

IN THE MATTER OF

JENNY CRAIG, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9260. Amended Complaint, Feb. 19, 1998--Decision, Feb. 19, 1998*

This consent order prohibits, among other things, the California-based corporations from making unsubstantiated claims about the weight loss, weight loss maintenance, price and safety of the diet program, as well as from using deceptive consumer testimonials and endorsements. The consent order sets out the types of evidence needed to support Jenny Craig's future weight loss and weight loss maintenance claims. In addition, it requires disclosures concerning the actual maintenance experience of the customers or a statement of the generally expected success for program participants or a statement that the dieters should not expect to experience similar results.

Appearances

For the Commission: *Matthew Gold, Kerry O'Brien, David Newman, Laura Fremont and Jeffrey Klurfeld.*

For the respondents: *Patricia P. Bailey, Squire, Sanders & Dempsey, Washington, D.C. and Warren L. Dennis and James P. Holloway, Proskauer, Rose, Goetz & Mendelsohn, Washington, D.C.*

AMENDED COMPLAINT

The Federal Trade Commission, having reason to believe that Jenny Craig, Inc., a corporation, and Jenny Craig International, Inc., a corporation ("Jenny Craig" or "respondents"), have 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 Jenny Craig International, Inc., a California Corporation, is a wholly-owned subsidiary of respondent Jenny Craig, Inc., a Delaware Corporation. Jenny Craig, Inc. dominates and controls the acts and practices of Jenny Craig International, Inc. Both corporations maintain their offices and principal places of business at 445 Marine View Avenue, #300, Del Mar, California.

PAR. 2. Respondents have advertised, offered for sale, and sold weight loss and weight maintenance services and products, including

1000 to 1500 calorie-a-day weight loss programs which they make available to consumers at numerous company-owned and franchised "Jenny Craig Weight Loss Centres" nationwide. These products also include "food" within the meaning of Sections 12 and 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, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements for the Jenny Craig Weight Loss Program, including but not necessarily limited to the attached Exhibits A through V.

SUCCESS CLAIMS

PAR. 5. The advertisements referred to in paragraph four, including but not necessarily limited to the attached Exhibits A through I and Exhibit N, contain the following statements:

- (a) "Jeanne-Mer Garcia lost 81 lbs." (Exhibit A)
- (b) "Maggie Cardoza lost 105 lbs." (Exhibit B)
- (c) "Toni Todd lost 32 lbs." (Exhibit C)
- (d) "Carol Puckett lost 100 lbs." (Exhibit D)
- (e) "Faith Shipp lost 95 lbs." (Exhibits E and N)
- (f) "[Claudine St. Clair] lost 18 lbs." (Exhibit F)
- (g) "Evelyn Moore lost 52 lbs." (Exhibit G)
- (h) "Jaynie Qualls lost 71 lbs." (Exhibit H)
- (i) "Kathy Chamblin lost 73 lbs." (Exhibit I)

PAR. 6. Through the use of the statements contained in the advertisements referred to in paragraph five, including but not necessarily limited to the statements in the advertisements attached as Exhibits A-I and N, respondents have represented, directly or by implication, that Jenny Craig customers typically are successful in reaching their weight loss goals.

PAR. 7. Through the use of the statements contained in the advertisements referred to in paragraph five, including but not necessarily limited to the statements in the advertisements attached as Exhibits A-I and N, respondents have represented, directly or by implication, that at the time they made the representation set forth in paragraph six, respondents possessed and relied upon a reasonable basis that substantiated the representation.

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

PAR. 9. The advertisements referred to in paragraph four, including but not necessarily limited to the attached Exhibit B and Exhibits D through M, contain the following statements:

(a) "I'd tried a million other weight loss programs, but I'd always gain the weight back." (Exhibit D)

(b) "I lost 95 pounds in just over six months. And, I've kept the weight off for nearly one year!" (Exhibit E)

(c) "I lost eighteen pounds in only six weeks. And I've kept the weight off for over a year." (Exhibit F)

(d) "My weight slowly crept up over the years. I joined Jenny Craig because I wanted to lose those extra pounds -- permanently." (Exhibit G)

(e) "I've been overweight so long that I just felt like I was destined to be fat. And now look at me. . . What I learned from Jenny Craig is moderation. Anyone can lose weight. But the key is to learn how to keep it off. And that's what the Lifestyle Classes do." (Exhibit H)

(f) "I used to dream that one day I'd wake up and be slim. Thanks to Jenny Craig, it happened. I tried other programs, but the second I'd go off, I'd gain everything back and then some. While they helped me lose weight, they never taught me how to eat in the real world and keep it off." (Exhibit I)

(g) "And most importantly, I've learned how to maintain my weight. That's key." "Y lo más importante es que he aprendido a mantener mi peso. Eso es la clave." (Exhibits B and J)

(h) "I've kept [89 pounds] off nearly two years." (Exhibit K)

(i) "If you discovered a way to control your weight, who would you tell? 'My Mom and Dad' 'My doubles partner' . . . That's what these successful Jenny Craig clients did." (Exhibit L)

(j) "You know, I [Jenny Craig] get so many letters from people. Sometimes they, they write to me even after they've had their weight off for maybe two or three years. . . I never get tired of hearing about the successes." (Exhibit M)

PAR. 10. Through the use of the statements contained in the advertisements referred to in paragraph nine, including but not necessarily limited to the statements in the advertisements attached as Exhibits B and D-M, respondents have represented, directly or by implication, that:

(a) Overweight or obese Jenny Craig customers typically are successful in reaching their weight loss goals and maintaining their weight loss either long-term or permanently, and

(b) Jenny Craig customers typically are successful in maintaining their weight loss achieved under the Jenny Craig Weight Loss Program.

PAR. 11. Through the use of the statements contained in the advertisements referred to in paragraph nine, including but not necessarily limited to the statements in the advertisements attached as Exhibits B and D-M, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph ten, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 12. In truth and in fact, at the time respondents made the representations set forth in paragraph ten, they did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation as set forth in paragraph eleven was, and is, false and misleading.

PROJECTION OF WEIGHT LOSS CLAIM

PAR. 13. In the routine course and conduct of their business, respondents state, during the initial sales presentation, that consumers typically will reach their desired weight loss goal within the time frame set by respondents' "PD Presentation" computer program.

PAR. 14. In truth and in fact, consumers typically will not reach their desired weight loss goal within the time frame set by respondents' "PD Presentation" computer program. Therefore, the representation set forth in paragraph thirteen was, and is, false and misleading.

PAR. 15. Through the use of the statements described in paragraph thirteen, respondents have represented, directly or by implication, that at the time they made the representation set forth in paragraph thirteen, respondents possessed and relied upon a reasonable basis for the representation.

PAR. 16. In truth and in fact, at the time respondents made the representation set forth in paragraph thirteen, they did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, the representation set forth in paragraph fifteen was, and is, false and misleading.

