

IN THE MATTER OF

PERFECTDATA CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3452. Complaint, Aug. 2, 1993--Decision, Aug. 2, 1993*

This consent order prohibits, among other things, a California marketer of electronic office equipment care and maintenance products from representing that any product containing a Class I or Class II ozone-depleting substance -- as defined by the Clean Air Act Amendments of 1990 -- is ozone friendly, contains no ozone depleting CFCs, or has ozone guard, and from representing or implying that any such product will not damage or deplete the ozone in the upper atmosphere. The respondent also is prohibited from making any environmental benefit claims for any of its products unless the company possesses and relies upon competent and reliable scientific evidence to substantiate the claims.

Appearances

For the Commission: *Ralph E. Stone.*

For the respondent: *Lee R. Mannheimer*, President, Simi Valley, CA.

COMPLAINT

The Federal Trade Commission, having reason to believe that PerfectData Corporation, a corporation, hereinafter sometimes referred to as 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. PerfectData Corporation is a California corporation, with its principal office or place of business at 1825 Surveyor Avenue, Simi Valley, California.

PAR. 2. Respondent has advertised, labeled, offered for sale, sold, and distributed computer and office equipment care and maintenance products containing the hydrochlorofluorocarbon ("HCFC") known as chlorodifluoromethane ("HCFC-22") to the public, including an aerosol cleaning product known as "Perfect Duster II."

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

PAR. 4. Respondent has disseminated or has caused to be disseminated advertisements, including product labeling, and other promotional materials for Perfect Duster II, including but not necessarily limited to, the attached Exhibit A.

The advertisements and product labeling (Exhibit A) include the following statements:

- A. "Ozone friendly."
- B. "With ozone guard."
- C. "Contains no ozone depleting CFC's."

PAR. 5. Through the statements referred to in paragraph four in advertisements and product labeling (Exhibit A), respondent has represented, directly or by implication, that:

- A. There are no ingredients in respondent's product that deplete the earth's ozone layer.
- B. Because respondent's product contains no CFCs (chlorofluorocarbons), respondent's product does not deplete the earth's ozone layer.

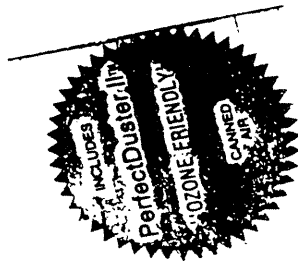
PAR. 6. In truth and in fact, respondent's product contains the ozone-depleting chemical HCFC-22, which harms or damages the environment by contributing to the depletion of the earth's ozone layer. Therefore, the representations set forth in paragraph five were, and are, false and misleading.

PAR. 7. Through the statements contained in paragraph four, respondent has represented, directly or by implication, that at the time it made the representations set forth in paragraph five, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 8. In truth and in fact, at the time it made the representations set forth in paragraph five, the respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph seven was, and is, false and misleading.

PAR. 9. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a).

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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 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 said agreement on the public record for a period of sixty (60) days, and having duly considered the comment filed thereafter by an interested person 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. Respondent PerfectData Corporation 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 1825 Surveyor Avenue, Simi Valley, 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

DEFINITIONS

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

“Class I ozone-depleting substance” means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class I substances currently include chlorofluorocarbons, halons, carbon tetrachloride and 1,1,1-trichloroethane.

“Class II ozone-depleting substance” means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class II substances currently include hydrochlorofluorocarbons.

I.

It is ordered, That respondent, PerfectData Corporation, a corporation, its successors and assigns, and its officers, agents, representatives 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 product, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing that any such product containing any Class I or Class II ozone-depleting substance is “ozone friendly,” “contains no ozone depleting CFCs,” “ozone guard,” or, by words, depictions, or symbols representing directly or by implication, that any such product will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere.

II.

It is further ordered, That respondent PerfectData Corporation, a corporation, its successors and assigns, and its officers, agents, representatives 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 product, in or affecting commerce as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any product offers any environmental benefit, unless at the time of making such representation, the respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation. For purposes of this order, “competent and reliable scientific evidence” shall mean tests, analyses, research, studies, or any other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

III.

It is further ordered, That for three (3) years from the date that the respondent makes any representation covered by this order, the respondent shall maintain and upon written request make available to the Federal Trade Commission for inspection and copying:

A. All materials that the respondent relied upon in disseminating any representation covered by this order.

B. All tests, reports, studies or surveys, analyses, or other materials in the possession or control of the respondent that contradict, qualify, or call into question any representation covered by this order or the basis on which the respondent relied for such representation.

IV.

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

V.

It is further ordered, That the respondent shall distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertisements, promotional materials, product labels, or other sales materials covered by this order.

VI.

It is further ordered, That the 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

MARSHALL FIELD & COMPANY

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

Docket C-3453. Complaint, Aug. 3, 1993--Decision, Aug. 3, 1993

This consent order requires, among other things, a Chicago-based retail chain to comply with the disclosure provisions of the Fair Credit Reporting Act (FCRA) for future applicants denied employment based on information obtained from a consumer reporting agency, regardless of whether alternative employment is offered. It also requires the company to send a letter to past job applicants denied employment, since August 1990, but not previously given the requisite disclosure, so that recipients can check the information for accuracy and seek to correct any errors.

Appearances

For the Commission: *Cynthia S. Lamb* and *Donald E. d'Entremont*.

For the respondent: *John D. French, Faegre & Benson*, Minneapolis, MN.

COMPLAINT

Pursuant to the provisions of the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, and the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Marshall Field & Company, a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts, 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: