6 or CJ7 model Jeep motor vehicles manufactured by Jeep Corporation.

(2) *Ordinary passenger car* means a vehicle designed primarily for non-commercial on-pavement usage and excludes utility vehicles, vans, buses or trucks.

(3) *Advertisement* means any written, verbal or audiovisual statement, illustration, depiction or presentation, which is designed to effect the sale or lease of any Jeep CJ, or to create interest in the purchasing or leasing of such vehicles whether such statement, illustration, depiction or representation appears in a brochure, newspaper, magazine, leaflet, circular, mailer, book insert, catalog, billboard, public transit card, point-of-sale or lease materials, film strip, video presentation, or in a radio or television broadcast or in any other media, regardless of whether such statement, illustration, depiction or presentation is characterized as promotional, educational or informative.

PAR. 2. Respondent American Motors Corporation (hereinafter "AMC") is a Maryland corporation with its principal place of business at 27777 Franklin Road, Southfield, Michigan.

Respondent Jeep Corporation (hereinafter "Jeep") is a Nevada corporation with its principal place of business at 27777 Franklin Road, Southfield, Michigan.

AMC dominates and controls the acts and practices of its wholly owned subsidiary Jeep.

PAR. 3. AMC's net sales for the fiscal year ending September 30, 1979 were in excess of \$3.1 billion. Jeep CJ sales for the fiscal year ending September 30, 1979 were in excess of \$485 million with advertising expenditures of approximately \$5 million.

PAR. 4. Respondents AMC and Jeep individually or collectively engage in the manufacture, advertising, sale, lease or distribution of Jeep CJs. AMC and Jeep cause Jeep CJs to be shipped interstate from various manufacturing locations.

Therefore, respondents maintain a substantial course of business in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. The Jeep CJ handles and maneuvers differently from an ordinary passenger car under certain reasonably expected driving conditions; sharp turns or abrupt maneuvers on-pavement may result in loss of control or an accident.

PAR. 6. The facts alleged in Paragraph Five are material facts which if known would be considered in a consumer's purchase and use decision. Respondents' have failed to disclose these facts. Such

failure constitutes a material omission of fact and is therefore a deceptive act or practice.

PAR. 7. By and through the use of advertisements such as "Legendary" and "Luxury" (copies of which are attached hereto and identified as Exhibits 1 and 2 and incorporated by reference herein) and other advertisements not specifically set forth herein, respondents represent, directly or by implication, that the Jeep CJ may be driven on-pavement like an ordinary passenger car.

PAR. 8. In light of the advertising representations referred to in Paragraph Seven, respondents' failure to disclose facts referred to in Paragraph Five renders the advertisements misleading and is therefore a deceptive act or practice.

PAR. 9. Respondents' acts or practices as alleged above have the capacity and tendency to mislead members of the public. Such acts and practices may prevent consumers from making informed purchase and use decisions. Therefore, such acts or practices cause substantial economic injury to members of the public and deprive consumers of information necessary for proper use of the vehicle when driven on-pavement.

PAR. 10. The aforesaid acts or practices of respondents are all to the prejudice and injury of the public and constitute deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. These acts and practices, as herein alleged, are continuing and will continue in the absence of the relief requested.

Complaint

100 F.T.C.

COMPTON ADVERTISING, INC.  
625 Madison Avenue, New York, N.Y. 10022  
Telephone: PLaza 4-1100

CLIENT: JEEP CORPORATION  
PRODUCT: 1981 JEEP CJ  
TITLE: "LEGENDARY"  
COMM. # ADJU 2973 TIMING: 30 SECONDS  
DATE: 9/22/80



1. (MUSIC UNDER)  
ANNCR: (VO) The  
legendary Jeep vehicles.



2. They've been transporting  
troops...



3. delivering mail...



4. weathering storms...



5. and winning races longer  
than a lot of vehicles have  
even existed.



6. Today's Jeep CJ is taking  
more kids to school...



7. more couples out on the  
town...



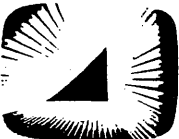
8. and more families to  
paradise lost than ever.



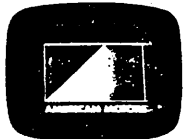
9. And, getting more  
miles per gallon than any  
four-wheeler built in  
America.



10. 1981 Jeep CJ. The  
legend lives on.



11. From Jeep Corporation...



12. of American Motors.  
(MUSIC OUT)

Complaint

COMPTON ADVERTISING, INC.  
625 Madison Avenue, New York, N.Y. 10022  
Telephone: PLaza 4-1100

CLIENT: JEEP CORPORATION  
PRODUCT: 1981 JEEP CJ  
TITLE: "LUXURY"  
COMML. # AJU 2983 TIMING: 30 SECONDS  
DATE: 9/22/80



1. (MUSIC UNDER) ANNCR:  
(VO) The legendary Jeep CJ.



2. You always know it could  
take you here in style.



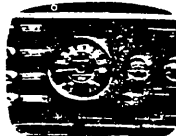
3. But did you ever think it  
could take you here in style?



4. Or that it could give you  
the luxury and comfort of  
soft bucket seats.



5. room for 4,



6. air conditioning, stereo...



7. and did you know that  
Jeep CJ



8. has the highest gas mileage  
of any four-wheeler built in  
America?



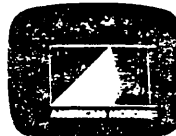
9. 1981 Jeep CJ.



10. Now you know why the  
legend lives on.



11. From Jeep Corporation...



12. of American Motors.  
(MUSIC OUT)

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the New York Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent American Motors Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business at 27777 Franklin Road, Southfield, Michigan.

Respondent Jeep Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada with its office and principal place of business at 27777 Franklin Road, Southfield, Michigan.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

## ORDER

This Order applies to respondents American Motors Corporation (hereinafter "AMC") and Jeep Corporation (hereinafter "Jeep"), their successors, assigns, officers, agents, representatives, and em-



ployees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale, lease or distribution of Jeep CJ(s) in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, within the United States, including the Commonwealth of Puerto Rico and any territory or possession of the United States.

*Definitions:* For purposes of this Order, the following definitions shall apply:

1. *Jeep CJ(s)* shall mean CJ-5, CJ-6, or CJ-7 model Jeep vehicles built since 1972, which are or were manufactured or distributed by AMC or Jeep, and vehicles of substantially equivalent design and performance. Substantially equivalent performance means a vehicle which is substantially similar with respect to its ability to make sudden sharp turns and abrupt maneuvers on-road. For purposes of this definition, other Jeep motor vehicles built from 1972 to 1982 are not of substantially equivalent design to Jeep CJs.

2. *Dealer(s)* shall mean all independent person(s), partnership(s) or corporation(s) which, pursuant to a dealer's sales and service agreement, receive on consignment or purchase new Jeep CJ(s) from AMC or Jeep for resale or lease to the public. The term *dealer(s)* shall also mean all person(s), partnership(s) or corporation(s) owned or operated by respondents which sell or lease new Jeep CJ(s) to the public.

#### I.

*It is ordered,* That respondents shall, within 120 days from the date of service of this Order, affix a sticker to each new Jeep CJ vehicle manufactured or distributed by AMC or Jeep. The sticker shall read as follows:

This multipurpose vehicle handles and maneuvers differently from an ordinary passenger car. As with other vehicles of this type, sudden sharp turns and abrupt maneuvers may result in loss of control. Read driving guidelines in Owner's Manual and Supplement.

#### WEAR SEATBELTS AT ALL TIMES

Respondents shall affix the sticker to the instrument panel or windshield frame of each new Jeep CJ in a prominent location. The sticker shall be printed in a typeface and color which are clear and conspicuous. Respondents shall advise their dealers in writing not to remove the sticker.

