

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

publication and has caused the dissemination of advertising material, including, but not limited to, the advertising referred to herein, to promote the sale of "Nugget," "Lightnin' TTP," and "TTP Trouble Patrol."

PAR. 4. In the course and conduct of its aforesaid business, respondent has caused "Nugget," "Lightnin' TTP" and "TTP Trouble Patrol" in their packages 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 maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in or affecting commerce.

PAR. 5. In the course and conduct of its aforesaid business, respondent has disseminated, and caused the dissemination of, certain television advertisements concerning said products in or affecting commerce which were broadcast 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 the sale of said products in or affecting commerce.

PAR. 6. Typical and illustrative of the statements and representations in respondent's advertisements disseminated by means of television, but not all inclusive thereof, are the following advertisements, attached hereto and made a part hereof as Exhibits A, B and C, respectively: "Dusty-Nugget," "Lightnin' TTP" and "TTP Trouble Patrol."

PAR. 7. Through the use of the aforesaid advertisements, respondent has represented, directly or by implication:

1. That "Nugget" will stand without any human assistance or mechanical aid (see Exhibit A);
2. That a child can exercise a high degree of control over the speed and direction of the "Lightnin' TTP" car when it is launched from the "Lightnin' TTP" launcher and thereby can perform certain acts or series of acts with the "Lightnin' TTP" car as depicted in one of the aforesaid advertisements (see Exhibit B); and,
3. That a child can exercise a high degree of control over the speed and direction of the "TTP Trouble Patrol" motorcycle and car when they are launched from the "TTP Trouble Patrol" launcher and thereby can perform certain acts or series of acts as depicted in one of the aforesaid advertisements (see Exhibit C).

PAR. 8. In truth and in fact:

1. "Nugget" cannot stand without human assistance or mechanical aid;
2. A child cannot exercise a high degree of control over the speed

and direction of the "Lightnin' TTP" car when it is launched from the "Lightnin' TTP" launcher and cannot perform certain acts or series of acts with the "Lightnin' TTP" car as depicted in one of the aforesaid advertisements (see Exhibit B); and,

3. A child cannot exercise a high degree of control over the speed and direction of the "TTP Trouble Patrol" motorcycle and car when they are launched from the "TTP Trouble Patrol" launcher and cannot perform certain acts or series of acts as depicted in one of the aforesaid advertisements (see Exhibit C).

Therefore, the statements, representations and depictions referred to in Paragraphs Six and Seven are deceptive and/or unfair.

PAR. 9. The use by respondent of the aforesaid deceptive or unfair advertising has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that the said representations were and are true, and into the purchase of substantial quantities of the products of respondent by reason of said erroneous and mistaken belief.

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

PAR. 11. The aforesaid acts or practices of respondent, as herein alleged 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 practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act, as amended.

TRADE COMMISSION DECISIONS

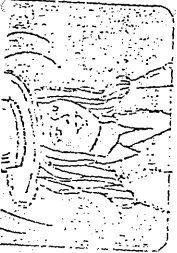
Complaint

93 F.T.C.



GIRL BACK TO SEE HER ON HORSE
GIRL'S HAND TAKES HORSE ALONG

Can ride Nugget... Nugget... N



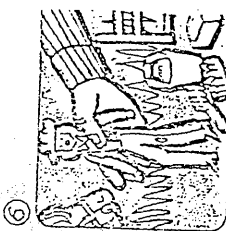
SHE JOKES UP AND DOWN
"LITTLE DOLLS LIKE DUSTY..."

"Little dolls like Dusty..."



GIRL ON DUSTY (GO) IN HER LATHER
SHE JOKES UP AND DOWN

"Little dolls like Dusty..."



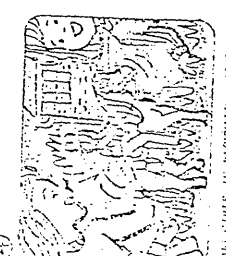
SHE ALL TACK, WATER PAIL, ET
OTHER GIRL TAKES DUSTY
HORSE'S BACK.

