

Complaint

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IN THE MATTER OF

CAMPBEL COUP COMPANY, ET AL.

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

Docket C-1741. Complaint, May 25, 1970—Decision, May 25, 1970

Consent order requiring a major soup company with headquarters in Camden, N.J., and its New York City advertising agency to cease falsely advertising soup and other food products by the deceptive use of experiments or demonstrations such as a TV commercial in which marbles were placed in a bowl of soup in order to increase the apparent abundance of solid ingredients. The order also denies the request of SOUP, Inc. (Students Opposing Unfair Practices), for further intervention in the case, but grants SOUP's request for a free copy of the transcript of the oral argument heard February 5, 1970.

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 Campbell Soup Company, a corporation, and Batten, Barton, Durstine & Osborn, Inc., a corporation, hereinafter referred to as respondents, have 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 Campbell Soup Company is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 375 Memorial Avenue, in the city of Camden, State of New Jersey.

Respondent Batten, Barton, Durstine & Osborn, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 383 Madison Avenue, in the city of New York, State of New York.

PAR. 2. Respondent Campbell Soup Company is now, and for some time last past has engaged in the sale and distribution of Campbell's canned soups.

Respondent Batten, Barton, Durstine & Osborn, Inc., is now and for some time last past has been, an advertising agency of Campbell Soup Company, and now prepares and places, and for some time

last past has prepared and placed, for publication, advertising material, including but not limited to the advertising referred to herein, to promote the sale of the said canned soup and other products.

PAR. 3. Respondent Campbell Soup Company causes said products, when sold, to be transported from its various places of business located in the State of New Jersey to purchasers thereof located in various other States of the United States and in the District of Columbia. Thus respondent maintains a course of trade in said products 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. Respondents, by means of advertisements which depict and have depicted a bowl or container of Campbell soup, apparently prepared in accordance with the dilution directions on the can, in a "ready-to-eat" situation, demonstrate the quantity or abundance of solid ingredients (garnish) present in a can of Campbell soup.

PAR. 5. In truth and in fact, in many of the aforesaid advertisements, which purport to demonstrate or offer evidence of the quantity or abundance of solid ingredients (garnish) in a can of Campbell soup, respondents have placed, or caused to be placed in the aforesaid bowl or container a number of clear glass marbles which prevent the solid ingredients (garnish) from sinking to the bottom, thereby giving the soup the appearance of containing more solid ingredients (garnish) than it actually contains, which fact is not disclosed.

The aforesaid demonstration exaggerates, misrepresents, and is not evidence of, the quantity or abundance of solid ingredients in a can of Campbell soup; therefore, the aforesaid advertisements are false, misleading and deceptive.

PAR. 6. In the course and conduct of its business as aforesaid, and at all times mentioned herein, respondent Campbell Soup Company has been, and is now, in substantial competition, in commerce, with other corporations in the sale of canned soup of the same general kind and nature as that sold by said respondent.

In the course and conduct of its business as aforesaid, and at all times mentioned herein, respondent Batten, Barton, Durstine & Osborn, Inc., has been, and is now, in substantial competition, in commerce, with corporations, firms and individuals in the advertising business who represent sellers of canned soup.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive advertisements has had, and now has, the tendency

and capacity to mislead members of the purchasing public as to the quantity of solid ingredients (garnish) in a can of Campbell soup and into the purchase of substantial quantities of Campbell soup by reason thereof.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

OPINION OF THE COMMISSION

MAY 25, 1970

BY WEINBERGER, *Commissioner*:

This matter involves a number of advertisements by the Campbell Soup Company which the Commission has challenged as being false, misleading, and deceptive in violation of Section 5 of the Federal Trade Commission Act. The advertisements in question included pictures of a bowl of soup, apparently prepared in accordance with the directions on the can, in a ready-to-eat situation. Solid ingredients appear at the top of the bowl. The Commission charged that this picture did not accurately represent the appearance of a bowl of soup prepared according to the instructions on the can because Campbell had "mocked up" the bowl of soup pictured in the advertisements by placing glass marbles in the bottom of the bowl. It was further charged that these marbles at the bottom of the bowl were designed to force the solid ingredients to the top, thus making visible in the picture that which would not have been visible in a bowl of soup prepared in the home.

When this practice came to the Commission's attention in 1969, it proposed to issue an order prohibiting Campbell from using any such picture or any deceptive test or demonstration in advertising its products and, further, from misrepresenting the ingredients of any of its products in any manner. Respondents consented to the entry of this order. On September 19, 1969, the Commission provisionally accepted the order and, in accordance with FTC Rules § 2.34 (b), directed that it be placed on the public record for thirty days, until October 20, 1969, to permit interested members of the public to file comments concerning it.