## II.

*It is further ordered,* That respondents shall, within 120 days from the date of service of this Order, distribute an informational supplement to the Owner's Manual for new Jeep CJ(s) (hereinafter "Supplement") which is similar in scope and subject matter to the current pamphlet "Driving Your 4-Wheel Drive Vehicle" a copy of which is attached as Exhibit A. The supplement shall include the following statement in an on-pavement driving section:

Utility vehicles have higher ground clearance and narrower track to make them capable of performing in a wide variety of off-road applications. Specific design characteristics give them a higher center of gravity than ordinary cars. An advantage of the higher ground clearance is a better view of the road allowing you to anticipate problems. They are not designed for cornering at the same speeds as conventional 2WD vehicles any more than low-slung sports cars are designed to perform satisfactorily under off-road conditions. If at all possible, avoid sharp turning maneuvers. As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or an accident.

The Supplement shall also include the following statement in the introduction:

As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or an accident. Be sure to read on-pavement and off-road driving guidelines which follow.

The above-required language shall be printed in a typeface at least as large as that which is used in the main body of the Supplement. Nothing contrary, inconsistent or in mitigation of the above-required language shall be used in the Supplement.

## III.

*It is further ordered,* That respondents shall, within 120 days from the date of service of this Order, revise the Owner's Manual for new Jeep CJs to include the information that is required by Part II of this Order. Headings, typeface, and other devices consistent with those used for warnings in the Owner's Manual shall be used to ensure clarity and prominence of the information required. Nothing contrary, inconsistent or in mitigation of the information required shall be used in the Owner's Manual.

## IV.

*It is further ordered,* That any substantive modification of the information required by Part II or Part III of this Order may be

made only upon prior written approval of the Commission. A request for approval shall be in writing and shall be deemed granted if not disapproved within 60 days after receipt by the Commission.

## V.

*It is further ordered,* That respondents shall, within 120 days after service of this Order, insert a copy of the Supplement and the Owner's Manual into the glove box of each new Jeep CJ prior to the distribution of the vehicle.

## VI.

*It is further ordered,* That respondents shall provide to each dealer a reasonable number of free copies of the Supplement to enable dealers to make the Supplement available to each prospective Jeep CJ purchaser or lessee who requests it. Respondents shall also provide to each dealer one free point-of-sale display designed to call attention to the Supplement. Respondents shall advise their dealers in writing to (1) maintain such point-of-sale display in a prominent location in the dealer's showroom and (2) provide a copy of the Supplement to each person who requests it. Respondents shall implement the requirements of this Part within 120 days from date of service of this Order.

## VII.

*It is further ordered,* That respondents shall, within 150 days after service of this Order, send by first-class mail to each identifiable current registered owner of Jeep CJ(s) from the 1972 model year to the effective date of this Order the following materials: (1) the sticker required by Part I; (2) the Supplement required by Part II; and (3) a letter advising the owner to affix the sticker to the Jeep CJ. Current registered owners shall be deemed identifiable if they can be traced using the same sources used to develop lists for recall notifications pursuant to the National Traffic and Motor Vehicle Safety Act of 1966.

## VIII.

*It is further ordered,* That respondents distribute a copy of this Order to all present and future personnel who have supervisory responsibility with respect to the subject matter of this Order. Respondents shall secure from each such person a signed statement

acknowledging receipt of this Order. Respondents shall also distribute a copy of this Order to each dealer.

IX.

*It is further ordered,* That respondents shall maintain documents demonstrating compliance with this Order. Upon reasonable request, respondents shall make available to the Commission or its staff for inspection and copying documents which shall include, but not be limited to, the following:

A. The name and last known address of each owner who was sent the materials required by Part VII of this Order.

B. The name and last known address of each owner whose materials were returned undelivered by the United States Postal Service.

C. Communications from dealers regarding the distribution of the Supplement which are received by the department responsible for such distribution.

X.

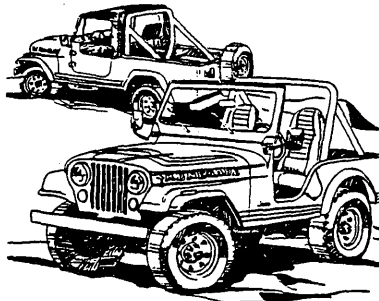
*It is further ordered,* That in the event that respondent AMC or Jeep merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation, respondent AMC or Jeep shall require said successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this Order; *provided, that* if respondent AMC or Jeep wishes to present to the Commission any reasons why said Order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

XI.

*It is further ordered,* That respondents shall, within one hundred and eighty (180) and three hundred and sixty-five (365) days after the date of service of this Order, file with the Commission reports setting forth in detail the manner and form in which they have compiled with this Order.

# **Driving Your 4-Wheel-Drive Vehicle**

**And Getting Along  
With The Environment**

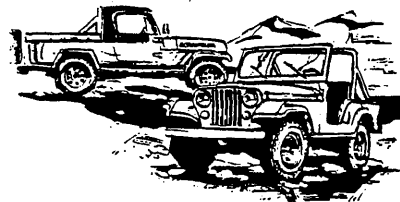


Jeep, Owner's Manual Supplement  
Small Sports Utility Edition  
(CJ-5, CJ-7 and  
Scrambler)

**Important  
Guidelines Inside:**  
On-Pavement Driving  
Off-Road Driving

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### Welcome To The Exciting And Different World Of 4-Wheeling



Congratulations! You own a Jeep 4-wheel-drive vehicle, the most popular 4-wheeling name in America. The world of 4-wheeling is indeed exciting. You'll be able to enjoy an adventurous part of America, a part of your land few without a 4-wheel-drive vehicle will ever have the opportunity to see.

Along with the fun and excitement of 4-wheeling comes responsibility. Your responsibility is two-fold: The first is to realize that your 4WD vehicle is different than 2-wheel drive vehicles, and must be driven differently than a car both on pavement and off road. The second responsibility is to recognize that, as the owner of a Jeep vehicle, you are obligated to respect the environment. Your actions will affect the future of public lands and their use by responsible 4-wheelers.

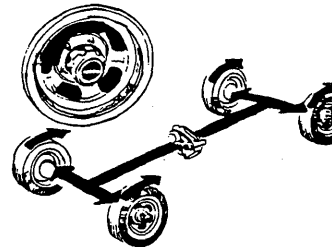
Have fun with your Jeep 4WD vehicle, but remember to live up to your responsibilities.

### What Exactly is 4-Wheel Drive?

In 4WD mode, all four wheels can work to move the vehicle. Four wheels working are an advantage over two in many driving situations both on pavement and off road. The key component in the 4-wheel-drive system is the transfer case which supplies power to two separate drive shafts, to the front and rear axles.

Most Jeep CJ-5, CJ-7 and Scrambler vehicles are equipped with part-time or "on-demand" 4WD systems.\* This "on-demand" system allows for a normal two-wheel-drive mode for highway use and a simple rigid driveline to the four wheels for off-road or other adverse driving situations. Your Owner's Manual has complete instructions on how to shift between 2WD and 4WD.

\*Some CJ-5 and CJ-7 vehicles built between 1973 and 1978 were equipped with a full-time 4WD Quadra-Trac system. Consult your Owner's Manual for complete operating instructions.



## Important Differences Between Your Small Jeep 4WD Vehicle And Ordinary 2-Wheel-Drive Vehicles

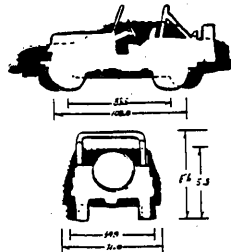
Your Jeep vehicle is a descendant of the original tough quarter-ton military vehicle that served this country so well during World War II. The transition from that legendary military model to civilian versions of the reliable and rugged Jeep models helped start the recreational sport of off-roading. With the introduction of the Jeep CJ-5 in 1954, our CJ models were well on the way to becoming the first choice of more professional and amateur off-roaders than any other 4WD vehicle.

