

Complaint

98 F.T.C.

IN THE MATTER OF
BALL-MATIC CORPORATION, INC., ET AL.

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

Docket C-3078. Complaint, Oct. 29, 1981—Decision, Oct. 29, 1981

This consent order requires, among other things, an Orange, California corporation and corporate officer to cease representing that the use of the "Ball-Matic" or any similar retrofit device will result in substantial fuel economy improvement. Further, respondents are prohibited from making representations that the use of any retrofit device or product will result in an energy savings, unless substantiated by competent scientific evidence. In addition, where any claim or characterization pertaining to energy savings is made, respondents are barred from making any endorsements without written and dated authorization, and prohibited from making misrepresentations concerning the purpose, content or conclusion of any test or survey.

Appearances

For the Commission: *Laurence M. Kahn* and *William Haynes*.

For the respondent: *Richard Barich*, Los Angeles, Calif.

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 Ball-Matic Corporation, Inc., a corporation, and Lonnie W. Smith, individually and as an officer of Ball-Matic Corporation, Inc., hereinafter sometimes referred to as "respondents," have violated the provisions of the 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 Ball-Matic Corporation, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 1336 West Collins, Orange, California.

Respondent Lonnie W. Smith, is President of the corporate respondent Ball-Matic Corporation, Inc. He formulates, directs, and controls the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of said corporation.

The aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now and for sometime last past have been engaged in the marketing, advertising, offering for sale, sale, and distribution of a product variously known as the Ball-Matic, the Ball-Matic Gas Saver Valve and the Gas Saver Valve, hereinafter sometimes referred to as "product," which product is advertised as a means of improving fuel economy in automobiles. Said product is an automobile retrofit device as "automobile retrofit device" is defined in Section 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. 2011. Respondents, in connection with the marketing of said product, have disseminated, published and distributed and now disseminate, publish and distribute advertisements and promotional material for the purpose of promoting the sale of said product.

PAR. 3. In the course and conduct of their business, the respondents have disseminated or caused the dissemination of certain advertisements for said product through the United States mail and by various means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to, the insertion of advertisements in magazines and newspapers with national circulations; and have disseminated or caused the dissemination of advertisements for said product by various means, including but not limited to the aforesaid media, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said product in commerce.

PAR. 4. Among the advertisements and other sales promotional materials disseminated or caused to be disseminated by respondents are the materials identified as Exhibits A-I which are attached hereto.

PAR. 5. Through the use of the advertisements referred to in Paragraph Four, and other advertisements and sales promotional materials, respondents represented and now represent, directly or by implication, that

- a. the Ball-Matic when installed in a typical automobile will significantly improve fuel economy;
- b. under normal conditions, a typical driver can ordinarily obtain a fuel economy improvement which will approximate or equal four miles per gallon when the Ball-Matic is installed in his/her automobile;
- c. competent scientific tests prove the fuel economy claims made for the Ball-Matic;
- d. results of consumer usage, as evidenced by consumer endorse-

ments, prove that the Ball-Matic significantly improves fuel economy;

e. the consumer endorsements which appear in said advertisements and sales promotional materials reflect the typical or ordinary experience of members of the public who have used the Ball-Matic.

PAR. 6. At the time respondents made the representations alleged in Paragraph Five of the complaint, they did not possess and rely upon a reasonable basis for such representations. Therefore, said advertisements and sales promotional materials are deceptive or unfair.

PAR. 7. In truth and in fact, contrary to respondents' representations in Paragraph Five:

a. the Ball-Matic when installed in a typical automobile will not significantly improve fuel economy;

b. under normal driving conditions, a typical driver cannot ordinarily obtain a fuel economy improvement which will approximate or equal four miles per gallon when the Ball-Matic is installed in his/her automobile;

c. no competent scientific tests prove the fuel economy claims for the Ball-Matic;

d. results of consumer usage, as evidenced by consumer endorsements, do not prove that the Ball-Matic significantly improves fuel economy;

e. the consumer endorsements which appear in said advertisements do not represent the typical or ordinary experience of members of the public who have used the Ball-Matic.

Therefore, said advertisements and sales promotional materials are deceptive or unfair.

PAR. 8. The advertisements referred to in Paragraph Four and other of respondent's advertisements and sales promotional materials represent, directly and by implication, that respondents had a reasonable basis for making, at the time they were made, the representations alleged in Paragraph Five. In truth and in fact, respondents had no reasonable basis for such representations. Therefore, said advertisements and sales promotional materials are deceptive or unfair.

PAR. 9. In the course and conduct of their business, and at all times mentioned herein, respondents have been, and now are, in substantial competition in or affecting commerce with corporations,

firms and individuals engaged in the sale of automobile retrofit devices.

PAR. 10. The use by respondents of the aforesaid unfair or 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 respondents' product by reason of said erroneous and mistaken belief.

PAR. 11. The acts and practices of respondents, as herein alleged, including the dissemination of the aforesaid false advertisements, were and are all to the prejudice and injury of the public and of respondents' 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. The acts and practices of respondents, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

Chairman Miller did not participate.

Exhibit A

STRIKE BACK AT RISING GAS PRICES! GET UP TO 4

4 Extra Miles Per Gallon

100 Extra Miles Between Fill-Ups

The Week-End 7-23-77

SAVE UP TO \$200 A YEAR ON GAS

There are 31 models in the important automotive market, among which are Buick, Ford, Chevrolet, Oldsmobile, and others. The Buick Wildcat is the only car in its class that has been tested by the U.S. Department of Transportation and found to be the most economical. It has the highest fuel economy of any car in its class, and it has the lowest maintenance costs. The Buick Wildcat is the only car in its class that has been tested by the U.S. Department of Transportation and found to be the most economical. It has the highest fuel economy of any car in its class, and it has the lowest maintenance costs.

OVER 100,000 ALREADY IN USE

U.S. PATENT 3,800,000

READING: 100% SURE

For the first time, the Buick Wildcat has been tested by the U.S. Department of Transportation and found to be the most economical. It has the highest fuel economy of any car in its class, and it has the lowest maintenance costs. The Buick Wildcat is the only car in its class that has been tested by the U.S. Department of Transportation and found to be the most economical. It has the highest fuel economy of any car in its class, and it has the lowest maintenance costs.

Guaranteed Savings

The Buick Wildcat is the only car in its class that has been tested by the U.S. Department of Transportation and found to be the most economical. It has the highest fuel economy of any car in its class, and it has the lowest maintenance costs. The Buick Wildcat is the only car in its class that has been tested by the U.S. Department of Transportation and found to be the most economical. It has the highest fuel economy of any car in its class, and it has the lowest maintenance costs.

Guaranteed Savings

The Buick Wildcat is the only car in its class that has been tested by the U.S. Department of Transportation and found to be the most economical. It has the highest fuel economy of any car in its class, and it has the lowest maintenance costs. The Buick Wildcat is the only car in its class that has been tested by the U.S. Department of Transportation and found to be the most economical. It has the highest fuel economy of any car in its class, and it has the lowest maintenance costs.

2, American

ON THESE FINE PRODUCTS.

FEDERAL TRADE COMMISSION
RECEIVED
JUN 13 1979
31 of
1771-1772

OVER 100,000 IN USE

BEAT THE GAS MONSTER

Get Up To 4 Extra Miles Per Gallon
...100 Extra Miles between Fill-ups

This new gas saving device is now on the market. It's the only one that's been tested by the U.S. Government and found to be the most effective. It's the only one that's been tested by the U.S. Government and found to be the most effective. It's the only one that's been tested by the U.S. Government and found to be the most effective.

GUARANTEED 100% SAVINGS

For every 100 miles you drive, you'll save at least 10% on gas. That's 100 extra miles between fill-ups. That's 100 extra miles between fill-ups. That's 100 extra miles between fill-ups.

For more information, call 1-800-555-1234. For more information, call 1-800-555-1234. For more information, call 1-800-555-1234.

CASH-IN ON THE SECRETS OF COUPONING & REFUNDING

Learn how to turn coupons and labels into hard cash
How to take advantage of thousands of refund offers
How to combine coupons and refunds to save 50% and more on the supermarket

YES! I want to save money. Send me the 1979 A C C Couponing and Refunding Guide for only \$1.99. Extra Bonus FREE Deluxe Coupon Maker. Send \$1.99 to:

The American Coupon Club
P.O. Box 1234, Salt Lake City, Utah 84111

Name _____
Address _____
City _____ State _____ Zip _____

UP TO 50¢ STORE COUPON

How Many FREE Treats!

