

was low in fat, low in calories, and lower in fat than ice cream. At the serving size for frozen yogurt commonly consumed, Pure Indulgence was not low in fat or low in calories. Further, Pure Indulgence was not lower in fat than many ice creams.

The Commission's complaint alleges that the above representations for certain flavors of Pure Indulgence, at the time the advertising was disseminated, were false and misleading.

The consent order contains provisions designed to remedy the violations charged and to prevent Dannon from engaging in similar deceptive and unfair acts in the future.

Part I of the Commission's order prohibits respondent, in connection with the manufacture, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any frozen food product, from misrepresenting, in any manner, directly or by implication, through numerical or descriptive terms or any other means, the existence or amount of fat, saturated fat, cholesterol or calories in any such product. However, if any representation covered by this Part either directly or by implication conveys any nutrient content claim defined (for purposes of labeling) by any regulation promulgated by the Food and Drug Administration, compliance with this Part shall be governed by the qualifying amount for such defined claim as set forth in that regulation.

Part II of the order provides that nothing in the order shall prohibit respondent from making any representation that is specifically permitted in labeling for any such product in regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

Under the terms of Part III of the order, respondents shall pay \$150,000.00 to the U.S. Treasury.

Part IV of the order requires Dannon to maintain copies of all materials relating to advertisements covered by the order and all documents relating to substantiation of advertising claims covered by the order.

Part V requires Dannon to notify the Commission of any changes in corporate structure that might affect compliance with the order.

Part VI requires Dannon to distribute copies of the order to certain company officials and employees and certain other representatives and agents of Dannon.

Part VII requires Dannon to file with the Commission a report detailing compliance with the order.

Part VIII provides for termination of the order twenty years from the date of issuance.

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

[FR Doc. 95-30215 Filed 12-11-95; 8:45 am]

BILLING CODE 6750-01-M

[File No. 942-3012]

Safe Brands Corporation, Warren Distribution, Inc. and ARCO Chemical Company; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: 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 Safe Brands, the manufacturer of Sierra antifreeze, Warren Distribution, its parent company, and ARCO, the supplier of the principal ingredient in Sierra antifreeze, from making unsubstantiated claims about the safety and environmental benefits of Sierra. They would also be required to put a statement on Sierra containers cautioning consumers that it may be harmful if swallowed. The Commission alleged that the companies had claimed, without adequate substantiation, that Sierra is absolutely safe for people and pets, that Sierra is generally safer for the environment than conventional antifreezes because it is biodegradable, and that Sierra and its container are recycled.

DATES: Comments must be received on or before February 12, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston, Bureau of Consumer Protection, Federal Trade Commission, S-4002, 6th Street & Pennsylvania Ave., NW., Washington, DC 20580 (202) 326-3153; Michael Dershowitz, Bureau of Consumer Protection, Federal Trade Commission, S-4002, 6th Street & Pennsylvania Ave., NW., Washington, DC 20580 (202) 326-3158.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's

Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

United States of America Before
Federal Trade Commission

In the Matter of Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation.

[File No. 942 3012]

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of proposed respondents Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between Safe Brands Corporation, Warren Distribution, Inc., and ARCO Chemical Company, by their duly authorized officers, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Safe Brands Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska. It is a wholly-owned subsidiary of proposed respondent Warren Distribution, Inc. Proposed respondent Warren Distribution, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska. Proposed respondents Safe Brands Corporation and Warren Distribution, Inc. have their principal offices or places of business at 727 South 13th Street, Omaha, Nebraska 68102.

Proposed respondent ARCO Chemical Company is a corporation organized, existing and doing business under and by virtue of the law of the State of Delaware with its principal office or place of business at 3801 West Chester Pike, Newtown Square, Pennsylvania 19073.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated hereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and education, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in deposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they might have to any other manner of service.

The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definition

For purposes of this Order, the following definition shall apply:

"Competent and reliable scientific evidence" means tests, analyses, research, studies or 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.

I

It is ordered that respondents, Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any antifreeze, coolant, or deicer 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 such product will not harm the environment, is less harmful to the environment than other products, or offers any environmental benefit, unless at the time of making 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.

II

It is further ordered that respondents, Safe Brands Corporation, a corporation,

Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any antifreeze, coolant, or deicer product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, about the safety or relative safety of such product for humans or animals unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation.

III

It is further ordered that respondents, Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, offering for sale, sale, or distribution of any propylene glycol-based antifreeze or coolant product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall disclose on the front of the container of all such products the following:

"See Back Panel for CAUTIONARY INFORMATION"

and shall disclose on the back of the container of all such products the following:

"CAUTIONARY INFORMATION: This Product MAY BE HARMFUL IF SWALLOWED. STORE SAFELY AWAY FROM CHILDREN AND PETS. Do not store in open or unlabeled containers."

Each disclosure shall be in a conspicuous and prominent place on the container, in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the container. The disclosure on the back of the container shall be surrounded by a one (1) point rule. The disclosure on the front of the container and the first two sentences of the disclosure on the back of the container shall be in type at least as large as the largest print type on the back of the container, but, in any case,

no smaller than ten (10) point type. The words "CAUTIONARY INFORMATION" on the front and back of the container shall be in bold type. The last sentence of the disclosure on the back of the container shall be in type at least as large as the type in which the majority of the printed material on the back of the container is printed.

The back of the container shall also contain the following statement, printed in type at least as large as the type in which the majority of the printed material on the back of the container is printed:

"Clean up any leaks or spills."

IV

It is further ordered that respondents, Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any antifreeze, coolant, or deicer 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, the level of vehicular engine protection provided by any such product, unless at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation.

V

It is further ordered that respondents, Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any antifreeze, coolant, or deicer 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 extent to which:

A. Any such product or its package is capable of being recycled; or,

B. Recycling collection programs for such product or its package are available.

VI

It is further ordered that the provisions of this Order shall not apply to any label or labeling printed prior to the date of service of this Order and shipped by respondents to distributors or retailers prior to one hundred (100) days after the date of service of this Order.

VII

It is further ordered that for five (5) 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.

VIII

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

IX

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

This Order will terminate twenty years from the date of its issuance, or twenty 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 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.

It is further ordered that respondents shall, within sixty (60) days later service of this Order upon them, 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 they have complied with this Order.

Benjamin I. Berman,
Acting Secretary.

Analysis of Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents Safe Brands Corporation, Warren Distribution, Inc., and ARCO Chemical Company.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the agreement's proposed order.

This matter concerns the labeling and advertising of Sierra Antifreeze-Coolant ("Sierra"), a propylene glycol-based automobile antifreeze marketed by Safe Brands Corporation and its parent company, Warren Distribution, Inc. The Commission's complaint in this matter alleges that ARCO Chemical Company sold the propylene glycol ("PG") used in the manufacture of Sierra and provided information for, participated in the preparation of, paid for, and reviewed and/or approved Sierra advertising and promotional materials. The complaint also alleges that ARCO Chemical itself disseminated advertisements under its own name for PG antifreeze generally.

The Commission's complaint charges that the respondents claimed in advertising and promotional materials

that compared to conventional, ethylene glycol-based antifreeze ("EG antifreeze"), Sierra and other PG antifreezes are safer for the environment generally. According to the complaint, although respondents had a reasonable basis that Sierra and other PG antifreezes, compared to EG antifreeze, are less toxic, and therefore safer for that part of the environment that is composed of humans, pets, and wildlife that may accidentally ingest it, respondents did not substantiate their claim that Sierra and other PG antifreezes are safer for the environment generally (e.g., the air, water, soil, plants, or aquatic life). The complaint also alleges that respondents represented without adequate substantiation that Sierra and other PG antifreezes are absolutely safe for the environment after ordinary use and that because Sierra and other PG antifreezes are biodegradable, they are absolutely safe for the environment after ordinary use. The complaint states that one reason these claims are unsubstantiated is that used antifreeze, whether EG or PG-based, may contain lead and/or other substances that are hazardous to the environment.

Furthermore, the complaint charges that the respondents represented without adequate substantiation that Sierra and other PG antifreezes are absolutely safe for people and pets. The complaint also charges that respondents claimed without adequate substantiation that because Sierra and other PG antifreezes contain PG—an ingredient designated by the Food and Drug Administration as "generally recognized as safe" and which is found in foods, drugs, cosmetics, and pet foods—they are absolutely safe for people and pets. According to the complaint, although respondents had a reasonable basis that Sierra and other PG antifreezes are safer than EG antifreeze, respondents lacked substantiation for the claim that they are absolutely safe.

In addition, the complaint alleges that the respondents made the unsubstantiated representation that compared to conventional, EG antifreeze, Sierra provides superior automotive protection from freezing temperatures, boil-overs, and corrosion.

Finally, the complaint charges that the respondents falsely and without adequate substantiation represented that Sierra antifreeze and its plastic container are recyclable. In fact, the complaint alleges, while both Sierra and its container are capable of being recycled, the vast majority of consumers cannot recycle either of them because there are few collection facilities

nationwide that accept PG antifreeze or high-density polyethylene plastic antifreeze containers for recycling.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed order requires the respondents to cease and desist from representing that any antifreeze, coolant, or deicer product will not harm the environment, is less harmful to the environment than other products, or offers any environmental benefit, unless the respondents possess competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

Part II of the proposed order requires the respondents to cease and desist from making any representation about the safety or relative safety for humans or animals of any antifreeze, coolant, or deicer product, unless they possess competent and reliable scientific evidence that substantiates the representation.

Part III of the proposed order requires that the respondents print the following two statements on the back of containers of all PG antifreeze or coolant products: "CAUTIONARY INFORMATION: This Product MAY BE HARMFUL IF SWALLOWED. STORE SAFELY AWAY FROM CHILDREN AND PETS. Do not store in open or unlabeled containers" and "Clean up any leaks or spills." On the front of all such containers the following must be disclosed: "See Back Panel for CAUTIONARY INFORMATION." Part III also specifies the manner in which these disclosures must be made.

Part IV of the proposed order requires the respondents to cease and desist from making any representation about the level of vehicular engine protection provided by any antifreeze, coolant, or deicer product, unless the respondents possess competent and reliable scientific evidence that substantiates the representation.

Part V of the proposed order requires that the respondents cease and desist from misrepresenting the extent to which any antifreeze, coolant, or deicer product or its package is capable of being recycled or the extent to which recycling collection programs are available.

Part VI of the proposed order provides that, for up to 100 days after the service of the order, respondents may continue to ship products from existing stock in containers with nonconforming labeling.

The proposed order also requires the respondents to maintain materials relied upon to substantiate the claims covered by the order, to distribute copies of the order to certain company officials, to notify the Commission of any changes in corporate structure that might affect compliance with the order, and to file one or more reports detailing compliance with the order. The order also contains a provision stating that it will terminate after twenty (20) years absent the filing of a complaint against respondents alleging a violation 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.

[FR Doc. 95-30216 Filed 12-11-95 8:45 am]

BILLING CODE 6750-01-M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Cancellation of December 14 meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended, notice is hereby given that the previously announced December 14 meeting of the Federal Accounting Standards Advisory Board has been canceled. Agenda issues planned for the December meeting will be discussed at the January 25 meeting, which will be duly announced in a later edition of the Federal Register.

FOR FURTHER INFORMATION CONTACT:

Ronald S. Young, Executive Staff Director, 750 First St., N.E., Room 1001, Washington, D.C. 20002, or call (202) 512-7350.

Authority: Federal Advisory Committee Act, Pub. L. No. 92-463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988)); 41 CFR 101-6.1015 (1990).

Dated: December 7, 1995.

Ronald S. Young,

Executive Director.

[FR Doc. 95-30245 Filed 12-11-95; 8:45 am]

BILLING CODE 1610-01-M