

form in which they have complied with the order to cease and desist contained herein.

IN THE MATTER OF
SWIFT & COMPANY

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

Docket C-1992. Complaint, Aug. 2, 1971—Decision, Aug. 2, 1971

Consent order requiring a major meat packing company with headquarters in Chicago, Ill., which also markets baby food to cease misrepresenting that any such product is a "health food" because it contains B vitamin or adequate iron content, prevents colds or is as important as milk in the diets of babies.

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 Swift & Company, a corporation and McCann-Erickson, 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 Swift & Company, hereinafter referred to as Swift, is a corporation, 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 115 West Jackson Boulevard, in the city of Chicago, State of Illinois.

PAR. 2. Respondent McCann-Erickson, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of

*Consolidated complaint *In the Matter of Swift & Company*, Docket No. C-1992, and *In the Matter of McCann-Erickson, Inc.*, Docket No. C-1993, p. 152 herein.

the State of Delaware, with its principal place of business located at 485 Lexington Avenue, New York, New York.

PAR. 3. Respondent Swift is now, and for some time last past has been engaged in the advertising, offering for sale, sale and distribution of Meats for Babies, Junior Meats, Strained Meats and High Meat Dinners, hereinafter referred to as baby foods, which comes within the classification of a "food" as said term is defined in the Federal Trade Commission Act.

PAR. 4. Respondent McCann-Erickson, Inc., is now, and for some time last past has been, an advertising agency of Swift, and now and for some time last past, has prepared and placed for publication and has caused the dissemination of advertising material, including but not limited to the advertising referred to herein, to promote the sale of Swift's baby foods, which comes within the classification of "food," as said term is defined in the Federal Trade Commission Act.

PAR. 5. In the course and conduct of its aforesaid business the respondent, Swift, now causes, and for some time last past has caused, its baby foods, when sold to be transported from its place of business in the State of Illinois to purchasers thereof located in various States of the United States, and in the District of Columbia, and has caused, and now causes, said baby foods to be shipped from its manufacturing plant to various States of the United States other than the state of manufacture. Respondent, therefore, maintains and at all times mentioned herein has maintained, a substantial 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. 6. In the course and conduct of their aforesaid business, respondents have disseminated, and have caused and are now causing the dissemination of certain advertisements and promotional materials concerning the said baby foods 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 broadcasts transmitted by television 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 baby foods, and have disseminated, and caused the dissemination of advertisements concerning said products by various means, including that but not limited to the aforesaid media, for the purpose of inducing, and which were likely to

Complaint

79 F.T.C.

induce, directly or indirectly, the purchase of said baby foods in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 7. Typical and illustrative of said statements and representations contained in said advertisements, disseminated as aforesaid, but not all inclusive thereof, are the following:

1. Just because he's fat doesn't mean he's healthy. You can't always measure health by the pound. Because good muscle tone is just as important as cute baby fat. That's why it's important to give your baby the kind of food that turns flab into muscle. *Like meat. Meat is a health food if there ever was one. Because meat is loaded with vitamins, minerals and proteins. There's iron to build tissue and prevent anemia. Proteins to develop and maintain muscle. And B vitamins for strong bones and teeth.* What's more, *meat fights germs and infections. Cuts down the number of colds. Improves a baby's appetite. Helps him sleep better.* On top of all this, meat makes for better eating habits. Because the sooner your baby gets variety, the less "picky" he'll be later on. So next time you're shopping for baby food, think meat. Then you'll think of us. Swift and Company. We invented meats for babies. And we specialize in Strained Meats. High Meat Dinners. And Junior Meats. All are as digestible as milk. (*And just about as important.*) (Emphasis added.) (Newspaper Advertisement.)

2. It's a tough world out there, mom. Why not let Swift help you prepare your baby for it. Swift's 100% strained meats are one of the best ways in the world to provide with *plenty of protein, plus plenty of iron* to supplement his limited supply. Go ahead, mom. Give, your baby all the love he needs. And let Swift's supply the meat in his life. (Emphasis added.) The last portion of the video depicts a woman carrying her baby and running towards a larger than life jar of Swift's Meats for Babies. (Television Commercial.)

3. It's a tough world out there, Mom. Let Swift help you prepare your baby for it. Swift's 100% Strained Meats are one of the best ways in the world to provide him with natural *protein. Plus plenty of iron* to supplement his limited supply. So give your baby all the love he needs. And let Swift supply the meat in his life. Swift's Strained Meats. High Meat Dinners. And Junior Meats. Swift's *Meats for Babies.* (Emphasis added.) (Magazine advertisement.)