Time to stop and take a rest



GIRL'S HAND TAKES HORSE
"JUMP" FENCE.

They're ridin' west -



GIRL STOPS
IN HANDS IN BACKWARD, GIRL STOPS
HE SEE.

They're ridin' east -

Product:
 Date:
 Cincinnati, Ohio 45202
 Area Code 513-421-300

Girl: "Hooty, I just love you riding outfit, beautiful!"

Other girl: "Hooty, I just love you riding outfit, beautiful!"

CU OF NUGGET TO SEE HER FLOWY HAIR, ETC.

VOICEL: "Silly soft and golden brown."

Time to ride back into town.

CUT TO CU OF NUGGET'S HEAD.

DISPLAY SHUT. ALL ITEMS ON CUE BACKGROUND.

ALONG: "Nugget, accessories dusty, riding outfit from Kismet, du sold separately."

Complaint

FEDERAL TRADE COMMISSION DECISIONS

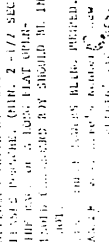
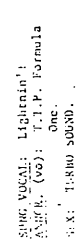
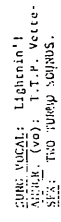
Complaint

93 F.T.C.

Production _____
 Title: _____
 Film/Tape _____
 Location _____
 Date _____

Shelbyway at Eighth
 Cincinnati, Ohio 45202
 Area Code 513-221-6

Video	Audio
CU OF DUSTY (A) IN THE WATER, FISHING. SHE JIGS UP AND DOWN. FISH DASH TO SEE HER ON HORSE. GIRL'S HAND TROTS HORSE ALONG. TWO GIRLS IN BACKYARD. GIRL STOPS HORSE. GIRL'S HAND MAKES HORSE "JUMP" FENCE. SEE ALL TACK, WATER PAIL, ETC. OTHER GIRL TAKES DUSTY OFF HORSE'S BACK. GIRL BRUSHES NUGGET AND GROOMS HER. OTHER GIRL REINS NUGGET'S RECK FROM SIDE TO SIDE. CU OF NUGGET TO SEE HER FLYING MANE, ETC. GIRL RAISES HORSE'S HEAD FROM DOWN IN THE BUCKET. CUT TO CU OF NUGGET'S HEAD. DISPLAY SHOT. ALL ITEMS ON GRASS BKG.	<u>WESTERN MALE VOICE:</u> "Dusty...Dusty...Dusty... ridin' Nugget...Nugget...Nugget They're ridin' east, They're ridin' west - Time to stop and take a rest." <u>GIRL:</u> "Dusty, I just love your riding outfit, and your palomine is so beautiful!" <u>VOGEL:</u> "Silky soft and golden brown - Time to ride back into town - On Nugget...Nugget...Nugget." <u>ANNCR:</u> "Nugget, accessories, and Dusty" ridin' outfit, from Hanger. Dusty sold separately."



Complaint

93 F.T.C.



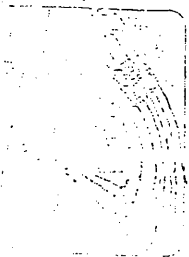
INTERCUT THREE BOYS REACT
HARROW RISSES.

- Flame design - a
Turbo Sound.



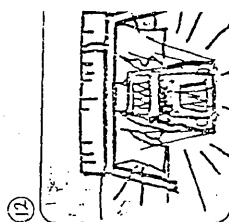
CUT TO: SHOT OF THREE CARS
CRASHING.

ANIM. (vo): "Lightnin'"
Colors -



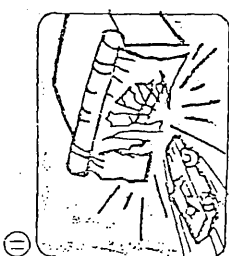
CUT TO: SHOT OF PORSCHE DRIVING
TOWARD EDGE OF CIRCULAR CUTLE
OFF.

