

IN THE MATTER OF
FORD MOTOR COMPANY

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

Docket 9001. Complaint, Dec. 10, 1974 — Decision, May 24, 1979

This consent order, among other things, requires a Dearborn, Mich. automobile manufacturer to cease, in connection with automobiles marketed by its Lincoln-Mercury Division, misrepresenting the fuel economy of any automobile or its superiority over competitive products; and the purpose, contents and results of automotive tests. Additionally, the firm is required to substantiate all claims regarding the structural strength, quietness, fuel economy and performance of its products, and maintain such substantiation for a three-year period.

Appearances

For the Commission: *Russell Hatchl, Mitchell Paul and Deborah Randall.*

For the respondent: *Robert L. Wald, Wald, Harkrader & Ross,* Washington, D.C. and *David R. Larrouy,* Dearborn, Mich.

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 Ford Motor Company, 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 Ford Motor Company is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its executive office and principal place of business located at The American Road, Dearborn, Michigan.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the manufacture, distribution, sale, and advertising of various products including automobiles.

PAR. 3. Respondent causes the said products, when sold, to be transported from its place of business in various States of the United States to purchasers 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 course of trade in said products in commerce. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of its said business, respondent has disseminated and caused the dissemination of advertisements concerning its aforementioned products including automobiles in commerce by means of advertisements printed in magazines and newspapers distributed by the mail and across state lines and 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 products including automobiles.

PAR. 5. Among the advertisements so disseminated or caused to be disseminated by respondent are the advertisements attached as Exhibits A and B.

PAR. 6. Said Exhibits A and B and others substantially similar thereto contain one or more false, deceptive and misleading representations and fail to disclose facts which are material in the light of the representations contained therein. Therefore, the representations contained in said advertisements were, and are, deceptive and/or unfair.

PAR. 7. Said Exhibits A and B and others substantially similar thereto (hereinafter referred to as said advertisements) represent, directly or by implication, that the gasoline consumption rates specified in the advertisements approximate or equal the performance an ordinary driver can typically obtain from standard production model cars when taking long or cross-country trips.

PAR. 8. In truth and in fact, at the time respondent made the representations as alleged in Paragraph Seven respondent did not possess and rely upon a reasonable basis for making these representations. Therefore the said advertisements were, and are unfair and/or deceptive.

PAR. 9. Said Exhibits A and B and others substantially similar thereto represent, directly or by implication, that respondent had a reasonable basis for making, at the time they were made, the representations as alleged in Paragraph Seven.

PAR. 10. In truth and in fact, at the time respondent made the representations as alleged in Paragraph Nine respondent had no reasonable basis for making the representations as alleged in Paragraph Seven. Therefore, the said advertisements were, and are deceptive and/or unfair.

PAR. 11. Respondent failed to disclose in said advertisements that

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it had no evidence that any or all of the conditions under which the tests described in the advertisements were conducted approximated or equalled the conditions under which an ordinary driver would operate his automobile when taking long or cross country trips and that respondent had no evidence that would tend to show whether or not the conditions under which said tests were run were typical or atypical of conditions encountered by ordinary drivers.

PAR. 12. The facts set forth in Paragraph Eleven are material in light of the representations contained in said advertisements and their omission make these advertisements misleading in a material respect. Therefore, the said advertisements were, and are deceptive and/or unfair.

PAR. 13. In the course and conduct of the aforesaid business, and at all times mentioned herein, respondent Ford Motor Company has been and now is in substantial competition in commerce with corporations, firms, and individuals engaged in the sale and distribution of automobiles of the same general kind and nature as that sold by respondent.

PAR. 14. The use by respondent of the aforesaid unfair and/or deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the consuming public into the purchase of substantial quantities of automobiles manufactured by respondent. Further, as a result thereof, substantial trade is being unfairly diverted to respondent from its competitors.

PAR. 15. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair or deceptive acts or practices in commerce and unfair methods of competition in commerce in violation of Section 5 of the Federal Trade Commission Act.

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February 18th: General Environmental Corp. tested the highway mileage of Ford Motor Company's small cars. Today: the results.

EXHIBIT

A

All 5 Ford Motor Company small cars got over 26 MPG.

The test.

At 7:15 AM, February 18th, five 1974 Ford Motor Company small cars (wheelbase under 112") were driven from Phoenix to Los Angeles to learn the kind of mileage they could get. The cars were a Ford Pinto, a Ford Maverick, a Ford Mustang II, a Mercury Comet and one of Mercury's Capris.

All the cars were regular production models with standard engines

and transmissions. They weren't however, brand new. They had been broken in to simulate 6,000 miles of normal driving. All the cars used regular gas and had normal dealer preparation.

The drivers were not professional. And they did not exceed 50 MPH. In many respects, the test was similar to one run on December 28th, 1973, where five 1974 Ford LTD's delivered an average of 18.6 MPG.

The results.

These results show dramatically that these five small cars from Ford and Lincoln-Mercury did deliver economical gas mileage.

Of course, the mileage you will get depends on many factors:

equipment, engine displacement, vehicle weight, local road conditions and your personal driving style. So the mileage you get may be less or even more than the figures quoted here.

Ford and Lincoln-Mercury dealers offer more types of gas-saving engines for small cars than anyone.

One of the most important factors determining small car mileage is a gas-saving engine. And Ford and Lincoln-Mercury dealers offer more types of gas-saving engines for small cars than anyone.

Two 4-cylinder engines. Some manufacturers of so-called "economy" cars don't even offer a 4-cylinder engine.

Ford Motor Company makes two different sizes of 4-cylinder engines: A 2.0 liter which was used in Pinto and Capri for this test, and the 2.3 liter used in Mustang II.

The 2.0 liter is the smallest displacement engine available today in an American-made car from any major American manufacturer. Ford Motor Company sells more 4-cylinder engines in American-made cars than anyone else.

Two 6-cylinder engines. Ford and Lincoln-Mercury dealers offer two sizes of 6-cylinder engines for small cars: a 200 CID which was used in Maverick and Comet for this test, and an optional 250 CID.

Ford Motor Company's major competitor offers only one 6-cylinder engine for all of its car lines.

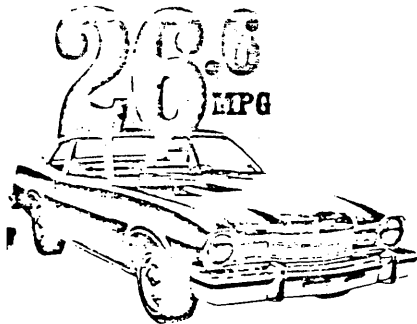
A V-4 engine. Ford Mustang II is the only car made by a major American manufacturer to offer an optional V-4. Mercury's imported Capri offers an optional 2.8 liter V-6 engine at a cost thousands of dollars less than any other V-6 powered import.

An economy V-8 engine. Ford and Lincoln-Mercury dealers offer a 302 CID V-8 engine, the smallest displacement V-8 available from any major American manufacturer. It provides extra performance while still delivering good gas mileage.

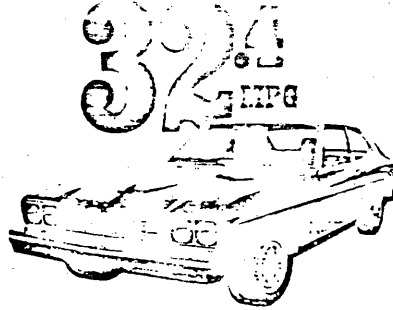
Explanation of engine designations. CID OR LITER: the total volume, in cubic inches or liters (metric system) that the pistons displace in all the engine's cylinders.



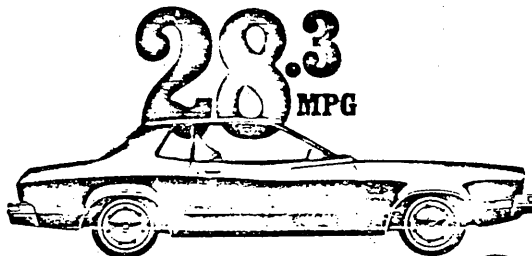
FORD MOTOR COMPANY HAS MADE MORE SMALL CARS*
THAN ANYONE ELSE IN THE WORLD (THAT INCLUDES
VW, AMC, TOYOTA, GM, FIAT, DATSUN OR CHRYSLER)

**MERCURY COMET.**

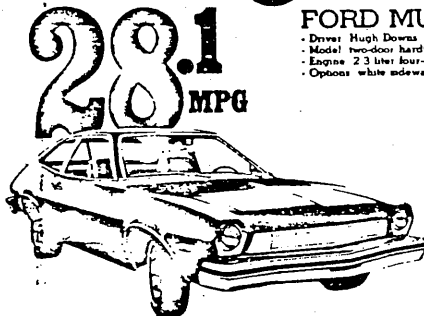
- Driver: Fred Roy
- Model: two-door sedan
- Engine: 200 CID six-cylinder
- Options: white sidewall tires, wheel covers, vinyl roof

**MERCURY'S CAPRI.**

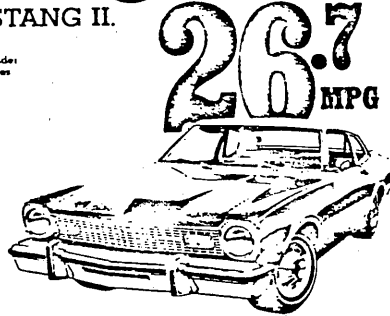
- Driver: Roger Rutherford
- Model: Sport Coupe
- Engine: 2.0 liter four-cylinder
- Options: none

**FORD MUSTANG II.**

- Driver: Hugh Downs
- Model: two-door hardtop
- Engine: 2.3 liter four-cylinder
- Options: white sidewall tires

**FORD PINTO.**

- Driver: Mickey Sholder
- Model: two-door sedan
- Engine: 2.0 liter four-cylinder
- Options: white sidewall tires, wheel covers and Accent Group

**FORD MAVERICK.**

- Driver: Jane Miko
- Model: two-door sedan
- Engine: 200 CID six-cylinder
- Options: white sidewall tires, wheel covers and Exterior Decor Group

Ford and Lincoln-Mercury dealers offer 35 different small car models and engines, 20 with sticker prices under the best-selling import model.



Two Lincoln-Mercury MULTI-ENGINE CARS

EXHIBIT

B

A 6-cylinder Comet and a 4-cylinder Capri
that ran the test.

MILEAGE TEST RESULTS	
COMET	26.6 mpg
CAPRI	32.4 mpg

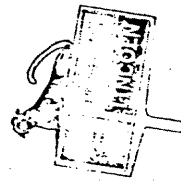


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February 19, 1974: In a 379 mile highway test through Arizona and California, supervised by General Environments Corporation, a Comet and a Capri with standard engines and transmissions delivered the kind of gas mileage you'd like to get. Each car was broken in the equivalent of 6,000 miles and driven by non-professional drivers, never exceeding 50 mph. You yourself might actually average less, or for that matter more! Because mileage varies according to maintenance, equipment, total weight, driving habits and road conditions. And no two drivers, or even cars, are exactly the same. Stop in at your Lincoln-Mercury dealer's Mileage Headquarters and see what kind of mileage you can get.

Lincoln-Mercury Division



WASHINGTON
LLOYD BUTLER, INC.
 1700 1ST STREET, N.W.
 WASHINGTON, D.C.

SUBURBAN

DAVE PILES LINCOLN-MERCURY, INC.
 10000 RIVER TURNPIKE
 FARMERSBURG, VIRGINIA

UBRIEN & RONALL, INC.
 10000 RIVER TURNPIKE
 FARMERSBURG, VIRGINIA

BILL BOGLEY LINCOLN-MERCURY, INC.
 7800 WISCONSIN AVENUE
 FTHESDA, MARYLAND

B. M. WOODFIELD MERCURY
 26-01 RIVER ROAD
 DAMASCUS, MARYLAND

HERNDON MOTOR COMPANY, INC.
 93 WASHINGTON AVENUE
 HERNDON, VA

TOM CUBRO LINCOLN-MERCURY, INC.
 123 27 WASHINGTON BLVD.
 LAUREL, MARYLAND

JIM ECKELS LINCOLN-MERCURY, INC.
 8389 CENTERVILLE ROAD
 MANASSAS, VIRGINIA

WILSON POWELL LINCOLN-MERCURY, INC.
 4700 BRANCH AVENUE
 MARLOW HEIGHTS, MARYLAND

EAST-WEST LINCOLN-MERCURY, INC.
 7591 ANNAPOLIS ROAD
 LANDOVER HILLS, MARYLAND

THOMASSEN LINCOLN-MERCURY, INC.
 1125 ROCKVILLE PIKE
 ROCKVILLE, MARYLAND

SAFFORD LINCOLN-MERCURY
 8507 COLESVILLE RD.
 SILVER SPRING, MARYLAND

CHESTER LINCOLN-MERCURY, INC.
 8550 LEESBURG PIKE
 TYSONS CORNER, VIRGINIA

FEDERAL TRADE COMMISSION DECISIONS

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DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondent, its attorney, 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 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 Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Ford Motor Company 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 The American Road, Dearborn, Michigan.

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

It is ordered, That respondent, Ford Motor Company, its successors and assigns, its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or device, in connection with the advertising, offering for sale, sale or distribution, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, of automobiles marketed by the Lincoln-Mercury Division, do forthwith cease and desist from:

1. Misrepresenting in any manner the fuel economy of any

automobile or the superiority of any automobile over competing products in terms of fuel economy.

2. Making any representations, directly or by implication, concerning the structural strength, quietness or fuel economy of such products or any part thereof, unless respondent possesses and relies upon a reasonable basis for such representations; provided that such a reasonable basis shall consist of competent and reliable scientific tests or other competent and reliable objective materials, including competent and reliable opinions of scientific, engineering or other experts who are qualified by professional training and experience to render competent judgments in such matters.

3. (a) Representing, directly or by implication, by reference to a test or tests, that the performance of any automobile has been tested either alone or in comparison with other automobiles unless such representation(s) accurately reflect the test results and unless the tests themselves are so devised and conducted as to substantiate each such representation concerning the featured tests.

(b) Misrepresenting in any manner the purpose, contents or conclusion of any test or tests relating to the performance of its automobiles.

For purposes of Paragraph 3(a) and 3(b) of this order, "test" shall include demonstrations, experiments, surveys, reports and studies.

4. Failing to maintain accurate records which may be inspected by Commission staff members upon reasonable notice:

(a) Which consist of documentation in support of any representation covered by this order included in advertising or sales promotional material disseminated by respondent, insofar as the advertising or sales promotional material is prepared, or is authorized and approved, by any person who is an officer or employee of respondent, or of any division or subdivision of respondent;

(b) Which provided the basis upon which respondent relied as of the time the representation covered by this Order was made; and

(c) Which shall be maintained by respondent for a period of three years from the date such advertising or sales promotional material was last disseminated by respondent or any division or subsidiary of respondent.

It is further ordered, That respondent shall forthwith distribute a copy of this order to its operating divisions involved in the advertising, promotion, distribution, or sale of automobiles.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale result

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ing 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 respondent shall, within sixty (60) days after the effective date of this order, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of its compliance with this order.

IN THE MATTER OF
RHINECHEM CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF
THE CLAYTON ACT

Docket 9116. Complaint, Aug. 23, 1978 — Decision, June 6, 1979

This consent order, among other things, requires a New York City manufacturer and seller of organic pigments to terminate all agreements providing for the acquisition of the Chemetron Corporation's organic pigments business; return all confidential documents exchanged during the negotiations; and provide the Commission with evidence of its compliance with these requirements. Additionally, respondent is required, until December 31, 1981, to furnish the Commission with 90-days' advance notice should the firm seek to acquire Chemetron's organic pigment business, or sell its own organic pigment business to Chemetron or Chemetron's corporate parent, Allegheny Ludlum Industries, Inc.

Appearances

For the Commission: *Glenn M. Fellman, Michael P. Waxman, John M. Peterson and Benita A. Sakin.*

For the respondents: *Thomas L. VanKirk, Buchanan, Ingersoll, Roderwald, Kyle & Buerger, Washington, D.C. and H. Blair White, Sidley & Austin, Chicago, Ill.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents, each subject to the jurisdiction of the Commission, have entered into a merger agreement which, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45; that said agreement constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended; and that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, pursuant to Section 11 of the Clayton Act, 15 U.S.C. 21, and Section 5(b), of the Federal Trade Commission Act, 15 U.S.C. 45(b), stating its charges as follows:

Definition

For purposes of this complaint the following definition shall apply:
Organic pigments - insoluble color particles characterized by a chemical composition which includes carbon rings or chains as the