When you buy 2 packages of _____

Get your choice of treats (up to 50¢):

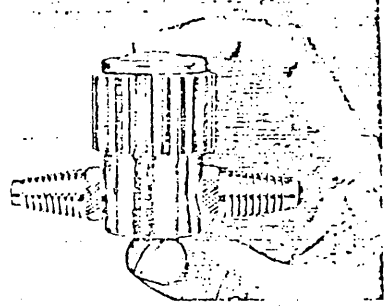
☐ Candy ☐ Gum ☐ Cookies

EFFECTIVE JUNE 15, 1979 OFFER EXPIRES AUGUST 31, 1979

FIRST REVISION EFFECTIVE 20th JULY 1975 EXHIBIT D

EVERY CAR NEEDS ONE!

BALL-MATIC
Gas Saving Valve



Tested and Proven
up to 20% increase
in fuel economy

Complaint

BALMAIN HAS SAVED VALVE Questions Most Frequently Asked

- [illegible]

**ANNUAL SAVINGS WITH
20% INCREASE IN FUEL ECONOMY**

In 1977, the 113,696,111* registered automobiles in the U.S. consumed 107,976,395,000 gallons of gasoline. If each of these vehicles had a Ball-Matic, the potential savings would have been almost 6 million gallons of gasoline per day.

Source: U.S. Dept. of Transportation — Federal Highway Administration

4. **HOW TO OBTAIN A COPY OF THE REPORT**
A. If you are a member of the American Chemical Society, you may obtain a copy of the report by ordering from the American Chemical Society, 11 Dupont Circle, N.W., Washington, D.C. 20036. The cost of the report is \$10.00. The report is available in both hard copy and microfiche format.
- B. If you are not a member of the American Chemical Society, you may obtain a copy of the report by ordering from the American Chemical Society, 11 Dupont Circle, N.W., Washington, D.C. 20036. The cost of the report is \$15.00. The report is available in both hard copy and microfiche format.
- C. If you are a member of the American Chemical Society and wish to obtain a copy of the report, you may also obtain a copy of the report by ordering from the American Chemical Society, 11 Dupont Circle, N.W., Washington, D.C. 20036. The cost of the report is \$10.00. The report is available in both hard copy and microfiche format.

Miles Driven Per Year	Miles per Gallon (MPG) Gas Cost (\$2.75 per Gallon)					
	5 mpg	10 mpg	15 mpg	20 mpg	25 mpg	30 mpg
5,000	\$ 160.00	\$ 80.00	\$ 53.33	\$ 40.00	\$ 32.00	\$ 26.67
10,000	320.00	160.00	106.67	80.00	64.00	53.33
15,000	480.00	240.00	160.00	120.00	96.00	80.00
20,000	640.00	320.00	213.33	160.00	128.00	106.67
25,000	800.00	400.00	266.67	200.00	160.00	133.33
30,000	960.00	480.00	320.00	240.00	192.00	160.00
40,000	1,280.00	640.00	426.67	320.00	256.00	213.33
50,000	1,600.00	800.00	533.33	400.00	320.00	266.67

This chart is based on a 70% increase in mean city gasoline economy and average cost of gasoline at the pump. The specific economy achieved with the KAL-MATIC will vary with the efficiency of each engine, driving habits, local driving conditions and the price of gasoline in each area.

LETTERS WE'VE RECEIVED

The BALL-MATIC has been the most popular car in the world since it was first introduced. It has been the most popular car in the world since it was first introduced. It has been the most popular car in the world since it was first introduced.

Chicago, California
I would like to have the BALL-MATIC car. I have been looking for one for a long time. I have been looking for one for a long time. I have been looking for one for a long time.

Tucson, Arizona
Just a short note to let you know that I have received your letter. I have received your letter. I have received your letter.

Orange County, California
We have just received your letter. We have just received your letter. We have just received your letter.

Chicago, Illinois
On a trip from Tucson to San Francisco (100 miles) we stopped at a gas station. On a trip from Tucson to San Francisco (100 miles) we stopped at a gas station.

Anaheim, California
I have just received your letter. I have just received your letter. I have just received your letter.

San Jose, California
The BALL-MATIC is a wonderful car. The BALL-MATIC is a wonderful car. The BALL-MATIC is a wonderful car.

