

IN THE MATTER OF
MOBIL OIL CORPORATION

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

Docket C-3054. Complaint, Jan. 22, 1981—Decision, Jan. 22, 1981

This consent order requires, among other things, a New York City manufacturer of chemical, fuel and lubrication products to cease representing in the advertising, labeling and sale of "Mobil 1" that its use in automobiles will reduce the consumption of engine lubricating oil, unless, in conjunction with such representation, respondent sets forth a prescribed statement advising new users of the product to check the oil level of their cars frequently because some cars will experience higher oil consumption with low viscosity oils like Mobil 1.

Appearances

For the Commission: *Joseph L. Hickman, John McNally and Sam Carusi.*

For the respondent: *John McGrath, Donovan, Leisure, Newton & Irvine, Washington, D.C., and Susan Csia and John McConnin, in-house counsel.*

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 Mobil Oil 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. Respondent Mobil Oil Corporation is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its executive office and principal place of business located at 150 East 42nd St., New York, New York.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the manufacture, sale and distribution of various fuel, chemical and lubrication products throughout the United States for use by industry and by the general public.

PAR. 3. For several years last past, respondent has manufactured, and has sold and distributed to the general public through automo-

ble service stations and other retailers throughout the United States a synthesized automotive lubricant under the trade name: "Mobil 1".

PAR. 4. Respondent causes Mobil 1 to be transported from various places of manufacture, storage and distribution in various States of the United States to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times material herein has maintained, a substantial course of trade in said product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. At all times material herein, respondent has been, and is, in substantial competition in or affecting commerce, with individuals, firms and corporations engaged in the sale and distribution of automotive lubricants for use by the general public.

PAR. 6. In the course and conduct of its business, and for the purpose of inducing the sale of Mobil 1, respondent disseminates, and causes the dissemination of advertising by various means, including those in national publications and brochures distributed by the mail across state lines, point of sale promotional materials displayed or distributed in automobile service stations and in other retail stores throughout the United States, statements on Mobil 1 labels, and through television broadcasts transmitted by television stations located in various states of the United States which broadcast within said states and across state lines.

PAR. 7. Typical statements in such advertising include, but are not limited to, "Reduces oil consumption up to 25% in engines in good mechanical condition," "Reduces oil consumption in engines in good mechanical condition," and ". . . Mobil 1 saves . . . up to 25% on oil consumption in engines in good mechanical condition."

PAR. 8. By and through its advertisements, respondent represents, directly or indirectly, that by switching from conventional mineral oils to Mobil 1 purchasers will achieve in cars with engines in good mechanical condition a substantial reduction in the amount of engine lubricating oil consumed in the operation of such cars.

PAR. 9. In truth and in fact, many purchasers of Mobil 1, by switching from a heavier viscosity conventional mineral oil, will not achieve a substantial reduction in the amount of oil consumed in the operation of their cars. To the contrary, the use of Mobil 1 may result in increased oil consumption in various types or categories of cars, including certain older or higher mileage cars, high performance cars, and cars with rebuilt or rebored engines, which, because of larger engine clearances, consume less oil of a heavier viscosity than they consume when Mobil 1 is used.

PAR. 10. In the advertisements described in Paragraph Six,

respondent fails to disclose that some types of vehicles will experience increased oil consumption with the use of low viscosity oils such as Mobil 1. Therefore, respondent's advertisements and representations described in Paragraphs Six and Eight, were and are unfair and deceptive.

PAR. 11. The use by respondent of the aforesaid unfair and deceptive statements, representations, acts and practices, directly or by implication, has had, and now has, the capacity and tendency to mislead members of the public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete, and into the purchase of substantial quantities of respondent's products and services by reason of said erroneous and mistaken belief.

PAR. 12. The 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 and unfair methods of competition in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondent, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

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 Dallas Regional Office 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, its attorneys, 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 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 by interested persons pursuant to Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Mobil Oil is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 150 East 42nd St., in the City of New York, State of New York.
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

I

It is ordered, That respondent Mobil Oil Corporation, a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of Mobil 1 in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or indirectly, that use of such product results in reduced consumption of engine lubricating oil unless there is set forth, and in immediate conjunction with such representation, the following disclosure:

NEW USERS OF [NAME OF PRODUCT] SHOULD CHECK OIL LEVELS MORE FREQUENTLY. SOME CARS WILL EXPERIENCE HIGHER OIL CONSUMPTION WITH LOW VISCOSITY OILS LIKE [NAME OF PRODUCT].