PRICE CLAIMS

PAR. 17. The advertisements referred to in paragraph four, including but not necessarily limited to the attached Exhibit L and Exhibits N through R, contain the following statements:

(a) "Pay as you go for just \$9 a week, or lose all you want for just \$49." (Exhibit L)

(b) "Lose all the weight you want for only a \$185 service fee." (Exhibit N)

(c) "Jenny Craig was different. It didn't have any gimmicks. It's one set price. There wasn't any adding. It was honest. This was the truth. And I've checked every place." (Exhibit O)

(d) "Call the wrong weight loss program and you end up playing 'Let's Make a Deal.' Some have hidden charges. Others, high administrative fees. And some even charge you by the pound. It's like they punish you just because you have to lose weight. At Jenny Craig, we charge you one low fee to lose all the weight you want. No gimmicks. No hidden charges. Jenny Craig. Where weight loss means losing weight. Not your bank account." (Exhibit P)

(e) "Most weight loss programs spend more time on their figures than yours. They figure out ways to hit you with administrative fees. Hidden charges. Some even charge you by the pound. It's like they're punishing you for losing weight. At Jenny Craig you can lose all the weight you want for one low service fee. No gimmicks. No hidden costs. Jenny Craig. Where you get thin. And your wallet doesn't." (Exhibit Q)

(f) "Our price is guaranteed. At Jenny Craig, we fervently adhere to one, often overlooked principle: Honesty. That's why our price is exactly what we say it is. No hidden costs. No deal-of-the-day. It's just one set price. And we'll even tell it to you over the phone. If all that doesn't sound too remarkable, try calling other programs and compare for yourself. Chances are you'll be very surprised at what they tell you. Or more likely, what they don't tell you." (Exhibit R)

PAR. 18. Through the use of the statements contained in the advertisements referred to in paragraph seventeen, including but not necessarily limited to the statements in the advertisements attached as Exhibits L and N-R, respondents have represented, directly or by implication, that the advertised price is the only cost associated with losing weight on the Jenny Craig Weight Loss Program.

PAR. 19. In truth and in fact, the advertised price is not the only cost associated with losing weight on the Jenny Craig Weight Loss Program. There are substantial additional mandatory expenses associated with participation in the Jenny Craig program that far exceed the advertised price. Therefore, the representation set forth in paragraph eighteen was, and is, false and misleading.

PAR. 20. In their advertising and sale of the Jenny Craig Weight Loss Program, respondents have represented, directly or by

implication, that the advertised price is the only cost associated with losing weight on the Jenny Craig Weight Loss Program. Respondents have failed to disclose adequately to consumers the existence and amount of all mandatory expenses associated with participation in the Jenny Craig program. This fact would be material to consumers in their purchase decisions regarding the program. The failure to disclose this fact, in light of the representation made, was, and is, a deceptive practice.

HEALTH RISKS CLAIMS

PAR. 21. In the routine course and conduct of their business, respondents state:

(a) "In just a moment the computer will show you how safely and easily you are going to lose weight without feeling hungry. To put your mind at ease...we have a registered dietitian along with our medical consultant team to ensure that while your weight loss is easy, it is also 100% safe and hunger-free." (Suggested sales script for Jenny Craig tour guide)

(b) "Our Program provides a safe, easy weight loss that is personally supervised." ("Sample Telephone Script" contained in Jenny Craig Sales Manual)

(c) "Our experience has taught us that using drugs is neither safe nor permanent. Our program aims at more permanent weight loss results and it's 100% safe." ("Sample Telephone Script" contained in Jenny Craig Sales Manual)

PAR. 22. In the routine course and conduct of their business, respondents provide their customers with diet protocols that require said customers, *inter alia*, to come in to a Jenny Craig Weight Loss Centre at least once a week for monitoring of their progress, including weighing in.

PAR. 23. Through the use of the statements set forth in paragraph twenty-one, and through the conduct of the monitoring described in paragraph twenty-two, respondents have represented, directly or by implication, on an ongoing basis to each customer, that customers on respondents' weight loss program lose weight safely and do not experience an increased risk of developing health complications.

PAR. 24. In the course of regularly monitoring their customers' weight loss progress, respondents, in some instances, are presented with weight loss results indicating that a customer is losing weight significantly in excess of what would be expected, considering the daily caloric intake prescribed for that customer, which is an indication that the customer may not be consuming all of the calories prescribed by his or her diet protocol. Such conduct could, if

prolonged, result in health complications associated with rapid weight loss.

PAR. 25. Respondents have failed to disclose, either in their advertising, at point of sale, or to individual customers losing weight too rapidly, that such weight loss, if prolonged, could result in health complications, including the development of gallbladder disease. This fact would be material to consumers in their purchase and use decisions regarding respondents' program.

PAR. 26. In light of the representations set forth in paragraph twenty-three, respondents' failure to disclose that not consuming all of the calories prescribed by the diet protocol, if prolonged, could result in health complications, including the development of gallbladder disease, is a deceptive practice.

PAR. 27. In providing the advertisements referred to in paragraph four and the materials referred to in paragraph thirteen and paragraph twenty-one to their individual franchised stores for the purpose of inducing consumers to purchase their weight loss services and products, respondents have furnished the means and instrumentalities to those stores to engage in the acts and practices alleged in paragraphs five through twenty-six.

CUSTOMER SATISFACTION CLAIMS

PAR. 28. The advertisements referred to in paragraph four, including but not necessarily limited to the attached Exhibits S through V and Exhibit L, contain the following statements:

(a) "9 out of 10 Clients Would Recommend Jenny Craig.... When we asked our clients if they would recommend our program to their friends they gave us a resounding, 'Yes!' And we think that's the best advertising we could ever hope for. You probably know someone who's been successful on the Jenny Craig program. Call now and find out just how they did it." (Exhibit S)

(b) "86% liked the counseling...89% liked the program...And 94% would recommend us to a friend. National Survey of Jenny Craig Clients Oct-Dec 1991. Now what could be more impressive than that?" (Exhibit T)

(c) "The other day I saw a commercial that said nine out of ten Jenny Craig clients would recommend Jenny Craig to their friends. Nine out of ten. Which got me to thinking..." (Exhibit U)

(d) "National Survey of Jenny Craig Clients Oct-Dec 1991 Percentage of Jenny Craig clients responding 'completely satisfied' or 'very satisfied':

- * With the overall Jenny Craig program 89%
- * With the weekly personal counseling sessions 87%
- * With the friendliness of the Jenny Craig staff 91%
- * That would recommend the program to a friend 94%

YOU'RE PROBABLY WONDERING WHAT ELSE WE COULD POSSIBLY DO TO IMPRESS YOU." (Exhibit V)

(e) "In fact, 9 out of 10 Jenny Craig clients would recommend Jenny Craig to their friends." (Exhibit L)

PAR. 29. Through the use of the statements contained in the advertisements referred to in paragraph twenty-eight, including but not necessarily limited to the statements in the advertisements attached as Exhibits S-V and L, respondents have represented, directly or by implication, that competent and reliable studies or surveys show that ninety percent or more of Jenny Craig customers would recommend the Jenny Craig Weight Loss Program.

