

IN THE MATTER OF
THE VONS COMPANIES, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3302. Complaint, Aug. 27, 1990—Decision, Aug. 27, 1990

This consent order prohibits, among other things, a Mich. based corporation that operates grocery stores in Calif. and Nev. from misrepresenting the extent to which any food contains pesticides and from making any representation concerning the presence or health effects of any pesticide applied to or present in any food, unless respondent possesses and relies upon competent and reliable scientific evidence substantiating such representation.

Appearances

For the Commission: *Steven A. Shaffer* and *Jeffrey A. Klurfeld*.

For the respondent: *Robert P. Bermingham*, El Monte, CA.

COMPLAINT

The Federal Trade Commission, having reason to believe that the Vons Companies, Inc. has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Vons Companies, Inc. ("Vons") is a corporation organized, existing, and doing business pursuant to the laws of the State of Michigan. Its principal office or place of business is at 10510 Lower Azusa Road, El Monte, California.

PAR. 2. Respondent has advertised, promoted, offered for sale, sold, and distributed to the public various products, including fruits, vegetables and other produce ("Vons produce") which constitute "food" as defined in Section 15 of the Federal Trade Commission Act. Respondent's offering for sale, promotion, sale and distribution of Vons produce constitutes the maintenance of a substantial course of trade in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of its business, respondent has

disseminated and caused the dissemination of advertisements and promotional materials for Vons produce by various means in or affecting commerce. Such advertisements and promotional materials were for the purpose of inducing, and were likely to induce, directly or indirectly, the purchase by the public of Vons produce.

PAR. 4. Typical of respondent's advertising for Vons produce, but not necessarily all-inclusive thereof, is a two-page brochure attached hereto as Exhibit A. The aforesaid brochure contains the statement "PESTICIDE FREE PRODUCE."

PAR. 5. Through the use of the statement referred to in paragraph four and others in advertisements and promotional materials not specifically set forth herein, respondent has represented, directly or by implication, that all produce sold by Vons is free of pesticides.

PAR. 6. In truth and in fact, not all produce sold by Vons is free of pesticides. Therefore, respondent's representation as set forth in paragraph five was and is false and misleading.

PAR. 7. The aforesaid acts or practices of respondent were and are to the prejudice and injury of the public and constituted and now constitute unfair and deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act and false advertisements in violation of Section 12 of the Federal Trade Commission Act.

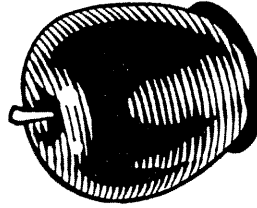
THE VONS COMPANIES, INC.

Complaint

EXHIBIT A

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AT VONS
WE'VE GOT
PESTICIDES
UNDER
CONTROL.



VONS.

**Helpful Hints
For The
Consumer.**

Since most pesticides are topical (sprayed on the outer surfaces of the produce) you can do several things at home to make sure that your produce is safe to eat.

For example, your produce with Always wash your produce with water. This will help remove pesticides. In addition, that may take off any "road dirt" that will have accumulated during harvesting and transporting process.

On leafy produce, peel the outside layers off. Vons actually does this before the produce arrives in our stores.

In conclusion, we at Vons want you to know that we share your concern about the pesticide issue. And that about the pesticide issue, we can to Vons is doing the safest, highest quality produce available.

For More Information:

- National Pesticide Telecommunications Network (800) 858-PEST
- Pesticide Enforcement of California Department of Food & Agriculture, 1220 N Street, Sacramento, CA 95814 (916) 445-5343

Exhibit A - 1

Exhibit A - 2

Pesticides Are Essential To Our Abundant Food Supply. Pesticides are responsible for the abundance of fruits and vegetables available in your neighborhood markets. They help control insects, diseases and weeds, and enable growers to store and transport produce over long distances. As a result, Americans have the lowest food costs in the world.

Vons Mandatory Pesticide Testing. Vons is obsessed with providing our highest quality produce available. That's why our policy on pesticide residue testing is maintained by the California Department of Food and Agriculture (CDFA). The (CDFA) has the most extensive pesticide monitoring program in the U.S. They randomly test Vons produce at all three produce warehouses regularly, and results are then telecommunicated to Vons within 6 to 8 hours. In this way, produce which does not meet CDFA regulations is held for pickup by the authorities or destroyed before reaching a Vons store.

Naturally, all imported produce must meet the same strict standards enforced by the CDFA. Foreign producers are well aware of our more stringent regulations, and consequently, test results show there is very little

difference between the pesticide levels on imported and domestic produce.