By design it can do things off the road that you would not dream of trying in your family car. Let's examine the main differences between it and most conventional cars.

### Your Jeep Vehicle Is Higher, Shorter, Narrower.

Higher ground clearance allows your Jeep vehicle to go over rugged terrain without hanging up on rocks or logs. The higher ground clearance results in a higher center of gravity, which in turn creates handling characteristics different from those of a conventional passenger car.

A shorter wheelbase and short front and rear overhang along with the high ground clearance means that your vehicle can approach inclines and go over the crest of a hill without hanging up the vehicle or damaging its frame or chassis components. The shorter wheelbase also makes your vehicle more responsive to steering than vehicles with longer wheelbases.



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Narrower body width and track allow your Jeep vehicle to go through tight spaces unpassable by conventional cars and most larger 4WD vehicles.

These differences, higher ground clearance, higher center of gravity, shorter wheel-base, and narrower body width and track, are all important features for off-road driving. However, they also mean that on-pavement driving, handling, and steering will be different from what drivers experience with a conventional 2-wheel-drive car.

On the following pages, we will discuss on-pavement driving techniques. Be aware that special tires, size and weight of cargo, or towing a trailer can alter the driving characteristics of your vehicle.

**Special Tires.** It is important that a 4WD vehicle be equipped with tires of the same size and type at each wheel. So if you use special off-road tires, or tires for mud or snow, mount them on all four wheels. Many serious off-roaders switch to special tires for off-roading. Wide-Tread and Radial-Ply tires must be installed as complete sets. Don't mix radial or wide-tread tires with conventional bias-ply tires or fiberglass-beaded tires. This could result in serious steering difficulties. Be sure to check and maintain recommended tire pressure. Also, some combinations of replacement wheels and tires can increase tread measurement and change the steering and suspension characteristics of your Jeep vehicle. Use only wheels and tires of sizes recommended by Jeep Corporation.



**Size and Weight of Cargo.** The weight of passengers and cargo can change the center of gravity and the vehicle's handling characteristics. As a general rule, do not carry high or heavy cargo. Never exceed the load limits described in your Owner's Manual and be certain the cargo you do carry is properly placed in front of the rear axle. Too much weight or improperly placed weight over or behind the rear axle can cause serious steering problems, like those experienced in an ordinary car with an overloaded trunk.

**Pulling a Trailer.** Remember that everything you place in your trailer and vehicle adds to the gross vehicle weight rating (GVWR) of your Jeep vehicle. Do not exceed the gross vehicle weight rating for your Jeep vehicle. Pulling trailers heavier than Class I (2000 pounds, 900kg) Trailer Weight and a Tongue Limit of 200 pounds (90 kg) is not recommended for most small Jeep 4WD vehicles. Consult your Owner's Manual for specifics.

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## Getting Along With The Environment

Before you get into the specific techniques of four-wheeling, please thoughtfully consider the "responsibility" we spoke of on page one. "...to recognize that as the owner of a Jeep vehicle you are obligated to respect the environment."

We all have an important stake in protecting the environment because we want future generations of four-wheelers to also enjoy the fragile beauty of this land, unwarmed and unblemished.

The vast majority of off-road vehicle owners consistently demonstrates a deep and abiding respect for the environment. Join with the majority. Your positive action and good example are always needed to offset the irresponsible antics of a few thoughtless drivers.

Consider the ability to explore an America you might never see in a 2WD vehicle as a privilege. You can pay for that privilege by always respecting the land and environment.

If you keep the following guidelines in mind, you'll be doing your part in maintaining a healthy environment.

- If you enjoy 4-wheeling for sport, be sportsman enough to do so only in areas designated for such use. Remember, you are the visitor and your "visit" should leave no scars on the land.
- Drive on established trails only. There are many designed for 4-wheel-drive vehicles exclusively.
- Don't litter and if you see your favorite area littered, clean it up. Set a good example for the next person.
- Stay off land posted against such use. And observe the laws and regulations of every public authority. If you are unsure as to the status of a road or trail, consult your local Forest Ranger or the Bureau of Land Management office.
- Leave the wildlife alone. Disturbing the balance of nature denies us all.
- Keep your vehicle in good mechanical condition for safety's sake and to prevent excessive exhaust fumes.
- Maintain a clean, safe camp. Be especially careful with fire. Do not leave campfires unattended and make sure they're crowded out before you break camp.
- Don't take advantage of the land you're driving on. Avoid cutting switchbacks; avoid wet meadows; do not spin your wheels unnecessarily. Your wheel tracks could cause erosion or other damage.
- Have respect for your fellow 4-wheelers.
- When driving in areas that are exceptionally dry, avoid idling your vehicle or parking in a spot covered by dry grass or leaves. Vehicle exhaust systems give off a great deal of heat which can set fire to dry vegetation.
- Join your local off-road vehicle club as a working member and help spread the word on the proper use of our outdoor resources.



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## On-Pavement Driving Guidelines

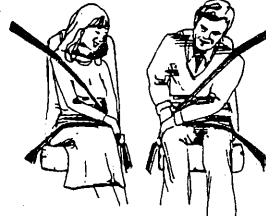
Because you will often use your Jeep vehicle on paved roads or highways, it is important that you know how to handle your vehicle in traffic properly and responsibly. The next pages in this brochure provide important guidelines to help you enjoy your Jeep vehicle during on-pavement use while looking out for the safety of yourself, your passengers, other motorists, and pedestrians.

### Know Your Vehicle

Learn specifically how to drive your vehicle on pavement! Start slowly and practice in an area where you can become familiar with its unique characteristics. There may not be much body lean in some turns because the vehicle suspension is different from a car's suspension. This makes a big difference. Body lean is one of the things that make you aware that centrifugal force (see explanation of centrifugal force on facing page) is at work. A few practice sessions and you will realize there are things you can't expect your Jeep vehicle to do on pavement, just as there are things you wouldn't expect your family car to do off road.

### Driver And Passengers Should Be Secured At All Times By The Restraint System

Your Jeep vehicle is equipped with restraint systems. Use them at all times. National Safety Council statistics indicate clearly that restraint systems reduce injuries. This can be particularly true in an open-body vehicle.



### Drive Slowly! Be Cautious! Be Alert!

We are all familiar with the term defensive driving. It simply means to be prepared. Learn to anticipate problems and to steer, brake or accelerate accordingly. Give yourself time to react to emergency situations. Observe the guideline of at least a car length of space between you and the vehicle ahead of you for every 10 miles per hour you are driving. When weather is bad, and at night, allow even more spaces so you'll be able to react smoothly, safely.

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### Avoid Sharp Turning Maneuvers

Small utility vehicles have higher ground clearance and narrower track to make them capable of performing in a wide variety of off-road applications. Specific design characteristics give them a higher center of gravity than ordinary cars. They are not designed for cornering in the same fashion as conventional 2WD vehicles any more than low-slung sports cars are designed to perform satisfactorily under off-road conditions. An advantage of higher ground clearance is a better view of the road allowing you to anticipate problems. If at all possible, avoid sharp turning maneuvers.



### Approach Curves Cautiously, Slowly

The proper speed at which to take a curve is determined in part by the centrifugal force that will be exerted on the vehicle. Because of your Jeep 4WD vehicle's higher center of gravity, the effects of centrifugal force are different from those experienced with a typical car. Therefore, you should always approach curves at normal driving speed. You should not attempt to go as fast through turns as you might in a low-slung sports car, or perhaps even your family car.



### Slow Down In Crosswinds

Strong gusting winds hitting the side of any vehicle can affect stability. Driving slower under these conditions will minimize the effects and give you more control.