PAR. 30. In truth and in fact, competent and reliable studies or surveys do not show that ninety percent or more of Jenny Craig customers would recommend the Jenny Craig Weight Loss Program. Therefore, the representation set forth in paragraph twenty-nine was, and is, false and misleading.

PAR. 31. Through the use of the statements contained in the advertisements referred to in paragraph twenty-eight, including but not necessarily limited to the statements in the advertisements attached as Exhibits S-V and L, respondents have represented, directly or by implication, that ninety percent or more of Jenny Craig customers would recommend the Jenny Craig Weight Loss Program.

PAR. 32. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the statements in the advertisements attached as Exhibits S-V and L, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraphs twenty-nine and thirty-one, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 33. In truth and in fact, at the time they made the representations set forth in paragraphs twenty-nine and thirty-one, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph thirty-two was, and is, false and misleading.

PAR. 34. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

Chairman Pitofsky recused and Commissioner Azcuenaga not participating.

EXHIBIT A



JEANNE-MER GARCIA
LOST 81 LBS.

Measure	BEFORE	AFTER
Height	5'6"	5'6"
Weight	245 lbs.	164 lbs.
Waist	38"	28"

"I just love, because I could see
I was losing the extra weight and
the extra pounds."

THE REAL LIFE ANSWER

We'll pay you a dollar for every pound you lose.

Right now Jenny Craig will pay you a dollar for every pound you've lost once you reach your goal weight. 40 pounds to lose? Get \$40 back. 60 pounds? \$60 back, etc., etc., etc. How much would you like to get back?

DIAL DIRECT 1-800-92-JENNY

JENNY CRAIG
Weight Loss Centers

There are 7 centres in the Milwaukee area including:

Bayshore	Brown Deer	Greenfield	St. Francis
Brookfield	East Brady	Racine	

Some restrictions apply. *Offer good only on Jenny Craig products. © 1992 Jenny Craig International, Inc.

Complaint

125 F.T.C.

EXHIBIT B

"Jenny Craig helped me become the person I've always wanted to be."



Maggie Carozza
lost 105 lbs.

"Thanks to Jenny, I feel like I have a new lease on life. I feel stronger both physically and emotionally. And I have so much more self-confidence than I ever thought possible. I've learned how to eat healthy, well-balanced meals. And most importantly, I've learned how to maintain my weight. That's key."

SUMMER SPECIAL
\$79

Now you can.
JENNY CRAIG
Weight Watchers Certified

CALL TODAY

*Serving Size: 1 serving. *Calories: 100. *Total Fat: 10g. *Total Carbohydrate: 10g. *Protein: 10g. *Dietary Fiber: 10g. *Sodium: 10g. *Total Sugars: 10g. *Includes 10g of added sugar. © 1995 Jenny Craig International

Maggie Carozza Testimonial
Ad #100183

Exhibit B

5234



EXHIBIT C

300 PM

Call Now. \$99.*
Lose All You Want.

- ♦ One-on-one counseling.
- ♦ Nutritionally balanced menu plans.
- ♦ Weight management classes.
- ♦ Personal exercise plan.



JENNY CRAIG™
Weight Loss Center

Toni Todd lost
 32 lbs. in 5 months

ROSS PLAZA
 4770 Montgomery NE. #C115
 (Montgomery at Monroe)
888-1368

MANZANO CENTER
 800 Juan Tabo NE #M
 (Juan Tabo at Lomas)
275-7252

*One-time fee. One-on-one counseling. Nutritionally balanced menu plans. Personal exercise plan. One-on-one weight management classes. © 1992 Jenny Craig International

Exhibit C

"Jenny Craig was the only program that didn't make me feel like I was suffering."

I guess you could call me an experienced dieter. I'd tried a million other weight loss programs, but I'd always gain the weight back. Jenny Craig is special because it offers individual counseling and lifestyle classes that really teach me the things like how to control cravings. It's such a good feeling to be proud of the way I look. I don't feel like hiding in corner anymore. I wear exactly what I want. And for the first time...

Now you can.

JENNY CRAIG
Weight Loss Center

LOSE ALL THE WEIGHT YOU WANT
\$92^{50*}
Price Guaranteed.

time in yours. I put my true weight on my driver's license."

Call today

*Some fee - Jenny Craig's national • Most credit cards accepted • Own Signature and return • Merchandise Products optional

© 1993 Jenny Craig International

Testimonial Ad (3 col.)
Carol
Ad # 102064
29

. 000215

EXHIBIT E

192272

Complaint

125 F.T.C.

EXHIBIT F

JENNY CRAIG TELEVISION COMMERCIAL (30 SECONDS)

ORAL

Claudine St. Clair (talking to camera):
Hi. I'm Claudine St. Clair of KJOI Radio, here to tell you about the Jenny Craig weight loss program. On Jenny's program everything was planned for me. I lost eighteen pounds in only six weeks. And I've kept the weight off for over a year."

Jenny Craig (talking to camera):
"At Jenny Craig, we not only help you lose weight, we teach you how to keep it off. We helped Claudine St. Clair of KJOI Radio lose weight and improve her confidence. We'd like to do that for you too."

Announcer:
"Call now and lose all the weight you want for only a \$185 service fee. Jenny's cuisine not included."

VISUAL

Claudine St. Clair
KJOI Radio

Lost 18 lbs. in 6 weeks

Individual results may vary

Jenny Craig

Jenny Craig Weight Loss
Centres Lose all the Weight
You Want \$185 Open Saturdays
and Evenings Call 411 for
location nearest you

Exhibit F

EXHIBIT G

"As far as I'm concerned, Jenny Craig is the only way to go."

My weight slowly crept up over the years. I joined Jenny Craig because I wanted to lose those extra pounds—permanently. And I didn't want to waste time and money on a bunch of gimmicks. The most exciting thing for me is being able to wear my dream size, a nine. My family and friends can't believe my new look. These days, I actually wear my No. 9 tucked in. Jenny Craig gave me the encouragement and confidence I needed.

Now you can.

JENNY CRAIG
It's a new way to lose weight.

Call today.

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Testimonial Ad (3 of 3)
Evelyn
Ad #102063

50% OFF SPECIAL
Lose all the weight you want.
\$97.50*
Price Guaranteed!

50% OFF SPECIAL
Lose all the weight you want.
\$92.50*
Price Guaranteed!

50% OFF SPECIAL
Lose all the weight you want.
\$99*
Price Guaranteed!

50% OFF SPECIAL
Lose all the weight you want.
\$97.50*
Price Guaranteed!

50% OFF SPECIAL
Lose all the weight you want.
\$149*
Price Guaranteed!

50% OFF SPECIAL
Lose all the weight you want.
\$185*
Price Guaranteed!

50% OFF SPECIAL
Lose all the weight you want.
\$195*
Price Guaranteed!

50% OFF SPECIAL
Lose all the weight you want.
\$235*
Price Guaranteed!

Exhibit G

Complaint

125 F.T.C.

EXHIBIT H

JENNY CRAIG TELEVISION CO.

