

12. Purchasers of respondents' courses will receive from 80 to 220 hours of actual practice on heavy equipment, or any number of hours in excess of the number of hours actually given in the operation of such equipment.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
RICHARDSON-MERRELL, INC.,
FORMERLY VICK CHEMICAL COMPANY

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

Docket 8392. Complaint, May 5, 1961—Decision, Jan. 10, 1962

Consent order requiring the New York City distributor of a drug preparation designated "Vicks Double-Buffered Cold Tablets" to cease representing falsely in advertising in newspapers, magazines, by radio and television, and otherwise, by such statements as "acts in minutes instead of days", "DOES IN 15 MINUTES WHAT NATURE TAKES 7 DAYS TO DO", etc., that said preparation would cure or shorten the duration of a common cold.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Richardson-Merrell, Inc., a corporation, formerly known as Vick Chemical Company, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Richardson-Merrell, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 122 East 42nd Street, in the city of New York, State of New York. Respondent's former corporate name was Vick Chemical Company.

PAR. 2. Respondent is now and has been, for more than one year last past, engaged in the sale and distribution of a preparation containing ingredients which come within the classification of drugs, as the term "drugs" is defined in the Federal Trade Commission Act.

Complaint

60 F.T.C.

The designation used by respondent for said preparation, the formula thereof, and directions for use are as follows:

Designation: Vicks Double-Buffered Cold Tablets.

Formula: Salicylamide 2½ grs.

Phenacetin 2½ grs.

Ephedrine Sulphate ⅛ gr.

Caffeine Alkaloid Anhydrous ¼ gr.

Pyrilamine Maleate 13 mg.

Aluminum Hydroxide Dried Gel ¼ gr.

Sodium Citrate ¼ gr.

Magnesium Hydroxide 1 gr.

Corn Starch 1.166 grs.

Veegum 0.35 gr.

D & C Yellow #5 1 mg.

Magnesium Stearate 2.7 mg.

Directions: Dosage: "Adults, 2 tablets at onset of discomfort, then 1 tablet every 4 hours as needed. Do not exceed 6 tablets every 24 hours. Children, 6 to 12, one tablet every 4 hours, as needed. Do not exceed 3 tablets every 24 hours. . . . Consult your physician . . . for dosage for children under 6."

PAR. 3. Respondent causes the said preparation, when sold, to be transported from its place of business in the State of New York to purchasers thereof located in various other states of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of its said business, respondent has disseminated and caused the dissemination of certain advertisements concerning the said preparation by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers, magazines and other advertising media, and by means of television and radio broadcasts transmitted by television and radio stations located in various states of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across state lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and has disseminated, and caused the dissemination of, advertisements concerning said preparation by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the statements and representations contained in said advertisements, disseminated as hereinabove set forth, are the following:

In newspapers, magazines and other advertising media:

NEW COLD-RELIEF DISCOVERY
DOES IN 15 MINUTES WHAT
NATURE TAKES 7 DAYS TO DO

Not only drains sinuses—but works with nature's own anti-virus factors to help dry up your head cold—bring relief in minutes.

NEW YORK, N.Y. (SPECIAL)

Today, cold-sufferers need never again wait for Nature to relieve miserable head cold symptoms. Now a new tablet discovery does far more than drain sinuses . . . does in 15 minutes what Nature takes 7 days to do—helps turn off that constant sniffing and sneezing. Helps stop running nose. Actually helps you get through the entire day without constantly reaching for messy handkerchiefs!

WORKS IN 15 MINUTES

The secret is a remarkable new virus-cold tablet released by Vicks under the name VICKS DOUBLE-BUFFERED COLD TABLETS. This amazing tablet actually works with Nature's own anti-virus factors. That is, supplements your body's natural defenses with special high-speed medication that acts in minutes instead of days. Sends that medication speeding through your blood to the very source of colds distress—virus inflamed tissues deep behind sinuses.

In radio advertisements:

How long will nature take? When you have a miserable head cold and want to feel better fast, ask yourself—How long will nature take?—to relieve your stuffed-up head, aching sinuses, running nose? Five, six, seven days? Well, now Vicks releases a remarkable new cold tablet. Actually does in 15 minutes what nature takes seven days to do. Vicks double-buffered cold tablets help dry up your head cold so fast you save days of misery. Take Vicks Cold Tablets. Time it yourself. Vicks special, high-speed medication works through your blood.

DOES FAR MORE THAN
DRAIN SINUSES

In minutes, this special medication soothes and comforts those inflamed tissues. Helps you—

1. Stop running nose.
2. Stop sneezing, sniffing.
3. Clear congested sinuses.
4. Breathe in comfort.

Yes, in just 15 minutes VICKS DOUBLE-BUFFERED COLD TABLETS dry up your head cold so effectively they help you get through the entire day without messy handkerchiefs.

RELIEVES HEADACHE
PAIN, FATIGUE

In addition, VICKS DOUBLE-BUFFERED COLD TABLETS contain pain relievers to relieve headaches, ease bodyaches and pains . . . plus energy boosting medication to help fight off colds fatigue and restore your vitality. So, when cold strikes—stop reaching for messy handkerchiefs all day. Get new VICKS DOUBLE-BUFFERED COLD TABLETS.

works with nature's own anti-virus factors. Helps stop running nose, dry up your head cold in just 15 minutes. You'll say Vicks Cold Tablets really work. They do so much more than just drain sinuses. Vicks does in 15 minutes what nature takes seven days to do. Helps save you days of head cold misery. Get Vicks double buffered cold tablets.

PAR. 6. Through the use of said advertisements, and others similar thereto not specifically set out herein, respondent has represented and is now representing, directly or by implication, that said cold tablets will cure or shorten the duration of a common cold.

PAR. 7. The said advertisements were and are misleading in material respects and constituted and now constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact, said cold tablets will not cure or shorten the duration of a common cold.

PAR. 8. The dissemination by the respondent of the false advertisements, as aforesaid, constituted and now constitutes unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Terral A. Jordon, for the Commission.

Rogers, Hoge & Hills, of New York, N.Y., by *Mr. Andrew J. Graham*; and *Mr. Sherwood E. Silliman*, of New York, N.Y., for the respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with misrepresenting the therapeutic effectiveness of one of its drug preparations in violation of the Federal Trade Commission Act. An agreement has now been entered into by respondent and counsel supporting the complaint which provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for

settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Richardson-Merrell, Inc., formerly known as Vick Chemical Company, is a Delaware corporation with its office and principal place of business located at 122 East 42nd Street, New York, N.Y.

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

ORDER

It is ordered, That Richardson-Merrell, Inc., a corporation, formerly known as Vick Chemical Company, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the drug "Vicks Double-Buffered Cold Tablets" or any preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating, or causing to be disseminated by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication, that said drugs will cure a common cold or shorten its duration.

2. Disseminating, or causing to be disseminated, any advertisement, by any means, for the purpose of inducing, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said drugs, which advertisement contains the representations prohibited in paragraph 1 hereof.

Provided, however, that nothing herein contained shall prevent respondent from making appropriate claims and representations respecting such relief of the symptoms of the common cold as may be afforded by said drugs.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, published May 6, 1955, as amended, the initial decision of the hearing

