

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Robert Pitofsky, Chairman
 Mary L. Azcuenaga
 Janet D. Steiger
 Roscoe B. Starek, III
 Christine A. Varney

)	
In the Matter of)	
)	
CONOPCO, INC. doing business as)	DOCKET NO. C-3706
VAN DEN BERGH FOODS COMPANY,)	
a corporation.)	DECISION AND ORDER
)	

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for Federal Trade Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments received, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the

following jurisdictional findings and enters the following order:

1. Respondent Conopco, Inc. is a New York corporation with its office and principal place of business located at 390 Park Avenue, New York, New York 10022. Van Den Bergh Foods Company is an unincorporated operating division of Conopco, Inc. Conopco, Inc. is a wholly-owned subsidiary of Unilever United States, Inc., a Delaware corporation with its office and principal place of business also located at 390 Park Avenue, New York, New York 10022.

IT IS FURTHER ORDERED that respondent Conopco, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device (including but not limited to Van Den Bergh Foods Company), in connection with the manufacturing, advertising, labeling, promotion, offering for sale, sale or distribution of Promise spread, Promise Extra Light margarine, Promise Ultra (26%) spread, or any other margarine or spread 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, through numerical or descriptive terms or any other means, the existence or amount of fat, saturated fat, cholesterol or calories in any such product. If any representation covered by this Part either directly or by implication conveys any nutrient content

- B. The term "margarine" or "spread" shall not include:
1. Any foodservice margarine or spread sold in bulk sizes for use by restaurants or foodservice establishments or sold in individual portion packs for table service use by restaurants or foodservice operators, provided that said products bear no nutrient content or health benefit claims in any context on any such product package and provided further that respondent, its successors or assigns, does not advertise, promote, offer for sale, sell or distribute any such product to consumers; or
 2. Any margarine or spread sold or distributed to consumers by third parties under private labeling agreements with respondent, its successors or assigns, provided respondent, its successors or assigns, does not participate in the funding, preparation or dissemination of any advertising of said products to consumers; and
- C. For purposes of Part III of this Order, the term "total fat disclosure amount" shall mean 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.

IT IS FURTHER ORDERED that respondent shall, within thirty (30) days after service upon it of this Order, distribute a copy of this Order to its Van Den Bergh Foods Company division and any other operating division engaged in the sale or marketing of margarines or spreads, to each of its managerial employees in its Van Den Bergh Foods Company division and any other operating division engaged in the sale or marketing of margarines or spreads, and to each of its officers, agents, representatives, or employees engaged in the preparation or placement of advertising or other material covered by this Order.

IX.

IT IS FURTHER ORDERED that this Order will terminate on January 23, 2017, 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.

X.

IT IS FURTHER ORDERED that respondent shall, within sixty (60) days after service upon it of this Order 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 it has complied with this Order.

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED: January 23, 1997