San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

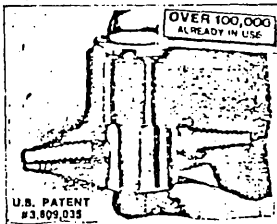
San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

San Jose, California
I have just received your letter. I have just received your letter. I have just received your letter.

CLIFFDALE MOTORS
121 First Road East, Westport, Oregon

Without the BALL-MATIC™
you're wasting up to \$200 or more
a year on gasoline!

EVERY CAR NEEDS ONE!



The BALL-MATIC car valve is the most important discovery in the history of the automobile. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented.

It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented.

It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented.

The BALL-MATIC car valve is the most important discovery in the history of the automobile. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented.

Year	Model	MPG
1970	Cadillac Eldorado	21%
1970	Chevrollet Impala	21%
1970	Cadillac	21%
1970	Cadillac	21%
1970	Cadillac	21%
1970	Cadillac	21%
1970	Cadillac	21%
1970	Cadillac	21%
1970	Cadillac	21%
1970	Cadillac	21%

It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented.

It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented.

GUARANTEED SAVINGS
The BALL-MATIC car valve is the most important discovery in the history of the automobile. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented.

It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented.

24 HOURS A DAY - 7 DAYS A WEEK
CALL TOLL FREE
1-800-331-1000

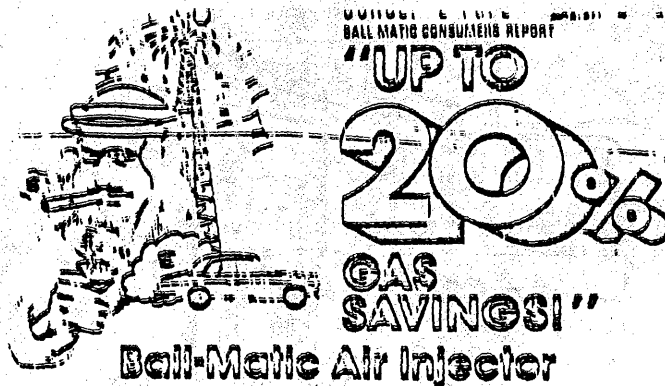
It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented.

It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented. It is the only valve that has been tested and proven to be the most efficient and most economical valve ever invented.



Complaint

98 F.T.C.



CONSUMER REPORT
BALL-MATIC CONSULTANTS REPORT

**"UP TO
20%
GAS
SAVINGS!"**

Ball-Matic Air Injector

because of the infinite variables in pumping mileage it is impossible to give that any one car will improve mileage a specific amount.

What is Ball-Matic? The Ball-Matic is a vacuum engineered, vacuum operated induction valve.

What does it do? It injects filtered ball-matic air into the combustion chamber to produce an improved mixture of air and gas for a more efficient combustion.

Why is the Ball-Matic needed on your car? Combustion is necessary for instant, responsive acceleration to just drive to 15 to 1. This is efficient to 25 m.p.h. At higher speeds the combustion chamber demands more fuel, but the amount of air is fixed causing a rich mixture. The mixture does not burn completely, resulting in a waste of gasoline and loss of power.

Consumer reports more power. After installing one of your Air Injectors on my

1960 Plymouth, I received better gas mileage and improved response to acceleration. This immediate response undoubtedly saved me from a head on collision, which appeared to be unavoidable. I am grateful for the added efficiency the Ball-Matic has given my car.

Another consumer states, The gas mileage is noticeable and the amount BALL-MATIC CORP.
1429 PALO ALTO



of power the car has acquired after the Ball-Matic was installed is quite remarkable. Since purchasing and installing your Ball-Matic on my 1953 Dodge motorhome I have increased my gas mileage from 7.3 to 10.1 miles per gallon. I have recommended your device to other recreational vehicle owners and may all feel the same way I do.

How do you install the Ball-Matic? Complete instructions come with the unit for all specific car manufacturers including Volkswagen.

What do you have to gain? Positive 20% fuel savings, better performance, and a more efficient running engine.

To name a few reasons why this is true, we have no control of the driver and his or her driving habit, type of driving, city, freeway, mountains, weight, temperature, time of day, etc. But we the manufacturer have no control of any one of these variables, we direct burning on consuming mileage.



EVERETT'S NEWS Oct 17 1954

CONSERVE FUEL

UP TO 20% GAS SAVINGS!

