

settlement announced today, Unocal and Chevron have agreed to all of this requested relief.

The consent orders also resolve any possible antitrust objections to the merger. Although Unocal does not engage in any refining or retailing itself, it had claimed the right to collect patent royalties from companies that did so (including Chevron). If Chevron had unconditionally inherited these patents by acquisition, it would have been in a position to obtain sensitive information and to claim royalties from its own horizontal downstream competitors. We have reason to believe that this scenario would likely have an adverse effect on competition and, in any event, would inevitably have required an extensive inquiry and possible litigation.

For example, Union Oil regularly collects detailed reports from licensees about their production of CARB gasoline and other refinery operations. If Chevron had continued these license agreements after inheriting Union Oil's patents, it would have received information not otherwise available to members of the industry. Chevron could have used this information to facilitate coordinated interaction and detect any deviations. Chevron might also have been able to use the patents to discourage maverick behavior. Our present knowledge suggests that the likely competitive harm from this potential coordination and discipline would outweigh any likely efficiency gains from the vertical integration of a merged Chevron-Unocal. Now, a further inquiry into that belief is not necessary.

The settlement of these two matters is thus a double victory for California consumers. The Commission's monopolization case against Unocal was complex and, with possible appeals, could have taken years to resolve. The stakes were high, and substantial royalties could have been paid in the meantime—with an immediate impact on consumers. If the Commission lost the case, the dollar costs to consumers ultimately would have been immense. At the same time, a challenge against the acquisition of Unocal by Chevron would itself be a complex case, with high stakes and an uncertain outcome. The settlement provides the full relief sought in the monopolization case and resolves the only competitive issue with the proposed merger. With the settlement, consumers will benefit immediately from the elimination of royalty payments on the Union Oil patents, and potential merger efficiencies could result in additional savings at the pump.

By direction of the Commission, Chairman Majoras recused.

**Donald S. Clark,**

*Secretary.*

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**BILLING CODE 6750-01-P**

## FEDERAL TRADE COMMISSION

[File No. 042 3154]

### **Tropicana Products, Inc.; Analysis of Agreement Containing Consent Order To Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before July 1, 2005.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to "Tropicana Products, Inc., File No. 042 3154," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 159-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled "Confidential," and must comply with Commission Rule 4.9(c), 16 CFR 4.9(c) (2005).<sup>1</sup> The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to e-mail

<sup>1</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

messages directed to the following e-mail box: [consentagreement@ftc.gov](mailto:consentagreement@ftc.gov).

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

**FOR FURTHER INFORMATION CONTACT:** Michelle Rusk, (202) 326-3148, or Karen Muoio, (202) 326-2491, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned 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 thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 2, 2005), on the World Wide Web, at <http://www.ftc.gov/os/2005/06/index.htm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

### **Analysis of Agreement Containing Consent Order To Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Tropicana Products, Inc.

The proposed consent order has been placed on the public record for thirty

(30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves the advertising and promotion of Tropicana's "Healthy Heart" orange juice. According to the FTC complaint, Tropicana represented that (1) drinking three glasses of "Healthy Heart" a day for one month will raise good cholesterol by twenty-one percent and improve the ratio of good to bad cholesterol by sixteen percent; (2) drinking twenty ounces of "Healthy Heart" a day for one month will increase blood folate levels by forty-five percent and decrease homocysteine levels by eleven percent; and (3) drinking two glasses of orange juice a day for eight weeks will lower blood pressure an average of ten points. The complaint alleges that these claims are unsubstantiated. Tropicana also represented that the above three claims were clinically proven. The complaint alleges that this claim is false. Although Tropicana refers to three studies in its advertising, the studies are limited and do not support the claims made. The proposed consent order contains provisions designed to prevent Tropicana from engaging in similar acts and practices in the future.

Part I of the order requires Tropicana to possess competent and reliable scientific evidence before making the three challenged efficacy claims.

Part II requires Tropicana to possess competent and reliable scientific evidence before making certain representations that any food will affect: any biological marker or health-related endpoint by any specific amount; blood cholesterol levels, blood folate levels, blood homocysteine levels, or blood pressure; or the risk of developing heart disease, stroke, or cancer. Furthermore, Part II provides that a mere statement that a product contains a particular nutrient will not, by itself, be considered to be a health benefit claim covered by Part II.

Part III of the proposed order prohibits Tropicana from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test or study.

Part IV permits any representation for any product that is permitted in labeling for such product pursuant to regulations promulgated by FDA pursuant to the Nutrition Labeling and Education Act of 1990.

Parts V through VIII of the order require Tropicana to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain of its current and future personnel for three years; to notify the Commission of changes in corporate structure; and to file compliance reports with the Commission. Part IX provides that the order will terminate after twenty (20) years under certain circumstances.

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 in any way their terms.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 05-12042 Filed 6-17-05; 8:45 am]

**BILLING CODE 6750-01-P**

## FEDERAL TRADE COMMISSION

[Docket No. 9305]

### Union Oil Company of California; Analysis of Proposed Consent Order to Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before July 9, 2005.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to "Union Oil Company of California, Docket No. 9305," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 159-H, 600 Pennsylvania Avenue, NW., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled "Confidential," and must comply with Commission

Rule 4.9(c). 16 CFR 4.9(c) (2005).<sup>1</sup> The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to email messages directed to the following email box: [consentagreement@ftc.gov](mailto:consentagreement@ftc.gov).

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at [www.ftc.gov](http://www.ftc.gov). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Chong S. Park, Bureau of Competition, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, (202) 326-2372.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 3.25(f) of the Commission Rules of Practice, 16 CFR 3.25(f), notice is hereby given that the above-captioned 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 thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 10, 2005), on the World Wide Web, at <http://www.ftc.gov/os/2005/06/index.htm>. A paper copy can be obtained from the FTC Public

<sup>1</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).