Vons Goes Beyond U.S. Food & Drug Administration Standards to Assure Safe Produce. Vons works year-round with an independent lab, testing selected produce that consumer groups have expressed concern about. For example, this past summer every shipment of grapes was randomly sampled for over 60 different pesticides. In addition, Vons also tests for Alar, a plant growth regulator used on apples. Throughout the 1988 apple crop year, Vons prohibited any apples treated with Alar from entering our stores, a policy that will be continued in 1989.

This private testing is just one way Vons is addressing the concerns of the consumer over the safety of spot-


Because Of Concern Over Pesticides, Vons Produce Growers of pesticides in Are Changing The Vons growers have Way They Farm. Vons continually meets with growers to convey consumer concerns over the use of pesticides in produce. As a result, they began doing their own pesticide testing to make sure levels are well within the federal



standards. They're also utilizing newer pesticides, which can be applied in smaller amounts because of their increased effectiveness. In addition, California growers generally use fewer pesticides because of a stricter registration process, and the fact that this region of the United States is less humid than other agricultural parts of the country. Furthermore, many Vons growers are using an Integrated Pest Management (IPM) system. These growers are continually looking for alternative methods for fighting bugs, such as a machine which "vacuums" bugs away. An adaptation of this vacuum machine is now being used on large lettuce and strawberry farms in Salinas.

The 1987 Food Safety Report The CDFA's 1987 pesticide residue monitoring program indicated that no residues were detected in 85% of the samples tested, and residues well below the allowable levels were found in another 13% of the samples. It's important to note that these tests were taken during the preharvest and processing periods when pesticide levels would be at their highest. Consequently, by the time produce actually arrives in the stores, any pesticides previously detected have been reduced or completely dissipated.



PESTICIDE FREE PRODUCE

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 San Francisco 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, their 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 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 thereafter 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, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent The Vons Companies, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan, with its principal place of business located at 10510 Lower Azusa Road, El Monte, California

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 Vons Companies, Inc., a corporation, its successors and assigns, and its officers, and respondent's repre-

sentatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any food, as "food" is defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication, the extent to which the food contains pesticides or any particular pesticide, as "pesticide" is defined in Title 7, Section 136(u) of the United States Code.

II.

It is further ordered, That respondent Vons Companies, Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any food, as "food" is defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making, directly or by implication, any representation concerning the presence or health effects of any pesticide applied to or present in the food, as "pesticide" is defined in Title 7, Section 136(u) of the United States Code, unless at the time of making the representation respondent possesses and relies upon competent and reliable scientific evidence substantiating such representation. To the extent that such evidence consists of tests, experiments, analyses, research, studies or other evidence based on the expertise of professionals, such evidence shall be "competent and reliable" only if those tests, experiments, analyses, research, studies, or other evidence are conducted and evaluated in an objective manner by persons qualified to do so, using only procedures that are generally accepted in the profession as yielding accurate and reliable results.

III.

It is further ordered, That respondent, in connection with the advertising, promotion, offering for sale, sale or distribution of any product covered by this order, shall, for three years from the date of last dissemination of any representation covered by this order,

maintain and upon written request make available to the Federal Trade Commission for inspection and copying:

1. All materials relied upon in making any representation covered by this order;

2. All test reports, studies, surveys or demonstrations in its possession that materially contradict, qualify, or call into question the basis upon which respondent relied at the time of the initial dissemination and each continuing or successive dissemination of any representation covered by this order.

IV.

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 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.

V.

It is further ordered, That respondent shall, within sixty (60) days after service of this order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF
CENTRAL SOYA COMPANY, INC.

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 C-3303. Complaint, Aug. 27, 1990—Decision, Aug. 27, 1990

This consent order requires, among other things, a soy protein concentrate ("SPC") company based in Fort Wayne, Ind., to obtain FTC approval, for 10 years, before acquiring any interest in any SPC assets of any company engaged in manufacturing SPC within the United States.

Appearances

For the Commission: *Katharine B. Alphin.*

For the respondent: *Frederick Thompson*, Fort Wayne, IN. and *Linda R. Blumkin, Fried, Frank, Harris, Shriver & Jacobson*, New York, N.Y.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Central Soya Company, Inc., a corporation, hereinafter sometimes referred to as respondent, has violated Section 7 of the Clayton Act, and Section 5 of the Federal Trade Commission 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 as follows:

DEFINITIONS

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

a. "*Central*" means Central Soya Company, Inc., its parent, its subsidiaries, divisions, and any groups and affiliates under its control,