

IN THE MATTER OF
ALUMINUM COMPANY OF AMERICA, ET AL.

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

Docket C-2964. Complaint, May 11, 1979 — Decision, May 11, 1979

This consent order, among other things, requires a Pittsburgh, Pa. producer of aluminum building products and its subsidiary, Alcoa Building Products, Inc., to cease disseminating or participating in the dissemination of advertisements which contain fuel reduction, heat loss reduction, energy savings or thermal insulation representations regarding residential aluminum siding. The order also requires that the R-value for insulating material be disclosed in advertisements which merely use the term "insulated aluminum siding" for descriptive purposes.

Appearances

For the Commission: *David W. Plottner.*

For the respondents: *Russel W. Porter, Jr., Pittsburgh, Pa.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Aluminum Company of America, a corporation, hereinafter sometimes referred to as Alcoa, and Alcoa Building Products, Inc., a corporation, hereinafter sometimes referred to as ABP, have violated the provisions of Section 5 of the Federal Trade Commission Act and that a proceeding by it in respect thereof would be in the public interest, issues this complaint:

PARAGRAPH 1. Respondent Alcoa is a Pennsylvania corporation with its principal office at 1501 Alcoa Building, Pittsburgh, Pennsylvania. It dominates and controls the acts and practices of Alcoa Building Products, Inc.

Respondent Alcoa Building Products, Inc. is a Pennsylvania corporation wholly owned and operated by Alcoa as its subsidiary, with its principal office at 1200 Two Allegheny Center, Pittsburgh, Pennsylvania.

PAR. 2. Respondent Alcoa, a leading producer and fabricator of aluminum, is now, and has been, engaged in the advertising of aluminum building products, including, but not limited to, residential aluminum siding distributed and sold by its wholly-owned subsidiary, ABP.

Respondent ABP is now, and has been, engaged in the distribution, advertising, and sale of aluminum building products, including residential aluminum siding.

PAR. 3. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in the distribution, advertising, including that referred to in Paragraph Four, and sale of the aforementioned products in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Through the use of advertisements and other printed materials, respondents have made statements with regard to their residential aluminum siding. Among said statements are the following:

- (a) When properly applied over reflective aluminum foil in your present exterior siding, Alcoa siding forms a protective insulating envelope that could reduce heat loss in winter and heat gain in summer. And save precious fuel.
- (b) Home insulation can be beautiful.
- (c) Alcoa aluminum siding: the beautiful insulator.
- (d) Not so apparent are the long term fuel savings possible with Alcoa siding, but you'll know they're there when you take a look at the amount you can save after installation.
- (e) As you can see, the hypothetical Wellingtons and Hamiltons saved a considerable amount of fuel after they had Alcoa siding installed.
- (f) YOUR HOUSE CAN HIT BACK WHEN THE ENERGY CRISIS HITS HOME. Alcoa building products can help your house put the crunch on energy consumption. One example is Alcoa siding.
- (g) Alcoa insulated siding saves on heating and cooling costs! Save on fuel bills at your house like never before! That's right Alcoa insulated siding helps insulate your home year round.
- (h) You'll probably use less fuel in years to come because Alcoa siding has definite insulating advantages.
- (i) You can beautify your home and insulate it at the same time with Alcoa siding.
- (j) We sell insulation in 17 colors, 5 textures and 50 states. From Alaska out to Hawaii, around to Florida and up to Maine, Alcoa Building Products can do a beautiful job of insulating against both cold and heat

PAR. 5. By the use of the statements described in Paragraph Four, and others of similar meaning, respondents have represented, directly or by implication, that:

- (a) Aluminum siding installed over aluminum foil, using prevalent and accepted installation methods, has significant insulation value

and will insulate pre-existing homes, thereby significantly saving energy and reducing fuel costs.

(b) The purchase of aluminum siding, regardless of type, and its subsequent installation on pre-existing homes, regardless of method of installation, is a meaningful, valuable, significant, or economical way: to insulate an older home, or to cut heat loss through the exterior walls of an older home, and, accordingly, to save energy and reduce fuel bills.

PAR. 6. In fact:

(a) (1) Plain aluminum siding installed over aluminum foil has little or no insulation value, and will not insulate pre-existing homes, thereby significantly saving energy and reducing fuel costs.

(2) Insulated aluminum siding installed over aluminum foil in pre-existing homes using prevalent and accepted installation methods frequently provides no or little insulation value, and does not result in substantial reductions in energy use and fuel costs.

