

IN THE MATTER OF

BERTOLLI USA, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3396. Complaint, Aug. 17, 1992--Decision, Aug. 17, 1992*

This consent order prohibits, among other things, a New Jersey -- based company from misrepresenting the validity, results, conclusions or interpretations of any test or study; and from representing that olive oil or any other edible oil produces any health benefits, such as reducing blood pressure and blood sugar, unless the respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Appearances

For the Commission: *Nancy S. Warder and Joel Winston.*

For the respondent: *Eugene I. Lambert, Covington & Burling,*
Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Bertolli USA, Inc. ("Bertolli" or "respondent"), a corporation, has violated 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. Bertolli is a Delaware corporation with its offices and principal place of business at 1 Harmon Plaza, P.O. Box 2617, Secaucus, New Jersey.

PAR. 2. Bertolli has advertised, offered for sale, sold, and distributed Bertolli Olive Oil Classico, Bertolli Extra Virgin Olive Oil, and Bertolli Extra Light Olive Oil (collectively referred to as "Bertolli Olive Oil") and other "foods" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

PAR. 3. Bertolli has disseminated or caused to be disseminated advertisements for Bertolli Olive Oil. These advertisements have been disseminated by various means in or affecting commerce, including magazines distributed across state lines, for the purpose of inducing the purchase of Bertolli Olive Oil by members of the public.

PAR. 4. The acts or practices of Bertolli alleged in this complaint have been in or affecting commerce.

PAR. 5. Respondent has disseminated or caused to be disseminated advertisements for Bertolli Olive Oil, including but not necessarily limited to, the advertisements attached hereto as Exhibits A, B, and C. The headlines of Exhibits A and B contain the following statements:

Last week, [or in Exhibit B, "On February 2,"] medical science confirmed olive oil can lower cholesterol, blood pressure and blood sugar. For people who use Bertolli, this was old news. (Emphasis added).

The headline of Exhibit C contains the following statements:

For years, Bertolli has said olive oil can lower your cholesterol, blood pressure and blood sugar. Last week, medical science said we were right. (Emphasis added).

All three advertisements also contain the following statements:

The February 2, 1990 issue of The Journal of the American Medical Association reported that monounsaturated oils like olive oil are healthier than other oils, margarine or butter.

The study, conducted in Italy, showed people who had the most olive oil in their diet had the lowest levels of blood cholesterol, blood pressure and blood sugar.

These findings support prior research in the United States that found monounsaturated oils, such as olive oil, can actually reduce the cholesterol, known as LDL, that is bad for you.

Yet they protect the cholesterol, known as HDL, that is good for you.

That's something corn oil, sunflower oil, vegetable oil, margarine and butter can't do.

All of this information simply confirms what we at Bertolli have known for generations. Bertolli olive oil is healthier.

PAR. 6. The respondent has disseminated or caused to be disseminated advertisements for Bertolli Olive Oil, including but not necessarily limited to, the advertisement attached hereto as Exhibit D, which contains the following statements:

Because Bertolli Olive Oil is healthier for your heart than other oils, butter or margarine. It can actually lower cholesterol, blood pressure and blood sugar.

PAR. 7. The study reported in the February 2, 1990, issue of The Journal of the American Medical Association to which the advertisements attached as Exhibits A, B, C, and D refer is by Trevisan and others titled Consumption of Olive Oil, Butter, and Vegetable Oils and Coronary Heart Disease Risk Factors ("Trevisan Article").

PAR. 8. Through the use of the statements set forth in paragraph five, and others not specifically set forth herein, respondent has represented, directly or by implication, that medical science has established that:

- (a) Eating olive oil lowers blood pressure; and
- (b) Eating olive oil lowers blood sugar.

PAR. 9. In truth and in fact, medical science has not established that:

- (a) Eating olive oil lowers blood pressure; and
- (b) Eating olive oil lowers blood sugar.

Therefore, the representations set forth in paragraph eight were and are false and misleading.

