
IN THE MATTER OF

THOMAS J. LIPTON, INC., ET AL.

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

Docket C-2408. Complaint, May 29, 1973—Decision, May 29, 1973.

Consent order requiring a Johnstown, New York, manufacturer, seller and distributor of a multi-flavored dry preparation, Knox Gelatine Drink, among other things to cease advertising that its product makes a substantial contribution to general health or to nutritional needs.

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 Thomas J. Lipton, Inc., a corporation, and Knox Gelatine, 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 Thomas J. Lipton, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business located at 800 Sylvan Avenue, Englewood Cliffs, New Jersey.

PAR. 2. Respondent Knox Gelatine, 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 One Knox Avenue, Johnstown, New York.

PAR. 3. Respondents Thomas J. Lipton, Inc., and Knox

Gelatine, Inc., are, and for some time last past have been, engaged in the manufacture, sale and distribution of Knox Gelatine Drink, a multi-flavored dry preparation, and other food products.

PAR. 4. Respondents Thomas J. Lipton, Inc., and Knox Gelatine, Inc., cause the said products, when sold, to be transported from Knox's place of business in one State of the United States to purchasers located in various other States of the United States and in the District of Columbia. Respondents Thomas J. Lipton, Inc., and Knox Gelatine, Inc., maintain, and at all times mentioned herein have maintained, 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. 5. In the course and conduct of their said businesses, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product in commerce as "commerce" is defined in the Federal Trade Commission Act, respondents have made and are now making certain statements and representations in print advertisements and product packaging and labeling. Such statements and representations are made in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. The following magazine advertisements containing numerous statements and representations with respect to said products are typical and illustrative of said advertisements and product packaging and labeling;



Surprise! Family nutrition is a glass of grapefruit.

Family nutrition is a drink of cool, delicious freshness. It's the pure, crisp taste of pink grapefruit with all the nutrition of gelatine protein and all the Vitamin C people need in a day. It's a total-dissolving, never-gelling, nail-strengthening Knox Gelatine Drink in pink grapefruit, orange, grape, and cranberry-orange.





Surprise!
4 tasty ways to drink
to your health!

All the nutrition of gelatine protein, healthier nails, all the Vitamin C people need in a day. In 4 fresh, natural flavors: grapefruit, orange, grape and cranberry-orange. Bottoms up.





Surprise! Natural flavor boost juices

Here's to the health of you and yours. Here's the fresh, natural flavor of orange, cranberry-orange, grape or grapefruit in a delicious gelatine protein drink. Knox Gelatine Protein Drinks. Every one not only a proven nail strengthener, but enriched with Vitamin C, chock full of nutrition for the whole family. Good, healthy gelatine protein drinks that dissolve instantly, never gel. Yours only from Knox, naturally.



**KNOX
SURPRISE!
GELATINE
DRINKS**

PAR. 7. Through the use of said advertisements and others similar thereto not specifically set out herein, disseminated as aforesaid, respondents have represented directly and by implication that:

A. Gelatine protein is in and of itself a high-quality protein that provides a significant nutritional benefit to individuals.

B. The consumption of Knox Gelatine Drink, a gelatine protein drink, makes a substantial contribution to the health and nutritional needs of individuals.

PAR. 8. In truth and in fact:

A. Gelatine protein is a low-quality protein of little nutritional benefit to individuals.

B. The consumption of Knox Gelatine Drink, a gelatine protein drink, does not make a substantial contribution to satisfying the nutritional needs of individuals.

Therefore, the representations referred to in Paragraph Six were and are deceptive in material respects and constituted, and now constitute, unfair or deceptive acts and practices as defined in Section 5 of the Federal Trade Commission Act, and the statements and representations set forth in Paragraph Six and Seven were, and are, false, misleading and deceptive.

PAR. 9. The use by respondents of the aforesaid deceptive statements, representations and practices 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 respondents Lipton's and Knox's Knox Gelatine Drink by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and constituted, and now constitute, unfair and deceptive acts and practices 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 respondents named in the caption hereof, 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 agreement, placed such agreement on the public record for a period of thirty (30) days, and received and considered comments, 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 Thomas J. Lipton, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business located at 800 Sylvan Avenue, Englewood Cliffs, New Jersey.

Respondent Knox Gelatine, 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 One Knox Avenue, Johnstown, 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 Thomas J. Lipton, Inc., a corporation, and respondent Knox Gelatine, Inc., a corporation, their successors and assigns and their 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 Knox Gelatine Drink or any other food product hereinafter described forthwith cease and desist from:

1. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act that:

A. Represents, directly or by implication, that gelatine protein is a high quality protein or provides nutritional benefit to individuals.

B. Represents, directly or by implication, that the consumption of Knox Gelatine Drink makes a substantial contribution to the general health of individuals or to the nutritional needs of individuals.

C. Represents, directly or by implication, that the consumption of any gelatine food product, which relies primarily on gelatine to produce a jelled condition in the food as prepared, makes a contribution to good health of individuals or is nutritious.

D. Misrepresents, directly or by implication, in any manner the benefit to the health of the consumer resulting from consumption of any gelatine drink or gelatine food product which relies primarily on gelatine to produce a jelled condition in the food as prepared.

Provided, That nothing herein shall preclude respondents from representing that gelatine protein is a high quality protein, if respondents can demonstrate by competent and reliable scientific evidence that such gelatine protein has been supplemented with essential amino acids or those amino acids necessary to convert gelatine protein into a high quality protein, as the highest biological quality protein is described by the Food and Drug Administration Proposed Food Nutrition Labeling Regulations, or any such regulations promulgated or superseding regulations.

Provided further, That nothing herein shall preclude respondents from making representations, if supported by competent and reliable scientific evidence, regarding the effect of gelatine protein as an aid to dieting.

2. Disseminating, or causing to be disseminated by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of products subject to this order in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement

which contains any of the representations or misrepresentations prohibited in Paragraph 1 hereof.

II

It is further ordered, That respondents Thomas J. Lipton, Inc., a corporation, and Knox Gelatine, Inc., a corporation, their successors and assigns and their officers, agents, representatives and employees, directly or through any other device, in connection with the advertising, labeling, offering for sale, sale or distribution of Knox Gelatine Drink or any other food product described in Part I hereof in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making, directly or by implication, any of the representations or misrepresentations prohibited in Part I hereof.

The provisions to Part I hereof are applicable to this Part II of the order.

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

It is further ordered, That respondents 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 corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That each respondent shall, within sixty (60) days and at the end of six (6) months after the effective date of the order served upon it, file with the Commission a report, in writing, signed by each respondent, setting forth in detail the manner and form of its compliance with the order to cease and desist.