(b) The purchase of aluminum siding, regardless of type, and its subsequent installation, on pre-existing homes, regardless of method of installation, is not a meaningful, valuable, significant, or economical way: to insulate an older home, or to cut heat loss through the exterior walls of an older home, and, accordingly, to save energy and reduce fuel bills.

Therefore, the statements and representations set forth in Paragraphs Four and Five were, and are, false, misleading, and deceptive practices.

PAR. 7. In the course and conduct of their business, and at all times mentioned herein, respondents have been, and now are, in substantial competition in commerce with corporations, firms, and individuals engaged in the sale of residential aluminum siding.

PAR. 8. The use by respondents of the aforesaid deceptive and unfair practices has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the purchase of substantial quantities of respondents' products. Therefore, these practices were and are to the prejudice and injury of the public and constitute unfair or deceptive acts or practices in or affecting 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 hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Cleveland Regional Office 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 the 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 sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Aluminum Company of America is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania with its office and principal place of business located at 1501 Alcoa Building, Pittsburgh, Pennsylvania.

Respondent Alcoa Building Products, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its offices and principal place of business located at 1200 Two Allegheny Center, Pittsburgh, Pennsylvania.

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

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

"Advertisement" means any written or verbal statement, illustration or depiction, whether the same appears in a television or radio broadcast, newspaper or newspaper supplement, magazine or magazine supplement, label, brochure, leaflet, circular, mailer, book insert, journal, catalog, sales promotion material, other periodical literature, billboard, public transit card, point of purchase display, or in any other media.

"Representation" means any direct or indirect statement, suggestion or implication.

"R Value" is the numerical measure of the degree of thermal resistance of a particular material.

For the purposes of this order the disclosed R Value shall be the R Value, expressed to the nearest tenth, of the thickness of respondents' product as packaged and shall be determined by actual tests of respondents' product. The tests shall be based on competent, widely accepted, scientific, engineering criteria, applicable to a retrofit situation.

It is ordered, That respondents Aluminum Company of America, a corporation, and Alcoa Building Products, Inc., a corporation, their successors and assigns, and respondents' officers, agents, representatives and employees (hereinafter "respondents"), directly or through any corporation, subsidiary, division or other device shall forthwith cease and desist from disseminating, causing to be disseminated, paying in whole or in part for, or supplying information used in developing any advertisements in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which make any fuel reduction, heat loss reduction, energy savings, fuel savings, or thermal insulation representations for residential aluminum siding whether "insulated" or not.

In advertisements which merely describe respondents' products without any special emphasis on insulated aluminum siding, the term "insulated aluminum siding" may be used to describe aluminum siding which has insulating material added to it during the manufacturing or installing process so long as a specific R-value for the insulating material so added is disclosed in conjunction with the term "insulated aluminum siding."

It is further ordered, That respondents deliver a copy of this order to all present and future personnel or agents of respondents responsible for the design or creation of advertising materials promoting Alcoa residential aluminum siding.

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 corporation which may affect compliance obligations arising out of the order.

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

IN THE MATTER OF
GENERAL MILLS FUN GROUP, INC.

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

Docket C-2965. Complaint, May 15, 1979 — Decision, May 15, 1979

This consent order, among other things, requires a Minneapolis, Minn. subsidiary of General Mills, Inc. in the advertising and sale of its toy products, to cease misrepresenting or failing to make relevant disclosures regarding the performance, operation, use, size or appearance of such products through visual portrayals, descriptions, or commercial production techniques. General Mills, Inc. is also bound by the terms of the order.

Appearances

For the Commission: *Louise R. Jung, John G. Siracusa and Robert S. Blacher.*

For the respondent: *Robert J. Fulgency, Minneapolis, Minn.*

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 General Mills Fun Group, Inc., 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. Respondent General Mills Fun Group, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, and with an office and place of business located at 9200 Wayzata Boulevard, Minneapolis, Minnesota.

Respondent General Mills Fun Group, Inc. is a wholly-owned subsidiary of General Mills, Inc. and is comprised of several divisions, including, among others, Kenner Products.

PAR. 2. Respondent is now, and for all times relevant to this complaint has been engaged in the production, distribution and sale of a variety of toy products, including, but not limited to, the following Kenner toy products: "Nugget," "Lightnin' TTP," "TTP Trouble Patrol."

PAR. 3. Respondent has caused to be prepared and placed for