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### Proceed With Care On Roads With A Pronounced Slope To The Shoulder

All roads are designed with a "crown" or high center so water will drain off the surface. Occasionally you may find yourself on older, resurfaced, narrow, two-lane roads with a higher-than-normal crown. These roads can cause an exaggerated lean toward the shoulder in your vehicle. You can counteract the exaggerated lean by driving close to the crown, without crossing the highway divider. If the road is also winding with a lot of dips and rolls, you may have to drive more alertly and slowly.



### Regularly Check And Maintain Your Vehicle Equipment

Keep your vehicle in top running order. Make frequent routine checks of the vehicle's steering system, power train, brakes, springs, shocks and above all, tires (both tread and air pressure).

### Road Conditions And Surfaces Affect The Way You Drive

Your on-pavement driving will involve a variety of paved surfaces, each requiring somewhat different handling responses from the driver. There are super highways and country roads, city streets and sometimes-rough rural roads. Some surfaces are concrete, some are asphalt-layered, smooth or pebbled, and some are barely blacktopped. Weather conditions affect all these surfaces, calling for still more alertness and skill on the part of the driver. On the following pages we will discuss some of the techniques for driving on various paved surfaces and under different weather conditions.

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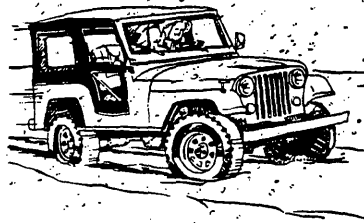
### On-Pavement Driving In Adverse Weather

When the road surface becomes difficult to travel because of deteriorating weather conditions such as snow or heavy rains collecting on the roadway, you should shift into 4WD. Whenever the conditions call for slow speeds and high traction you will want to use the versatility of your "on-demand" 4WD system. You should continue to proceed slowly and cautiously. Be alert to the problems fellow drivers around you may be having that could create a hazardous situation for you.

#### Snow

In wet, light snow it is important to maintain traction by making slight or gradual changes of speed and by maintaining a light touch on the steering wheel. Avoid sudden maneuvers. If you should start to slide, stay off the accelerator and steer in the direction of the slide. Once the vehicle straightens out, lightly accelerate to get back on the line you were traveling. Drive slow and allow plenty of room to maneuver between yourself and the vehicle ahead. If you must brake, use a light, tapping action. Engine compression can help slow you down. It's also wise to use a lower gear under these conditions.

In heavy snow, maintaining momentum is the key to safe going. Try to keep moving by using the lowest possible range in your transmission and a steady accelerator pedal. Special snow tires can help. Under special conditions chains on all four wheels can provide additional help. Never drive with chains on the front and not on the rear.



### General Recommendations For Driving In Adverse Weather

Safe driving with a 4WD Jeep vehicle requires the sensible application of long-established principles of safe driving:

- Drive smoothly—no sudden, jerky movements
- Stay alert—anticipate your next move
- Do not overdrive road conditions or your abilities
- Do not drive while under influence of alcohol or drugs

In addition you should:

- Use 4WD when road surface requires slow speeds and high traction
- Turn on your headlights
- Use windshield wipers (rain or wet snow)
- Check rearview mirrors frequently
- Drive slowly
- Allow extra following distance
- Keep tires properly inflated and in good condition

## Off-Road Driving Guidelines

Off-road operation is what your Jeep vehicle was designed to do. Under almost all conditions engage 4WD. But as you leave the pavement behind, you should be guided by the principle that although your 4WD vehicle might be able to go almost anywhere, there are places you shouldn't go. Use common sense and remember that driving situations and conditions change quickly out there, so be alert and be prepared. As a general rule you should go where others have gone before. There are plenty of 4WD trails or unimproved roads to take you to the great outdoors. In fact many of the surfaces you'll travel will be unpaved, with a sand or gravel base or a surface that rain has turned to muck. These surfaces call for different driving techniques from paved roads.

### Sand

Sand or dirt roads that are dry and dusty are often characterized by "loose" or "soft" shoulders and curves, while the crown of the road may be rock hard. Ideally you should have all four wheels on the solid surface, so drive as high up on the crown as possible while staying on your side of the road. You may want to drive in third gear (or in second range if you have automatic transmission) and you should proceed slowly and cautiously, avoiding abrupt steering changes. Also, be alert for rutted or choppy road surfaces, especially the kind of surface that might cause your vehicle's wheels to leave the ground. As a general rule, on pavement or off, keep your vehicle in a situation where at least three wheels are on the surface at all times.

### Mud

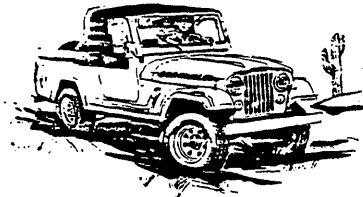
Driving in mud is similar to driving in snow. When a hard-packed dirt road is wet from rain there's a slick film of mud on the top that can cause loss of traction even in 4WD mode. Keep a very light foot on the accelerator and a fingertip touch on the steering wheel. Ride high up on the crown of the road and stay away from sudden maneuvers that could cause you to slide toward the shoulders where the mud may be several inches deeper. If your vehicle begins to slide, take your foot off the accelerator and steer in the direction of the slide until control is regained.

In hub-deep mud, as in heavy snow, the objective is to maintain your momentum. Use your lowest transmission gear or range and keep a steady foot on the accelerator pedal and a firm hand on the wheel to maintain your direction. Above all, don't stop. Drive at a steady speed even with the wheels spinning. Of course, mud or snow tires would give extra bite.

### Gravel

Your vehicle will perform very well in 4WD mode on graded gravel surfaces. Maintain a moderate, steady speed and firm control of the steering wheel, avoiding sudden maneuvers that could cause the vehicle to slide. Stay on the crown of the road as much as possible, because gravel at the edge may be looser and the footing less stable. If your vehicle does start to slide, take your foot off the accelerator and steer in the direction of the slide until you regain control. Allow yourself enough distance to stop, using a combination of light brake tapping and engine compression.

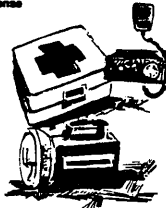
In loose gravel, as in deep snow or mud, you should maintain your momentum. Use your lowest transfer case mode and keep a steady foot on the accelerator, and a good grip on the wheel for directional stability.



### General Recommendations For Off-Road Driving

Before you head for the back country there are some general things you should do or check:

- 0 Remind yourself when to use 4WD mode
- 0 Use safety restraint system
- 0 Check fuel, oil and fluid levels
- 0 Cargo and gear fastened down
- 0 Travel in pairs
- 0 Let someone know your plans and schedule
- 0 Secure necessary permission to travel on public or private land
- 0 Stay on existing trails wherever possible
- 0 Respect the environment and leave it as you found it
- 0 Be alert and use common sense
- 0 Supplies check list:
  - Warm (cold) weather gear
  - Rain gear
  - Blankets (sleeping bag)
  - Food and water
  - First aid kit
  - Walking shoes
  - Flashlight
  - Maps & charts of area
  - Tow strap or chain
  - Wheel blocks
  - Booster cables
  - Tire chains
  - Spare vehicle keys
  - Two way CB radio
  - Spare fan belts
  - Spare tire (more than one for extended trips)
  - Fire extinguisher
  - Mechanic's tools
  - Hatchet (axe)
  - Utility knife
  - Ice scraper or brush
  - Portable air compressor
  - Electrical tape
  - Vehicle repair manual
  - Waterproof watches
  - Approved gas can
  - Sphygm hose



### Driving Off-Road On Steep Inclines And Sidehills

Before reviewing how to drive up steep hills and along sidehills, make note of an important point. If you don't make it to the top, or your vehicle is about to slide or roll sideways, stop, turn off the engine, put it into first gear, put on the parking brake and get out and walk down. An ounce of prevention is worth a pound of cure.

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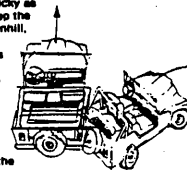
### Steep Inclines

When preparing to climb a steep incline, first try to find out what you're up against. What's on top? Walk the course to make sure you know. And if you don't think you can make it, don't try it!

Also, it's always a good idea to make at least one exploratory run before the final attempt. This lets you feel out the surface and assess how much effort is going to be required to go over the top. (Low range and first or second gear.) When the tires begin to spin, apply a little extra gas and let them dig in slightly. Then you can clamp on the brakes and hang there in the dug-outs while you shift into reverse and drive back down. That's right—in reverse gear, clutch out and driving. Absolutely not in neutral and trying to let yourself down on the brakes. And to avoid sideroil remember never turn your vehicle sideways on a hill or steep incline.

On your attempt, give yourself a running start. Accelerate to the hill and then, just as you approach the top, ease off the gas. You do this for two reasons. First, it's never a good idea to crest a hill at full power. The second is that, very often, this lets your bouncing, scrambling vehicle settle down to good old over-the-hump traction that's needed. So, accelerate, scramble and then ease off!

Getting down can be as tricky as going up. Maybe trickier. Keep the vehicle heading straight downhill, in gear (low range/first gear) and under control. If it begins to slide, as it will on a steep enough grade, touch the gas to regain steering control, then let off the gas. Don't lock up the brakes. You can't steer a skidding wheel. Touch the gas instead. It'll straighten you out. Locking the brakes can only get you into trouble.



### Sidehills

Traveling across the side of a hill is extremely hazardous. It should not be attempted. If it is absolutely necessary on a hill which is not very steep it should always be done with extreme caution. Whenever possible, avoid doing it! And too, when you're getting out of your vehicle on a sidehill, be sure to exit on the uphill side.

Surfaces on sidehills are deceptive. You may have been running along a ridge that seemed perfectly solid but once you got onto the sidehill it wanted to slip out from under you. The problem comes from the fact that when you're driving across a side slope the vehicle's weight is transferred to the lower side. Instead of having the weight distributed to four tires, it's almost all on two. This makes the vehicle want to slide down the hill sideways.

When it starts to slide, there's only one thing you can do, and you have to do this instantly, of course: turn downhill! This helps transfer the weight to both front wheels and stop the slipping—and it could save you from rolling over.

Once you're angling downhill, take care not to lock up the wheels and start sliding out of control.



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### Driving Off-Road On Rock And Sand

Before discussing driving on rocks or sand, one caution is necessary. After you've driven in rocky or sandy situations, your brakes should be inspected for any residue in the lining. Heavy-duty maintenance is suggested as the lining wears out quickly if not cleaned after such uses.

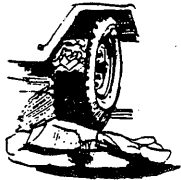
#### Rock

The basic technique for driving in rock consists of four letters: S-L-O-W. Low range. Crawl up. Creep down. And even that is sometimes too fast!

If you have automatic transmission, then use your brake to ease yourself down off that rock you so deliberately climbed up. With a manual transmission, let it walk down the rock against engine compression. You'll kill the engine occasionally, but that's the way to do it.

If you have a choice between driving a wheel over a large rock or letting the rock go under the vehicle, always put the wheel on it. Squeeze on it. Then you know where the rock is and that isn't going to high-center you or damage your vehicle undercarriage.

If you do get high-centered (thung up on an object that lifts one or more wheels from firm contact with the ground and keeps you from going on), the first thing to try is to back off. If this doesn't help, then you have to get serious about solving the problem. This means jacking up the wheel that isn't getting a grip. Under this wheel you stuff rocks, dirt, wood, brush, whatever. You do this until, in effect, the road has been built up to the point that you can drive off the offending object. Then move the vehicle—SLOWLY—after removing the jack.



#### Sand

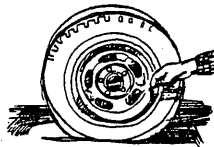
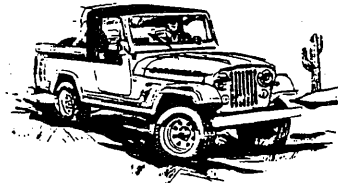
The technique for driving in sand involves two or three principles, the most important of which is stay on top of it. You can do this by driving with enough speed to maintain momentum, by having big tires, or by greatly reducing the pressure in your normal-size tires. Remember - if you do reduce tire pressure and drive on deflated tires you risk premature wear on the tread. Also make sure that whatever tires you use are approved by the vehicle manufacturer.

If you have a short patch of soft sand to be crossed, you can usually rush it and make it across. Study the situation, decide where you're going to go, then back up, take a little run at it and move through at a steady pace, not stopping, not making abrupt changes of direction, and not hesitating on the way.

If you're into serious sand - a sand wash you're going to travel, or dry loose sand at the beach, or some big dune - and don't have oversize tires, there's a likelihood you're going to need to let air out of your tires. The reason for this is that a soft tire is better able to conform to whatever surface it encounters than is a hard tire. So a soft tire will develop grab-on and provide go-ahead traction where a hard tire won't.

The tire should be less than 10 psi. So soft you can see a definite bulge in the sidewall where it's in contact with the surface. With flabby tires you can travel sand with relative ease. (Don't forget to reinflate when back on hard land! Just a few miles on pavement could cause substantial damage to your tires.)

If driving on an ocean beach be sure to thoroughly wash under carriage to prevent corrosion.



## Driving Off-Road In Mud And Rain

### Mud

The problems encountered in mud are somewhat similar to those of driving in snow in that there's both a reduction in traction and an increase in resistance to forward motion.

A contributing problem is that mud comes in a wide variety of consistencies that range all the way from light, grassy clay to a thick, liquid bog. All of them require slightly different driving techniques.

In general, though, what they require is well-controlled go-ahead power. In most instances this means low range and either first or second gear depending on the mud's particular characteristics.

So when you come to a muddy stretch, get into the lower gear and keep in mind that you don't want to lose headway. Once you're committed to the bog, don't stop, don't hesitate, don't change your mind halfway through. Churn, churn and keep churning until you're on firm footing again.

At the other extreme is a slick film of clay. Here you use some of the same techniques as driving on ice. Especially staying on or near the crown of the road.



### Rain

Ordinary rain creates no conditions that require special techniques from the driver of a 4-wheeler. Except extra caution, of course. Unusually heavy rain can lead to conditions where special driving techniques may be needed, however.

Floodwaters always demand extreme caution. Driving into unknown water is like walking around blindfolded. That drop-off may only be an inch or two. Or it may be a precipice.

When it is necessary to drive through deep water, get into low range and maintain a steady, slow-ahead pace. Be very careful about stooping broadside in a stream of running water. Running water exerts immense force against anything as flat-sided as an automobile and this could result in the vehicle being swept downstream with the current.

Even when only a few inches of water are running, don't stop if you're on an unpaved surface. Moving water may wash the footing out from under your tires and make it impossible for you to get underway again. (The same principles apply if you're driving along the beach and get caught by a wave.) Don't stop. Keep moving. Head for the higher ground.

You probably already know about riding wet brakes to help them dry out but have you considered the effect that sand and silt can have on brakes, wheel bearings and the like after running through muddy water? It's always wise to give them a thorough inspection after exposure to such conditions.



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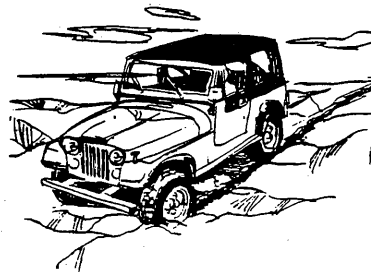
## Driving Off-Road On Snow

Snow can be troublesome in different ways. When it's either hard-packed or soft-melting it can be slick. This creates a traction problem. At other times, it can get so deep it piles up in front of the tires and resists their progress. This gives you a problem in maintaining headway.