PAR. 10. Through the use of the statements in paragraphs five and six and others not specifically set forth herein, respondent has represented, directly or by implication, that:

- (a) Eating olive oil lowers cholesterol more than other cooking oils used in the home;
- (b) Eating olive oil lowers blood pressure;
- (c) Eating olive oil lowers blood sugar; and

(d) Bertolli olive oil is healthier for the heart than other cooking oils used in the home.

PAR. 11. Through the use of the statements in paragraphs five and six and others not specifically set forth herein, respondent has represented, directly or by implication, that at the time it made the representations set forth in paragraph ten respondent possessed and relied upon a reasonable basis, consisting of competent and reliable scientific research, for such representations.

PAR. 12. In truth and in fact, at the time the representations were made, respondent did not possess and rely upon a reasonable basis, consisting of competent and reliable scientific research, for the representations set forth in paragraph ten. Therefore, the representations set forth in paragraph eleven were and are false and misleading.

PAR. 13. Through the use of the statements set forth in paragraph five, and others not specifically set forth herein, respondent has represented, directly or by implication, that the Trevisan Article reports that olive oil is healthier than other oils.

PAR. 14. In truth and in fact, the Trevisan Article does not report that olive oil is healthier than other oils. The Trevisan Article reports its findings in qualified terms and states that both polyunsaturated and monounsaturated fats may be associated with a lower coronary risk profile and that further studies are needed to confirm its findings. Therefore, the representation set forth in paragraph thirteen was and is false and misleading.

PAR. 15. Through the use of the statements set forth in paragraph five, and others not specifically set forth herein, respondent has represented, directly or by implication, that the findings of the Trevisan Article support prior research that found monounsaturated oils, such as olive oil, reduce LDL cholesterol and protect HDL cholesterol.

PAR. 16. In truth and in fact, the findings of the Trevisan Article do not support prior research that found monounsaturated oils, such as olive oil, reduce LDL cholesterol and protect HDL cholesterol. The Trevisan Article did not report any measures of either LDL or HDL cholesterol, and its findings do not pertain directly to the effects of olive oil on either LDL or HDL cholesterol. Therefore, the

representation set forth in paragraph fifteen was and is false and misleading.

PAR. 17. Through the use of the statements set forth in paragraph five, and others not specifically set forth herein, respondent has represented, directly or by implication, that the Trevisan Article reports that study participants who had the most olive oil in their diets had the lowest levels of blood cholesterol.

PAR. 18. In truth and in fact, the Trevisan Article does not report that study participants who had the most olive oil in their diets had the lowest levels of blood cholesterol. The Trevisan Article reports that the study participants who had the most polyunsaturated fat in their diets had the lowest levels of blood cholesterol. Therefore, the representation set forth in paragraph seventeen was and is false and misleading.

PAR. 19. The dissemination by respondent of the aforesaid false and misleading representations as alleged in this complaint constitutes unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

EXHIBIT A

EXHIBIT A

Last week, medical science
confirmed olive oil can lower
cholesterol, blood pressure
and blood sugar.
For people who use Bertolli,
this was old news.



The February 2, 1990 issue of The Journal of The American Medical Association reported that monounsaturated oils like olive oil are healthier than other oils, margarine or butter.

The study, conducted in Italy, showed people who had the most olive oil in their diet had the lowest levels of blood

research in the United States that found monounsaturated oils, such as olive oil, can actually reduce the cholesterol, known as LDL, that is bad for you.

Yet they protect the cholesterol, known as HDL, that is good for you.

That's something corn oil, sunflower oil, vegetable oil, margarine and

firms what we at Bertolli have known for generations.

Bertolli olive oil is healthier.

And, although the American Medical Association failed to mention it, you should know Bertolli is also delicious.

For more information about the health benefits of olive oil, write to the Bertolli Nutrition Center, P.O. Box 3617,

Complaint

115 F.T.C.

EXHIBIT B

On February 2, medical science
confirmed olive oil can lower
cholesterol, blood pressure
and blood sugar.
For people who use Bertolli,
this was old news.



The February 2, 1990 issue of The Journal of The American Medical Association reported that monounsaturated oils like olive oil are healthier than other oils, margarine or butter.

