

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Julie Brill
 Maureen K. Ohlhausen
 Joshua D. Wright
 Terrell McSweeney

In the Matter of

**TBWA WORLDWIDE, INC.,
a corporation.**

DOCKET NO. C-4455

DECISION AND ORDER

The Federal Trade Commission (“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 a complaint which the Western Region-San Francisco proposed to present to the Commission for its consideration and which, if issued, would charge the respondent with violations of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“consent agreement”), which includes: a statement by respondent that it neither admits nor denies any of the allegations in the draft complaint except as specifically stated in the consent agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; 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 Federal Trade Commission Act, and that a 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 thirty (30) days for the receipt and consideration of public comments, and having duly considered the comment received from an interested person pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34, now in further conformity with the procedure prescribed in Commission Rule 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent TBWA Worldwide, Inc., is a Delaware corporation with its principal office or place of business at 488 Madison Avenue, New York, New York 10022.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, “respondent” shall mean TBWA Worldwide, Inc., a corporation, its successors and assigns and its officers, agents, representatives, and employees, but shall not include any corporation, subsidiary, or division that does not operate under the name TBWA/Chiat/Day, Chiat/Day, or any substantially similar name.
2. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, advertising, promotion, offering for sale, sale, or distribution of any pick-up truck in or affecting commerce, shall not misrepresent, in the context of the advertisement as a whole, any material quality or feature of the advertised pick-up truck through the depiction of a test, experiment, or demonstration.

Provided, however, that nothing in this order shall be deemed to preclude the use of any production techniques that do not misrepresent a material quality or feature of the advertised truck.

Provided, further, that it shall be a defense hereunder that the respondent neither knew nor had reason to know that the test, experiment, or demonstration misrepresented a material quality or feature of the advertised truck.

II.

IT IS FURTHER ORDERED that respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and, within thirty (30) days of any written request, make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. Any and all video, in complete and unedited form, and any and all still images taken during the production of any advertisement depicting a demonstration, experiment, or test; and
- C. Any and all affidavits or certifications submitted by an employee, agent, or representative of respondent to a television network or to any other individual or

entity, which affidavit or certification affirms the accuracy or integrity of a demonstration or demonstration techniques contained in an advertisement.

III.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to all current and, for the next five (5) years, all future account directors and creative directors having direct and supervisory or managerial responsibilities with respect to the subject matter of this order (“Personnel”), and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent TBWA Worldwide, Inc., and its successors and assigns shall deliver this order to current Personnel within thirty (30) days after the date of service of this order, and to future Personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that TBWA Worldwide, Inc., and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which TBWA Worldwide, Inc., learns less than thirty (30) days prior to the date such action is to take place, TBWA Worldwide, Inc., shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In the Matter of TBWA Worldwide, Inc., FTC File Number 122 3010.

V.

IT IS FURTHER ORDERED that TBWA Worldwide, Inc., and its successors and assigns, within sixty (60) days after the date of service of this order, shall each file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of their own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, they shall submit additional true and accurate written reports.

VI.

This order will terminate on May 1, 2034, 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.

By the Commission, Commissioner McSweeney not participating.

Donald S. Clark
Secretary

ISSUED: May 1, 2014