

man Engman did not participate in the denial of the renewed motion to intervene for the reason that he was not a Commissioner at the time the original ruling on intervention was made. Commissioner Jones filed a separate statement.

IN THE MATTER OF
TASTEE-FREEZ INTERNATIONAL, INC., ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED
VIOLATION OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2378. Complaint, April 11, 1973—Decision, April 11, 1973.

Consent order requiring a Chicago, Illinois, franchisor of a national chain of soft ice cream stores, among other things to cease requiring its licensees to purchase their total requirements for ice cream mix and other products and services from it or its designated suppliers.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (Title 15 U.S.C. Section 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 parties identified in the caption hereof, and more particularly described and referred to hereinafter as respondents, have violated the provisions of Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), 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 Tastee-Freez International, Inc. (hereinafter sometimes referred to as “Tastee-Freez” or respondent), is a corporation organized and doing business under the laws of the State of Illinois, with its principal offices and place of business at 1200 North Homan Avenue, Chicago,

Illinois. It is engaged in the franchising and licensing of persons with respect to the operation of countertop restaurant businesses bearing the registered trademark and trade name "Tastee-Freez." With approximately \$197,400,000 in gross sales for 1969, the Tastee-Freez system ranked fifth among franchise snack and take-out organizations in the United States. Its franchise system is three-tiered, consisting of Tastee-Freez, area franchisees, and licensees or store owners. Approximately 95 franchise territories within the United States are assigned to persons designated as "franchisees." Each is authorized, by means of a franchise agreement, with respect to a designated geographic area, both to sell Tastee-Freez soft ice cream and other food products and to license other persons to do the same. Tastee-Freez requires that its franchisees license store owners by means of agreements which conform substantially to sample agreements furnished by Tastee-Freez. In the United States, approximately 23 franchises are held by wholly-owned subsidiary companies of Tastee-Freez International, Inc., and approximately 72 franchises are owned by independent businesses. Some franchise territories include parts of several states, and others are wholly contained within one state. Approximately 1233 persons within the United States are designated as "licensees," and each is authorized, by means of an operator's license agreement between itself and a Tastee-Freez franchisee, to sell Tastee-Freez soft ice cream and other food products from a designated store location. Approximately 177 stores are licensed directly by Tastee-Freez or one of its wholly-owned subsidiary companies, and approximately 1056 stores are licensed by independent franchisees of Tastee-Freez. Under the terms of their agreements a substantial number of licensees are required to purchase all of their requirements of Tastee-Freez soft ice cream mix from their franchisee or the franchisee's designated sources of supply, and each licensee agrees that it will not prepare, manufacture or dispense any soft ice cream or ice milk product other than "Tastee-Freez" from its establishment. Each licensee is further required to pay to its franchisee a "surcharge" of 36 cents for each gallon of ice milk or ice cream mix used in its establishment for the preparation of Tastee-Freez. Thirteen cents (13¢) of this surcharge received by franchisees is remitted to Tastee-Freez pursuant to the terms of their franchise agreements with Tastee-Freez. Tastee-Freez received from its franchisees \$709,470 as income from mix surcharges and \$464,563 from franchise fees in 1970. Through its operation of Tastee-Freez Buying Association, Tastee-Freez

is also engaged in the sale of food products and restaurant supplies to its franchisees and to their licensees. Tastee-Freez received \$897,069 from the sale of food and supplies to Tastee-Freez franchisees and licensees in 1970, including \$55,770 from the sale of ice milk and ice cream mixes. Through its operation of Tastee-Freez Leasing Company, Tastee-Freez is further engaged in the leasing of real estate to Tastee-Freez franchisees and licensees in connection with the operation of their restaurant businesses.