HIGH PERFORMANCE FUEL SAVER

Ball-Matic Air Injector



\$15.95

INSTALLED

Does it Work on All American Cars? Yes, and anyone can install it on most cars in a few minutes. It works on your pump, truck or boat engine! For Foreign cars see instruction sheets.

How do you install the Ball-Matic on Your Car? Complete instructions come with the unit for all major automobile manufacturers, excluding Volkswagens.

What Have You Got to Gain? Amazing Gas Savings. Up to 20%! New found power, effortless cruising, even up steep hills or when hauling trailers, campers, etc. A cleaner, more efficiently running engine with less carbon build-up.

Guarantee. The Ball-Matic is guaranteed to be free from defects in workmanship and materials. Your authorized dealer will replace or refund full purchase price on any unit that is inoperative under normal use for a period of up to one year from date of purchase.

What is the Ball-Matic? The Ball-Matic is a precision-engineered, vacuum-operated air induction valve.

What Does it Do? It injects filtered air into the combustion chamber to produce the improved mixture of air and gas that your car needs for that "extra" performance.

Why is the Ball-Matic Needed on Your Car? Carburetors are notoriously inefficient. Most carburetors are set at a 15 to 1 ratio of air to fuel. This is efficient up to about 35 M.P.H. At higher speeds, the combustion chamber demands more fuel. But the amount of air entering the chamber is fixed causing too rich a mixture. The mixture does not burn completely, resulting in gasoline waste and loss of power. The Ball-Matic was designed to improve the mixture of air and fuel at all speeds. Results: Gas Savings And More

