

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

))),

**In the Matter of**

**GERBER PRODUCTS COMPANY,  
a corporation.**

**DOCKET NO. C-3744**

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**COMPLAINT**

The Federal Trade Commission, having reason to believe that Gerber Products Company, a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Gerber Products Company ("Gerber") is a Michigan corporation with its principal office or place of business at 445 State Street, Fremont, Michigan 49413-0001.
2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed products to the public, including Gerber baby and toddler foods. Gerber baby and toddler foods are "foods" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
3. The acts and 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. Respondent has disseminated or has caused to be disseminated advertisements for Gerber baby and toddler foods, including but not necessarily limited to the attached Exhibits A through D. These advertisements contain the following statements and depictions:

A. [Depiction: Smiling baby]

VOICEOVER: "There's only one baby like yours."

[Depiction: Jar of Gerber baby food]

VOICEOVER: "And only one baby food like ours. Gerber."

[Depiction: Fresh apples]

VOICEOVER: "No one knows more about purity, . . ."

[Depiction: Fresh carrots]

VOICEOVER: “. . . safety and nutrition . . .”

[Depiction: Toddler being fed]

VOICEOVER: “. . . (*and* how to make sure baby likes it!) . . .”

[Depiction: Jars of Gerber baby and toddler food]

VOICEOVER: “. . . than Gerber. To learn more why four out of five pediatricians who recommend baby food recommend Gerber, . . .”

[Depiction: Baby being fed]

**“1-800-4-GERBER”**

VOICEOVER: “. . . call us, anytime, day or night. You know you can trust Gerber . . .”

[Depiction: Woman eating an apple]

**“For learning to eat smart, right from the start.”**

VOICEOVER: “. . . for learning to eat smart, right from the start.”

[Exhibit A, television advertisement]

B. [Ad translated from Spanish]

[SFX: Baby crying]

WOMAN: “Oh! Mom could you hand me the baby food from the kitchen. The baby is hungry!”

MOM: “Hey, but not all of them are Gerber.”

WOMAN: “But those are less expensive. Aren’t they all the same?”

MOM: “Of course not. Gerber is the most recommended by pediatricians.”

VOICEOVER: “She knows that there is nothing more nutritious and reliable for babies. As a matter of fact, four out of every five pediatricians that recommend baby food recommend Gerber.”

WOMAN: "Now that I know I will always buy Gerber. My baby's health is priceless."

[SFX: Baby laughing]

VOICEOVER: "For a better start in life, give him only Gerber."

[Exhibit B, radio advertisement]

- C. [Gerber ran a promotion in which consumers who purchased a jar of Beech-Nut baby food were given a checkout coupon for Gerber baby food that offered five minutes of free long-distance telephone time upon calling an 800-number and listening to the following recording]

"Congratulations on your free five minutes of long distance, compliments of Gerber. Gerber feels there are a few things you should know. For one, *nobody* makes a safer baby food than Gerber. Plus, four out of five pediatricians who recommend baby food recommend Gerber. And nobody else knows more about purity, safety, nutrition, and of course, taste. And Gerber offers more variety than any other brand -- more than 180 kinds! In a few of those foods we add a controlled amount of sugar, or tapioca. Because research has proven it enhances the taste, without compromising the nutritional composition. No other baby food in the world does all that. Give Gerber a try and find out why it's the baby food more pediatricians recommend. To begin your call, use your key pad to enter your personal identification number found on your store receipt."

[Exhibit C, script of recorded message]

- D. **"4 OUT OF 5  
PEDIATRICIANS\*  
RECOMMEND  
Gerber**

\*A 1994 CONTEMPORARY PEDIATRICS RECOMMENDATION STUDY FOUND THAT 88% OF PEDIATRICIANS WHO RECOMMEND BABY FOOD RECOMMEND GERBER."

[Exhibit D, display case sticker]

5. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that competent and reliable studies or surveys show that four out of five pediatricians who recommend baby food recommend Gerber.

6. In truth and in fact, competent and reliable studies or surveys do not show that four out of five pediatricians who recommend baby food recommend Gerber. In the survey relied upon by respondent, 562 of the surveyed doctors responded to the questions concerning baby food. Of these 562 pediatricians, 408 responded that they recommend baby food to their patients at least once per week. Of the 408 pediatricians who recommend baby food to their patients at least once per week, 332, or approximately 82%, responded that they did not recommend any specific brands of baby food. Of the 76 pediatricians who did recommend specific brands, 67 recommended Gerber. Thus, only 67 of the 408 pediatricians who recommend baby food, or approximately 16%, recommend Gerber to their patients. Therefore, the representation set forth in Paragraph 5 was, and is, false or misleading.

7. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that approximately four out of five pediatricians recommend Gerber.

8. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraphs 5 and 7, at the time the representations were made.

9. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraphs 5 and 7, at the time the representations were made. In the survey relied upon by respondent, 67, or approximately 12%, of the 562 pediatricians surveyed recommended Gerber. Therefore, the representations set forth in Paragraphs 5 and 8 were, and are, false or misleading.

10. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this twenty-seventh day of May, 1997, has issued this complaint against respondent.

By the Commission.

Donald S. Clark  
Secretary

SEAL:

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