

by the order (Part VIII); to notify the Commission of any proposed change in the company that might affect compliance with the order (Part IX); to distribute copies of the order to all agents, representatives and employees (Part X); and to file one or more reports detailing compliance with the order (Part XI). The order also contains a provision that it will terminate after twenty (20) years absent the filing of a complaint against respondent alleging violation of the order (Part XII).

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. 96-29265 Filed 11-14-96; 8:45 am]

BILLING CODE 6750-01-P

[File No. 912-3336]

Conopco, Inc.; Van Den Bergh Foods Company; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the New York City-based manufacturer of margarine and spreads from making unsubstantiated or false health or nutrient content claims for any of the margarine and butter products it markets. In addition, in any advertisement including a "no cholesterol" claim for a margarine or spread that contains a significant amount of fat, Conopco has agreed to clearly state the total fat content. The agreement settles Commission allegations stemming from Conopco's national advertising campaign for Promise margarine that focused on consumers' heart health concerns.

DATES: Comments must be received on or before January 14, 1997.

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

FOR FURTHER INFORMATION CONTACT:

Anne V. Maher, Federal Trade Commission, S-4002, 6th and Pennsylvania Ave, NW, Washington, DC 20580. (202) 326-2987. Rosemary Rosso, Federal Trade Commission, S-4002, 6th

and Pennsylvania Ave, NW, Washington, DC 20580. (202) 326-2174.

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 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 sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home page, on the World Wide Web, at "<http://www.ftc.gov/os/actions/htm>." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-3627. 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)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Conopco, Inc. ("Conopco"), a wholly-owned subsidiary of Unilever United States, Inc., doing business as Van Den Bergh Foods 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 or make final the agreement's proposed order.

The Commission's complaint in this matter charges Conopco with engaging in deceptive advertising of the "Promise" line of margarines and spreads, which are marketed by Van Den Bergh Foods Company, an operating division of Conopco. The complaint challenges television and print advertisements for Promise spread, Promise Extra Light margarine and Promise Ultra (26%) spread (hereinafter sometimes referred to as "Promise margarines and spreads"). According to

the complaint, television and print advertisements for Promise margarines and spreads represented that eating these products would help reduce the risk of heart disease. According to the complaint, at the time it made the representation, Conopco neither possessed nor relied upon a reasonable basis that substantiated such representation.

The complaint also alleges that advertisements for Promise margarines and spreads represented that these foods are low in total fat. This representation is alleged to be false and misleading. At the time the advertisements were disseminated, Promise spread contained 9.5 grams of fat per 14 gram serving and 34 grams of fat per 50 grams, Promise Extra Light margarine contained 5.6 grams of fat per 14 gram serving and 20 grams of fat per 50 grams, and Promise Ultra (26%) contained 3.64 grams of fat per 14 gram serving and 13 grams of fat per 50 grams.

The complaint also alleges that advertisements for Promise spread represented that Promise spread is low in saturated fat. This representation is also alleged to be false and misleading. At the time the advertisements were disseminated, Promise spread contained 1.6 grams of saturated fat per 14 gram serving with 17 percent of calories derived from saturated fat.

The complaint also alleges that advertisements for Promise spread and Promise Extra Light margarine represented that Promise spread and Promise Extra Light margarine have no dietary cholesterol. According to the complaint, Conopco failed to adequately disclose that Promise spread and Promise Extra Light margarine contain a significant amount of total fat. In light of the representation that Promise spread and Promise Extra Light margarine have no dietary cholesterol, the total fat content of the products would be material to consumers and the failure to adequately disclose total fat content is alleged to be deceptive.

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

Part I of the order prohibits Conopco from misrepresenting that eating Promise margarines and spreads or any other margarine or spread will help to reduce the risk of heart disease or that any margarine or spread has the ability to cause or contribute to any risk factor for a disease or any health-related condition unless at the time of making such representation Conopco possesses and relies upon a reasonable basis consisting of competent and reliable

scientific evidence that substantiates the representation. Under the order, any representation relating to the ability of any margarine or spread to reduce the risk of heart disease or to cause or contribute to any risk factor for a disease or any health-related condition that is specifically permitted in labeling by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990 will be deemed to have a reasonable basis.

Part II of the order prohibits Conopco from misrepresenting the existence or amount of fat, saturated fat, cholesterol or calories of any margarine or spread. Part II also provides that if any representation covered by this Part 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 IIIA of the order requires Conopco, in any advertisement or promotional material for any margarine or spread that contains the disclosure level of fat as set forth in final regulations concerning cholesterol content claims as promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990, that refers, directly or by implication, to the amount of cholesterol in such food, to disclose clearly and prominently the total number of grams of fat per serving. Part IIIB of the order requires that for three years Conopco also disclose, in any advertisement or promotional material for any margarine or spread sold under the Promise brand name that contains the aforementioned disclosure level of fat, the percentage of calories derived from fat or a statement that the margarine or spread is not a "low fat" food.

Part IV provides that the order shall not prohibit representations specifically permitted in labeling for any margarine or spread by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

Part V defines the terms used in the order. Part VI requires Conopco to maintain copies of all material relating to advertisements covered by the order and all documents relating to substantiation of advertising claims covered by the order. Part VII requires Conopco to notify the Commission of any changes in the corporate structure that might affect compliance with the order. Part VIII requires Conopco to distribute copies of the order to certain

company officials and employees and certain other representatives and agents of the company. Part IX provides that the order will terminate after twenty years under certain circumstances. Part X requires Conopco to file with the Commission one or more reports detailing compliance with the order.

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.

Donald S. Clark,

Secretary.

[FR Doc. 96-29266 Filed 11-14-96; 8:45 am]

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[File No. 932-3282]

Nutrition 21; Selene Systems, Inc.; Herbert H. Boynton; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the San Diego-based dietary supplement manufacturer and its president from making certain challenged claims for chromium picolinate dietary supplements, without competent and reliable scientific evidence to support them, and from misrepresenting the results of any test, study, or research. The settlement also requires Nutrition 21, which holds the exclusive U.S. license on the patent rights to chromium picolinate, to send its customers who resell the supplement to the public a notice of the Commission's allegations and a request to stop using sales materials making the challenged claims. The agreement settles allegations that Nutrition 21 made unsupported claims about weight loss and health benefits for chromium picolinate dietary supplements.

DATES: Comments must be received on or before January 14, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Loren G. Thompson, Federal Trade Commission, S-4002, 6th St. and Pennsylvania Ave., NW, Washington, DC 20580. (202) 326-2049. Beth Grossman, Federal Trade Commission,

S-4002, 6th St. and Pennsylvania Ave., NW, Washington, DC 20580. (202) 326-3019.

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 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 sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home page, on the World Wide Web, at "http://www.ftc.gov/os/actions/htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-3627. 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)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a consent order from Nutrition 21, a limited partnership, Selene Systems, Inc., a general partner of Nutrition 21, and Herbert H. Boynton, President of Selene Systems, Inc. ("respondents").

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 or make final the agreement's proposed order.

This matter concerns chromium picolinate, a nutrient patented by the United States Department of Agriculture. Respondents hold the exclusive license to manufacture and sell chromium picolinate in the United States. The Commission's proposed complaint alleges that the respondents represented without a reasonable basis in their advertisements that chromium picolinate: (a) Significantly reduces body fat; (b) causes significant weight