Complaint

98 F.T.C.

BALL-MATIC AIR INJECTOR
QUESTIONS MOST FREQUENTLY ASKED

1. Q. WHAT IS THE BALL-MATIC?
 A. The Ball-Matic is a precision engineered, vacuum-operated air induction valve. The unit is automatically controlled by the amount of vacuum produced by the engine under varying speeds and loads.
2. Q. WHAT IS THE OPERATING PRINCIPLE OF THE BALL-MATIC?
 A. To induce into the combustion chamber of an automobile engine cool, fresh, filtered air which, in turn, produces a more efficient combustion whenever the mixture is rich (the vacuum is low).
3. Q. CAN THE BALL-MATIC DAMAGE MY ENGINE?
 A. Absolutely not. The Ball-Matic is an automatically controlled valve which only opens when the mixture is rich, and then it only opens sufficiently to restore the ideal combustion mixture of 15 parts of air to one part of gasoline.
4. Q. DOES THE BALL-MATIC "LEAN" THE MIXTURE?
 A. Technically, the unit does not lean the mixture, in that the valve is automatically in a closed position whenever the mixture is lean (high vacuum). The valve opens only when the mixture is rich. The mixture at no time cuts from thin to thicker. Instead, the compression is brought to normal.
5. Q. WHAT HAPPENS WHENEVER MY ENGINE NEEDS MORE AIR?
 A. The answer is simple. The amount of air to the amount of fuel is inadequate at the point of firing in the combustion chamber, causing a severe loss of power and wasted gasoline. This occurs whenever the vacuum is low, such as when the car is starting up again from a dead stop, while negotiating grades, hills and mountains, while traveling at speeds in excess of 45 mph, and when pulling a trailer or carrying a full load of passengers. Whenever these conditions occur, there is a drop in the engine vacuum caused by the mixture being too rich. Now the Ball-Matic opens, permitting cool, filtered air to enter the intake manifold and restore the proper air to fuel ratio.
6. Q. WILL THE BALL-MATIC FIT MY PARTICULAR AUTO MODEL?
 A. Yes, the Ball-Matic fits all cars... American and most foreign (except engines excluded) from a Cadillac to a Datsun... and any gasoline-driven internal combustion engine covering buses, trucks, vans, etc.
7. Q. IF I GET A NEW CAR OR TRADE FOR ANOTHER CAR, CAN I TRANSFER THE BALL-MATIC?
 A. Yes, the Ball-Matic fits all cars, transference is the simplest of jobs.
8. Q. EXACTLY WHERE IS THE BALL-MATIC INSTALLED?
 A. On most all cars on the road today, the Ball-Matic is installed in the pressure vent hose leading from the base of the carburetor to the Positive Crankcase Ventilation valve (the PCV Valve). Only a couple of minutes time is needed to install the Ball-Matic once you have located the proper hose.
9. Q. WILL I HAVE TO RE-ADJUST MY CARBURETOR AFTER INSTALLATION?
 A. No. When your engine is idling, maximum pressure exists in the manifold. This pressure closes the valve - the heart of the Ball-Matic - allowing the engine to idle normally.
10. Q. WHAT MAKES THE BALL-MATIC OPERATE?
 A. The Ball-Matic opens or closes automatically from the power of engine vacuum.
11. Q. WHAT IS THE GUARANTEE ON THE BALL-MATIC?
 A. Ball-Matic Corporation will replace any Ball-Matic air injector which is not free of defects in materials or workmanship, for one year from the date of purchase.
12. Q. DOES THE BALL-MATIC EVER MALFUNCTION?
 A. In itself, the Ball-Matic should never malfunction. However, the unit will become inoperative if the Positive Crankcase Ventilation valve is plugged up. Therefore, it is very important that you keep the PCV valve always clean, as it is not only against the law to operate your automobile with a plugged PCV valve, but you will not enjoy all of the wonderful benefits of having the Ball-Matic installed under your hood.
13. Q. IF THE BALL-MATIC IS SO GREAT, WHY HENT IT INSTALLED BY THE CAR COMPANIES AS ORIGINAL EQUIPMENT?
 A. We don't know. But look at radial tires, electronic ignition systems, and even rear view mirrors. All of these were available outside of Detroit first. Frequently, new devices are installed by the car manufacturers only on demand.
14. Q. DOES THE UNIT REQUIRE CLEANING?
 A. The Ball-Matic requires no maintenance and is self-cleaning. At about 35,000 miles, clean the filter by switching in reverse.
15. Q. WHAT PRECAUTIONS MUST I TAKE TO MAKE SURE I ENJOY ALL THE WONDERFUL BENEFITS YOU CLAIM?
 A. It is only necessary to make sure your PCV valve is not plugged up and that you have installed the Ball-Matic in the pressure vent hose leading from the base of the carburetor to the PCV valve on all late model automobiles.
16. Q. WHY IS THE BALL-MATIC NEEDED ON MY CAR?
 A. Since its inception, the internal combustion engine has been notoriously inefficient, due to the design of the carburetor. The carburetor is set at the factory in the idle position for maximum efficiency. The air-fuel mixture is set at a 15 to 1 ratio, which is inefficient only until a speed of 30 to 40 mph (2,000 rpm) is reached. At this point, the combustion chamber demands more fuel and the amount of gasoline entering the chamber increases while the amount of air is fixed. This results in an overly rich mixture of fuel and air. This mixture burns incompletely, resulting in waste of gasoline and loss of power through inefficient combustion. The Ball-Matic was designed to minimize this loss of power - thus increasing power - to provide a situation where there is less carbon build-up, thus minimizing engine wear... to permit quick acceleration and better engine performance.

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 Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations 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 such agreement is for settlement purposes only and does not constitute an admission by 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 this 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, now in the 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 Ball-Matic Corporation, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business at 1336 West Collins, Orange, California. Respondent Lonnie W. Smith is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his principal office and place of business is located at the above address.

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

Part I

It is ordered, That respondents Ball-Matic Corporation, Inc., a corporation, its successors and assigns, and its officers, and Lonnie W. Smith, individually and as an officer of Ball-Matic Corporation, Inc., and respondents' 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 of the automobile retrofit device variously known as the Ball-Matic, the Ball-Matic Gas Saver Valve and the Gas Saver Valve, or of any other automobile retrofit device having substantially similar properties, as "automobile retrofit device" is defined in Section 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. 2011, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such device will or may result in fuel economy improvement when installed in an automobile, truck, recreational vehicle, or other motor vehicle.