Provided however, such disclosure shall not be required if (1) the representation concerns only vehicles which are not general purpose passenger automobiles and (2) the representations do not appear in media primarily directed to individual consumers.

II

It is further ordered, That the disclosures covered by Paragraph I above:

1. If in print media, it shall be set forth clearly and conspicuously

and shall be separated from the principal portion of the text of the advertisement so it can be readily noticed.

2. If on labels or packaging materials, shall be parallel to the base of the label or package and the letters must be easily readable.

III

It is further ordered, That if the disclosure required by Paragraph I above is made in:

1. Radio advertising, the duration of the disclosure will be at least eight (8) seconds.

2. Television advertising, the disclosure may be in either audio or visual form; the duration of the disclosure will be at least eight (8) seconds.

3. Visual form in television advertising, each word shall be in letters of color or shade which contrasts with the principal background against which it is displayed with letters that are easily readable and without distracting noise or action in the background.

IV

It is further ordered, That the provisions of this Order shall apply only to representations disseminated within the United States, any of its territories or the District of Columbia.

V

For purposes of this Order,

"*Mobil 1*" shall mean any SAE 5W-20 synthetic motor oil manufactured or distributed by Mobil for use in the engines of general purpose passenger automobiles.

"*General purpose passenger automobile*" shall mean any automobile or light truck owned by individual consumers and principally used for personal transportation. It does not include commercial or rental fleets of automobiles or trucks, heavy or medium weight trucks, or trucks or automobiles primarily used for commercial purposes.

VI

It is further ordered, That respondent shall notify the Commission at least 30 days prior to the effective date of any change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or

dissolution of any subsidiary, or any other change in the corporation which would affect compliance obligations arising out of this Order.

VII

It is further ordered, That the respondent shall forthwith distribute a copy of this Order to each of its operating divisions involved with the sale, distribution or advertising of Mobil 1 and to each of its officers, representatives and employees who are engaged in the preparation and placement of advertisements and creation of product labels for such product.

VIII

It is further ordered, That any change required in the labels, containers or packing material used with Mobil 1 will be deemed to be in compliance with this Order if such changes are made and used with all Mobil 1 which is packaged after six (6) months from the effective date of this Order.

IX

It is further ordered, That the respondent shall, within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth the manner and form in which it has complied with this Order.

IN THE MATTER OF
OWENS-CORNING FIBERGLAS CORPORATION

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-2842. Decision, Sept. 30, 1976—Modifying Order, Jan. 28, 1981

This order reopens the proceeding and modifies the Commission order issued on September 30, 1976 (41 FR 50811, 88 F.T.C. 465), by substituting for the order in its entirety, a modified order which retains the major requirements of the original order and provides that upon the effective date of the Commission's Trade Regulation Rule on Labeling and Advertising of Home Insulation (the Rule), any provision of the order which is inconsistent with a provision in the Rule be deemed automatically deleted. The order also provides for the reinstatement of the deleted provision, should the relevant provision of the Rule be rescinded, invalidated or amended.

ORDER GRANTING REQUEST TO REOPEN THE PROCEEDING AND
MODIFYING ORDER TO CEASE AND DESIST

Respondent, Owens-Corning Fiberglas Corporation, having requested, on July 15, 1980, that the Commission reopen the proceeding in Docket No. C-2842 for the purpose of modifying the Order to Cease and Desist entered in that matter; and

The Commission having placed such request, together with supporting documents attached thereto, upon the public record for a period of thirty (30) days, pursuant to Section 2.51 of its Rules; and

The Commission being of the opinion that the public interest would be served by such reopening of the proceedings;

Now therefore, it is ordered, That the proceeding in Docket No. C-2842 be, and it is hereby, reopened; and

It is further ordered, That the Order entered in Docket No. C-2842 be modified by substituting for the Order in its entirety the following Modified Order:

I

It is ordered, That respondent Owens-Corning Fiberglas Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly or through any corporation, subsidiary, division or other device, in connection with consumer advertising, offering for sale, sale, or distribution of fibrous glass insulation for residential buildings, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from: