

FS-1 and Vancol, the respondents have represented, directly or by implication, that testimonials from consumers appearing in advertisements for FS-1 and Vancol reflect the typical or ordinary experience of members of the public who have used the products. The complaint charges that the respondents failed to possess and rely upon a reasonable basis for these representations.

The proposed order contains provisions designed to remedy the alleged violations. The proposed order also provides for consumer redress of \$100,000. In the event that consumer redress is not feasible, the proposed order provides that the funds will be deposited in the United States Treasury.

Part I of the proposed order requires the respondents to cease from making any representation that any product or program provides any weight loss benefit, is an effective treatment for obesity, reduces hunger or suppresses the appetite, decreases the intestinal absorption of calories, reduces serum cholesterol, provides, can provide or helps provide any other health benefit or has any effect on cellulite or on the user's body measurements, unless they possess and rely upon competent and reliable scientific evidence that substantiates the representation. Part II(a) of the order prohibits the respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test or study. Part II (b) and (c), respectively, prohibit misrepresentation of the amount of fiber or any nutrient contained in a product and prohibit false claims that a product is a high source of fiber or any other nutrient. Part II(d) prohibits misrepresentation of the research activities or other activities of National Dietary Research or any other organization affiliated with the respondents.

Part III of the proposed order prohibits the respondents from disseminating any advertisement for any product or program that misrepresents, in any manner, that it is not a paid advertisement. Part IV of the order prohibits representations that testimonials represent the typical or ordinary experience of consumers who use the product, unless the representations are true and the respondents have competent and reliable evidence that substantiates such representations. An additional provision in this Part permits the respondents to use a truthful, non-typical testimonial, if they disclose clearly and prominently in close proximity to the testimonial what the generally expected performance would be in the depicted circumstances,

or the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

Parts V and VI of the proposed order contain provisions permitting certain claims that are approved for labels by the FDA, under either the Nutrition Labeling and Education Act, a tentative final or final monograph, or any new drug application approved by the FDA.

Part VII of the proposed order requires the respondents to pay \$100,000 in consumer redress, or if that is impracticable, to pay the same amount to the U.S. Treasury.

Parts VIII, IX, X, XI and XII of the proposed order are compliance reporting provisions that require the respondents to: retain all records that would bear on the respondents' compliance with the order; to notify the Commission of any changes in the structure of the corporate respondents that may affect their compliance obligations under the order, or any changes in the business affiliations of the individual respondent relating to the advertising, offering for sale, sale or distribution of consumer products; to distribute copies of the order to the corporate respondents' operating divisions and to those persons responsible for the preparation and review of advertising material covered by the order; and to report to the Commission their compliance with the terms of the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 95-12587 Filed 5-22-95; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. 9271]

**B.A.T Industries p.l.c., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions**

**AGENCY:** Federal Trade Commission.

**ACTION:** Consent order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order permits, among other things, B.A.T Industries and Brown & Williamson Tobacco Corporation to consummate the acquisition of American Tobacco Company, but

requires them to divest, within twelve months, six American Tobacco discount cigarette brands and to divest to the purchaser of these brands three American Tobacco full-revenue brands, as well as the American Tobacco manufacturing facility in Reidsville, N.C. If the required divestitures are not completed on time, the consent order permits the Commission to appoint a trustee to complete the transactions. In addition, the consent order requires the respondents, for ten years, to obtain Commission approval before acquiring any interest in a cigarette manufacturer or any assets used to manufacture or distribute cigarettes in the United States.

**DATES:** Complaint issued November 28, 1994. Order issued April 19, 1995.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** Joseph Krauss, FTC/H-324, Washington, D.C. 20580. (202) 326-2713.

**SUPPLEMENTARY INFORMATION:** On Wednesday, January 11, 1995, there was published in the **Federal Register**, 60 FR 2751, a proposed consent agreement with analysis in the Matter of B.A.T Industries p.l.c., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

**Donald S. Clark,**

*Secretary.*

[FR Doc. 95-12585 Filed 5-22-95; 8:45 am]

BILLING CODE 6750-01-M

[File No. 932-3234]

**Original Marketing Inc.; Proposed Consent Agreement with Analysis to Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the Florida-based

<sup>1</sup> Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.