When the snow is slick, drive it like any other slick condition. That is, a light touch on the steering wheel, make gradual changes in throttle opening to avoid breaking traction and don't do anything sudden. Don't let a slide start. And if it does, catch it.

But let's say it's nice dry snow. But deep. Then what do you do? If it's deep enough to provide more than minor resistance, put the vehicle in a lower gear. Low range is even better. Then shove your way through and try to hit a happy medium between spinning your tires and keeping headway not to bog down. A nice, even, steady pace is always best.

If you have to break trail in deep snow and are going to use chains, it's not a bad idea to put them on the front wheels. At the low speed you'll be moving, the chains will help the steering as well as the go-ahead traction. But in normal circumstances, never put chains on the front unless you also have them for the rear. If you have to brake hard with chains only on the front, the rear wheels will lock and slide, making the rear end want to come around.



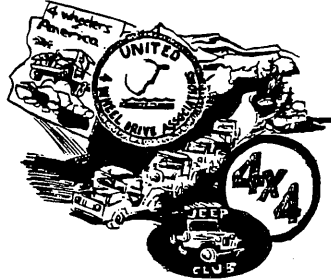
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## 4-Wheel-Drive Clubs And Activities

### What They Can Do For You

With the high interest in off-roading many recreational opportunities have opened up. Across America, more than 1,500 4-wheel-drive clubs have been formed. Their role: To make 4-wheeling more than just transportation, to make it an enjoyable, exciting family pastime. Clubs can be organized for many reasons, depending upon the common interests of the people involved. Some like the challenge of competitive events. Others become dedicated to the specially organized search-and-rescue units. And still others take great pride and pleasure in projects which further the cause of conservation. Whatever your reason, being a member of a 4-wheel-drive club can be an enjoyable, rewarding and productive experience.

All you need to start a club are some enthusiastic 4-wheelers, a name for your club and a club philosophy to be shared by the members. Then once you've organized and elected officers, you'll find a great variety of events and activities in which to take part: 4-wheel-drive trail drives, rallies, safety clinics, obstacle course events, women's events, ecology and clean-up drives are all popular club activities. In addition, affiliation with one of the regional member associations of United Four Wheel Drive Associations offers the advantage of learning about regulations, legislation, safety and 4-wheel-drive events as well as other club activities which might affect clubs. For more information write: Jeep Corporation, 37200 Amman Road, Livonia, Michigan 48150, ATTN: 4WD Club Information.

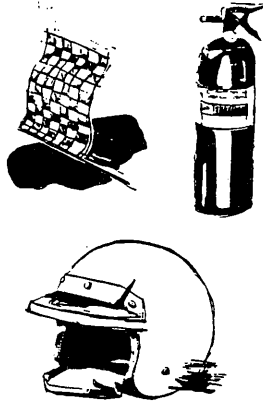


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## Special Off-Road Uses: Rallies And Racing

If you want to participate in competition events in your 4-wheel-drive vehicle, you have a wide choice. You can find ones that range all the way from informal family tours or club sponsored hill climbs to all-out off-pavement races in Baja, California or full-scale international rally type events like the infamous "London-to-Sydney Rally".

Safety is a prime concern for all events. The extent of safety equipment preparation will depend on the activity in which you participate. Even the most casual club event will require seat belts, a roll bar and a crash helmet. In competition, most race organizations insist on a fully braced and gusseted rollcage along with such things as competition seat harness, fire extinguisher, flame-resistant driving suit, fuel cells and so on. Double shocks, reinforced frame, beefed-up suspension, highly modified engine and drive train and even lightweight body parts are really helpful, too.

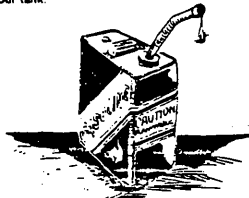


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### Tips On Saving Fuel

More than ever before, fuel economy is the password to the 80's. How do you get it without sacrificing the freedom and enjoyment you got your 4-wheel-drive vehicle for? Here are some helpful fuel tips.

- Plan ahead. That means, know where you're going and how to get there before you leave. Naturally you'll want to leave home with a full tank as well as make sure you fill up on your return. Some private camping areas have even installed their own fuel storage tanks and will guarantee a tank of gas when you stay overnight.
- Drive with the windows closed whenever you can. Open windows add substantially to wind drag. And the more wind drag, the more gas used. In fact, at highway speeds mileage can be lowered up to 10 per cent when the windows are open.
- Slow down. Speed kills any hopes of gas efficiency. The best idea is to keep your top speed under 55 mph. After you find a steady speed, maintain it. Changing speed by as little as 4 mph can increase fuel consumption by over 1 mile per gallon. Remember, don't brake unnecessarily.
- If you're going to idle longer than 80 seconds, you save gas by turning the engine off. An idling engine wastes about a quart of gas every 15 minutes. And don't warm up the engine by idling. It warms up faster by driving.
- "Jack Rabbit" starts are disastrous on gas mileage. Accelerate slowly. Transportation tests have proved that jumpy starts and fast getaways can burn over 50% more gasoline than normal acceleration.
- Keep your eye on the road. Ease up on the pedal if you see a traffic jam ahead. It can take up to 20% more gas to get to normal speed from a full stop than it does from 4 mph.
- Maintain your Jeep vehicle. Keep the engine properly tuned. Use the proper multi-weight motor oil, preferably a synthetic. Make sure your air filter's clean. Add 4 or 5 psi to the correct tire pressure. In other words, do what you have to, to put your vehicle in top condition. Then keep it that way. You could stretch gas mileage by 15%.
- Don't overload. Recall the unnecessary gear you had with you on your last trip!
- Avoid filling your tank to the brim, because gas expands in the sun. Buy your gas in the morning when you start driving. This way when the sun gets to it, it'll have room to expand in your tank.



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### A Postscript To 4-Wheelers

The key to your 4-wheel-drive vehicle unlocks a whole new world. Yours to enjoy and make the most of. You are now armed with many of the facts and lots of information to make your off-road journeys successful ones. We will leave you with some last-minute hints and words to the wise!

- Leave every place you've been as beautiful and serene as you found it.
- Be prepared for emergencies! Always carry a first aid kit, extra food and water, a compass, a "Confidence Kit" made up of tools, tire irons, jacks, CB Radio, etc. You won't regret it.
- If you've gone too far off-road and are just plain lost, stay calm. Use your compass, try to orient yourself and conserve some gas. You'll need it to get out.
- Use your common sense. It generally works when all else fails.
- Travel in groups, no less than two vehicles per group.
- Secure permission to travel on trails, or make sure you're driving on approved 4-wheel-drive terrain.
- Take care of your vehicle...it will take care of you.

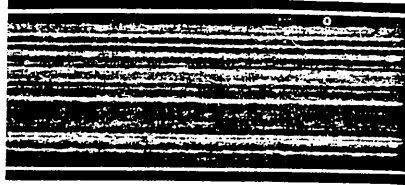


- Wear Seat Belts At All Times.

**And Lastly, Welcome To The Exciting World Of 4-Wheeling!**

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**Wear Seat Belts  
At All Times.**



A Subsidiary Of American Motors Corporation  
Jeep Sales Promotion & Merchandising  
27777 Franklin Road, Southfield, MI, 48034

Part # 575 2330  
LITHO USA

First Printing  
8/81

Complaint

100 F.T.C.

IN THE MATTER OF

THE TIMES MIRROR COMPANY, INC.

DISMISSAL ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9103. Complaint, July 27, 1977—Dismissal Order, July 8, 1982*

This order returns the matter to adjudication and dismisses the complaint charging a Los Angeles, Calif. publisher with adversely affecting competition by the use of a discriminatory rate structure for run-of-the-paper and suburban display advertising. Having considered the views of the parties and the comments received from the public, the Commission concluded that the public interest would best be served by rejecting the consent agreement and dismissing the complaint.

*Appearances*

For the Commission: *Carleton C. Eastlake, Jon R. Calhoun and Caprice L. Collins.*

For the respondent: *Julian O. von Kalinowski, John J. Hanson, J. Edd Stepp, Jr., Joseph A. Collins and R.C. Lobdell, Gibson, Dunn & Crutcher, Los Angeles, Calif.*

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C. 41, *et seq.*) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the party listed in the caption hereof and more particularly described and referred to hereinafter as respondent, has violated the provisions of Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45) and Section 2(a) of the Clayton Act, as amended, (15 U.S.C. 13) and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Times-Mirror Company, Inc. is a corporation organized on or about October 6, 1884, and is existing and doing business under and by virtue of the laws of the State of California. Respondent maintains its home office and principal place of business at Times-Mirror Square, Los Angeles, California.

PAR. 2. Respondent is the largest publicly-held publishing company in the United States. Its newspaper publishing revenues were

approximately 44% of its total revenue in 1976, or about \$426 million.

PAR. 3. Publication of the *Los Angeles Times* newspaper is the largest operation of respondent Times-Mirror Company. The *Los Angeles Times* enjoys an average daily circulation in excess of one million copies, and has the largest weekday circulation among the nation's standard-size newspapers. The *Los Angeles Times* has for many years led all newspapers in the nation in advertising volume. Its total advertising revenues for 1976 were approximately \$276 million, with retail display advertising approximately one-half of total advertising revenues.

PAR. 4. In connection with its newspaper publishing operations, from its home and branch offices, respondent solicits, offers to sell and sells advertising linage in the *Los Angeles Times* to purchasers located in the various States of the United States. In the course of such operations it frequently sends and receives contracts, rate cards, advertising materials, billings and payments across state lines.

The acts and practices herein described in connection with the promoting, offering for sale and sale of newspaper advertising linage to retail merchandisers are "in or affecting commerce" as the term "commerce" is defined by the Federal Trade Commission Act, as amended, and "in commerce," as defined in the amended Clayton Act.

PAR. 5. The *Los Angeles Times* is distributed and sold primarily in Los Angeles County, Orange County, Riverside County, San Bernardino County, San Diego County, San Luis Obispo County, Santa Barbara County, Tulane County, and Ventura County in California; with some additional distribution in numerous other states and the District of Columbia. For example, the *Los Angeles Times* has a significant and substantial distribution in the State of Arizona and in Clark County, Nevada.

PAR. 6. In the course and conduct of its business, respondent has been and is now offering to sell and sells advertising linage to various purchasers, including, among others, persons, firms and corporations engaged in the manufacture, distribution, offering for sale or sale of merchandise at retail. A substantial number of the retailer purchasers of respondent's advertisers have retail outlets in other states as well as California. The advertising linage purchased is used for the purpose of offering for sale or promotion of products, labels and materials.

PAR. 7. Retail merchandisers who purchase advertising linage in the *Los Angeles Times* have also promoted merchandise to customers

in adjoining states, who travel into California to purchase products or purchase them by mail order. Marketers of merchandise offered for sale and sold at retail, who purchase advertising linage in the *Los Angeles Times*, also promote sales in some out-of-state locations thereby.

PAR. 8. In the course and conduct of its business, respondent has been and is now discriminating in price, directly or indirectly, between different purchasers of its advertising linage of like grade and quality, by selling said commodities at higher prices to some purchasers than it sells to other purchasers, many of whom have been and now are in competition with the purchasers paying the higher prices. More specifically, respondent offers for sale and sells advertising linage to persons, firms or corporations engaged in the offering for sale, sale and distribution of merchandise at retail, including, but not limited to, apparel and accessories, appliances, and furniture. Such sales are made on the basis of a rate structure that results in higher advertising rates to some competing purchasers than to others.

The aforesaid rate structure provides for a cumulative volume discount on an annual basis according to the number of lines that an advertiser or prospective advertiser may purchase or agree to purchase. Advertisers or prospective advertisers who agree to purchase a specific number of lines may take advantage of yearly bulk contract rates, whereas advertisers or prospective advertisers who cannot and do not contract for a specified number of column lines pay at the "open rate" price level. The price per line purchased decreases as the linage purchased increases. The differences in rates per line are substantial.

PAR. 9. Respondent's use of a cumulative volume discount advertising rate structure results in a substantial and systematic discrimination in the price of advertising linage sold to various customers, in that larger volume advertisers receive more favorable rates than smaller volume advertisers.

#### COUNT I

Alleging violation of Section 5 of the Federal Trade Commission Act, as amended.

PAR. 10. The allegations of Paragraphs One through Nine are incorporated by reference herein as if fully set forth verbatim.

PAR. 11. Respondent's advertising rate structure, and the discrimination in the price of advertising between and among various purchasers of advertising linage, adversely affect competition be-

tween those paying higher and those paying lower advertising rates, and constitute unreasonable restraints of trade and unfair methods of competition in or affecting commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act, as amended.

## COUNT II

Alleging violation of Section 2(a) of the Clayton Act, as amended.

PAR. 12. The allegations of Paragraphs One through Nine are incorporated by reference herein as if fully set forth verbatim.

PAR. 13. The effect of respondent's discrimination in prices may be substantially to lessen competition or tend to create a monopoly in the lines of commerce in which its favored purchasers are engaged, or to injure, destroy or prevent competition between the favored and non-favored purchasers, and constitute violations of the provisions of subsection (a) of Section 2 of the Clayton Act, as amended.

## STATEMENT OF THE COMMISSION

By BAILEY, *Commissioner*

The Commission brought this case in 1977 out of a concern that the *Los Angeles Times*' discriminatory rate structure for run-of-the-paper and suburban display advertising adversely affected competition by disadvantaging smaller advertisers. In November 1980 the *Los Angeles Times* entered into a negotiated agreement and jointly with FTC staff proposed a consent order for the Commission's consideration.

On September 25, 1981, the Commission, Commissioner Clanton dissenting, provisionally accepted the consent order. At that time, however, the Commission expressed concern about whether the order would work as intended, and whether it was practical or feasible to apply similar orders to newspapers in other markets. The Commission believed it had insufficient data against which to test its concerns and so sought public comment on the order for ninety days.

The comment period produced a broad sampling of opinion: 65 newspapers and broadcasters, 13 media trade associations, 10 retailers, 7 trade associations and four individuals responded. Of the 99 comments received, 98 urged the Commission to reject the consent order.

These comments caused reexamination of two important assumptions which formed the basis of the Commission's original decision to bring the case and on which the proposed consent was based. The

first assumption was that smaller advertisers were injured competitively by the *Los Angeles Times*' cumulative volume discount rate structure. However, all but one of the retailers and retail trade associations which responded opposed the consent agreement and indicated no concern about competitive injury. Their position was reinforced by academics knowledgeable in the field of mass media economics, who concluded that the benefits of the proposed order were fairly speculative, and that the order might well raise prices to all advertisers. Thus, the Commission has concluded that the benefits to competition from accepting this order are much more uncertain than was originally believed.

The comments also highlighted the issue of whether the principles of this order could or should be extended beyond the *Los Angeles Times*. It now appears that to do so within the newspaper industry would be unwise, as the type of uniform pricing required by the order could impair the pricing flexibility of secondary size papers. Were the principles of the order to be extended to other advertising media, the uncertainties as to the trade-offs between vigorous pricing flexibility and the benefits of eliminating price discrimination increase. In particular, making cross-media comparisons for the purpose of assessing a valid meeting competition defense is likely to be impossible. Clearly, however, it was never the Commission's intention, and would be inappropriate now, to leave the *Los Angeles Times* as the only seller of advertising space subject to Robinson-Patman Act principles.

