

IN THE MATTER OF

THE PERRIER GROUP OF AMERICA, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3339. Complaint, Aug. 5, 1991—Decision, Aug. 5, 1991*

This consent order prohibits, among other things, a Connecticut-based company and its subsidiary from making false claims that any mineral water it sells is unprocessed or unfiltered, or regarding the manner by which the water is carbonated.

Appearances

For the Commission: *Robert C. Cheek* and *Joel Winston*.

For the respondents: *Lewis Rosen* and *Christopher Smith*, *Arent, Fox, Kintner, Plotkin & Kahn*, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that The Perrier Group of America, Inc., and Great Waters of France, Inc. ("respondents"), have violated the provisions of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondents The Perrier Group of America, Inc. and Great Waters of France, Inc. are Delaware corporations with their offices and principal places of business located at 777 W. Putnam Avenue, Greenwich, Connecticut. Great Waters of France, Inc. is a wholly-owned subsidiary of The Perrier Group of America, Inc.

PAR. 2. Respondents have advertised, offered for sale, sold, and distributed carbonated mineral water to the public under the registered trademark Perrier. Perrier water is a "food" as that term is defined in Section 15 of the Federal Trade Commission Act.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce.

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements and other promotional materials for

Perrier mineral water, including, but not limited to, the attached Exhibits A and B.

These advertisements contain the following statements:

You can't add to perfection.

Unlike many bottled waters that add artificial carbonation, Perrier needs nothing more than this rare gift from nature. In fact, Perrier, just as it bubbles up to the surface, is a perfectly-made water. So we don't tamper.

(Exhibit A)

A Natural Beverage: A perfect mineral water like Perrier needs no treatment, no purification. Natural water has nothing added to it and nothing removed. Its clarity, its unique balance of minerals and its unprocessed goodness are a gift of nature, unearthed after centuries of careful protection.

Source: . . . Now, this pristine resource trickles upward through layers of natural filtration, gaining a light, natural effervescence from volcanic gasses along the way. This rare combination rises to a single spring—Source Perrier.

Filtration: Perrier water travels upward through a succession of natural filtration layers of porous limestone, cracked marl (a hard rock rich in calcium carbonate, mostly formed with clay) and pure white sand which preserves its icy, crystalline quality as it bubbles to the surface at a single source.

(Exhibit B)

PAR. 5. Through the statements referred to in paragraph four, and others in advertisements and promotional materials not specifically set forth herein, respondents have represented, directly or by implication, that Perrier mineral water is not processed or filtered before being bottled.

PAR. 6. In truth and in fact, Perrier mineral water is processed and filtered before being bottled. Perrier mineral water is created by extracting carbonated water from a deep geological formation in the earth, removing the carbonation from the water, and then filtering the carbonation to remove certain substances; adding the carbonation to carbonated water that is extracted from a higher depth within the same geological formation; and bottling the final product. Therefore, the representation set forth in paragraph five was, and is, false and misleading.

PAR. 7. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce and false advertisements in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

Commissioner Yao not participating.

EXHIBIT A

EXHIBIT A

One of the things that makes our water so good is something that isn't made of water.

It's our bubbles. And while you'll see bubbles in a lot of bottled waters, the ones you see in Perrier tell a unique story about our water, and why it tastes so good.

Natural carbonation from when the world was young.

The unique chain of events that led to the creation of Perrier began 130 million years ago, during the Cretaceous Era. It was then that volcanic eruptions trapped natural gasses deep in the earth, in a secret hiding place. To this day, this is the natural carbonation that blesses Perrier with its sparkling effervescence.

You can't add to perfection.

Unlike many bottled waters that add artificial carbonation, Perrier needs nothing more than this rare gift from nature. In fact, Perrier, just as it bubbles up to the surface, is a perfectly-made water. So we don't tamper.

Water from heaven. Minerals from earth.

The water we call Perrier started as rain-fall in southern France, where, over the Eons, it filtered deep into underground limestone caves from the same Cretaceous Era. There it slowly absorbs a delicate balance of minerals like calcium, magnesium, and potassium, just as it has for millions of years. Until the carbonation bubbles up to join the water, and the water called Perrier bubbles up for us to drink.

Bubbles (and water) like this don't happen every day.

It took 130 million years for nature to make Perrier. Odds are, she doesn't plan to duplicate the feat in the foreseeable future. And that's something that's nice to know whenever you enjoy its delightful, unique effervescence.

All you have to do is remember the bubbles.

Perrier. It could never happen again.



