

IN THE MATTER OF  
GENERAL FOODS CORPORATION

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

*Docket C-2733. Complaint, Oct. 1, 1975--Decision, Oct. 1, 1975*

Consent order requiring a White Plains, N.Y., producer, distributor, and seller of food products, among other things to cease using depictions and descriptions, which have the capacity to influence children to engage in harmful activities—specifically, representing that a plant is edible in its raw state (1) where the visual impression is conveyed that the plant was not grown for human consumption; or (2) where a raw plant is shown being consumed and it is specifically described as a “wild” plant.

*Appearances*

For the Commission: *Stewart A. Block.*

For the respondent: *Bruce L. Bozeman, White Plains, N.Y. and John  
Kovin, Clifford, Warnke, Glass, McIlwain & Finney, Wash., D.C.*

## 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 General Foods Corporation, a corporation, hereinafter referred to as respondent, has 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. For the purposes of this complaint, the following definitions apply:

1. The term "commerce" means commerce as defined by the Federal Trade Commission Act, as amended.

2. The term "false advertisement" means false advertisement as defined by the Federal Trade Commission Act, as amended.

PAR. 2. Respondent General Foods Corporation 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 250 North St., White Plains, N.Y.

PAR. 3. Respondent General Foods is now, and for all times relevant to this complaint has been, engaged in the production, distribution, and sale of a variety of food products, including but not limited to "Post Grape Nuts," a ready-to-eat breakfast cereal (hereinafter referred to as Post Grape Nuts). Said product is a "food" as defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its aforesaid business, respondent General Foods Corporation causes Post Grape Nuts in its product package to be transported from its place of business to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent General Foods Corporation maintains and at all times mentioned herein has maintained, a substantial course of trade in said product in or affecting commerce. The volume of business in or affecting commerce has been and is substantial.

PAR. 5. In the course and conduct of its aforesaid business, respondent General Foods Corporation has disseminated, and caused the dissemination of, certain advertisements concerning the said product by the United States mails and by various means in or affecting commerce, including but not limited to, 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 product, and have disseminated, and caused the dissemination of, advertisements concerning said product by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product in or affecting commerce.

PAR. 6. Among the advertisements disseminated by means of television, but not all inclusive thereof, are the following:

## Complaint

86 F.T.C.

**B&B**

BENTON & BOWLES  
909 THIRD AVENUE  
NEW YORK, N. Y.  
(212) 758-6200

Client: GENERAL FOODS CORP.  
Product: GRAPE-NUTS  
Length: 30 SECONDS — (GFGN-1502)  
Title: "EUELL GIBBONS"



1. (SFX)



2. EUELL GIBBONS: I'm Euell Gibbons.



3. Many consider me an expert on natural foods...



4. ...like cat-tails. Yes, they're edible!



5. I look for natural ingredients in my food.



6. That's why Grape-Nuts is part of my breakfast.



7. This is a wholesome cereal... made from wheat and barley.



8. These natural ingredients are baked into crunchy nuggets.



9. ...and fortified with eight essential vitamins.



10. It's naturally sweet and reminds me of wild nuts.



11. EUELL GIBBONS: (VO) I call Grape-Nuts my back-to-nature cereal.

POST GRAPE-NUTS  
 Benton & Bowles, Inc. 909 Third Avenue, New York, NY 10022 / 753-8200

|          |                 |          |                           |
|----------|-----------------|----------|---------------------------|
| Client:  | GENERAL FOODS   | Date:    | AS FILMED<br>OCTOBER 1972 |
| Product: | POST GRAPE-NUTS | Station: |                           |
| Program: |                 | Draft:   | 1-11-1-72      gs/        |

:30 COMMERCIAL #GFGN-3252  
 ("EUELL GIBBONS PINE TREE")

PICTURE

OPEN ON EUELL GIBBONS IN FOREST  
 OF TALL PINES. SUPER:  
 EUELL GIBBONS AUTHOR OF  
 "STALKING THE GOOD LIFE."

GIBBONS PULLS A BRANCH  
 FROM PINE TREE.

AND HOLDS UP BRANCH.

GIBBONS SITS AT TABLE  
 IN THE FOREST WITH BREAKFAST  
 ITEMS.

GIBBONS POURS GRAPE NUTS  
 INTO BOWL.

CONTINUE ACTION AS HE ADDS  
 MILK TO CEREAL.

CONTINUE ACTION.

GIBBONS MIXES CEREAL AND  
 THEN BEGINS TO EAT IT.

GO TO PRODUCT SHOT.  
 SUPER: "BACK-TO-NATURE  
 CEREAL."

SOUND

EUELL GIBBONS:

I'm Euell Gibbons.

I've spent years learning  
 about natural foods.