ANIM. (vo): "Lightnin'"
Colors -
T.T.P. Porsche.
THREE TURBO SOUNDS.



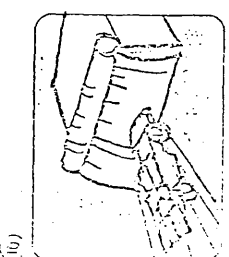
PORSCHE CRASHES THROUGH F.

SFX: NOISE OF FOIL.



VERTICAL CAR CRASHES THROUGH
FOIL.

SFX: NOISE OF FOIL.



CUT TO: SHOT OF OTHER SIDE OF
CIRCULAR CUTLE BOX OVER WHICH
BOYS HAVE GRABBED A SLIP OF
FOIL. PORSCHE CRASHES THROUGH
FOIL.

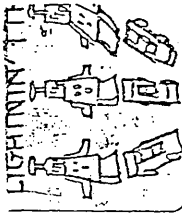
SFX: NOISE OF FOIL.

Storyboard
Title:
Product:
Film:
Tape:
Director:
Editor:
Cinematographer:
Sound:
Music:
Production:
Distributor:
Agency:
Client:
Date:
Page:
Total:
Storyboard
Title:
Product:
Film:
Tape:
Director:
Editor:
Cinematographer:
Sound:
Music:
Production:
Distributor:
Agency:
Client:
Date:
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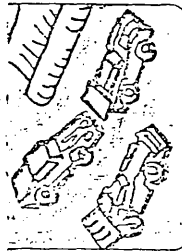
Storyboard
Title:
Product:
Film:
Tape:
Director:
Editor:
Cinematographer:
Sound:
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Date:
Page:
Total:

Complaint



TIMBSTONE SHOT:



CUT TO: SHOT OF THREE CARS GOING TO A HALL BY ROLL OF FOIL.



CUT TO: CU BOB

ANNCR. TAG: Lightnin' T.
Tower & Car.
Kenner. Ochu
Lightnin' T.
Cars sold set

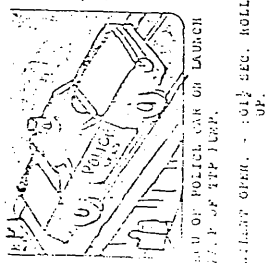
ANNCR (vo): Lightnin'! They're
excitein'! Lightnin'
T.T.P. Cars."

Area Code 618-421-800
Cincinnati, Ohio 45202
Broadcasting at Eight
Lee-Korin, Dave & Assoc

From: [redacted] Determined by [redacted]
To: [redacted]
Subject: [redacted]
Date: [redacted]

Complaint

93 F.T.C.



CUT TO: POLICE CAR ON LAUNCH RAMP WITH CURVED OPERATING PUMP ATTACHED. (BASE- MENT PLAYROOM)

SINGER (vo): TTP Trouble Patrol!

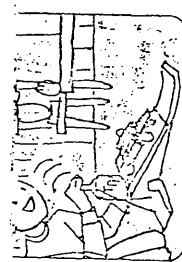


CUT TO: POLICE CAR RACING IN A SEMI-CIRCLE ON TWO WHEELS ACROSS BASEMENT FLOOR.

SEX: CAR SOUND

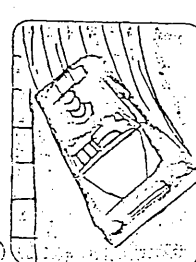
SINGER (vo): Waaah, no! TTP

SEX: TTP



CUT TO: POLICE CAR ON LAUNCH RAMP WITH CURVED OPERATING PUMP ATTACHED. (BASE- MENT PLAYROOM)

SINGER (vo): TTP Trouble Patrol!