On October 20, 1969, SOUP, Inc., filed a petition requesting the Commission to withdraw its provisional acceptance of the consent

order and made a motion to intervene in the proceedings. SOUP also asked an opportunity to present oral argument to the Commission, urging that the consent order as provisionally accepted was inadequate to protect the public interest.

On February 24, 1970, after a hearing had been held on February 5, 1970, on SOUP's motion to intervene, the Commission allowed SOUP until March 20, 1970, to submit further written comments on the adequacy of the proposed consent order. "Intervention" in the proceedings was granted to this extent. The Commission delayed consideration of the consent order until after SOUP's comments were filed. This was done on March 20, 1970.

By petition of that date, SOUP presents us with the following issues for decision. (1) We are asked to withdraw our provisional acceptance of the consent order for the reasons given in SOUP's brief of March 20, 1970, which supersedes the petition of October 20, 1969, on this point. (2) We are asked to reconsider our decision of February 24, 1970, and to grant SOUP a hearing on the issues raised in its March 20, 1970, brief. (3) We are asked to reconsider our decision of February 24, 1970, and to grant SOUP intervention in these proceedings. (4) SOUP requests the Commission to provide it with a free copy of the complete transcript of the February 5, 1970, oral argument.

II

§ 2.34 of the Commission's Rules of Practice provides for the submission of comments by interested persons on consent orders which have been provisionally accepted by the Commission. SOUP has submitted extended comments which have been seriously considered by the Commission.

While the Commission's rules do not explicitly provide for "intervention" in its consent order proceedings—an omission which we have referred to our Advisory Council on Rules of Practice and Procedure—, we feel that the participation permitted SOUP in this case provided it an adequate opportunity to bring its views to the Commission's attention. Had the arguments made in SOUP's brief raised substantial issues of the law or the facts involved in this case, further presentations, perhaps in the form of a hearing, might have been appropriate. *Cf. Office of Communication of the United Church of Christ v. F.C.C.*, 359 F. 2d 994 (D.C. Cir. 1966). But the short of the matter is that there is no disagreement between petitioner and the Commission as to either the facts of this case or the Commission's power to deal with them.

In SOUP's brief of March 20, 1970, there is no suggestion that the Commission has misconceived what Campbell actually did in this case. Our complaint was in agreement with petitioner that Campbell put glass marbles in the bottom of its bowls of soup before photographing them, and that this practice was a deceptive one in violation of Section 5 of the Federal Trade Commission Act.

Nor is there any disagreement between the Commission and petitioner as to the scope of the order which the Commission has the power to issue in this case. Particularly, petitioner argues at length that the Commission has the power to require respondent to make affirmative disclosure in future advertisements of the deceptive practices discovered by the Commission in order to alert the public to these practices. We have no doubt as to the Commission's power to require such affirmative disclosures when such disclosures are reasonably related to the deception found and are required in order to dissipate the effects of that deception. *All-State Industries of North Carolina, Inc., v. F.T.C.*, 423 F. 2d 423 (4 Cir., No. 13,568, decided March 19, 1970); *Portwood v. F.T.C.* 418 F. 2d 419 (10 Cir., No. 9983, decided November 14, 1969). Nor is there any doubt as to the Commission's right and power to alert the public as to the acts and practices which it has challenged as deceptive, as well as to all orders entered with respect to these acts and practices. *F.T.C. v. Cinderella Career Finishing Schools, Inc.*, 404 F. 2d 1308, 1314 (D.C. Cir. 1968). All that is required is that there be a "reasonable relation to the unlawful practices found to exist." *Jacob Siegel Co. v. F.T.C.*, 327 U.S. 608, 613 (1946).

Because there is no dispute as to the facts of this particular case or as to the Commission's powers to remedy them in the way which petitioner suggests, it does not appear to us that any purpose would be served by permitting SOUP to make additional submissions, whether in written or in oral form. It remains only for the Commission to decide, in light of the arguments made by SOUP and other relevant considerations, whether the final acceptance of the provisionally accepted consent order is in the public interest.

III

The petitioner recognizes, as it must that the Commission has wide discretion in determining the scope of its orders. Indeed, the thrust of much of petitioner's brief is to the effect that the Commission should use its discretion to include additional provisions in its order in this case. The Supreme Court has summarized the state of the law in the following passage, cited in petitioner's brief:

It has been repeatedly held that the Commission has wide discretion in determining the type of order that is necessary to cope with the unfair practices found . . . and that Congress has placed the primary responsibility for fashioning orders upon the Commission. *F.T.C. v. Colgate-Palmolive Co.*, 380 U.S. 374, 390 (1965).