In conclusion, the Commission notes that the process of decision-making in this matter worked precisely as the Commission's Rules contemplate. The scope and depth of public comment contributed greatly to the Commission's ability to reach an informed decision.

#### SEPARATE STATEMENT OF CHAIRMAN MILLER

In concurring with the Commission's decision today, I am heartened to find that the extensive administrative exercise required to analyze this consent proposal has reached the same conclusion that my analysis of the likely economic consequences, as well as my reading of the law, would have suggested in the first instance.

First, economic analysis and overwhelming public comment have demonstrated persuasively that an order applying Robinson-Patman rules to newspaper advertising could injure competition in this industry.

Second, and more importantly, it seems quite clear that the intent

of Congress was to leave advertising rates outside the reach of the Robinson-Patman Act.<sup>1</sup> While I do not dispute our role of filling inadvertent gaps in antitrust law with enforcement of the FTC Act, that role should stop short of creating law in defiance of Congress.

SEPARATE STATEMENT OF COMMISSIONER CLANTON

I concur with the Commission's decision to dismiss the complaint in this matter not only for the reasons set out in the Commission's statement but for an additional reason that I expressed earlier when I voted not to accept provisionally the negotiated consent agreement. My decision to dismiss this complaint stems from my concerns about extending the coverage of Section 5 of the FTC Act to encompass commercial circumstances on which we reserved judgment in *Reuben H. Donnelley Corp.*, 95 F.T.C. 1 (1980), *rev'd sub nom. Official Airline Guides, Inc. v. FTC*, 630 F.2d 920 (2d Cir. 1980), *cert. denied*, 101 S.Ct. 1362 (1981).

The Commission's opinion in *Donnelley* did not distinguish between an absolute refusal to deal and dealing on discriminatory terms. While we did not foreclose the possibility of reaching price discrimination under Section 5, we emphasized the difficulties of extending a duty to deal into the area of secondary-line discrimination, which is at issue in *Times-Mirror*. In *Donnelley*, we signaled a cautionary note for any future applications of such a duty to deal where the inevitable result would be to involve the Commission in regulatory-style monitoring of the reasonableness of pricing or other on-going activities. 95 F.T.C. at 81. Furthermore, in defining "arbitrary" conduct in *Donnelley*, we indicated that our concern should be limited to "conduct which results in a substantial injury to competition and lacks substantial business justification." *Id.* at 82. I was persuaded earlier and remain persuaded that this matter would not be likely to meet the *Donnelley* standards for liability. At the least, I am persuaded that this possibility is insufficient to justify acceptance of the order, especially in light of the other significant uncertainties associated with the case.

SEPARATE STATEMENT OF COMMISSIONER PERTSCHUK

I have voted to reject the tentatively accepted order against Times-Mirror for two reasons.

First, the benefits to competition from accepting this order are much more uncertain than we had believed. The comments, by

<sup>1</sup> In Senate floor debates, Senator Logan flatly replied, "No," when asked if the Act would require newspapers selling advertising to observe its price discrimination provisions. 80 Cong. Rec. 3115.

newspapers, retailers and academics alike, overwhelmingly support the view that the competitive strength of newspapers themselves require more pricing flexibility than the order allows and that smaller retailers may not be significantly helped by it.

Second, it is clear that, if we were to prohibit newspapers from giving discounts to large advertisers which are not cost-justified, we should apply the same principle to other advertising media which compete with newspapers, including network and cable television. I do not see a realistic possibility that this Commission in the foreseeable future will apply Robinson-Patman principles in this way, and I do not believe it is appropriate to single out Times-Mirror as the only company to be subjected to such standards.

Consequently, I join the Commission in rejecting this particular order. It is important to state, however, that this decision by the Commission does not represent any repudiation of Robinson-Patman principles, only a decision that it would be inappropriate to apply them in this case.<sup>1</sup>

Finally, I note that Times-Mirror, to its credit, argued its position thoroughly and carefully on the merits and through public comment. It did not, as has increasingly become the custom, solicit members of Congress to pressure the Commission, after having heard an incomplete and biased presentation of the disputed issues.

FINAL ORDER RETURNING MATTER TO ADJUDICATION AND  
DISMISSING COMPLAINT

On November 7, 1980, this matter was withdrawn from adjudication for consideration by the Commission of a proposed consent agreement. The Commission accepted the proposed consent and placed it on the public record on September 25, 1981, for comment pursuant to Section 3.25(f) of the Commission's Rules of Practice and Procedure.

Having considered the views of the parties to the consent and the comments received from the public, the Commission has determined that the public interest would best be served by rejecting the consent agreement and dismissing the complaint. Therefore

*It is ordered,* That this matter be returned to adjudication and  
*It is furthered ordered,* That the complaint issued in the matter be,  
and it hereby is, dismissed.

<sup>1</sup> I agree with Chairman Miller's point in his statement that the Commission should not defy the will of Congress. I therefore am hopeful that the Commission will continue to enforce the Robinson-Patman Act in other industries.



IN THE MATTER OF  
LENOX, INCORPORATED

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket 8718. Final Order, April 19, 1968—Modifying Order, July 12, 1982*

This order reopens the proceeding and modifies the Commission's modified order issued on June 24, 1970, 77 F.T.C. 860, by deleting Paragraph 8 from the order, so as to allow Lenox to prevent transshipping of its products by its authorized dealers. The Commission has also included a provision which prevents Lenox from taking disciplinary action against any dealer for transshipment which occurred before the effective date of the order.

DECISION AND ORDER

*Whereas*, a "Request of Lenox, Incorporated for Modification of Final Order" was filed by Respondent on March 15, 1982 pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), and Section 2.51 of the Commission's Rules of Practice, 16 C.F.R. 2.51, wherein Lenox, Incorporated seeks a partial modification of the order that issued on June 24, 1970 by the deletion of Paragraph 8; and

*Whereas*, the matter was thereafter placed on the public record for thirty (30) days pursuant to Section 2.51(c) of the Commission's Rules of Practice, 16 C.F.R. 2.51(c), during which time comments from the public were received; and

*Whereas*, the Commission thereafter considered the Petition presented by Lenox, Incorporated and all of the materials and information submitted as public comments on the petition and has determined that the request makes a satisfactory showing that changed conditions of fact and law and the public interest require that the order be reopened for the purpose of modification.

Accordingly, *it is ordered* that the matter is reopened and that the order is modified by deleting the language of paragraph 8 that reads:

Requiring or inducing, by any means, dealers or prospective dealers to refrain, or to agree to refrain, from reselling respondent's products to any dealers or distributors;

*It is further ordered*, That paragraphs 9 and 10 be renumbered to 8 and 9.

*It is further ordered*, That nothing herein shall be construed to permit respondent to terminate or otherwise discipline any dealer for (1) having resold respondent's products to any dealer or distributor prior to the effective date of this order or (2) for any such resale

that occurs prior to the dealer's receipt of notice that it may be disciplined for such resale.

Commissioner Bailey voted in the negative.

SEPARATE STATEMENT OF COMMISSIONER PERTSCHUK

I wish to make clear why I voted for Lenox's petition to modify the Commission order prohibiting it from engaging in resale price maintenance. The petition persuaded me that the ban on transshipping, which was included in the order originally only as an *ancillary* means of deterrence, was no longer a necessary safeguard against vertical price fixing by Lenox and could safely be dropped from the order. The petition argued that the requested relief was also necessary to maintain a strong Lenox presence and vigorous interbrand competition in the houseware china business, and that it would not cause a rollback of the gains in intrabrand competition that have occurred during the life of the order. In this regard, I found the petition to be much less persuasive. I do not believe it has been established in this reopening proceeding that competition in the china industry will be improved as a result of allowing Lenox to prevent transshipping of its products by its authorized dealers. However, since Lenox has met the statutory standard for modifying orders by showing that the ancillary transshipping provision is no longer appropriate under the circumstances, it is entitled to the relief granted.