Part II

It is further ordered, That respondents Ball-Matic Corporation, Inc., a corporation, its successors and assigns, and its officers, and Lonnie W. Smith, individually and as an officer of Ball-Matic Corporation, Inc., and respondents' 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 of any automobile retrofit device as "automobile retrofit device" is defined in Section 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. 2011, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such device will or may result in fuel economy improvement when installed in an automobile, truck, recreational vehicle, or other motor vehicle unless (1) such representation is true, and (2) at the time of making such representation, respondents possess and rely upon written results of dynamometer testing of such device according to the then current urban and highway driving test cycles established by the Environmental Protection Agency and these results substantiate such representation, and (3) where the representation of the fuel economy improvement from use of such device is expressed in miles per gallon, miles per tankful, or percentage, or

where the representation of the benefit from use of such device is expressed as a monetary saving in dollars or percentage, all advertising and other sales promotional materials which contain the representation expressed in such a way must also clearly and conspicuously disclose the following disclaimer: " REMINDER: Your actual saving may be less. It depends on the kind of driving you do, how you drive and the condition of your car."

Part III

It is further ordered, That respondents Ball-Matic Corporation, Inc., a corporation, its successors and assigns, and its officers, and Lonnie W. Smith, individually and as an officer of Ball-Matic Corporation, Inc., and respondents' 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 of any product in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

a. using, publishing, or referring to any endorsement from any person or organization concerning any energy consumption or energy saving characteristic of any product unless, within the twelve (12) months immediately preceding any such use, publication, or reference, respondents have obtained from that person or organization an express written and dated authorization for such use, publication, or reference;

b. representing, directly or by implication, any energy consumption or energy saving characteristic of any product, other than any automobile retrofit device as "automobile retrofit device" is defined in Section 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. 2011, unless, at the time of making the representation, respondents possess and reasonably rely upon competent scientific evidence which substantiates such representation;

c. misrepresenting, in any manner, the purpose, content, or conclusion of any test or survey pertaining to any energy consumption or energy saving characteristic of any product;

d. misrepresenting, in any manner, either preference for any product or service or the results obtained through usage of any product where such preference or results pertain to any energy consumption or energy saving characteristic of such product.

Part IV

It is further ordered, That respondents Ball-Matic Corporation, Inc., a corporation, its successors and assigns, and its officers, and Lonnie W. Smith, individually and as an officer of Ball-Matic Corporation, Inc., and respondents' 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 of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to maintain the following accurate records which may be inspected by Commission staff members upon fifteen (15) days' notice: copies of and dissemination schedules for all advertisements, sales promotional materials, and post-purchase materials; documents authorizing use, publication or reference to endorsements; documents which substantiate, contradict, or otherwise relate to any claim pertaining to any energy consumption or energy saving characteristic of any product which is a part of the advertising, sales promotional materials, or post-purchase materials disseminated by respondents directly or through any business entity. Such documentation shall be retained by respondents for a period of three (3) years from the last date any such advertising, sales promotional material, or post-purchase material was disseminated.

Part V

It is further ordered, That respondents forthwith distribute a copy of this order to all operating divisions of said corporation, and to all present and future personnel, agents, or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this order and that respondents shall secure from each such person a signed statement acknowledging receipt of such order.

Part VI

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.

Part VII

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

Part VIII

It is further ordered, That the respondents 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 in which they have complied with this order.

Chairman Miller did not participate.

Complaint

98 F.T.C.

IN THE MATTER OF

LEHIGH PORTLAND CEMENT COMPANY, 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 9142. Complaint, July 30, 1980—Decision, Oct. 30, 1981*

This consent order requires, among other things, an Allentown, Pennsylvania corporation engaged in the production of cement to divest, in accordance with the terms of the Order, the Universal plant at Hannibal, Missouri and three Midwestern States distribution facilities. The order also bars the company for specified time periods, from making certain acquisitions in prescribed areas, without prior Commission approval.

Appearances

For the Commission: *Stephen Riddell* and *Seth B. Zimmerman*.

For the respondent: *Richard C. Lowery* and *Nolan E. Clark*,
Kirkland & Ellis, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Lehigh Portland Cement Company ("Lehigh"), a corporation subject to the jurisdiction of the Commission, intends to acquire the assets of the Universal Atlas Division ("Universal") of the United States Steel Corporation ("U.S. Steel"), a corporation subject to the jurisdiction of the Commission, in violation of 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, and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint, pursuant to Section 11 of the Clayton Act, as amended, 15 U.S.C. 21, and Section 5(b) of the Federal Trade Commission Act, as amended, 15 U.S.C. Section 45(b), stating its charges as follows:

I. Definitions

1. For the purpose of this complaint the following definitions shall apply:

a. *Portland cement* includes Types I through V of portland cement as specified by the American Society for Testing Materials. Neither masonry nor white cement is included.