The study, conducted in Italy, showed people who had the most olive oil in their diet had the lowest levels of blood cholesterol, blood pressure and blood sugar.

These findings support

prior research in the United States that found monounsaturated oils, such as olive oil, can actually reduce the cholesterol, known as LDL, that is bad for you.

Yet they protect the cholesterol, known as HDL, that is good for you.

That's something corn oil, sunflower oil, vegetable oil, margarine and butter can't do.

All of this information

simply confirms what we have known for generations.

Bertolli olive oil is

And, although the Medical Association failed to mention it, you should know also delicious.

For more information on the health benefits of olive oil, write to the Bertolli Nutrition Center, P.O. Box 2617Y, Secaucus, NJ 07096-2617.

BERTOLLI

Eat well. Live long. Be happy.

EXHIBIT B

EXHIBIT C

For years, Bertolli has said
olive oil can lower your
cholesterol, blood pressure
and blood sugar.
Last week, medical science
said we were right.



The February 2, 1990 issue of The Journal of The American Medical Association reported that monounsaturated oils like olive oil are healthier than other oils, margarine or butter.

The study, conducted in Italy, showed people who had the most olive oil in their diet had the lowest levels of blood cholesterol, blood pressure and blood sugar.

These findings support prior

research in the United States that found monounsaturated oils, such as olive oil, can actually reduce the cholesterol, known as LDL, that is bad for you.

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All of this information simply con-

firms what we at Bertolli have known for generations.

Bertolli olive oil is healthier.

And, although the American Medical Association failed to mention it, you should know Bertolli is also delicious.

For more information about the health benefits of olive oil, write to the Bertolli Nutrition Center, P.O. Box 2617Y, Scarsdale, NJ 07096-2617.

BERTOLLI

Eat well. Live long. Be happy.

EXHIBIT C

Complaint

115 F.T.C.

EXHIBIT D

When it comes to
affairs of the heart,
no one knows more
than Bertolli.



It's February 14. Everyone's thinking about hearts today.

At Bertolli, however, we're thinking about hearts every day of the year.

Because Bertolli olive oil is healthier for your heart than other oils, butter or margarine.

It can actually lower cholesterol, blood pressure and blood sugar.

So, to keep the ones you love as healthy as they can be, cut out the 50¢ coupon and start cooking with Bertolli olive oil.

If you've never cooked with

Bertolli—or you'd like to try some new ways to use our olive oil—mail the recipe book coupon to us.

We'll send you a collection of Bertolli recipes. Along with our heartfelt thanks.

And one more thing. Happy Valentine's Day. ♥

BERTOLLI
Eat well. Live long. Be happy.

© 1992 Bertolli, USA, Inc.

FREE! The Bertolli Light and Healthy Recipe Booklet.
Over 30 easy-to-fox recipes that are low in cholesterol and high in flavor. Focus on olive oil, cholesterol friendly! (ohai eating, too)
A \$2.95 value! No cash money serving coupons for Bertolli olive oils.

Send your \$2.00 check or money order (for postage and handling) to: Bertolli, Inc., P.O. Box 400, Park Ridge, NJ 07656.

Name _____
Address _____
City _____

Please allow 4-6 weeks for delivery. Offer good while supplies last.

SAVE 50¢

on one liter of Bertolli olive oil \$2.95 or larger (based on retail price).

To redeem this coupon, present it to the sales clerk at the time of purchase. Offer good on all Bertolli olive oils and the other olive oils sold by Bertolli, Inc. in the United States. Offer good on all Bertolli olive oils sold by Bertolli, Inc. in the United States. Offer good on all Bertolli olive oils sold by Bertolli, Inc. in the United States.

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BERTOLLI
Eat well. Live long. Be happy.

EXHIBIT D

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 respondent 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 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 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.

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 issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Bertolli USA, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at: 1 Harmon Plaza, P.O. Box 2617, Secaucus, New Jersey.
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

For purposes of this order the "*Trevisan Article*" means the study by Trevisan and others reported in the February 2, 1990, issue of the Journal of the American Medical Association titled Consumption of Olive Oil, Butter, and Vegetable Oils and Coronary Heart Disease Risk Factors.

I.

It is ordered, That respondent Bertolli USA, Inc., 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, offering for sale, sale or distribution of any food product 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, contrary to fact, that medical science has established that:

- A. Eating olive oil lowers blood pressure; or
- B. Eating olive oil lowers blood sugar.

II.

It is further ordered, That respondent Bertolli USA, Inc., 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, offering for sale, sale or distribution of any food product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- A. Representing that the Trevisan Article reports that olive oil is healthier than other oils;
- B. Representing that the findings of the Trevisan Article support prior research that found that monounsaturated oils, such as olive oil, reduce LDL cholesterol and protect HDL cholesterol; or

C. Representing that the Trevisan Article reports that study participants who had the most olive oil in their diets had the lowest levels of blood cholesterol.

III.

It is further ordered, That respondent Bertolli USA, Inc., 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, offering for sale, sale or distribution of any food product 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:

A. Eating olive oil lowers cholesterol more than other cooking oils used in the home;

B. Eating olive oil lowers blood pressure or lowers blood sugar;

C. Bertolli olive oil is healthier for the heart than other cooking oils used in the home;

D. Any edible oil has the relative or absolute ability to cause or contribute to any health attribute or benefit; or

E. Any edible oil has a favorable impact on any physiologic function or risk factor for a disease, or any other health benefit;

unless at the time of making such representation respondent possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence that substantiates the representation; *provided, however,* that any such representation that is specifically permitted in labeling for such food product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990 will be deemed to have a reasonable basis as required by this paragraph. For any test, analysis, research, study, or other evidence to be "competent and reliable" for purposes of this order, such test, analysis, research, study, or other evidence must be conducted and evaluated in an objective manner by persons qualified to do so, using procedures

generally accepted by others in the profession or science to yield accurate and reliable results.

IV.

It is further ordered, That respondent Bertolli USA, Inc., 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, offering for sale, sale or distribution of any food product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner, directly or by implication, the contents, validity, conclusions, interpretations, purpose, or results of any study, test, or other scientific data.

V.

It is further ordered, That respondent Bertolli USA, Inc., its successors and assigns, shall, for three (3) years after the date of the last dissemination of the representation to which they pertain, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials relied upon to substantiate any representation covered by this order;

B. All studies in scientific journals or other test reports that are referred to in any representation covered by this order; and

C. All test reports, studies, surveys, or other materials in its possession or control that contradict, qualify or call into question such representation or the basis upon which respondent relied for such representation.

VI.

It is further ordered, That respondent Bertolli USA, Inc., shall, within thirty (30) days after service upon it of this order, distribute a copy of the order to each of its operating divisions, to each of its

managerial employees, and to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertising or other materials covered by this order and shall secure from each such person a signed statement acknowledging receipt of this order.

VII.

It is further ordered, That respondent Bertolli USA, Inc., shall notify the Commission at least thirty (30) days prior to any proposed change such as the 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.

VIII.

It is further ordered, That respondent Bertolli USA, Inc., shall, within sixty (60) days after service upon it of this order 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 the requirements of this order.

IN THE MATTER OF
CAMPBELL SOUP COMPANY

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

Docket 9223. Complaint, January 25, 1989--Decision, August 18, 1992

This consent order requires, among other things, a New Jersey-based company to disclose in future advertisements that directly or by implication mention heart disease -- in connection with soups containing significant amounts of sodium -- both the sodium content of a serving of such soup and the recommended maximum daily limit on sodium intake. Respondent also is prohibited from representing a connection between any soup and a reduction in the risk of heart disease, unless such representations are substantiated by competent and reliable scientific or medical evidence.

Appearances

For the Commission: *Lee Peeler* and *Nancy S. Warden*.

For the respondent: *S. William Livingston, Sandra L. Spear* and *Eugene I. Lambert, Covington & Burling, Washington, D.C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority vested in it by said Act the Federal Trade Commission, having reason to believe that Campbell Soup Company, a corporation, ("Campbell" or "respondent") 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. Campbell is a New Jersey corporation, with its offices and principal place of business located at Campbell Place, Camden, New Jersey.