

IN THE MATTER OF

THE PROCTER & GAMBLE COMPANY, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1901. Complaint, Apr. 12, 1971—Decision, Apr. 12, 1971*

Consent order requiring a Cincinnati, Ohio, seller and distributor of home laundry preparations containing enzymes to cease misrepresenting that any such product will remove all types of stains, or that any specific ingredient will remove stains, and that for a period of one year disclose on all consumer packages the types of stains which the product can remove and those which it cannot remove, and that such disclosures be made on appropriate radio and television advertising of the product; it is further ordered that respondent's advertising agencies cease misrepresenting that respondent's product will remove all types of stains where such representation is known to be false.

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 the Procter & Gamble Company, a corporation, and Tatham-Laird & Kudner, Inc., a corporation, and Grey Advertising, Inc., a corporation, and Compton Advertising, 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 the Procter & Gamble Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its principal office and place of business located at 301 East Sixth Street, in the city of Cincinnati, State of Ohio.

Respondent Tatham-Laird & Kudner, 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 605 Third Avenue, in the city of New York, State of New York.

Complaint

78 F.T.C.

Respondent Grey Advertising, 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 777 Third Avenue, in the city of New York, State of New York.

Respondent Compton Advertising, 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 625 Madison Avenue, in the city of New York, State of New York.

PAR. 2. Respondent, the Procter & Gamble Company, now, and for some time past, has been engaged in the sale and distribution of home laundry preparations containing enzymes, which, when sold, are shipped to purchasers located in various States of the United States. Thus respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said home laundry preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Respondents, Tatham-Laird & Kudner, Inc., Grey Advertising, Inc., and Compton Advertising, Inc., now, and for some time last past, have been advertising agencies of the Procter & Gamble Company, and now, and for some time last past, have prepared and placed for publication advertising material, including but not limited to the advertising referred to herein, to promote the sale of certain Procter & Gamble home laundry products.

PAR. 3. Respondent, the Procter & Gamble Company, at all times mentioned herein has been, and now is, in substantial competition in commerce with individuals, firms and corporations engaged in the sale and distribution of home laundry preparations of the same general kind and nature as those sold by respondent.

PAR. 4. In the course and conduct of its business and for the purpose of inducing the sale of its said enzyme-containing home laundry products, respondent, the Procter & Gamble Company, employs advertising in national and regional magazines and other publications, on network and local television and through various other outlets.

Typical and illustrative of said advertising and the statements contained therein, but not all inclusive thereof, are the following:

1. GAIN, with Micro-Enzyme Action . . . Stains are locked into fabric fibers. But GAIN's enzyme act like little keys to unlock stains.
2. BIZ is Procter & Gamble's totally new invention for pre-soaking laundry. America's first biological weapon for soaking dirt and

stains into submission. BIZ with Bio-Enzim breaks them down biologically so you can easily wash them away.

3. TIDE XK . . . with stain-removing XK Enzyme! It's a miracle!

PAR. 5. Through the use of the aforesaid advertising respondents represent directly or by implication, that the enzyme(s) in respondent Procter & Gamble's home laundry products is the active ingredient in such products responsible for the removal of all types of stains from stained fabrics.

PAR. 6. In truth and in fact such home laundry products with enzyme(s) do not remove all types of stains from fabrics and many of the stains that such products do remove are removed by ingredients other than the enzyme(s), such as the detergent itself or by a bleach ingredient.

Therefore, the aforementioned advertising and representations made in connection therewith are unfair, false, misleading and deceptive.

PAR. 7. The use by the respondents of the aforesaid false, misleading and deceptive advertising and representations used in connection therewith has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said advertising and representations were and are true, and into the purchase of a substantial quantity of respondent Procter & Gamble's enzyme-containing home laundry products because of such erroneous and mistaken belief. As a result thereof, substantial trade has been and is being unfairly diverted to respondent the Procter & Gamble Company from its competitors and substantial injury has been done and is being done to competition in commerce.

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 respondent Procter & Gamble's competitors, and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereon, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer

Protection 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 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 thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission thereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent the Procter & Gamble Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its principal office and place of business located at 300 East Sixth Street, Cincinnati, Ohio.

Tatham-Laird & Kudner, 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 605 Third Avenue, New York, New York.

Grey Advertising, 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 777 Third Avenue, New York, New York.

Compton Advertising 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 625 Madison Avenue, New York, New York.

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

I

It is ordered, That respondent the Procter & Gamble 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 and distribution of any home laundry products containing enzymes, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any such product will remove all types of stains. "Stains" as used herein means spots or local discolorations caused by other than dirt or body soil.

2. Representing, directly or by implication, that any specific ingredient in any such product removes any stain if such stain can reasonably be expected to be removed satisfactorily under normal washing procedures by such product without such ingredient.

3. Representing, directly or by implication, in advertising, that any such product has the ability to remove stains unless:

- (A) For a period of not more than six (6) months subsequent to the date this order becomes effective and until such time that respondent complies with the provisions of Paragraph (B) below, respondent clearly and conspicuously discloses in each such radio, television and printed advertisement that such product will not remove all types of stains; and

- (B) Beginning at a date not later than six (6) months after this order becomes effective and for a period of one year thereafter:

- (a) Respondent clearly and conspicuously discloses on all consumer packages of such product which it sells (1) the types of stains which the product can reasonably be expected to remove satisfactorily, (2) the recommended procedure for obtaining such removal, and (3) the types of stains likely to be found in fabrics subject to home laundry cleaning, which the product cannot reasonably be expected to remove satisfactorily, and

Decision and Order

78 F.T.C.

(b) Respondent clearly and conspicuously discloses in each such radio, television and printed advertisement that the types of stains the product will not remove appear on the product's package.

4. The required disclosures, as set forth above, need appear only once in the audio and once in the video of every commercial specified in Paragraph 3 of the order. The audio and visual portions of such disclosure, where applicable, shall be in reasonable concurrence with each other and the visual portion of the disclosure required by Paragraph 3(B)(b) of the order may consist either (1) of a showing of the package disclosure simultaneously with the audio disclosure or (2) of a superimposed statement.

II

It is ordered, That respondents Tatham-Laird & Kudner, Inc., a corporation; Grey Advertising, Inc., a corporation; and Compton Advertising, Inc., a corporation, their officers, representatives, agents and employees, directly or through any corporate or other devices, in connection with the advertising, offering for sale, sale and distribution of any home laundry products containing enzymes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication, that any such product will remove all types of stains when respondents knew or should have known that such representation was false or deceptive.

III

It is further ordered, That all respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions involved in the advertising, promotion, distribution or sale of consumer products.

It is further ordered, That each respondent notify the Commission at least thirty (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 changes in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That Parts I and II of this order shall become effective ninety (90) days after the order is final.

It is further ordered, That all respondents shall, within sixty (60) days and at the end of six (6) months after the effective date of

631

Complaint

the order served upon them, file with the Commission a report, in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.