ORAL

WOMAN (talking to camera):
I've been overweight so long that I
just felt like I was destined to be fat.
And now look at me. I can wear
things that are tight around my waist
and big prints and I'll even show my
legs. What I learned from Jenny
Craig is moderation. Anyone can lose
weight. But the key is to learn how
to keep it off. And that's what the
Lifestyle Classes do. There's just
something I'd like to say to all the
people who have teased me when I
was a kid. Nah. Nah. Nah. Nah.
Nah. Nah. I'm on TV and you're not."

Announcer:
Now you can.

Lose all the weight you want for only
a \$79 service fee.

Call 1-800-76 Jenny."

VISUAL

Jaynie Qualls lost 71 lbs

Individual results may vary

Now you can

JENNY CRAIG

Weight Loss Centers

Lose all the weight you want

\$79

Jenny's Centers authorized

1-800-76-JENNY

EXHIBIT I

Exhibit I

EXHIBIT J

Exhibit J

EXHIBIT K

JENNY CRAIG TELEVISION COMMERCIAL (30 SECONDS)

<u>ORAL</u>	<u>VISUAL</u>
WOMAN 1 (talking to camera): "Like a whole new life."	Lost 71 lbs.
WOMAN 2 (talking to camera): "I feel like I matter."	Lost 138 lbs.
MAN 1 (talking to camera): "I don't think like a fat person."	Lost 50 lbs.
	Jenny Craig Success Stories
WOMAN 1 (talking to camera): "Control means success."	Lost 71 lbs.
WOMAN 3 (talking to camera): "How to say no."	Lost 31 lbs.
WOMAN 4 (talking to camera): "Actually to eat only when I'm hungry."	Lost 39 lbs.
MAN 1 (talking to camera): "Not being the first person finished all the time."	Lost 50 lbs.
WOMAN 2 (talking to camera): "Leaving a little something on my plate."	Lost 138 lbs.
WOMAN 5 (talking to camera): "Success is losing weight with Jenny Craig."	Lost 89 lbs.
WOMAN 6 (talking to camera): "And controlling it."	Lost 30 lbs.
WOMAN 5 (talking to camera): "I've kept it off nearly 2 years."	Lost 89 lbs.

Complaint

125 F.T.C.

EXHIBIT K

ANNOUNCER:
"Join our new success program

Jenny Craig
Weight Loss Centres
New Success Program

for only a \$79 service fee.

JENNY CRAIG

Weight Loss Centres

\$79

Lose all the weight you want

Individual Results may Vary

Jenny's Calorie Controlled Maintenance Program

Call 1-800-76-Jenny."

1-800-76-JENNY

EXHIBIT L

JENNY CRAIG TELEVISION COMMERCIAL ---

ORAL

Announcer:
If you discovered a way to
control your weight,

who would you tell?

WOMAN1 (talking to camera):
"My Mom and Dad"

WOMAN2 (talking to camera):
"My doubles partner"

WOMAN3 (talking to camera):
"The guy at the donut shop"

WOMAN2 (talking to camera):
"Half the girls at the club"

MAN1 (talking to camera):
"My mechanic"

WOMAN1 (talking to camera):
"My day care lady"

Announcer:
"That's what these successful
Jenny Craig clients did"

WOMAN4 (talking to camera):
"My dog trainer"

WOMAN1 (talking to camera):
"My father"

WOMAN5 (talking to camera):
"My aunt"

WOMAN2 (talking to camera):
"My chiropractor"

VISUAL

If You Discovered A
Way to Control Your Weight...

Who Would You Tell?

Dori Green lost 24 lbs. in 6
months

Shelly Benedict lost 27 lbs.
in 5 months

Leslie Baldwin lost 36 lbs. in
8 months

Mark Hackbarth lost 66 lbs. in
13 months

That's What These
Successful Jenny Craig
Clients Did

Joanne Walton lost 32 lbs. in
10 months

Nanci Porter lost 31 lbs. in 4
months

Complaint

125 F.T.C.

EXHIBIT L

Announcer:

"In fact, 9 out of 10 Jenny Craig
clients

9 out of 10

Jenny Craig Clients

Individual weight loss and maintenance may vary.

would recommend Jenny Craig to
their friends."

Would Recommend

Jenny Craig

To Their Friends.

Individual weight loss and maintenance may vary.

WOMAN1 (talking to camera):

"There are so many"

Announcer:

"Pay as you go for just \$9 a week, or

Pay as you go.

\$9

A WEEK

Program Fee

JENNY CRAIG

Weight Loss Centres

Jenny's Centre additional

lose all you want for just \$49"

Lose all the weight.

\$49

Program Fee

JENNY CRAIG

Weight Loss Centres

Jenny's Centre additional

Call 1-800-92 Jenny."

1-800-92-JENNY

EXHIBIT M

JENNY CRAIG TELEVISION COMMERCIAL (30 SECONDS)

ORAL

Jenny Craig (talking to camera):
"You know, I get so many letters from people. Sometimes they, they write to me even after they've had their weight off for maybe two or three years. Probably the thing that I hear most often is that 'Your counselors are wonderful. They really care.' I never get tired of hearing about the successes. I just feel like we're doing something important.

Announcer:
"Now you can.

Lose all the weight you want for only
a \$79 service fee.

Call 1-800-76-Jenny."

VISUAL

Jenny Craig

Now you can.

JENNY CRAIG

Weight Loss Centres
Lose all the weight you want

\$79

Jenny's Centres additional

1-800-76-JENNY

Complaint

125 F.T.C.

EXHIBIT N

JENNY CRAIG TELEVISION COMMERCIAL (30 SECONDS)

ORAL

JENNY CRAIG (talking to Camera):
"Usually something happens in a
person's life that will say, they'll say
to themselves 'I've got to do
something about this weight
problem.' And when that happens,
then what they're really saying is
'teach me how to do that.' Over the
years, we've learned what really
works with people, and that's what
we've tried to incorporate into the
Jenny Craig program. It's as easy
and as quick as you can possibly
make a weight loss program."

ANNOUNCER:
"Now you can.

Lose all the weight you want for
only a \$185 service fee.

Call 1-800-76-Jenny."

VISUAL

Jenny Craig

Now

you

can

Now you can

JENNY CRAIG

Weight Loss Centers
Lose all the weight you want
\$185

Jenny's Choice Addressed

1-800-76-JENNY

333

Complaint

EXHIBIT O

JENNY CRAIG TELEVISION COMMERCIAL (30 SECONDS)

ORAL

WOMAN (talking to camera):
"I saw myself on this video tape at
my son's birthday. I go: 'Who is
this fat girl?' I just said right then
'I've got to do something.' Jenny
Craig was different. It didn't have
any gimmicks. It's one set price.
There wasn't any adding. It was
honest. This was the truth. And I
checked every place. I've lost 95
pounds. Ta Da"

Announcer:
"Now you can.

Lose all the weight you want for
only a \$185 service fee.

Call 1-800-76-Jenny."

VISUAL

Faith Shipp lost 95 lbs.