The issue before us, then, is simply what provisions we should include in this order so as to protect the public.

SOUP contends that the order provisionally accepted by the Commission is inadequate to protect the public. It argues that in order effectively to protect the public from the deception involved in Campbell's advertisements the order must require Campbell's future soup advertisements to disclose that their prior advertisements of this product had been challenged by the Commission as being deceptive. It is proposed that this disclosure be required to be included in advertisements for the same period of time that the challenged advertisements appeared, and in the same media.

Petitioner raises three principal questions concerning the provisionally accepted order: whether members of the public will be adequately informed of respondent's alleged deception and thus be able to protect themselves from future recurrences; whether it contains sufficient assurances that the alleged violations will not be repeated in the future; and whether the order adequately insures that the effects of the deception alleged here have been adequately dissipated.

These questions are, of course, among those which the Commission must consider in determining whether final acceptance of the proposed order is in the public interest. There are also other questions which we should consider—among them the extent and type of the deception, whether it involves a danger to health or safety of consumers, and, what is particularly important where a proposed order has been agreed to by respondent, whether the matter merits further expenditure of the Commission's limited resources when compared with other matters within our jurisdiction. All these questions, it should be noted, concern the general policy of the Commission in administering the statutes referred to it by the Congress; they are in no way peculiar to this case or to this order.

Considering all of these factors, and giving particular attention to the arguments made in petitioner's brief, the Commission is of the opinion that final acceptance of the proposed consent order is in the public interest. Our reasons follow.

This order is substantially identical in its terms to orders in other "mock-up" cases, orders which have been upheld by the courts. See

F.T.C. v. Colgate-Palmolive Co., 380 U.S. 374 (1965). It would prohibit respondent from advertising any of its food products by presenting pictures or demonstrations which do not accurately represent the products and, further, from misrepresenting the ingredients of any of its products in any manner. A violation of this order will be punished by the imposition of substantial fines pursuant to Section 5(1) of the Federal Trade Commission Act. We think that the order completely describes the practices alleged to exist and will deter respondent from repeating them. The order also covers some practices not actually used by this respondent but which are reasonably related to these practices. We further think that the Commission's press release describing its disposition of this case, while perhaps not as widely disseminated as Campbell's advertisements including the affirmative disclosure proposed by petitioner would be, will give the public adequate notice of the respondent's conduct here. With regard to petitioner's final point about dissipating the effects of the alleged deception, we think that stopping the said deception itself should be our principal objective; further, we are doubtful that to require, perhaps only in 1972 or 1973 or even later, after trial and appeal, a public apology for placing marbles in soup advertisements of 1968, would have the effect petitioner seeks.

These considerations, while important, are not, however, what principally persuade us that final acceptance of the proposed order is in the public interest. It is because we think that the Commission has other important matters to deal with that we do not believe further resources should be devoted to this case. A sensible assessment of our priorities convinces us that the added amount of relief which might theoretically be obtained after years of protracted litigation is not worth the expenditure of resources which could be put to better use elsewhere.

While the alleged deception here is not one which creates dangers to the health and safety of consumers, as do many matters which come before the Commission, and while it does not even involve an affirmative misstatement of fact, it is, of course, a deception—unnecessary and deceitful—designed, as the complaint alleged, to create a false impression of the amount of solid ingredients in Campbell's soup. However, we do have an order, obtained without an interminable trial and series of appeals, which is fully adequate to protect the public; we shall not hesitate to enforce this order if this tawdry practice is revived.

There should now be an end to this matter.

IV

We make, then, the following disposition of the issues presented to us in SOUP's petition. The motions to grant a hearing on the issues raised in SOUP's March 20, 1970 brief, and to allow further intervention in these proceedings, and the motions to reconsider, are denied. The motion to withdraw our provisional acceptance of the proposed consent order is also denied, and the proposed consent order is finally accepted. Our November 12, 1969, order, according petitioner's limited request to proceed *in forma pauperis*, is still in effect, and we hold that petitioner's request for a copy of the transcript of the February 5, 1970, oral argument should be granted.

An order accompanies this opinion.

Commissioners Elman and Jones have filed separate statements.

SEPARATE STATEMENT

MAY 25, 1970

BY ELMAN, *Commissioner*:

On October 20, 1969, SOUP filed a petition for intervention which raised serious and substantial questions—questions of law, fact, policy, and discretion—as to the adequacy of the proposed consent order to remedy the deceptions alleged in the complaint. The order, it was contended, was too narrow in that it was limited to a negative prohibition of future advertisements involving misrepresentations similar to those challenged by the Commission. SOUP urged, with considerable force, that the order should go further and require respondents' future advertising to contain affirmative disclosures designed to overcome and dissipate any residual deceptions of the public resulting from past misrepresentations.

It seemed clear to me in October 1969, as it does now, that the public interest would be best served by prompt adjudication of these issues in an adversary proceeding in which SOUP could participate as a public intervenor. In my view, the proper course for the Commission was, and is, to issue a formal complaint under Part 3 of the Rules of Practice, referring the case for trial before a hearing examiner. Consent decrees and orders undoubtedly serve a useful purpose, saving the time and expense of litigation where no real controversy exists. That cannot be said here, where basic issues relating to the adequacy of the remedy have not been fully canvassed on an evidentiary record and remain unresolved.

There is no doubt of the Commission's general authority, com-

parable to that of a court of equity, to insist upon affirmative disclosures or other actions necessary to remedy unlawful acts and practices found by it. The question for the Commission to consider in each case is whether, in light of the nature, gravity, duration, and effects of the illegal conduct, adequate protection of the public requires such additional provisions in the order.

In determining whether, and to what extent, there is a need in this case for the type of affirmative relief urged by SOUP, the crucial facts—which the Commission does not now have—are those bearing on the residual effects of respondents' alleged misrepresentations. Consumers' buying habits can be influenced by many factors, including the impressions left by past advertising claims long discontinued. Although a deceptive advertising campaign may have run its course, its adverse effects on the public, and on honest competitors, may continue unabated, thus creating the need for a remedy beyond a simple order to cease and desist.

SOUP's claim that there is such a need here seems to me to call for a factual inquiry—which the Commission has not made—into the effects of respondents' advertisements. As I see it, the need for an affirmative remedy to dissipate the effects of the alleged deceptions cannot be dismissed on the basis of conjecture or unverified assumptions. It may well be that, after evidence is taken and findings made on a record, the Commission would still conclude that a merely negative prohibitory order is all that the public interest requires. But I am not prepared to make that judgment now, in the absence of facts showing the extent, if any, of the residual harm to the public which would remain after discontinuance of the challenged advertisements.

As all agree, the questions raised by SOUP have a broad significance in the general area of the Commission's consumer protection responsibilities which is not confined to this case. Issues of such large importance to the public should not be "settled" on the basis of respondents' acceptance of a consent order whose adequacy has been seriously challenged by responsible representatives of the public interest.

Regrettably, the disposition of this case has been unduly delayed by the peripheral and pointless controversy over SOUP's standing to intervene—which seems to me too clear for argument. The kind of "intervention" which SOUP has been permitted thus far is indicated by the quotation marks which the Commission puts around the word. The fact is, as the Commission recognizes, that our present Rules makes no provision for intervention in proceedings disposed

of by consent orders. SOUP's petition to intervene has, at least, served a useful purpose in bringing this deficiency to our attention. In any event, it surely is not a valid reason for denying the petition that it cannot easily be fitted into our present procedures.

If the allegations of the complaint are true, we are confronted here with an egregious violation of law by one of America's largest companies. The charge is that, several years after the Supreme Court had specifically outlawed the practice, respondents used a deceptive "mock-up" in advertising their product, a household staple. In dealing with such a case, it is important that the Commission's response be swift and sure. I fear that, in both these respects, the disposition of this matter will be found wanting.

SEPARATE STATEMENT

MAY 25, 1970

BY JONES, *Commissioner*:

John Gardner, speaking of the problems raised by dissenters, said recently that "The solution lies in giving them outlets *within the system*, that is, in providing them constructive paths of action."

Granting members of the public affected by and concerned with Federal Trade Commission actions the *right* of intervention in Federal Trade Commission proceedings would provide one legitimate and traditional channel for members of the public to make proposals, present data or express their viewpoints and ideas to the Commission about Commission actions.

The instant petition for intervention by SOUP raises important issues going to the effectiveness of Commission action. These issues affect the basic viability of the Commission and its potential for effective action. It presents a graphic illustration of the responsibility and high quality of the substantive contribution which members of the public are in a position to make to the work of federal agencies.