PAR. 2. Respondent Mason-Dixon Tastee-Freez, Inc. (hereinafter sometimes referred to as "Mason-Dixon" or "respondent"), is a corporation organized and doing business under the laws of the State of Pennsylvania, with its principal offices and place of business at 113 W. Main Street, Waynesboro, Pennsylvania. Mason-Dixon is a franchisee of respondent Tastee-Freez International, Inc., and it licenses 15 Tastee-Freez restaurants in Maryland and Pennsylvania. Mason-Dixon is engaged in both the sale of food products, restaurant supplies and restaurant equipment and the leasing of real estate to its licensees in connection with the operation of their restaurant businesses. Mason-Dixon reported \$104,265 in sales of ice milk mix and payments of \$8,471 in surcharges to respondent Tastee-Freez International, Inc., for 1970.

PAR. 3. Respondent Crawford's Fast Foods, Inc. (hereinafter sometimes referred to as "Crawford" or "respondent"), doing business as Tastee-Freez of Georgia, is a corporation organized and doing business under the laws of the State of Georgia, with its principal offices and place of business at 2435 Stone Mountain-Lithonia Road, Lithonia, Georgia. Crawford is a franchisee of respondent Tastee-Freez International, Inc., and it licenses 54 Tastee-Freez restaurants in the State of Georgia. Crawford is engaged in both the sale of food products, restaurant supplies and restaurant equipment and the leasing of real estate to its licensees in connection with the operation of their restaurant businesses. Crawford reported \$218,833 in sales of ice milk mix and payments of \$17,588 in surcharges to respondent Tastee-Freez International, Inc., for 1970.

PAR. 4. Respondent Tastee-Freez of Delmarva, Inc. (hereinafter sometimes referred to as "Delmarva" or "respondent"), is a corporation organized and doing business under the laws of the State of Delaware, with its principal offices and place of business at 6269 Leesburg Pike, Falls Church, Virginia. Delmarva is a franchisee of respondent Tastee-Freez International, Inc., and it licenses 40 Tastee-Freez restaurants in Delaware, Maryland

and Virginia. Delmarva is engaged in both the sale of food products, restaurant supplies and restaurant equipment and the leasing of real estate to its licensees in connection with the operation of their restaurant businesses. Respondent Delmarva reported approximately \$300,000 in sales of ice milk mix and payments of approximately \$26,000 in surcharges to respondent Tastee-Freez International, Inc., for 1970.

PAR. 5. Respondent Tastee-Freez of North Carolina, Inc. (hereinafter sometimes referred to as "North Carolina" or "respondent"), is a corporation organized and doing business under the laws of the State of North Carolina with its principal offices and place of business at 323 W. Martin Street, Raleigh, North Carolina. North Carolina is a franchisee of respondent Tastee-Freez International, Inc., and it licenses 88 Tastee-Freez restaurants in the State of North Carolina. North Carolina is engaged in both the sale of food products, restaurant supplies and restaurant equipment and the leasing of real estate to its licensees in connection with the operation of their restaurant businesses. North Carolina's licensees purchased approximately \$580,000 worth of ice milk mix from North Carolina's designated suppliers, and North Carolina paid \$41,244 in surcharges to respondent Tastee-Freez International, Inc., in 1970. North Carolina operates under the same management as respondent South Carolina Tastee-Freez, Inc.

PAR. 6. Respondent South Carolina Tastee-Freez, Inc. (hereinafter sometimes referred to as "South Carolina" or "respondent"), is a corporation organized and doing business under the laws of the State of South Carolina with its principal offices and place of business at 323 W. Martin Street, Raleigh, North Carolina. South Carolina is a franchisee of respondent Tastee-Freez International, Inc., and it licenses 12 Tastee-Freez restaurants in the State of South Carolina. South Carolina is engaged in both the sale of food products, restaurant supplies and restaurant equipment and the leasing of real estate to its licensees in connection with the operation of their restaurant businesses. South Carolina's licensees purchased approximately \$44,000 worth of ice milk mix from South Carolina's designated supplier, and South Carolina paid \$4,200 in surcharges to respondent Tastee-Freez International, Inc., in 1970. South Carolina operates under the same management as respondent Tastee-Freez of North Carolina, Inc.

PAR. 7. Respondent Shenandoah Tastee-Freez of Winchester, Inc. (hereinafter sometimes referred to as "Winchester" or "respondent"), is a corporation organized and doing business

under the laws of the State of Virginia with its principal offices and place of business at Martinsburg Pike, Box 321, Winchester, Virginia. Winchester is engaged in both the sale of food products, restaurant supplies and restaurant equipment and the leasing of real estate to its licensees in connection with the operation of their restaurant businesses. Winchester reported \$184,269 in sales of ice milk mix and payments of \$17,166 in surcharges to respondent Tastee-Freez International, Inc., for 1970. Winchester operates under the same management as respondents Shenandoah Tastee-Freez of Martinsburg, Inc., and Tastee Foods of Virginia, Inc.

PAR. 8. Respondent Shenandoah Tastee-Freez of Martinsburg, Inc. (hereinafter sometimes referred to as "Martinsburg" or "respondent"), is a corporation organized and doing business under the laws of the State of West Virginia with its principal offices and place of business at Martinsburg Pike, Box 321, Winchester, Virginia. Martinsburg is a franchisee of respondent Tastee-Freez International, Inc., and it licenses 13 Tastee-Freez restaurants in Maryland, Pennsylvania and West Virginia. Martinsburg is engaged in both the sale of food products, restaurant supplies and restaurant equipment and the leasing of real estate to its licensees in connection with the operation of their restaurant businesses. Martinsburg reported \$41,360 in sales of ice milk mix and payments of \$5,116 in surcharges to respondent Tastee-Freez International, Inc. for 1970. Martinsburg operates under the same management as respondents Shenandoah Tastee-Freez of Winchester, Inc., and Tastee Foods of Virginia, Inc.

PAR. 9. Respondent Tastee Foods of Virginia, Inc. (hereinafter sometimes referred to as "Tastee Foods" or "respondent"), is a corporation organized and doing business under the laws of the State of Virginia with its principal offices and place of business at 42 Rouss Avenue, Winchester, Virginia. Tastee Foods is a franchisee of respondent Tastee-Freez International, Inc., and it licenses 29 Tastee-Freez restaurants in the State of Virginia. Tastee Foods is engaged in both the sale of food products, restaurant supplies and restaurant equipment and the leasing of real estate to its licensees and to licensees of respondents Shenandoah Tastee-Freez of Winchester, Inc., and Shenandoah Tastee-Freez of Martinsburg, Inc., in connection with the operation of their restaurant businesses. Tastee Foods operates under the same management as respondents Winchester and Martinsburg.

PAR. 10. In the course and conduct of respondents Tastee-Freez, Crawford, Mason-Dixon, Delmarva, North Carolina,

South Carolina, Winchester, Martinsburg and Tastee Foods businesses of licensing and relicensing the Tastee-Freez trademarks and trade names and of engaging in the purchase and sale of commodities to and through their licensees or direct to the consuming public there is now and has been for several years last past a constant, material and increasing flow of commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 11. Except to the extent that competition has been hampered and restrained by reason of the practices hereinafter alleged, respondents Tastee-Freez, Crawford, Mason-Dixon, Delmarva, North Carolina, South Carolina, Winchester, Martinsburg and Tastee Foods are in substantial competition in commerce with other persons engaged in the licensing of trademarks and trade names for use in connection with restaurant businesses, in the sale at wholesale of food products, restaurant supplies and restaurant equipment, and in the leasing of real estate; and respondents' licensees are in substantial competition in commerce with one another and with other persons engaged in the sale of food at retail to the public.

PAR. 12. In the course and conduct of their businesses respondents Tastee-Freez, Crawford, Mason-Dixon, Delmarva, North Carolina, South Carolina, Winchester, Martinsburg and Tastee Foods have engaged and are continuing to engage in the following practices enumerated in this paragraph:

1. For several years, at least since 1965, respondents Tastee-Freez, Crawford, Mason-Dixon, Delmarva, North Carolina, South Carolina, Winchester, Martinsburg and Tastee Foods have pursued a plan or policy, the purpose or effect of which is to require that Tastee-Freez licensees purchase from Tastee-Freez, from their franchisee or from designated suppliers all of the ice cream or ice milk mix and shake base mix used by the licensees in their restaurant businesses.