Individual results may vary

Now you can

JENNY CRAIG

Weight Loss Centres
Lose all the weight you want

\$185

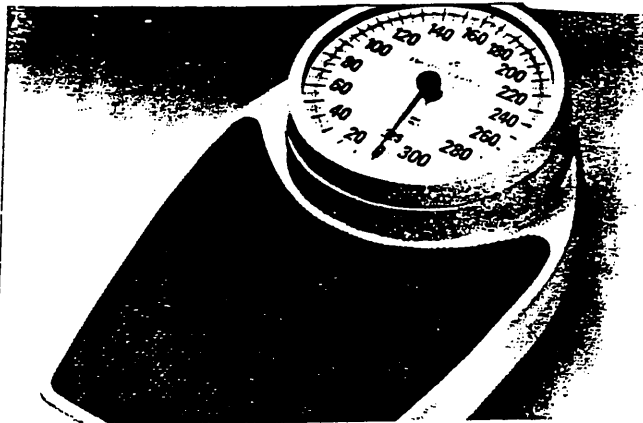
Jenny's Choice conditions

1-800-76-JENNY

Complaint

125 F.T.C.

EXHIBIT P



To most weight loss programs
this is a cash register.

Call the wrong weight loss program and you end up playing "Let's Make a Deal." Some have hidden charges. Others, high administrative fees. And some even charge you by the pound. It's like they punish you just because you have to lose weight.

At Jenny Craig, we charge you one low fee to lose all the weight you want. No gimmicks. No hidden charges. Jenny Craig. Where weight loss means losing weight. Not your bank account.

\$185*

Lose all the weight you want
for one low service fee.

Now you can.

JENNY CRAIG
Weight Loss Center

Call today.

\$99*

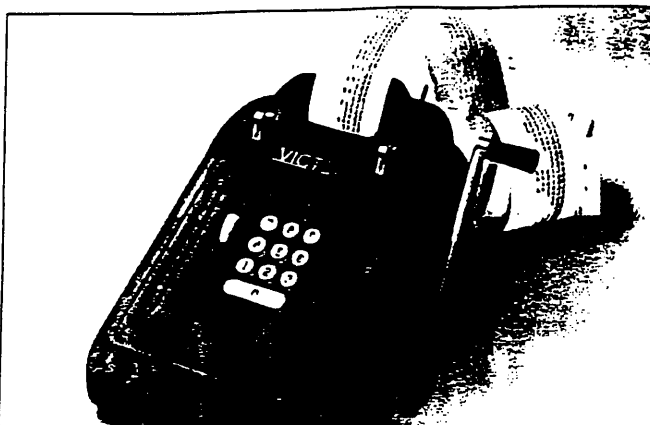
\$235*

\$195*

Jenny Craig is a registered trademark.

*Service fee • Jenny's Cuisine additional • Maintenance Products optional • Major credit cards accepted • Open 12 hours and serving

EXHIBIT Q



Most weight loss programs are
more concerned with their bottom
line than your waistline.

Most weight loss programs spend more time on their figures than yours. They figure out ways to hit you with administrative fees. Hidden charges. Some even charge you by the pound. It's like they're punishing you for losing weight. At Jenny Craig you can lose all the weight you want for one low service fee. No gimmicks. No hidden costs. Jenny Craig. Where you get thin. And your wallet doesn't.

\$185*

Lose all the weight you want
for one low service fee.

Now you can.

JENNY CRAIG

Weight Loss Center

Call today.

\$99*

\$235*

\$195*

*Service fee • Jenny's Cuisine additional • Maintenance Products optional • Major credit cards accepted • Open Saturdays and evenings

Complaint

125 F.T.C.

EXHIBIT R

"We've thought of everything you need to lose weight."

1. Counselors who care. Nothing is more crucial to your success than having the encouragement and support of a personal counselor. Someone who understands you, someone who will care about you.

During every meal, we'll be together, setting goals and addressing your individual concerns. Everything that we do is designed to help you succeed. Our counselors are well trained. Their experience is their strength.



2. Learn from experts. Our Jenny Craig diet has been painstakingly researched and developed by experts in nutrition, medicine, psychology, and exercise. Each weekly session is designed to be a simple, enjoyable experience, whether it's cooking for others, dining out, or learning how to eat all the foods you adore without gaining weight. Our diet is not just a diet, it's a lifestyle.



3. Fresh-frozen entrees. Let's be honest. For any weight loss program to work, it has to be easy. Which is why our entrees are fresh-frozen, not frozen-dried. Our entrees are made in our own kitchens. They're made with real ingredients. They're made with real care. They're made with real love. They're made with real flavor. They're made with real health.



4. Our price is guaranteed. No other diet is as affordable as Jenny Craig. That's why our price is so low. It's just one price. And we'll even sell it to you over the phone. If all that doesn't sound like a bargain, try calling our program and compare for yourself. Chances are you'll be very surprised at what they tell you. Or more likely, what they don't tell you.

Now you can.

JENNY CRAIG

Call today.

LOSE ALL THE WEIGHT YOU WANT
\$99*
Price Guaranteed

50% OFF SPECIAL
LOSE ALL THE WEIGHT YOU WANT
\$97.50*
Price Guaranteed

LOSE ALL THE WEIGHT YOU WANT
\$235*
Price Guaranteed

LOSE ALL THE WEIGHT YOU WANT
\$195*
Price Guaranteed

LOSE ALL THE WEIGHT YOU WANT
\$185*
Price Guaranteed

LOSE ALL THE WEIGHT YOU WANT
\$149*
Price Guaranteed

LOSE ALL THE WEIGHT YOU WANT
\$97.50*
Price Guaranteed

50% OFF SPECIAL
LOSE ALL THE WEIGHT YOU WANT
\$92.50*
Price Guaranteed

EXHIBIT S

**9 Out Of 10 Clients Would Recommend
Jenny Craig. Who Did They Tell?**

 "I told my hairdresser" Henry Rodriguez lost 25 lbs.	 "I told my coach" Gina Oakley lost 200 lbs.	 "I told my parents" Laurie Sachman lost 30 lbs.
 "I told my secretary" Kelly Almaguer lost 25 lbs.	 "I told my best friend" Cynthia West lost 45 lbs.	 "I told my twin sister" Ricky Rodriguez lost 35 lbs.
 "I told my dentist" Joni Lavinich lost 50 lbs.	 "I told everyone I know" Carol Pickens lost 100 lbs.	 "I told my best friend" Patricia Henry lost 25 lbs.

When we asked our clients if they would recommend our program to their friends they gave us a resounding "Yes!" And we think that's the best advertising we could ever hope for. You probably know someone who's been successful on the Jenny Craig program. Call now and find out just how they did it.

CALL NOW 1-800-97-JENNY



Pay As You Go

\$6

A Week Program Fee

Weight Loss Center

Jenny's Cuisine additional • Individual results may vary • Maintenance/Products optional • Open Saturdays and evenings • © 1991 Jenny Craig International

Complaint

125 F.T.C.

EXHIBIT T

J. Walter Thompson

T E L E V I S I O N

SAN FRANCISCO CREATIVE DEPARTMENT

Job No. JCI-GEN-422062
 Client JENNY CRAIG
 Product
 ISCI No YJCJ 0627
 CORPORATE

Title Statistics/L5
 Status AS PRODUCED
 Length :30
 Date 4/16/92

VIDEO

TITLE: WHAT TO YOU LIKE ABOUT LOSING
 WEIGHT WITH JENNY CRAIG?

CUT TO MARIA GENOVESE

CUT TO LAURA BECK

TITLE: 86% LIKED THE COUNSELING
 NATIONAL SURVEY OF JENNY CRAIG
 CLIENTS OCT-DEC 1991

CUT TO MARIA GENOVESE

CUT TO PHIL MCDERMOTT

CUT TO LAURA BECK

TITLE: 89% LIKED THE PROGRAM
 NATIONAL SURVEY OF JENNY CRAIG
 CLIENTS OCT-DEC 1991

CUT TO PHIL MCDERMOTT

CUT TO MARIA GENOVESE

CUT TO PHIL MCDERMOTT

TITLE: 94% RECOMMEND TO A FRIEND
 NATIONAL SURVEY OF JENNY CRAIG
 CLIENTS OCT-DEC 1991

CUTS OF MARIA, PHIL, AND LAURA

TITLE: Lose all you want.
 \$39
 Program Fee
 (LOGO)
 Jenn's Cuisine additional.
TITLE: Get back a dollar a pound
 once you reach your goal weight.
 (LOGO)
 Some restrictions apply

TITLE: Get back a dollar a pound.
 1-800-92-JENNY
 (LOGO)
 Some restrictions apply

AUDIO

AYQ: What do Jenny Craig clients like about Jenny
 Craig?

MARIA: My Jenny Craig counselor is wonderful.

LAURA: She was always encouraging.

AYQ: 86% liked the counseling.

MARIA: The Lifestyle classes are so important.

PHIL: The food was great.

LAURA: The Jenny Craig Program works in real
 life.

AYQ: 89% liked the program.

PHIL: If you want to lose weight.

MARIA: Go to Jenny Craig.

PHIL: Right away.

AYQ: And 94% would recommend us to a friend.

Now. What could be more impressive than that?
 Lose all you want for \$39.

Then get back a dollar for every pound you lose.

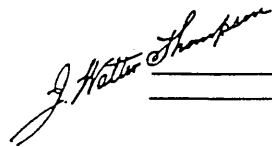
Call 1-800-92-JENNY. How much would you like to get back?

Exhibit T

333

Complaint

EXHIBIT U



R A D I O

SAN FRANCISCO CREATIVE DEPARTMENT

Job No.	732011	Title	"9 OUT OF 10/947"
Client	JENNY CRAIG	Status	AS PRODUCED
Product		Length	:45:15
ISCI No.	YICR2017	Date	3/24/93 2126/am

WOMAN:

The other day I saw a commercial that said nine out of ten Jenny Craig clients would recommend Jenny Craig to their friends. Nine out of ten. Which got me to thinking. If Jenny Craig helped me control my weight -- oh not my usual starve-stuff, give my scale a whiplash kind of control -- but *real* control, who would I tell? Well, not being one to gloat, I'd casually mention it to my mother and a few dear, dear friends. I'd drop a hint about Jenny to my boss. My dry cleaner. My plumber. My therapist. I'd tell my neighbor Fred who mows his lawn without a shirt. Geezh! I'd run up forty floors to the top of my office building and shout "hey, you down there, look what Jenny did, I can manage my weight now." But before I hit the talk show circuit, do my book tour, gather awards and acclaim the world over, I better call Jenny Craig first.

LIVE ANNCR:

At Jenny Craig lose all the weight you want for just a \$1 a pound. Call 1-800-947-JENNY. 1-800-947-J-E-N-N-Y. Offer good at participating centres. Jenny's Cuisine additional.

FEDERAL TRADE COMMISSION DECISIONS

Complaint

EXHIBIT V

125 F.T.C.

National Survey
of Jenny Craig Clients

Oct-Dec 1991

Percentage of Jenny Craig clients responding
"completely satisfied" or "very satisfied":

- With the overall Jenny Craig program 89%
- With the weekly personal counseling sessions 87%
- With the friendliness of the Jenny Craig staff 91%
- That would recommend the program to a friend 94%

**YOU'RE PROBABLY WONDERING
WHAT ELSE WE COULD POSSIBLY
DO TO IMPRESS YOU.**

FREE PROGRAM FEE.

We're so sure you'll be satisfied with the Jenny Craig program, that when you bring this coupon in, we'll waive your program fee. Jenny's Cuisine is a required additional purchase.

JENNY CRAIG
Weight Loss Center

THE REAL LIFE ANSWER

DIAL DIRECT 1-800-92-JENNY

#122081 4 x 15.75

EXHIBIT V

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violation of Sections 5 and 12 of the Federal Trade Commission Act, as amended, and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; 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 complaint, a statement that the signing of said 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, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter 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 3.25(f) of its Rules, and having modified the order in several respects, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Jenny Craig, 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 445 Marine View Avenue, #300, Del Mar, California.

Respondent Jenny Craig International, 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 445 Marine View Avenue, #300, Del Mar, California.

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:

A. "*Competent and reliable scientific evidence*" shall mean those tests, analyses, research, studies, surveys or other evidence based on the expertise of professionals in the relevant area, that have 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.

B. "*Weight loss program*" shall mean any program designed to aid consumers in weight loss or weight maintenance.

C. "*Broadcast medium*" shall mean any radio or television broadcast, cablecast, home video, or theatrical release.

D. For any order-required disclosure in a print medium to be made "*clearly and prominently*" or in a "*clear and prominent manner*," it must be given both in the same type style and in: (1) twelve point type where the representation that triggers the disclosure is given in twelve point or larger type; or (2) the same type size as the representation that triggers the disclosure where that representation is given in a type size that is smaller than twelve point type.

E. For any order-required disclosure given orally in a broadcast medium to be made "*clearly and prominently*" or in a "*clear and prominent manner*," the disclosure must be given at the same volume and in the same cadence as the representation that triggers the disclosure.

F. For any order-required disclosure given in the video portion of a television or video advertisement to be made "*clearly and prominently*" or in a "*clear and prominent manner*," the disclosure must be of a size and shade and must appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend it.

G. "*Short broadcast advertisement*" shall mean any advertisement of thirty seconds or less duration made in a broadcast medium.

I.