Ever eat a pine tree?  
 Many parts are edible.

Natural ingredients are  
 important to me.

That's why Post Grape Nuts  
 is part of my breakfast.

This wholesome cereal is  
 made from wheat and barley.

These natural ingredients are  
 baked into crunchy nuggets  
 fortified with vitamins.

Its' naturally sweet taste  
 reminds me of wild hickory

I call Grape-Nuts my back-t  
 nature cereal.

## Complaint

86 F.T.C.

W.C. W. TELEVISION

Denton & Bowles, Inc. 509 Third Avenue, New York, NY 10012 / 730-8300

C.B.C. Tuesday, October 10/9/73

Client: GENERAL FOODS CORP.

Date: AS FILMED  
SEPTEMBER 1973

Product: GRAPE-NUTS

Station:

Program:

Draft: 1-9-20-73 vs/nz

1:30 COMMERCIAL #GNGX-3563  
("WILD CRANBERRIES - GOLD MILK")

PICTURESOUND

OPEN ON EUELL GIBBONS IN SNOW-  
COVERED, WOODED SETTING.

SUPER: "EUELL GIBBONS -  
AUTHOR OF STALKING THE GOOD LIFE".

HE PICKS CRANBERRIES OFF OF A  
CRANBERRY BUSH.

TO TO CU OF EUELL'S HANDS HOLDING  
CRANBERRIES AND GRAPE-NUTS BOX.

REVEAL EUELL IN CABIN.

CU OF GRAPE-NUTS BEING POURED  
INTO BOWL.

SHOT OF HOT MILK BEING POURED  
OVER GRAPE-NUTS.

EUELL STIRS CEREAL AND THEN EATS  
IT.

GO TO COMPLETE GRAPE-NUTS BREAK-  
FAST.

SUPER: "BACK-TO-NATURE CEREAL".

EUELL GIBBONS:

I'm Euell Gibbons. I'm gathering  
part of my breakfast.

These are high bush cranberries.

Delicious with Grape-Nuts.

As an author of five books on  
natural foods, I can recommend  
Post Grape-Nuts.

This crunchy cereal is made from  
natural ingredients - wholesome  
wheat and barley.

And it's fortified with Vitamins.

Its naturally sweet taste reminds  
me of wild hickory nuts.

I call Grape-Nuts my back-to-  
nature cereal.

# TELEVISION

MAY 20 1974

Benton &amp; Bowles, Inc. 609 Third Avenue, New York, NY 10022 / 733-6200

Client: GENERAL FOODS CORP.

Date: AS FILMED  
APRIL 1974

Product: GRAPE-NUTS

Station:

Program:

Draft: 1-4-24-74 af/hz

:30 COMMERCIAL #GFGH-4022  
(GIBBON CACTUS REV. 1105)PICTUREOPEN WITH WIDE SHOT OF  
EUGEL GIBBONS IN THE DESERT.SUPER:  
"EUGEL GIBBONS, AUTHOR OF  
STALKING THE GOOD LIFE."

CONTINUE ACTION.

GIBBONS PICKS FRUIT OFF  
OF A CACTUS. HE HOLDS  
UP FRUIT.TIGHT SHOT OF GIBBONS  
HOLDING GRAPE-NUTS BOX.

POURING SHOT.

GIBBONS EATING GRAPE-NUTS  
FROM BOWL.

PRODUCT SHOT.

SUPER:  
"BACK-TO-NATURE CEREAL."SOUND

EUGEL GIBBONS:

I'm Eugel Gibbons.

I'm gathering part of my breakfast

The fruit of this prickly pear

cactus will go well with Grape-Nuts

Having spent years studying natural

foods, I can recommend Post Grape-  
nuts.

It's a natural wheat and barley

cereal fortified with vitamins.

No artificial flavoring or pre-  
servatives added.

Its naturally sweet taste reminds

me of wild hickory nuts.

I call Grape-Nuts my back-to-

nature cereal.

1st BROADCAST

ON CBS

SHOWTIME CEREAL

AIR DATE: 5/1/74

TIME: 10-10:30 AM

PAR. 7. The aforesaid advertisements have the tendency or capacity to influence children to eat plants or parts thereof which they find growing or in natural surroundings. Some plants or parts thereof are harmful if eaten. A substantial number of children do not have sufficient knowledge or experience to distinguish between those plants or parts thereof which are and those which are not harmful if eaten. Therefore the aforesaid advertisements have the tendency or capacity to influence children to engage in behavior which is harmful or involves the risk of harm, and were and are unfair or deceptive acts or practices.