2. In furtherance of this plan or policy, respondent Tastee-Freez has included and continue to the present time to include in its operator's license agreements requirements that its direct Tastee-Freez licensees purchase from Tastee-Freez or from its designated suppliers all of the ice cream or ice milk mix and shake base mix used by the licensees in their restaurant businesses. By further including such requirements in the operator's license agreement forms furnished to their franchisees for use with their indirect licensees, respondents Tastee-Freez encourage and acquiesce in the imposition of such restrictions by its franchisees on its indirect licensees.

3. In furtherance of this plan or policy, respondents Crawford,

Mason-Dixon, Delmarva, North Carolina, South Carolina, Winchester, Martinsburg and Tastee Foods have included and continue to the present time to include in their operator's license agreements requirements that their Tastee-Freez licensees purchase from them or from their designated suppliers all of the ice cream or ice milk mix and shake base mix used by the licensees in their restaurant businesses.

These practices, among others, constitute unfair methods of competition in commerce and unfair acts and practices in commerce.

PAR. 13. The above acts and practices have the capacity and tendency to unduly hinder, suppress, lessen and eliminate competition with the following effects, among others:

(a) Tastee-Freez requires or reserve the right to require that its direct licensees purchase from Tastee-Freez or from its designated suppliers their total requirements of ice cream or ice milk mix and shake base mix;

(b) Competition between Tastee-Freez, its designated suppliers and other local suppliers of ice cream or ice milk mix and shake base mix has been or may be eliminated;

(c) Tastee-Freez licensees of respondent Crawford are required to purchase from Crawford their total requirements of ice cream or ice milk mix and shake base mix;

(d) Competition between Crawford and other local suppliers of ice cream or ice milk mix and shake base mix has been or may be eliminated;

(e) Tastee-Freez licensees of respondent Mason-Dixon are required to purchase from Mason-Dixon their total requirements of ice cream or ice milk mix and shake base mix;

(f) Competition between Mason-Dixon and other local suppliers of ice cream or ice milk mix and shake base mix has been or may be eliminated;

(g) Tastee-Freez licensees of respondent Delmarva are required to purchase from Delmarva their total requirements of ice cream or ice milk mix and shake base mix;

(h) Competition between Delmarva and other local suppliers of ice cream or ice milk mix and shake base mix has been or may be eliminated;

(i) Tastee-Freez licensees of respondents North Carolina and South Carolina are required to purchase from Coble Dairy Products Cooperative, Inc., North Main Street, Lexington, North Carolina, or from other designated dairies their total requirements of ice cream or ice milk mix and shake base mix;

(j) Competition between Coble Dairy Products Cooperative,

Inc., other designated dairies and other local suppliers of ice cream or ice milk mix and shake base mix has been or may be eliminated;

(k) Tastee-Freez licensees of respondent Winchester are required to purchase from Winchester their total requirements of ice cream or ice milk mix and shake base mix;

(l) Competition between Winchester and other local suppliers of ice cream or ice milk mix and shake base mix has been or may be eliminated;

(m) Tastee-Freez licensees of respondent Martinsburg are required to purchase from Martinsburg or from its designated dairies their total requirements of ice cream or ice milk mix and shake base mix;

(n) Competition between Martinsburg, its designated dairies and other local suppliers of ice cream or ice milk and shake base mix has been or may be eliminated;

(o) Tastee-Freez licensees of respondent Tastee Foods are required to purchase from Tastee Foods or from its designated dairies their total requirements of ice cream or ice milk mix and shake base mix;

(p) Competition between Tastee Foods, its designated dairies and other local suppliers of ice cream or ice milk mix and shake base mix has been or may be eliminated;

(q) Tastee-Freez licensees of respondents Crawford, Mason-Dixon, Delmarva, North Carolina, South Carolina, Winchester, Martinsburg and Tastee Foods pay or have paid or may pay to said respondents directly or through respondents' designated dairies compensation for ice cream or ice milk mix in excess of the actual cost to respondents of the mix plus the 36-cent surcharge provided in their license agreements;

(r) Respondents Crawford, Mason-Dixon, Delmarva, North Carolina, South Carolina, Winchester, Martinsburg, and Tastee Foods have received or may receive commissions or other compensation from designated dairies or from suppliers to designated dairies with respect to the sale of ice cream or ice milk mix to their Tastee-Freez licensees.

PAR. 14. The aforesaid acts and practices have the tendency to unduly hinder competition and have injured, hindered, suppressed, lessened or eliminated actual and potential competition to the prejudice and injury of the public, and thus constitute unfair methods of competition in commerce and unfair acts and practices in commerce, within the intent and meaning of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 complaint to issue herein, 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 considered the agreement and having provisionally accepted same, and the Agreement Containing Consent Order having thereupon been placed 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 hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Tastee-Freez International, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 1200 North Homan Avenue, Chicago, Illinois.

2. Respondent Crawford's Fast Foods, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia with its principal office and place of business located at 2435 Stone Mountain - Lithonia Road, Lithonia, Georgia.

3. Respondent Mason-Dixon Tastee-Freez, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 113 W. Main Street, Waynesboro, Pennsylvania.

4. Respondent Tastee-Freez of Delmarva, Inc., 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 6269 Leesburg Pike, Falls Church, Virginia.

5. Respondent Tastee-Freez of North Carolina, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina, with its office and principal place of business located at 323 W. Martin Street, Raleigh, North Carolina.

6. Respondent South Carolina Tastee-Freez, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of South Carolina, with its office and principal place of business located at 323 W. Martin Street, Raleigh, North Carolina.

7. Respondent Shenandoah Tastee-Freez of Winchester, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its office and principal place of business located at Martinsburg Pike, Box 321, Winchester, Virginia.

8. Respondent Shenandoah Tastee-Freez of Martinsburg, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of West Virginia, with its office and principal place of business located at Martinsburg Pike, Box 321, Winchester, Virginia.

9. Respondent Tastee Foods of Virginia, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its office and principal place of business located at 42 Rouss Avenue, Winchester, Virginia.

10. 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 Tastee-Freez International, Inc. (hereinafter sometimes referred to as "Tastee-Freez" or "respondent"), respondents Crawford's Fast Foods, Inc., Mason-Dixon Tastee-Freez, Inc., Tastee-Freez of Delmarva, Inc., Tastee-Freez of North Carolina, Inc., South Carolina Tastee-Freez, Inc., Shenandoah Tastee-Freez of Winchester, Inc., Shenandoah Tastee-Freez of Martinsburg, Inc., and Tastee Foods of Virginia, Inc. (hereinafter sometimes referred to as "franchisees" or "respondents"), corporations, their successors and assigns, officers, directors, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the franchising or licensing of persons with respect to the operation of a restaurant

business, the operation of a restaurant food supply business, or the operation of a restaurant equipment supplies business, such franchising, licensing and operations constituting commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from requiring, regardless of the language of any franchising or licensing contract between respondents and their licensees, in any manner or by any means directly or indirectly, including through the use of a quality control program, their franchisees or their licensees or their franchisees' licensees to purchase ice cream or ice milk mix, shake base mix, meat products, sundae toppings, restaurant supplies, restaurant equipment (except in initial installations), services or any other products from Tastee-Freez, Tastee-Freez franchisees or from any other source except as hereinafter provided.

II

It is further ordered, That respondent Tastee-Freez International, Inc., within thirty (30) days of the final entry of this order, notify by letter each of its franchisees of the entry of this order; urge that each of them take all necessary steps to bring existing license agreements between each of them and its licensees into conformity with Paragraphs I and III of this order and require that each franchisee, at the time of obtaining or renewing its franchise, agree that each license agreement into which it enters shall conform to Paragraphs I and III of this order; will send to each present franchisee and each new franchisee during the period of ten (10) years after the entry of this order a copy of a form of license agreement conforming to Paragraphs I and III of this order; require a response from each such franchise within fifteen (15) days advising respondent Tastee-Freez International, Inc., as to whether such franchisee will conform to the provisions of Paragraphs I and III of this order and will use said form license; advise each such franchisee in the aforementioned letter that its response will be reported to the Federal Trade Commission for such action as the Commission may deem appropriate; and forward to the Federal Trade Commission within 30 days after the date of sending the letter to Tastee-Freez franchisees, copies of all the aforementioned responses of the franchisees, at the same time notifying the Commission as to the identity of each franchisee who has not responded. Respondent Tastee-Freez International, Inc., is directed to include with the aforementioned letter to its franchisees a copy of this order.

III

It is further ordered, That nothing in this order shall prohibit respondent Tastee-Freez International, Inc., or any franchisee respondent from establishing and enforcing reasonable minimum standard specifications or formulae for products sold or used by Tastee-Freez franchisees or licensees. If any respondent establishes such standards, specifications or formulae it shall forward a copy of them to the Federal Trade Commission within twenty (20) days after forwarding a copy of them to any licensee.

IV

It is further ordered, That respondents Tastee-Freez International, Inc., Crawford's Fast Foods, Inc., Mason-Dixon Tastee-Freez, Inc., Tastee-Freez of Delmarva, Inc., Tastee-Freez of North Carolina, Inc., South Carolina Tastee-Freez, Inc., Shenandoah Tastee-Freez of Winchester, Inc., Shenandoah Tastee-Freez of Winchester, Inc., Shenandoah Tastee-Freez of Martinsburg, Inc., and Tastee Foods of Virginia, Inc., forward or deliver by ordinary mail within thirty (30) days a copy of this order and of attached letter "A" to each of their present Tastee-Freez franchisees or licensees and to each person who becomes one of their Tastee-Freez franchisees or licensees within ten (10) years after the effective date of this order.

V

It is further ordered, That respondents Tastee-Freez International, Inc., Crawford's Fast Foods, Inc., Mason-Dixon Tastee-Freez of North Carolina, Inc., South Carolina Tastee-Freez, Inc., Shenandoah Tastee-Freez of Winchester, Inc., Shenandoah Tastee-Freez of Martinsburg, Inc., and Tastee Foods of Virginia, Inc., within ninety (90) days after service upon them of this order, file with the Commission reports, in writing, setting forth in detail the manner and form in which they have complied with the terms of this order.

It is further ordered, That respondents Tastee-Freez International, Inc., Crawford's Fast Foods, Inc., Mason-Dixon Tastee-Freez, Inc., Tastee-Freez of Delmarva, Inc., Tastee-Freez of North Carolina, Inc., South Carolina Tastee-Freez, Inc., Shenandoah Tastee-Freez of Winchester, Inc., Shenandoah Tastee-Freez of Martinsburg, Inc., and Tastee Foods of Virginia, Inc. notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor

1195

Decision and Order

corporation, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of the order: *Provided, however*, That if respondents do not have thirty (30) days lead time between such proposal or such change and its consummation respondents shall notify the Commission thereof at the earliest feasible time before consummation and any entity which may succeed to the business covered by this order will have been advised of the provisions of this order and will have agreed to be bound thereby.

Letter "A"

Gentlemen:

The Federal Trade Commission has entered an Order which, among other things, prohibits [] from requiring you, in any manner or by any means, directly or indirectly, to purchase from us or from designated suppliers ice cream or ice milk mix, shake base mix, meat products, sundae toppings, restaurant supplies, restaurant equipment (except in original installations) or any other products. A copy of said Order is enclosed.

You may, however, consistent with the Order, be required to confine your purchases of any of the aforementioned products to those which meet reasonable specifications promulgated by [] or []. In addition, in order to assure payment of the surcharge on mix provided for in your license agreement, you may be required to choose either to (1) post a reasonable bond therefor or (2) pay all surcharges due on mix within 48 hours of placing an order on mix and in any event no later than the time of delivery of the mix or (3) agree with your supplier of mix that he will bill you for, collect, and pay directly to [] and [] the surcharge on the mix he sells to you and send with each such payment a report of the quantity of mix to which the forwarded surcharge is applicable.

Sincerely,

IN THE MATTER OF

MCP FOODS, INC., ET AL.

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