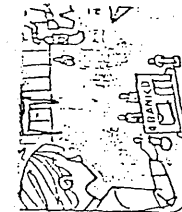


CUT TO: POLICE CAR RACING IN A SEMI-CIRCLE ON TWO WHEELS ACROSS BASEMENT FLOOR.

SEX: CAR SOUND

SINGER (vo): Waaah, no! TTP

SEX: TTP



CUT TO: BOY #2 FINISH ASSEMBLING CRASH WALL ARE USING AS "BAK". I ROBBERS IN IT. ALL I SHOW.

SINGER (vo): Things happen at 6th



DISSOLVE TO: BOY #2 WITH CYCLE ON RAMP. BOY IS ON CYCLE. BOY RELEASES CYCLE.

SEX: CAR SOUND

SINGER (vo): Waaah, no! TTP

SEX: TTP



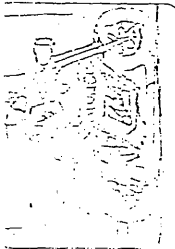
CUT TO: CYCLE JUMPING RAMP.

SINGER (vo): That's ti
Big 'n to

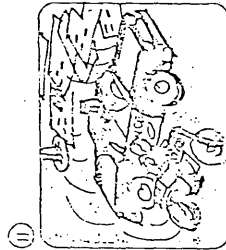
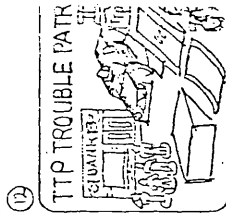


CUT TO: CAR GOING UP RAMP AND JUMP OFF.

FX: CYCLE
SINGER (vo): What a race!
Trouble Patrol!
TTP...



FX: TINDO-SOUND
SINGER (vo): Givin' chase,
Cops 'n robbers,



CUT TO: ISLAND SHOT -
CAR, CYCLE WITH POLICE
STATION ON IT, A KARP
CRASH WITH JUMP KARP
FOUR WITH CURVED STCT
DISPLATED WITH BOX IN

SINGER (vo): TTP Trouble
with the Police Chase too.

CUT TO: CU OF POLICE CAR
AND CYCLE COMING TO STOP
ALONGSIDE THE ROBBERS.

SINGER (vo): Trouble Patrol!
TTP...

CUT TO: CAR, CLOSELY POL-
ICED BY CYCLE AS THEY BOTH
SEARCH FOR "HARK" AND FIND
IT.

SINGER (vo): You can crush
the car,
but not the
trouble.

DECISION AND ORDER

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

The named respondent, General Mills, Inc., and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the named 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 the named 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 considered the matter and having determined that it had reason to believe that the named 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 sixty (60) days, and having duly considered the matter and having determined that it had reason to believe that the named 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 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, making the following jurisdictional findings, and enters the following order:

1. The named 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, with an office and place of business located at 9200 Wayzata Boulevard, Minneapolis, Minnesota.
2. The named respondent is a wholly-owned subsidiary of General Mills, Inc., 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 9200 Wayzata Boulevard, Minneapolis, Minnesota.

3. The Federal Trade Commission has jurisdiction of the subject matter in this proceeding and of General Mills Fun Group, Inc. and General Mills, Inc., and the proceeding is in the public interest.

ORDER

For the purposes of this order:

1. The compression of a television commercial into a short time span shall not be considered a violation of this order so long as it does not result in the misrepresentation to children of the toy's performance or operation.

2. The term "children" shall mean the age group or age groups of children as shown on the packaging for whom the manufacturer recommends use of the toy.

3. The effectiveness of any oral or written disclosure, disclaimer or qualification of any visual portrayal or oral or written description shall be considered in determining whether the advertisement, as a whole, misrepresents to children the toy's performance, operation, size or appearance.

4. The term "commercial production technique" shall include, but not be limited to, the use in commercial production of prototypes or other non-production or modified versions of a toy, controlled action sequences, mechanical or human assistance to child actors in actuating or manipulating the toy during or prior to commercial production, the use of special camera lenses or film or audio techniques, including video or audio overlays or the like, and the use of splicing or editing techniques.

5. The use of "commercial production techniques" shall not be considered a violation of this order so long as they do not result in the misrepresentation to children of the toy's performance, operation, size or appearance.

I

It is ordered, That General Mills Fun Group, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, sale, offering for sale or distribution of toys or related products (hereinafter referred to as "toys"), in or affecting commerce, cease and desist from, directly or indirectly, portraying or describing in an advertisement

the performance, operation, use, size, appearance, components or similar characteristic of such toy by or through the use of:

A. Any visual portrayal or oral or written description of the performance or operation of a toy in any manner which cannot be duplicated by children in the ordinary use of such toy.

B. Any use of any commercial production technique that results in any visual portrayal or oral or written description which, in the context of the advertisement as a whole, misrepresents to children a toy's performance, operation, size or appearance.

C. Any visual portrayal or oral or written description of the performance or operation of a toy which fails to disclose to children the need for human or mechanical assistance, when such failure, in the context of the advertisement as a whole, misrepresents to children such toy's performance or operation.

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 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 form in which it has complied with this order.

III

It is further ordered, That General Mills, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, employees, directly or through any corporation, subsidiary (other than General Mills Fun Group, Inc.), division or other device, shall be bound by the terms of this order in the event it engages in the advertising of toys, in or affecting commerce, excluding those advertisements for toys not manufactured by or for General Mills, Inc. and those advertisements relating to the use of toys as premiums in connection with the sale of non-toy products.

It is further ordered, That General Mills, Inc., a corporation, shall be liable for any penalties or other legal or equitable relief which arise or could have arisen from any suit based on any alleged

GENERAL MILLS FUN GROUP, INC.

749

Decision and Order

violation of this order committed by any subsidiary, division or other device of General Mills, Inc. subject to this order (hereafter "company"), or by their officers, representatives or employees, while such company was owned by General Mills, Inc., if, for any reason, such as sale, dissolution, merger, reorganization, insolvency or termination, the company is not amenable to suit or the execution of full judgment.

FEDERAL TRADE COMMISSION DECISIONS

Complaint

93 F.T.C.

IN THE MATTER OF

KAISER ALUMINUM & CHEMICAL CORPORATION

FINAL ORDER, OPINION, ETC., IN REGARD TO
ALLEGED VIOLATION OF SECTION 5 OF THE
FEDERAL TRADE COMMISSION ACT AND SECTION 7
OF THE CLAYTON ACT

Docket 9080. Complaint, April 27, 1976 — Final Order, May 17, 1979*

This order requires, among other things, that an Oakland, Calif. manufacturer of various products divest itself completely, within one year from the effective date of the order, of the Lavino Division of International Minerals & Chemicals Corporation, subject to Commission approval; and refrain, for three years, from hiring any individual employed by the purchaser. The order further prohibits respondent from acquiring any business engaged in manufacturing, distributing, or selling basic refractories, for a period of ten years; and provides for arbitration, should disputes arise between respondent and the acquirer.

Appearances

For the Commission: *Tom D. Smith, Kenneth A. Ross and George S. Cary.*

For the respondent: *Robert A. Hammond, III, Gary D. Wilson, James R. Farrand, Stewart A. Block and Carol D. Weisman, Wilmer, Cutler & Pickering, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Kaiser Aluminum and Chemical Corporation, a corporation subject to the jurisdiction of the Commission, has acquired the two operating basic refractory plants, inventory and related assets of the Lavino division of International Minerals and Chemical Corporation, a corporation, in violation of Section 7 of the Clayton Act, as amended, (15 U.S.C. 18), and/or Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45), and that a proceeding in respect hereof would be in the public interest, hereby issues its complaint charging as follows:

* Amended by the September 8, 1977 order of the Administrative Law Judge, which added two new product markets: "B.O.F. bricks and shapes" and "conventionally bonded basic bricks and shapes."