PAR. 8. It is a commonly recognized safety principle that children should not eat any plants or parts thereof which they find growing or in natural surroundings except under adult supervision. The aforesaid advertisements have the tendency or capacity to influence children, when not under adult supervision, to eat plants or parts thereof which they find growing or in natural surroundings, which behavior is inconsistent with said safety principle. Therefore, the aforesaid advertisements were and are unfair or deceptive acts or practices.

PAR. 9. The aforesaid advertisements have the tendency or capacity to represent, directly or by implication, to children that they can eat plants or parts thereof which they find growing or in natural surroundings without harm or the risk of harm. In truth and in fact, children cannot eat plants or parts thereof which they find growing or in natural surroundings without harm or the risk of harm. Therefore, the aforesaid advertisements were and are unfair and deceptive acts or practices and false advertisements.

PAR. 10. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent General Foods Corporation has been, and is now, in substantial competition, in or affecting commerce, with other corporations engaged in the manufacture and sale of food products.

PAR. 11. The aforesaid unfair or deceptive acts or practices of respondent, as herein alleged, including the dissemination of false advertisements, as aforesaid, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted and now constitute unfair methods of competition in or affecting commerce and unfair or deceptive acts or deceptive acts or practices in or affecting commerce, in violation of Sections 12 and 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 respondent named in the caption hereof, 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 having 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 consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent General Foods Corporation 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 250 North St., White Plains, N.Y.
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

For the purposes of this order, the following definitions apply:

1. The term "commerce" means commerce as defined by the Federal Trade Commission Act, as amended.
2. The term "plant" means any whole plant or any constituent part thereof.

#### I

*It is ordered*, That respondent General Foods Corporation, a corporation, (hereinafter referred to as respondent), its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other

device, in connection with the advertising, offering for sale, sale or distribution in or affecting commerce of any product, forthwith cease and desist from, directly or indirectly:

A. Representing, through depictions, descriptions, or otherwise, that a plant is suitable for human consumption in its raw state in an advertisement containing a visual depiction of (1) the plant in its growing state or natural surroundings which depiction is not a clear portrayal of conditions of domestic cultivation for human consumption or (2) the consumption of a raw plant described in the advertisement as wild.

B. Representing through depictions, descriptions, or otherwise, that a plant is suitable for human consumption in its raw state in an advertisement containing a visual depiction of the plant in its growing state or natural surroundings where said plant is not the advertised product or an ingredient, or a characterizing flavor, or source thereof, in the advertised product.

C. Representing, through depictions, descriptions, or otherwise, that any given thing or things, other than things that are commonly recognized as foods or lawful food additives, are suitable for human consumption as a food where it is reasonably foreseeable, through reasonable inquiry, that such representation has the tendency or capacity to influence members of the audience in reasonably good health to engage in behavior which creates an imminent risk of physical harm to those persons or to others.

## II

*It is further ordered,* That respondent shall forthwith distribute a copy of this order to each of its operating divisions.

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

*It is further ordered,* That respondent 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 form in which it has complied with this order.

IN THE MATTER OF  
GER-RO-MAR, INC. T/A SYMBRA'ETTE, ET AL.  
MODIFIED ORDER, IN REGARD TO ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket 8872. Decision, July 23, 1974-Modified Order, Oct. 2, 1975*

Order modifying an earlier order dated July 23, 1974, 84 F.T.C. 95, 39 F.R. 35133, pursuant to order of the United States Court of Appeals for the Second Circuit dated June 16, 1975, Trade Reg. Rep. ¶ 60,368 at 66,588 (1975 Trade Cases), IX S&D —, by setting aside order paragraphs 1 and 2 proscribing an open-ended, multi-level (pyramid) marketing plan to recruit distributors for its products.

*Appearances*

For the Commission: *Jerome Steiner and Ralph E. Stone.*

For the respondents: *Rosenberg & Wiseman, San Jose, Calif.*

ORDER MODIFYING ORDER TO CEASE AND DESIST

Respondents having filed in the United States Court of Appeals for the Second Circuit on Oct. 11, 1974, a petition to review and set aside an order to cease and desist issued herein on July 23, 1974 [84 F.T.C. 95], and the court having rendered its decision and its judgment on June 16, 1975, affirming the order to cease and desist, except for numbered Paragraphs 1 and 2 of the order which it directed be set aside;

*Now, therefore, it is hereby ordered,* That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court to read as follows:

ORDER

*It is ordered,* That respondent Ger-Ro-Mar, Inc., a corporation doing business as Symbra'ette, whose corporate name is now Symbra'ette, Inc., and officers thereof, and respondent Carl G. Simonsen, individually and as an officer of said corporation, or corporations, and respondents' agents, representatives, employees, successors, and assigns, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of brassieres, girdles, lingerie, wigs, or of any other products, or of distributorships or franchises, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Operating any marketing or sales plan or program unless respondents agree to and notify participants that they will promptly