PAR. 8. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, respondents have represented and are now representing, directly or by implication:

1. That Swift's baby foods are foods with exclusive and unique dietary qualities necessary to promote health as distinguished from other baby foods.

2. That there is a direct, substantial, necessary and essential relationship between the ingestion of Swift's baby foods containing B vitamins with strong bones and strong teeth.

3. That there is substantial and adequate iron present in Swift's baby foods and by reason of the iron content, Swift's baby foods are adequate and effective in preventing anemia.

4. That the ingestion of Swift's baby foods are adequate and/or effective to fight germs and infections from entering the body to prevent colds. That Swift's baby foods are adequate and/or effective to promote a baby's appetite, and to promote sleep.

5. That Swift's baby foods are as important as milk consumed in the diets of babies.

6. That Swift's baby foods consist entirely (100 percent) of meat.

7. That Swift's baby foods contain as much vitamins, minerals and proteins as meats generally.

PAR. 9. In truth and in fact:

1. Swift's baby foods are not a food with exclusive and unique dietary qualities as distinguished from other foods for babies. And they are not adequate and/or effective to promote and produce health in babies.

2. The eating of Swift's baby foods containing B vitamins has no direct or uniquely substantial cause and effect upon the growth of strong bones and strong teeth.

3. The presence of iron in Swift's baby foods is not adequate and/or effective to prevent anemia.

4. Swift's baby foods have no unique or substantial properties that are adequate and/or effective to fight germs and infections from entering the body to prevent colds. Neither does Swift's baby foods have any qualities which are known to be adequate and/or effective to promote a baby's appetite or to promote sleep.

5. Swift's baby foods are not as important as milk as consumed in the diets of babies generally, since milk supplies some essential nutrients at substantially greater levels for the nutrition of babies.

6. Swift's baby foods contain substantially less than 100 percent meat.

7. Swift's baby foods do not contain as much vitamins, minerals and proteins as meats generally.

Therefore, the advertisements and promotional materials referred to in Paragraph Seven 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, and the statements and representations set forth in Paragraphs Seven and Eight were, and are, false, misleading and deceptive.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, and practices and the dissemination of the aforesaid "false advertisements" has had and now has, the capacity and tendency to mislead members of the consuming public into the erroneous and mistaken belief that said statements and

representations were and are true and into the purchase of substantial quantities of Swift's baby food products by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents including the dissemination of "false advertisements," as herein alleged, constituted and now constitute, false, misleading and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption herein, and the respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission have thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed 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 Section 2.34(b) of its rules, the Commission thereby issues its complaint, makes the following jurisdictional findings, and enters the following order.

1. Respondent Swift & Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 115 West Jackson Boulevard, in the city of Chicago, State of Illinois.
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 the respondent Swift & Company, a corporation, and its directors, officers, agents, representatives, employees, successors and assigns, directly or indirectly, or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of Swift's Strained Meats, Junior Meats, Strained High Meat Dinners, Junior High Meat Dinners, collectively referred to in various promotional materials as Swift's Meats for Babies, or any other food product labeled or advertised specifically as a baby food, in commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from representing, directly or by implication, in any advertisements or promotional materials, or on the labeling, that:

(1) Any such product is a "health food" with special and exclusive dietary qualities necessary to promote health; provided that this provision shall not be deemed to prevent a representation that any such product is a healthy food;

(2) Because of its B vitamin content, any such product has a direct, substantial, necessary and essential relationship with strong bones and teeth;

(3) Any such product contains adequate iron, when consumed in normal or average quantities, to meet a baby's minimum daily iron requirements, or to prevent anemia;

(4) Any such product prevents germs and infections from entering the body, prevents colds, or possesses qualities or ingredients that are uniquely effective in promoting a baby's appetite or sleep;

(5) Any such product is as important as milk in the diets of babies;

(6) Any such product contains 100 percent meat, if water has been added;

(7) Any such product to which water has been added contains as much vitamins, minerals and proteins as an equivalent quantity of product which is all meat.

It is further ordered, That respondent Swift & Company, deliver a copy of this order to cease and desist to all present and future personnel of respondent having final and supervisory authority over all advertising copy for any such product and to the corporate officer signing this order and to secure from each of them a signed statement acknowledging receipt by them of a copy of this order.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate

Decision and Order

79 F.T.C.

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 this order.

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