486

Complaint

EXHIBIT B



EXHIBIT B

The Perrier Group

777 WEST PUTNAM AVENUE • P.O. BOX 1313 • GREENWICH, CT 06836

A PERRIER PRIMER

Telephones: (203) 531
 Telex: 221130 GWT
 TWX: 710-579-2985

Perrier is a naturally sparkling mineral water bottled only at one single spring in Vergèze, France. Perrier has a unique mineral balance that imparts a fresh, clean taste, combined with the delicate gasses of natural carbonation. Today Perrier is preferred in more than 110 countries worldwide as the popular choice for natural refreshment.

A Natural Beverage:

A perfect mineral water like Perrier needs no treatment, no purification. Natural water has nothing added to it and nothing removed. Its clarity, its balance of minerals are a gift of nature, unearthed after centuries of careful protection.

Source:

Perrier's famous source has been studied for decades by scientists. In fact, research traces the Source back to the Cretaceous period, more than 130 million years ago. The water we see today is the result of fresh rainfall on southern French plains and hillsides that filters deep into the earth. The water slowly absorbs its taste and mineral balance from the strata of rocks around it. Now, this pristine resource trickles upward through layers of natural filtration, gaining a light, natural effervescence from volcanic gasses along the way. This rare combination rises to a single spring — Source Perrier.

Filtration:

Perrier water travels upwards through a succession of natural filtration layers of porous limestone, cracked marl (a hard rock rich in calcium carbonate, mostly formed from clay) and pure white sand which preserve its icy, crystalline quality as it bubbles to the surface at a single source.

Its integrity is further protected by a eight-foot layer of non-porous clay which stretches like an umbrella for over a mile in all directions, preserving the bubbling spring from contamination by surface waters.

Carbonation:

Perrier's carbonation process takes place naturally underground. Volcanic gasses trapped some 100 million years ago travel upwards towards the surface. As they bubble through cracks and fissures in the limestone strata, they mingle naturally with the icy waters of the Perrier source, imparting the delicate carbonation which is its trademark. Scientists credit the purity of these gasses from deep in the earth with inhibiting bacteriological growth in Perrier water.

2/

Mineral Content

A unique and delicate balance of minerals is what gives Perrier its distinctive qualities and refreshing taste. Perrier is blessed with a balance of the body's essential minerals, such as calcium and magnesium, which contribute to recommended daily requirements.

Taste:

Each natural water has its own taste, distinctive as a fingerprint. This taste is slowly nurtured over centuries of contact with natural rock strata, which provide a matchless balance of minerals and effervescence. So unique is the taste of a single mineral water source that even nearby springs tapping the same underground water reserves would not produce the same flavor.

The taste of Perrier has been described as crisp, clean, fresh, palatable, refreshing, a taste with "personality".

Perrier Quality:

The unique qualities of Perrier are carefully guarded from source to table. The formation of the Source itself protects the water and acts as a natural barrier to environmental hazards. The famous green glass bottles are molded, blown and created at the bottling site. As the naturally sparkling mineral water rises to the surface it is quickly captured in these glass bottles to further protect it from any contact with the environment.

This bottling process is strictly monitored and product samples constantly tested to insure consistency and quality. The French government holds strict control over much of the bottling process. For example, water must be bottled directly at the source. Bottles cannot exceed the two liter size and no disinfectants, such as chlorine and ozone gas, may be added.

Perrier's natural refreshment may be further enjoyed knowing that it contains no calories, no sodium, nothing artificial. Aside from the original sparkling Perrier, there are the calorie-free, all-natural varieties of Perrier With A Twist: lemon, lime, orange and berry.

Heritage:

Perrier's source dates back to the Cretaceous period, more than 130 million years ago. Man's acquaintance with its sparkling waters began more than 2,000 ago.

In 218 B.C., Hannibal's Carthaginian troops stopped to refresh themselves at Perrier's natural spring after victory against the Romans. In 1863, the Emperor Napoleon III ordered the waters of Perrier bottled "for the good of France."

Perrier was first available in the U.S. in the early 1900's. In 1976, when Great Waters of France was formed as the sole U.S. importer and marketer for Perrier, the product became more widely available in supermarkets and restaurants in all 50 states.

The Perrier Group of America was established in 1987 to encompass Perrier and other domestic bottled waters. The Perrier Group is a subsidiary of Source Perrier, France.

3/

Usage:

Perrier is enjoyed as a natural refreshment beverage. It is an alternative for the calorie-conscious, the salt-free crowd and those who pass on alcohol. It is also ideal when avoiding caffeine and additives.

Perrier consumers are adults aged 25-44, well-educated, reside in major metropolitan areas and are regularly involved in a fitness program.

Perrier is as appropriate when entertaining as it is after exercise. It is quickly absorbed into one's system to facilitate hydration. Perrier has been a long-time sponsor of road racing and tennis events.

Positioning:

Perrier is the number one imported sparkling water in the U.S., representing about 80% of category sales. About 60% of Perrier's sales are in supermarkets and convenience stores, with 40% in restaurants and hotels. The original Perrier is most popular, with Perrier With A Twist flavors sharing 40% of total sales.

Since 1980, Perrier sales have more than doubled, currently growing at 6% yearly vs. the soft drink industry growth at less than 4%.

Contrary to common belief, Perrier is not much more expensive than other sparkling waters. The cost of Perrier is reflected in its protected source, sophisticated monitoring, quality packaging and shipment from France in individual bottles.

Perrier's competition spans from soft drinks and diet drinks to domestic sparkling waters. Club soda and seltzers can be considered competitive sparkling waters, but are differentiated by their being artificially carbonated, processed tap water.

Perrier's advertising aims at educating consumers about Perrier's natural goodness and as a healthy alternative refreshment beverage. Television and magazines are the most frequently used mediums to reach the target audience. Advertising is placed in the spring and summer months and holiday period when beverage consumption is the highest.

Perrier is distributed locally by food brokers, soft drinks bottlers or beer and wine wholesalers, depending upon the specific needs of each market.

Earnings to date are not available as the company is privately held.

For more information, please write or call:

The Perrier Group
777 West Putnam Avenue
Greenwich, CT 06830
1-800-243-5326

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the above caption, and the respondents having been furnished thereafter with a copy of a draft 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 violation of the Federal Trade Commission Act; and

The respondents, their attorneys, 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 complaint, a statement that the signing of the 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 the 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, now in 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. Respondents The Perrier Group of America, Inc. and Great Waters of France, Inc. are Delaware corporations with their offices and principal places of business located at 777 W. Putnam Avenue, Greenwich, Connecticut. Great Waters of France, Inc. is a wholly-owned subsidiary of The Perrier Group of America, Inc.

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

DEFINITIONS

For the purposes of this order, the following definitions shall apply:

“*Mineral water*” means any water that is placed in a sealed container or package and offered for sale for human consumption or any other consumer use and is any of the following:

- (1) From Source Perrier in Vergeze, France,
- (2) Labeled as a mineral water, or
- (3) Contains not less than 500 parts per million total dissolved solids, *provided that* if “mineral water” is defined by federal law, or by regulation of the U.S. Food and Drug Administration, such definition shall replace this subparagraph (3).

“*Processing*” means treating, filtering, altering, adding any substance to, or removing any substance from, any mineral water or any ingredient or constituent of any mineral water, through the application of any mechanical or chemical means.

I.

It is ordered, That respondents The Perrier Group of America, Inc., and Great Waters of France, Inc., corporations, their successors and assigns, and their 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 any mineral water 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:

- A. The existence or extent of processing of any such water, or of any ingredient or constituent of such water, or
- B. The manner by which the water is carbonated.

II.

It is further ordered, That respondents shall distribute a copy of this order to each of their operating divisions and to each of their officers, directors, agents, or employees having sales, advertising, or policy responsibilities with respect to the subject matter of this order.

III.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporations such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of a subsidiary, or any other change in the corporations that may affect compliance obligations under this order.

IV.

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

Commissioner Yao not participating.

IN THE MATTER OF

MADISON COUNTY VETERINARY MEDICAL
ASSOCIATION, ET AL.

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

Docket C-3340. Complaint, Aug. 16, 1991—Decision, Aug. 16, 1991

This consent order prohibits, among other things, an Alabama association and four individual veterinarians from entering into any agreement: to refuse to deal with any person or program promoting the sale of veterinary services at discounted prices; or to fix or standardize the manner of sale, promotion or advertising of veterinary goods or services.

Appearances

For the Commission: *Chris M. Couillou.*

For the respondents: *E. Cutter Hughes, Jr., Bradley, Arant, Rose & White, Huntsville, AL.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. 41 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the named respondents have violated Section 5 of the Federal Trade Commission Act, and that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows:

RESPONDENTS

1. Respondent Madison County Veterinary Medical Association ("MCVMA") is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Alabama, with its office and principal place of business at 106 Rainbow Drive, Madison, Alabama.

2. Respondent MCVMA is a professional association formed to represent the interests of veterinarians who practice in and around Huntsville, Alabama.