The issues posed by the SOUP petition do not involve questions respecting the scope of Commission's remedial powers. They go directly to a key issue respecting the order proposed to be entered here, namely, its adequacy to protect the public. Petitioners argued that the Commission's proposed order was inadequate. They went further and made a concrete proposal respecting a remedial provision which they urged would go a long way to rectify the order's inadequacy.

I cannot agree with the majority's interpretation of petitioners'

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proposal as calling for "a public apology" from the respondent. It is designed for much more serious purposes: to seek to dissipate the effects of the alleged deception involved here. This concept of relief is a traditional one and integral to all antitrust decrees. It surely deserves more thoughtful consideration than labeling it a call for public apology.

Nor can I agree that the adequacy of relief should only be of concern to the Commission when the deception involves the health or safety of members of the public. Congress did not make such a distinction in formulating our statutory mandate and we should not undertake to do so at this late date.

I believe the constructiveness of the proposal and its direct relevance to the substantive performance by the Commission of its statutory duty compels the Commission to hold a hearing on the issue of the order's adequacy, and to grant petitioner the right to intervene and in that hearing to present their arguments and offer evidence. Therefore, I dissent from the Commission's decision which disregards the substantive proposals of the petition and determines instead to enter the order as originally proposed.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The agreement herein, by and between Campbell Soup Company, a corporation, by its duly authorized officer, and Batten, Barton, Durstine & Osborn, Inc., a corporation, by its duly authorized officer, proposed respondents in a proceeding the Federal Trade Commission intends to initiate, and their attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedure. In accordance therewith the parties hereby agree that:

1. Proposed respondent Campbell Soup Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 375 Memorial Avenue, in the city of Camden, State of New Jersey.

Respondent Batten, Barton, Durstine, & Osborn, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 383 Madison Avenue, in the city of New York, State of New York.

2. Proposed respondents have been served with notice of the Commission's determination to issue its complaint charging them with

violation of Section 5 of the Federal Trade Commission Act, and with a copy of the complaint the Commission intended to issue, together with a form of order the Commission believed warranted in the circumstances.

3. Proposed respondents admit all the jurisdictional facts set forth in the copy of the draft of complaint here attached.

4. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of thirty (30) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within thirty (30) days after the acceptance, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the said copy of the draft of complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 234(b) of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The complaint may be used in construing the terms of the order.

8. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance

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reports showing that they have fully complied with the order, and that they may be liable for a civil penalty of up to \$5000 for each violation of the order after it becomes final.

ORDER

I

It is ordered, That respondent Campbell Soup Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of soup or any other food product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Advertising any such product by presenting evidence, including tests, experiments or demonstrations, or the results thereof, or any other evidence that appears, or purports, to be proof of any fact or product feature that is material to inducing the sale of the product, but which is not evidence which actually proves such fact or product feature.

II

It is further ordered, That respondent Campbell Soup Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of soup in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Falsely representing, in any respect material to inducing the sale of any such product, its ingredients or contents.

III

It is ordered, That respondent Batten, Barton, Durstine & Osborn, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of soup, or of any other food product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Advertising any such product by presenting evidence, including tests, experiments or demonstrations, or the results thereof, or any other evidence that appears, or purports, to be proof of any

fact or product feature that is material to inducing the sale of the product, but which is not evidence which actually proves such fact or product feature, unless respondent neither knew nor had reason to know such to be the case.

IV

It is further ordered, That respondent Batten, Barton, Durstine, & Osborne, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of soup in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Falsely representing, in any respect material to inducing the sale of any such product, its ingredients or contents, when respondent knew or had reason to know that such representation was not true.

It is further ordered, That the respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

ORDER

The Commission having considered the petition of SOUP, Inc., filed March 20, 1970, in which SOUP, Inc., moves for withdrawal of provisional acceptance of the consent agreement in this matter, for a hearing on the adequacy of the provisionally accepted consent agreement, for permission to intervene in this matter, and to be furnished at Commission expense with a copy of the transcript of oral argument heard February 5, 1970:

It is ordered, That the motion of SOUP, Inc., to withdraw provisional acceptance of the proposed consent order be, and it hereby is, denied.

It is further ordered, That the attached consent agreement be, and it hereby is, finally accepted, and the order to cease and desist contained therein issue.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the

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Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

It is further ordered, That the motions of SOUP, Inc., for a hearing, for further intervention in this matter, and for reconsideration of our February 24, 1970, decision be, and they hereby are, denied.

It is further ordered, That the motion of SOUP, Inc., for a copy at Commission expense of the transcript of oral argument in this matter heard February 5, 1970, be, and it hereby is, granted.

The opinion of the Commission accompanies this order.

Commissioners Elman and Jones filed separate statements.