

Complaint

67 F.T.C.

IN THE MATTER OF

AMERICAN HOME PRODUCTS CORPORATION,
Docket No. 8318

BRISTOL-MYERS COMPANY, Docket No. 8319

PLOUGH, INC., Docket No. 8320

STERLING DRUG, INC., Docket No. 8321

ORDERS, OPINION, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

*Dockets 8318, 8319,¹ 8320, 8321. Complaints, Mar. 14, 1961—
Decisions, Apr. 7, 1965*

Order withdrawing complaints against four major drug manufacturers which charged them with false and misleading advertising of their analgesic preparations, rescinding earlier orders to submit special reports, and denying one respondent's motion for prehearing discovery on grounds of mootness.

COMPLAINT ²

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that American Home Products Corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent American Home Products Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 20 East 40th Street in the city of New York, State of New York.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the sale and distribution of a preparation which comes within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act.

The designation used by respondent for said preparation, the formula thereof and directions for use are as follows:

¹ Amended and Supplemental Complaint, *In the Matter of Bristol-Myers Co.*, Docket 8319, dated July 25, 1961.

² *In the Matter of American Home Products Corporation*, Docket No. 8318.

Designation: "Anacin."

Formula: Acetophenetidin three (3) grains per tablet, aspirin, caffeine.

Directions: One (1) to two (2) tablets with water. Repeat if necessary, one (1) tablet every three (3) hours.

PAR. 3. Respondent caused the said preparation, when sold, to be transported from its place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of its said business, respondent has disseminated, and caused the dissemination of, certain advertisements concerning the said Anacin by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers, magazines, and other advertising media, and by means of television and radio continuities broadcast over networks through stations located in various States of the United States, and in the District of Columbia, and by means of other radio and television continuities broadcast over stations having sufficient power to carry such broadcasts across State lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said Anacin; and has disseminated, and caused the dissemination of, advertisements concerning said Anacin by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical, but not all-inclusive, of the statements and representations contained in said advertisements and television and radio broadcasts disseminated as hereinabove set forth are the following:

Mere aspirin or even aspirin with buffering contains * * * no special medication to relax nervous tension. But Anacin is a *combination* of medically proven ingredients, including special medication, which relieves pain incredibly fast, also relaxes nervous tension and releases painful pressure on nerves.

* * * * *

Better than aspirin or aspirin with buffering for TENSION HEADACHES

Most headaches are caused by tension that presses on nerves.

Anacin contains *special medication* that * * * relaxes tension * * *. This special medication is *not* obtainable in aspirin or any buffered aspirin.

Ladies Home Journal, February 1961.

Complaint

67 F.T.C.

Video:	Audio:
Open profile of woman with headache.	Announcer: What causes a headache?
Start greying down to black silhouette.	Announcer: (V.O.) Doctors know most headaches are caused by * * *
Pop on large jagged word: "Tension".	(Echo) * * * tension!
The word "Tension" zooms down to neck. Muscle fibers form.	Tension * * *
Muscles continue to twist.	* * * Tightens muscles * * *
Pop on word "Tension"	Tension * * *
Word "Tension" zooms down to mid-head area. Nerves grow and vibrate.	puts nerves on edge.
Pop on: "Tension". Word zooms down to front head area.	Tension * * *
Pain lines grow and flash.	causes pain * * *
Muscles twisting nerves. Vibrating pain flashing. Word "Pain" zooms out.	Announcer: (V.O.) <i>headache pain!</i>
	* * * * *
Block wipe to package, with titles: "Relax the Tension," "Relieve the Pain."	"Anacin * * * has special ingredients to relax the tension * * * as it relieves the pain fast!"
Cut to profile of head. Title: "Aspirin." Single line of bubbles go to "Pain." Pain lines reduce flashing. Nerves and muscles continue action.	Look * * * aspirin has only one pain reliever—no special ingredient to relax tension.
Title: "Add Buffering." Single line of bubbles go to "Pain." Pain lines reduce flashing. Nerves and muscles continue action.	Add buffering, still nothing special for that cause of headache pain.

430 Complaint

Video: Audio:
Title: "Anacin." But * * *

Pop on three lines of bubbles. * * * Anacin has a combination of ingredients.
Pain, nerves and muscles
gradually stop action.

Pain lines out. To * * * relieve pain fast * * *

Nerves out. * * * calm jittery nerves * * * fast.

Muscles out. * * * relax tension fast!

Match diss. to live woman. Woman: (sigh of complete relief) What relief!
* * * * *
Wipe to split screen. Title: Announcer: Remember, aspirin even with buffer-
"Aspirin with Buffering" on ing has no special ingredient to relax the
left. One stream of bubbles tension.
to pain area in head. Title:
"Anacin" on right. Three
streams of bubbles. Nothing
in head.
* * * * *
Block wipe to package, with Anacin * * * to relax tension as it relieves the
titles: "Relax the Tension," pain.
"Relieve the Pain."

Lose titles. Zoom "Fast" out Anacin for fast * * * fast * * * fast relief!
of pkg. Three times.
"Truth or Consequences" Show, National Broadcasting Company
television network, August 26, 1960.
* * * * *
Pop on title, "Anacin" with Anacin of the four leading headache remedies
three streams of bubbles to has special ingredients to * * *
three panels [panels are
titled "Pain," "Depression"
and "Tension"]. Action in
each immediately slows
down.

Pain panel greys down. relieve pain * * *.

Word "Fast" pops on in place fast.
of pain panel.

Depression panel greys down. Help overcome depression * * *.

Word "Fast" grows and pops fast.
off depression panel.

Complaint

67 F.T.C.

Video: Tension panel greys down. Audio: Relax tension * * *.

Word "Fast" grows and pops fast.
off tension panel.

* * * * *
Cut to include read (sic) projection screen, on which is split screen of two outline heads. Title on left: "Aspirin with buffering." Single stream of bubbles to first panel which is greyed down. Title on right: "Anacin" with three streams of bubbles to three panels all grayed down.

X-out left half of screen. no special ingredient for tension. Take Anacin. * * *.

* * * * *
Cut to pkg. pop on word "Fast" Anacin for fast * * *
in sync with audio.

Pop on second word "Fast" fast * * *
nearer camera than first.

Zoom both words "Fast" onto incredibly fast relief.
pkg.

Sugar Bowl Football Game, National Broadcasting Company
television network, January 2, 1961.

PAR. 6. Through the use of said advertisements, and other similar thereto not specifically set out herein, respondent has represented, and is now representing, directly and by implication:

1. That Anacin acts with such incredible speed as to provide relief of pain faster than any other analgesic preparation available and offered for sale to consumers.
2. That Anacin relaxes tension.
3. That Anacin helps overcome depression.

PAR. 7. The said advertisements were and are misleading in material respects and constituted, and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

1. There is no significant difference between the rate of speed with which Anacin provides relief of pain and the rate of speed with which other analgesic preparations available and offered for sale to consumers provide relief of pain.
2. Anacin will not relax tension.

3. Anacin will be of no benefit in the treatment of depression.

PAR. 8. The dissemination by the respondent of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

AMENDED AND SUPPLEMENTAL COMPLAINT³

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Bristol-Myers Company, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its amended and supplemental complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Bristol-Myers Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 630 Fifth Avenue, in the city of New York, State of New York.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the sale and distribution of two preparations which come within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act.

The designations used by respondent for said preparations, the formulas thereof and directions for use are as follows:

(1) Designation: "Bufferin"

Formula:—Each Bufferin tablet contains five (5) grains of aspirin and Bristol-Myers' brand aluminum glycinate and magnesium carbonate known as "Di-Alminate."

Directions:—For simple headaches, discomforts of colds, neuralgias, menstrual pain and minor muscular aches, one (1) or two (2) tablets, taken one (1) to six (6) times daily as needed. For temporary relief of minor arthritic pain two (2) tablets six (6) times daily as needed.

(2) Designation: "Excedrin"

Formula:—Each tablet contains:

Acetophenetidin	2¼ grs.
Salicylamide	2 grs.
Aspirin	2¼ grs.
Caffeine	1 grs.

Directions:—Adults take two (2) tablets with water. Repeat every three (3) hours with one or two (1 or 2) tablets as needed or follow directions of your physician. Dosage should not exceed eight (8) tablets per day. Children six to twelve (6-12) one half (½) the adult dose.

³ In the Matter of Bristol-Myers Company, Docket No. 8319.

Complaint

67 F.T.C.

PAR. 3. Respondent causes the said preparations when sold, to be transported from its place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of its said business, respondent has disseminated, and caused the dissemination of, certain advertisements concerning the said Bufferin and Excedrin by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers, magazines, and other advertising media, and by means of television and radio continuities broadcast over networks through stations located in various States of the United States, and in the District of Columbia, and by means of other radio and television continuities broadcast over stations having sufficient power to carry such broadcasts across State lines, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said preparations; and has disseminated, and caused the dissemination of, advertisements concerning said preparations by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical, but not all-inclusive, of the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

(1) Bufferin

And to relieve headache, body ache and to lower fever, take Bufferin. Bufferin adds special ingredients to its aspirin that rush the pain reliever into your system. For millions Bufferin acts *twice as fast as aspirin*.

* * * * *
Take Bufferin. The fast one. Good Housekeeping Magazine, February 1961.

Video:

Scene of night street. Shot from rear of moving car. Super: "Bristol-Myers".

Audio:

Anner: Tonight's episode of Peter Gunn is brought to you by Bristol-Myers, makers of * * *.

Bufferin bottle, package.

Bufferin. For faster relief of headaches, neuralgia, painful cold miseries, take Bufferin.

430

Complaint

Video:

Super on cue: "Twice as fast."

Audio:

Bufferin works twice as fast as aspirin for millions, thanks to its exclusive Speed Ingredient, Di-Alminate.

"Peter Gunn" Show, American Broadcasting Company
television network, September 12, 1960.

1. (Open on) Dark screen with title: "What's the Greatest Cause of Headache?" Anncr: (VO) What's the greatest cause of headache? * * *
2. (Wipe to) Reveal woman feeding baby in high chair. Child spills milk. Super "Tension" up from zero. It's Tension! Sound: Ticking as of clock. It starts low and builds till we reach the clock shot in scene #3.
3. (Cut to) Child falling off tricycle. Super "Tension" up again. Tension!
4. (Cut to) Woman in kitchen burning clothes on ironing board. Super "Tension" zooms up again. Tension!
5. (Cut to angle shot of) woman in bed, tossing, turning. Clock in foreground. When things go wrong, Tension can build up and up! * * *
- On word, "Suddenly," she puts hand to head. Suddenly * * * you've got a miserable headache!
6. (Diss to angle shot of) Woman on edge of bed, holding neck. Nerves and muscles tighten!
7. (Diss to angle shot of) Woman standing beside bed, holding stomach. Stomach feels uneasy * * * queasy! Sound: Ticking out.
8. (Diss to) Dark gray background. Bufferin bottle in center of screen. It moves to left of screen, reducing in size as it goes. Snap in first: "Relieves." Then in order: "Headache, Tight Nerves, Jittery Stomach." You need Bufferin! Bufferin relieves headache, tight nerves, jittery stomach—fast! Look * * *