It is ordered, That Jenny Craig, Inc., a corporation, and Jenny Craig International, Inc., a corporation ("respondents"), their successors and assigns, and respondents' officers, representatives,

agents, and employees, directly or through any corporation, subsidiary, division, or other device, including franchisees or licensees, in connection with the advertising, promotion, offering for sale, or sale of any weight loss program, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Making any representation, directly or by implication, about the success of participants on any weight loss program in achieving or maintaining weight loss or weight control unless, at the time of making any such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation;

Provided, further, that for any representation that:

(1) Any weight loss achieved or maintained through the weight loss program is typical or representative of all or any subset of participants of respondents' program, said evidence shall, at a minimum, be based on a representative sample of:

(a) All participants who have entered the program, where the representation relates to such persons; provided, however, that the required sample may exclude those participants who dropped out of the program within two weeks of their entrance or who were unable to complete the program due to change of residence or medical reasons, such as pregnancy; or

(b) All participants who have completed a particular phase of the program or the entire program, where the representation only relates to such persons;

(2) Any weight loss is maintained long-term, said evidence shall, at a minimum, be based upon the experience of participants who were followed for a period of at least two years from their completion of the active maintenance phase of respondents' program, or earlier termination, as applicable; and

(3) Any weight loss is maintained permanently, said evidence shall, at a minimum, be based upon the experience of participants who were followed for a period of time after completing the program that is either:

(a) Generally recognized by experts in the field of treating obesity as being of sufficient length for predicting that weight loss will be permanent, or

(b) Demonstrated by competent and reliable survey evidence as being of sufficient duration to permit such a prediction.

B. Representing, directly or by implication, except through endorsements or testimonials referred to in paragraph I.E herein, that participants of any weight loss program have successfully maintained weight loss, unless respondents disclose, clearly and prominently, and in close proximity to such representation, the statement: "For many dieters, weight loss is temporary.";

Provided, further, that respondents shall not represent, directly or by implication, that the above-quoted statement does not apply to dieters in respondents' weight loss program;

Provided, however, that a truthful statement that merely describes the existence, design or content of a weight maintenance or weight management program or notes that the program teaches clients about how to manage their weight will not, without more, be considered for purposes of this order a representation regarding weight loss maintenance success;

C. Representing, directly or by implication, except through short broadcast advertisements referred to in paragraph I.D herein, and except through endorsements or testimonials referred to in paragraph I.E herein, that participants of any weight loss program have successfully maintained weight loss, unless respondents disclose, clearly and prominently, and in close proximity to such representation, the following information:

(1) The average percentage of weight loss maintained by those participants,

(2) The duration over which the weight loss was maintained, measured from the date that participants ended the active weight loss phase of the program, provided, further, that if any portion of the time period covered includes participation in a maintenance program(s) that follows active weight loss, such fact must also be disclosed, and

(3) If the participant population referred to is not representative of the general participant population for respondents' programs:

(a) The proportion of the total participant population in respondents' programs that those participants represent, expressed in terms of a percentage or actual numbers of participants, or

(b) The statement: "Jenny Craig makes no claim that this [these] result[s] is [are] representative of all participants in the Jenny Craig program.";

Provided, however, that for representations about weight loss maintenance success that do not use a number or percentage, or descriptive terms that convey a quantitative measure such as "most of our customers maintain their weight loss long-term," respondents may, in lieu of the disclosures required in C.(1)-(3) above,

(i) Include, clearly and prominently, and in immediate conjunction with such representation, the statement: "Check at our centers for details about our maintenance record."; and

(ii) For a period of time beginning with the date of the first dissemination or broadcast of any such advertisement and ending no sooner than thirty (30) days after the last dissemination or broadcast of such advertisement, give to each potential client, upon the first presentation of any form asking for information from the potential client, but in any event before such person has entered into any agreement with respondents, a separate document entitled "Maintenance Information," which shall include all the information required by paragraph I.B and subparagraphs I.C(1)-(3) of this order, formatted in the exact type size and style as the example form described in paragraph I.D(2)(a) and set out below;

Provided, further, that compliance with the obligations of this paragraph I.C in no way relieves respondents of the requirement under paragraph I.A of this order to substantiate any representation about the success of participants on any weight loss program in maintaining weight loss.

D. Representing, directly or by implication, in short broadcast advertisements, that participants of any weight loss program have successfully maintained weight loss, unless respondents:

(1) Include, clearly and prominently, and in immediate conjunction with such representation, the statement: "Check at our centers for details about our maintenance record.";

(2) For a period of time beginning with the date of the first broadcast of any such advertisement and ending no sooner than thirty days after the last broadcast of such advertisement, comply with the following procedures upon the first presentation of any form asking for information from a potential client, but in any event before such person has entered into any agreement with respondents:

(a) Give to each potential client a separate document entitled "Maintenance Information," which shall include all the information required by paragraph I.B and subparagraphs I.C (1)-(3) of this order and shall be formatted in the exact type size and style as the example form below, and shall include the heading (Helvetica 14 pt. bold), lead-in (Times Roman 12 pt.), disclosures (Helvetica 14 pt. bold), acknowledgment language (Times Roman 12 pt.) and signature block therein; provided, further, that no information in addition to that required to be included in the document required by this subparagraph I.D(2) shall be included therein;

MAINTENANCE INFORMATION

You may have seen our recent ad about maintenance success. Here's some additional information about our maintenance record.

**[Disclosure of maintenance statistics goes
hereXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX]
For many dieters, weight loss is temporary.**

I have read this notice. _____
(Client Signature) (Date)

(b) Require each potential client to sign such document; and
(c) Give each client a copy of such document; and

(3) Retain in each client file a copy of the signed maintenance notice required by this paragraph;

Provided, further, that: (1) compliance with the obligations of this paragraph I.D in no way relieves respondents of the requirement under paragraph I.A of this order to substantiate any representation about the success of participants on any weight loss program in maintaining weight loss; and (2) respondents must comply with both paragraph I.D and paragraph I.C of this order if respondents include

in any such short broadcast advertisement a representation about maintenance success that states a number or percentage, or uses descriptive terms that convey a quantitative measure such as "most of our customers maintain their weight loss long-term";

Provided, however, that the provisions of paragraph I.D shall not apply to endorsements or testimonials referred to in paragraph I.E herein.

E. Using any advertisement containing an endorsement or testimonial about weight loss success or weight loss maintenance success by a participant or participants of respondents' weight loss program if the weight loss success or weight loss maintenance success depicted in the advertisement is not representative of what participants of respondents' weight loss programs generally achieve, unless respondents disclose, clearly and prominently, and in close proximity to the endorser's statement of his or her weight loss success or weight loss maintenance success:

(1) What the generally expected success would be for Jenny Craig customers in losing weight or maintaining achieved weight loss; provided, however, that in determining the generally expected success for Jenny Craig customers, respondents may exclude those customers who dropped out of the program within two weeks of their entrance or who were unable to complete the program due to change of residence or medical reasons, such as pregnancy; and that for endorsements or testimonials about weight loss success, respondents can satisfy the requirements of this subparagraph by accurately disclosing:

(a) The generally expected success for Jenny Craig customers in the following phrase: "Weight loss averages (number) lbs. over ___ weeks"; or

(b) The average number of pounds lost by Jenny Craig customers, using the following phrase: "Average weight loss (number) lbs. More details at centers"; and, for a period of time beginning with the date of the first dissemination of any such advertisement and ending no sooner than thirty days after the last dissemination of such advertisement, making in any on-site video promotion the preceding disclosure orally and complying with the following procedures upon the first presentation of any form asking for information from a potential client, but in any event before such person has entered into any agreement with respondents:

(i) Give to each potential client a separate one-page document with an appropriate title that alerts customers that important information follows, which shall disclose, clearly and prominently, what the generally expected success would be for Jenny Craig customers in losing weight, expressed in terms of both average number of pounds lost and average duration of participation in the Jenny Craig program; such document shall be formatted in the following type size and style: heading (Helvetica 14 pt. bold), disclosures (Helvetica 14 pt. bold), signature block (Times Roman 12 pt.), and any other language (no larger than 14 pt.); provided, further, that no information that contradicts this information shall be included in the document required by this subparagraph;

(ii) Ask each potential client to sign such document;

(iii) Give each client a copy of such document; and

(iv) Retain in each client file a copy of the notice provided to clients under the requirements of this subparagraph; or

(2) The limited applicability of the endorser's experience to what consumers may generally expect to achieve; *i.e.*, that consumers should not expect to experience similar results; respondents can satisfy the requirements of this subparagraph by clearly and prominently disclosing in close proximity to the representation one of the following statements:

(a) "You should not expect to experience these results."

(b) "This result is not typical. You may not do as well."

(c) "This result is not typical. You may be less successful."

(d) "_____'s success is not typical. You may not do as well."

(e) "_____'s experience is not typical. You may achieve less."

(f) "Results not typical."

(g) "Results not typical of program participants."

Provided, however, that a truthful statement that merely describes the existence, design or content of a weight maintenance or weight management program or notes that the program teaches clients how to manage their weight, or which states either through the endorser or in nearby copy that under the program "weight loss maintenance is possible," or words to that effect, will not, without more, be considered for purposes of this paragraph a representation regarding

weight loss maintenance success or trigger the need for separate or additional maintenance disclosures required by other paragraphs of the order;

Provided, further, that:

(i) A representation about maintenance by an endorser that states a number or percentage, or uses descriptive terms that convey a quantitative measure, such as "I have kept off most of my weight loss for 2 years," shall be considered a representation regarding weight loss maintenance success;

(ii) If endorsements or testimonials covered by this paragraph are made in a broadcast medium, any disclosure required by this paragraph must be communicated in a clear and prominent manner and in immediate conjunction with the representation that triggers the disclosure.

F. Representing, directly or by implication, that the price at which any weight loss program can be purchased is the only cost associated with losing weight on that program, unless such is the case.

G. Representing, directly or by implication, the price at which any weight loss program can be purchased, unless respondents disclose, clearly and prominently, either (1) in close proximity to such representation, the existence and amount of all mandatory costs and fees associated with the program offered; or (2) in immediate conjunction with such representation, the following statement: "Plus the cost of [list of products or services that participants must purchase at additional cost].";

Provided, further, that in a broadcast medium, if the representation that triggers the disclosure is oral, the required disclosure must also be made orally.

H. Failing to disclose over the telephone, for a period of time beginning with the date of any advertisement of the price at which any weight loss program can be purchased and ending no sooner than 180 days after the last dissemination of any such advertisement, to consumers who inquire about the cost of any weight loss program, or are told about the cost of any weight loss program, the existence and amount of any mandatory costs or fees associated with participation in the program.

I. Representing, directly or by implication, that prospective participants in respondents' weight loss program will reach a specified weight within a specified time period, unless at the time of making

such representation, respondents possess and rely upon competent and reliable scientific evidence substantiating the representation.

J. Misrepresenting, directly or by implication, the rate or speed at which any participant in any weight loss program has experienced or will experience weight loss.

K. Failing to disclose, clearly and prominently, in writing either:

- 1) To all participants when they enter the program; or
- 2) To each participant whose average weekly weight loss exceeds two percent (2%) of his or her initial body weight, or three pounds, whichever is less, for at least two consecutive weeks;

that failure to follow the program protocol and eat all of the food recommended may involve the risk of developing serious health complications.

L. Misrepresenting, directly or by implication, the performance, efficacy, price, or safety of any weight loss program or weight loss product.

M. Representing, directly or by implication, that participants on any weight loss program recommend or endorse the program unless, at the time of making any such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

N. Misrepresenting, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or survey.

II.

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

III.

It is further ordered, That for three (3) years after the last date of dissemination of any representation covered by this order, respondents, or their successors and assigns, shall maintain and upon

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

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV.

It is further ordered, That respondents shall distribute a copy of this order to each of their officers, agents, representatives, independent contractors and employees who are involved in the preparation and placement of advertisements or promotional materials or in communication with customers or prospective customers or who have any responsibilities with respect to the subject matter of this order; and, for a period of ten (10) years from the date of entry of this order, distribute same to all future such officers, agents, representatives, independent contractors and employees.

V.

It is further ordered, That:

A. Respondents shall distribute a copy of this order to each of their franchisees and licensees and shall contractually bind them to comply with the prohibitions and affirmative requirements of this order; respondents may satisfy this contractual requirement by incorporating such order requirements into their current Operations Manual; and

B. Respondents shall further make reasonable efforts to monitor their franchisees' and licensees' compliance with the order provisions; respondents may satisfy this requirement by: (1) taking reasonable steps to notify promptly any franchisee or licensee that respondents determine is failing materially or repeatedly to comply with any order provision that such franchisee or licensee is not in compliance with the order provisions and that disciplinary action may result from such noncompliance; and (2) providing the Federal Trade Commission with the name and address of the franchisee or licensee and the nature of the noncompliance if the franchisee or licensee fails to comply promptly with the relevant order provision after being so notified;

provided, however, that the requirements of this Part V will not, by themselves, increase the liability of respondents for any acts and practices of their franchisees or licensees that violate this order.

VI.

It is further ordered, That this order will terminate on February 19, 2018, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any paragraph in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

VII.

It is further ordered, That respondents shall, within sixty (60) days after the date of service of this order, and one year thereafter, 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 Pitofsky recused and Commissioner Azcuenaga not participating.

IN THE MATTER OF

THE DOW CHEMICAL COMPANY

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-3785. Complaint, Feb. 20, 1998--Decision, Feb. 20, 1998

This consent order requires, among other things, the Michigan-based chemical company to divest, simultaneously with its acquisition of Sentrachem, Limited, a South African chemical company, the Hampshire Chemical Company's chelant business to Akzo Nobel N.V., which imports small volumes of chelants into the United States.

Appearances

For the Commission: *Morris Bloom, Joseph Krauss, Howard Morse and William Baer.*

For the respondent: *Robert Schlossberg and Peter Halle, Morgan, Lewis & Bockius, Washington, D.C. and Scott R. Pennock, in-house counsel, Midland, MI.*

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 the Dow Chemical Company's proposed acquisition of the South African company, Sentrachem Limited ("Sentrachem"), including its U.S. subsidiary, Hampshire Chemical Corporation ("Hampshire"), would violate Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint stating its charges as follows:

I. THE RESPONDENT

The Dow Chemical Company

1. Respondent Dow is a corporation organized, existing and doing business under and by virtue of the laws of Delaware, with its office