

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

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In the Matter of )  
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 )  
R.J. REYNOLDS TOBACCO ) DOCKET NO. 9285  
COMPANY, )  
a corporation. )  
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 )  

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COMPLAINT

The Federal Trade Commission, having reason to believe that R.J. Reynolds Tobacco Company, a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

1. Respondent R.J. Reynolds Tobacco Company is a New Jersey corporation, with its office and principal place of business located at 401 North Main Street, P.O.B. 2959 Winston-Salem, North Carolina 27102.
2. Respondent has advertised, promoted, offered for sale, sold, and distributed cigarettes and other tobacco products.
3. The acts or practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.
4. Beginning sometime before 1987, Reynolds identified the need to attract "first usual brand" and/or "presmokers" and/or "learning" smokers to its brands in order to maintain or increase its market share. By 1984, some Reynolds employees recommended that the company establish a formal program to attract "first usual brand" smokers.

5. Beginning in or around 1987, respondent disseminated or caused to be disseminated advertisements and promotions for its Camel brand cigarettes, including, but not necessarily limited to, the attached Exhibits A through F. The ads and promotions have as their central theme a cartoon camel sometimes referred to as "Old Joe," "Smooth Character" or as "Joe Camel" (hereinafter "Joe Camel"), and other similar cartoon characters.

6. The purpose of the Joe Camel campaign was to reposition the Camel brand to make it attractive to younger smokers. At least one of the targets of the campaign was "first usual brand" smokers.

7. The Joe Camel campaign was successful in repositioning the Camel brand to make it attractive to younger smokers. In fact, the campaign was successful in appealing to many children and adolescents under the age of 18, or under the age at which cigarettes may lawfully be sold to consumers.

8. The Joe Camel campaign induced many of these children and adolescents under the age of 18 to smoke Camel cigarettes or increased the risk that they would do so. For many of these children and adolescents, the decision to smoke Camel cigarettes was a decision to begin smoking; for others, the decision to smoke Camel cigarettes was a decision to continue smoking. As a result, the Joe Camel campaign caused or was likely to have caused these children and adolescents to initiate or continue smoking cigarettes.

9. In fact, after the initiation of the Joe Camel campaign, the percentage of smokers under the age of 18 who smoked Camel cigarettes became larger than the percentage of all adult smokers aged 18 and older who smoked Camel cigarettes.

10. Reynolds knew or should have known:

- a. that because of the themes and techniques it used in the Joe Camel advertising and promotional campaign, that campaign would have a substantial appeal to children and adolescents below the age of 18, as well as to smokers over the age of 18; or
- b. that many smokers initiate smoking and become regular smokers before the age of 18, and that by targeting "first usual brand" and/or "presmokers" and/or "learning" smokers, the Joe Camel campaign would cause many children and adolescents below the age of 18 to smoke Camel cigarettes.

11. Consumers who smoke cigarettes risk addiction (i.e., nicotine dependency) and a number of immediate and long term adverse health effects including, but not limited to, coronary heart disease, lung and laryngeal cancer, oral cancer, esophageal cancer, chronic obstructive pulmonary disease, and low-birth-weight babies.

12. Many children and adolescents do not adequately comprehend the nature of the risk or the seriousness of nicotine addiction, or the other dangerous health effects of smoking cigarettes.

13. R.J. Reynolds' actions, as set forth in Paragraphs 4, 5, 7, 8, 9 and 10 have caused or were likely to cause substantial and ongoing injury to the health and safety of children and adolescents under the age of 18 that is not offset by any countervailing benefits and is not reasonably avoidable by these consumers.

14. Since at least 1988, most states and the District of Columbia have enacted laws that make it illegal to sell cigarettes to persons under the age of 18, in order to protect children and adolescents from the significant adverse consequences of cigarette smoking. In 1992, Congress passed a federal statute that provided that, as a condition of receiving grant funds for substance abuse programs, states must enact and enforce laws prohibiting the sale or distribution of tobacco products to persons under the age of 18.

15. The acts and practices of respondent as alleged in this complaint constitute unfair acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

## NOTICE

Notice is hereby given to the respondent hereinbefore named that the twenty-fourth day of June, 1997, at 10:00 a.m. o'clock, or such later date as determined by an Administrative Law Judge of the Federal Trade Commission, is hereby fixed as the time and the Federal Trade Commission Offices, 6th Street & Pennsylvania Avenue, N.W., Room 532, Washington, D.C. 20580, as the place when and where a hearing will be had before an Administrative Law Judge, on the charges set forth in this complaint, at which time and place you will have the right under said Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in the complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the twentieth (20th) day after service of it upon you. An answer in which the allegations of this complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the Administrative Law Judge shall file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. In such answer you may, however, reserve the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under Section 3.52 of the Commission's Rules of Practice for Adjudicative Proceedings.

Failure to answer within the time above provided shall be deemed to constitute a waiver of your right to appear and contest the allegations of the complaint and shall authorize the Administrative Law Judge, without further notice to you, to find the facts to be as alleged in the complaint and to enter an initial decision containing such findings, appropriate conclusions and order.

The following is the form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint. If, however, the Commission should conclude from the record developed in any adjudicative proceedings in this matter that the proposed order provisions might be inadequate to fully protect the public, the Commission may order such other relief as it finds necessary or appropriate, including corrective advertising or affirmative disclosure.

Moreover, the Commission has reason to believe that, if the facts are found as alleged in the complaint, it may be necessary and appropriate for the Commission to seek relief to redress injury to consumers, or other persons, partnerships or corporations in the form of restitution and

refunds for past, present, and future consumers and such other types of relief as are set forth in § 19(b) of the Federal Trade Commission Act. The Commission will determine whether to apply to a court for relief provided for in § 19(b) on the basis of the adjudicative proceedings in this matter and such other factors as are relevant to consider the necessity and appropriateness of such action.

## ORDER

### I.

IT IS ORDERED that respondent, R.J. Reynolds Tobacco Company, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of Camel brand cigarettes in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from advertising to children its Camel brand cigarettes through the use of the images or themes relating or referring to Old Joe, Smooth Character or Joe Camel and/or any companion figure or illustration associated with, used in conjunction with or resembling the Joe Camel figure.

### II.

IT IS FURTHER ORDERED that respondent, or its successors and assigns, shall collect, maintain and make available to the Federal Trade Commission for inspection and copying competent and reliable data concerning sales of each brand of its cigarettes to persons under the age of 18, and each brand's share of smokers under the age of 18.

### III.

IT IS FURTHER ORDERED that respondent, or its successors and assigns, shall, for a period of ten (10) years from the date of entry of this Order disseminate public education messages discouraging persons under the age of 18 from smoking.

### IV.

IT IS FURTHER ORDERED that, for a period of ten (10) years from the date of entry of this Order, respondent R.J. Reynolds Tobacco Company shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure, including but not limited to dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, or any other corporate change that may affect compliance obligations arising out of this Order

V.

IT IS FURTHER ORDERED that respondent R.J. Reynolds Tobacco Company shall:

- A. Within thirty (30) days of service of this Order, provide a copy of this Order to each of its current principals, officers, directors and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this Order; and
- B. For a period of five (5) years from the date of entry of this Order, provide a copy of this Order to each of its principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this Order who are associated with it or any subsidiary, successor, or assign, within three (3) business days after the person assumes his or her position.

VI.

IT IS FURTHER ORDERED that respondent R.J. Reynolds Tobacco Company shall, within sixty (60) days after service of this Order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

VII.

This order will terminate twenty (20) years from the date of its issuance, 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 Part 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 Part.

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 Part as though the complaint had never been 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.

IN WITNESS WHEREOF, the Federal Trade Commission has caused this complaint to be signed by its Secretary and its official seal to be hereto affixed at Washington, D.C. this twenty-eighth day of May, 1997.

By the Commission, Commissioner Azcuenaga and Commissioner Starek dissenting..

Donald S. Clark  
Secretary

SEAL

[Exhibits A-F attached to paper copies of complaint, but not available in electronic form.]